

At a Term of the Appellate Division of the Supreme Court in and for the Third Judicial Department, held in the City of Albany, New York, commencing on the 13th day of May, 2022.

PRESENT:

HON. ELIZABETH A. GARRY,
Presiding Justice,
HON. JOHN C. EGAN JR.
HON. MICHAEL C. LYNCH
HON. CHRISTINE M. CLARK
HON. SHARON A.M. AARONS
HON. STAN L. PRITZKER
HON. MOLLY REYNOLDS FITZGERALD
HON. JOHN P. COLANGELO
HON. ANDREW G. CERESIA
HON. LISA M. FISHER
HON. EDDIE J. McSHAN,
Associate Justices.

In the Matter of the Amendment of Part 806 of the Rules of the Supreme Court, Appellate Division, Third Judicial Department.

ORDER

Pursuant to the authority conferred upon this Court by law, it is

ORDERED that, effective September 1, 2022, Rules of the Appellate Division, Third Department (22 NYCRR) §§ 806.16 and 806.22 are hereby amended to read as follows:

§ 806.16. Applications for Reinstatement of Suspended and Disbarred Attorneys Pursuant to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.16

(a) Disbarred Attorneys and Attorneys Suspended for More than Six Months Pursuant to the Terms of the Order of Suspension.

(1) Any motion for reinstatement by a respondent who has been disbarred or who has been suspended for more than six months pursuant to the terms of the order of suspension shall be made returnable on Monday (or if Monday falls on a holiday, on the next business day), whether or not Court is actually in session, upon no less than 90 days notice to the Committee and the Lawyers' Fund for Client Protection.

(2) Such notice of motion shall be accompanied by an affidavit of the respondent in the form of Appendix C to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, and such additional exhibits as are necessary.

(3) The Committee shall be heard in response to the motion by service and filing of an affirmation or affidavit, and such additional exhibits as are necessary, in a manner consistent with Practice Rules of the Appellate Division (22 NYCRR) § 1250.4(a)(5). The respondent may not be heard in reply absent prior authorization by the Court.

(4) Any motion pursuant to this subdivision, any papers filed in response thereto and the reply, if any, shall be filed with the Court as an original and a single copy thereof, along with proof of service of a single copy thereof upon the adversary. The copy of any such papers may be delivered to the Court in Portable Document Format (PDF).

(5) At the discretion of the Court, any application pursuant to this subdivision may be referred to the appropriate Committee on Character and Fitness or to a referee for hearing and report.

(b) Attorneys Suspended for Six Months or Less Pursuant to the Terms of the Order of Suspension.

(1) Any motion for reinstatement by a respondent who has been suspended for six months or less pursuant to the terms of the order of suspension shall be made returnable on Monday (or if Monday falls on a holiday, on the next business day), whether or not Court is actually in session, upon no less than 30 days notice to the Committee and the Lawyers' Fund for Client Protection.

(2) Such notice of motion shall be accompanied by an affidavit of the respondent in the form of Appendix D to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, and such additional exhibits as are necessary.

(3) Unless the Court otherwise directs, the Committee shall be heard in response to the motion by service and filing of an affidavit, and such additional exhibits as are necessary, with the Court within 20 days of the date such motion was served upon the Committee. The respondent may not be heard in reply absent prior authorization by the Court.

(4) Any motion pursuant to this subdivision, any papers filed in response thereto and the reply, if any, shall be filed with the Court as an original and a single copy thereof, along with proof of service of a single copy thereof upon the adversary. The copy of any such papers may be delivered to the Court in Portable Document Format ("PDF").

(5) In addition to the foregoing, all respondents seeking reinstatement pursuant to this subdivision who have been suspended for an actual duration of more than one year must

establish that, within six months preceding such application, the respondent has successfully completed a minimum of eight credit hours of continuing legal education accredited in accordance with Rules of the Appellate Division, All Departments (22 NYCRR) Part 1500 as follows:

(i) six credit hours of Skills and/or Law Practice Management credits as those terms are defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (d) and (e), which credits shall specifically relate to the practice of law in New York;

(ii) one credit hour of Ethics and Professionalism as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (c); and

(iii) one credit hour of Diversity, Inclusion and Elimination of Bias as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (g), or one credit hour of Cybersecurity, Privacy and Data Protection as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (h).

(c) Attorneys Suspended for Misconduct Arising from the Failure to Comply with Statutory Registration Requirements.

(1) Any motion for reinstatement by a respondent who has been suspended solely for failing to comply with the attorney registration requirements of Judiciary Law § 468-a and Rules of the Chief Administrator of the Courts (22 NYCRR) § 118.1 shall be made returnable on Monday (or if Monday falls on a holiday, on the next business day), whether or not Court is actually in session, upon no less than 30 days notice to the Committee and the Lawyers' Fund for Client Protection.

(2) Such notice of motion shall be accompanied by an affidavit of the respondent in the form of Appendix D to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, and such additional exhibits as are necessary.

(3) Unless the Court otherwise directs, the Committee shall be heard in response to the motion by service and filing of an affidavit, and such additional exhibits as are necessary, with the Court within 20 days of the date such motion was served upon the Committee. The respondent may not be heard in reply absent prior authorization by the Court.

(4) Any motion pursuant to this subdivision, any papers filed in response thereto and the reply, if any, shall be filed with the Court as an original and a single copy thereof, along with proof of service of a single copy thereof upon the adversary. The copy of any such papers may be delivered to the Court in Portable Document Format ("PDF").

(5) In addition to the foregoing, all respondents seeking reinstatement pursuant to this subdivision who have been suspended for an actual duration of more than two years must

establish that, within two years preceding such application, the respondent has successfully completed a minimum of eight credit hours of continuing legal education accredited in accordance with Rules of the Appellate Division, All Departments (22 NYCRR) Part 1500 as follows:

(i) six credit hours of Skills and/or Law Practice Management credits as those terms are defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (d) and (e), which credits shall specifically relate to the practice of law in New York;

(ii) one credit hour of Ethics and Professionalism as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (c); and

(iii) one credit hour of Diversity, Inclusion and Elimination of Bias as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (g), or one credit hour of Cybersecurity, Privacy and Data Protection as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (h).

§ 806.22. Voluntary Nondisciplinary Resignations; Reinstatement.

(a) An attorney's application to resign from practice pursuant to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.22 (a) shall be submitted to the Court by original sworn affidavit in the form of Appendix E to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, with proof of service of a copy thereof upon the Committee and the Lawyers' Fund for Client Protection.

(b) Reinstatement Following Nondisciplinary Resignation.

(1) An application for reinstatement following nondisciplinary resignation shall be submitted to the Court by original sworn affidavit in the form of Appendix F to Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) Part 1240, with proof of service of a copy thereof upon the Committee.

(2) In addition to the requirements of Uniform Rules for Attorney Disciplinary Matters (22 NYCRR) § 1240.22 (b), an applicant for reinstatement following a period of nondisciplinary resignation of more than two years must establish that, within two years preceding such application, the applicant has successfully completed a minimum of eight credit hours of continuing legal education accredited in accordance with Rules of the Appellate Division, All Departments (22 NYCRR) Part 1500 as follows:

(i) six credit hours of Skills and/or Law Practice Management credits as those terms are defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (d) and (e), which credits shall specifically relate to the practice of law in New York;

(ii) one credit hour of Ethics and Professionalism as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (c); and

(iii) one credit hour of Diversity, Inclusion and Elimination of Bias as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (g), or one credit hour of Cybersecurity, Privacy and Data Protection as that term is defined in Rules of the Appellate Division, All Departments (22 NYCRR) § 1500.2 (h).

(iv) An applicant for reinstatement pursuant to this subdivision may, in the discretion of the Court, be required to successfully complete additional credit hours of continuing education as a condition of reinstatement.

DATED AND ENTERED: June 17, 2022



Hon. Elizabeth A. Garry
Presiding Justice