U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
MAR 7 2002
CLERK, U.S. DISTRICT COURT
By Y. Kelly
Deputy

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

Special Order No. 2-53

1. The District Judges of this Court have considered and adopted the attached amendments to the local civil rules and local criminal rules of this Court. These amendments amend local civil rules 9.1, 23.2, 56.2(b), 83.7, 83.8, and 83.12, and local criminal rules 57.7, 57.8, and 57.12, and adopt new local civil rule 54.1.

2. Unless modified after receipt of public comment, these rules shall take effect on September 1, 2002 and shall apply to all proceedings in civil and criminal actions thereafter commenced and, insofar as just and practicable, all proceedings in civil and criminal actions then pending.

3. Any persons who desire to comment on any of these rules may do so by submitting written comments to:

   Clerk of Court
   United States District Court for the Northern District of Texas
   Attention: 2002 Rules Revision Comments
   1100 Commerce Street, Room 14A20
   Dallas, Texas 75242-1495

   The deadline by which the Clerk must receive comments is June 1, 2002.

4. The Clerk of Court is directed to make the necessary distribution.

SO ORDERED.

March 7, 2002.

FOR THE COURT:

A. JOE FISH, CHIEF JUDGE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

New material is redlined or identified with the notation, "[ALL MATERIAL THAT FOLLOWS IS NEW];" ~~deleted material is stricken through~~.

Proposed Amendment to Civil Rule 9.1

LR 9.1 Social Security and Black Lung Cases.

(a) Form of Complaint. A complaint filed pursuant to Section 205(g) of the Social Security Act, ~~42 U.S.C. § 405(g), for benefits under Titles II, XVI, or XVIII of the Social Security Act,~~ or Part B, Title VI, of the Federal Coal Mine Health and Safety Act, must contain, in the first paragraph of the complaint, the last four digits of the social security number of:

(1) the worker on whose wage record the application for benefits is filed, regardless whether the worker is the plaintiff; and

(2) the plaintiff.

On request by the defendant, the plaintiff must separately disclose the complete social security number of the worker or plaintiff, but the defendant must not disclose the complete number except by leave of court or in accordance with law.

~~**(b) Summary Judgment Motions Required.** Unless otherwise directed by the presiding judge, all parties to actions filed under 42 U.S.C. § 405(g) must file motions for summary judgment within 30 days after the answer is filed.~~

(b) Social Security Case Treated as Appeal. Unless otherwise directed by the presiding judge, an action filed under 42 U.S.C. § 405(g) is treated procedurally as an appeal from the final administrative decision of the Social Security Administration.

[ALL MATERIAL THAT FOLLOWS IS NEW]

(c) Time for Filing and Requirements of Plaintiff's Brief. Within 30 days of the date the defendant's answer is filed, the plaintiff must file a brief that complies with LR 7.2(a), (c), and (d). The brief must also include

(1) a list of each issue presented for review, set forth in a separate, numbered paragraph;

(2) a statement of the case that describes succinctly the course of the proceedings, the disposition by the Social Security Administration, and the relevant facts, and, if the case involves a disability determination, the plaintiff's age, education, and work experience and an outline of the medical evidence;

(3) an argument, which may be preceded by a summary, that is divided into sections that separately address each listed issue and the party's contentions concerning the issue;

(4) citations to each page of the administrative record that supports each assertion that the party makes concerning any evidence on which the party relies; and

(5) a conclusion that states succinctly the relief sought.

(d) Time for Filing and Requirements of Defendant's Brief. The defendant must file a brief within 20 days from the date the plaintiff's brief is filed. The brief must comply with LR 7.2(a), (c), and (d), and LR 9.1(c)(3), (4), and (5). It need not include the matters required by LR 9.1(c)(1) or (2) unless the defendant disagrees in whole or in part with the contents of the plaintiff's list of issues or statement of the case.

(e) Time for Filing and Requirements of Plaintiff's Reply Brief. The plaintiff may file a reply brief within 15 days from the date the defendant's brief is filed. The brief must comply with LR 7.2(a), (c), and (d), and LR 9.1(c)(3), (4), and (5).

(f) No Oral Argument. Unless otherwise directed by the presiding judge, oral argument will not be held.

(g) Modification of Time for Filing Briefs. The presiding judge may by order modify the time for filing a brief required or permitted under LR 9.1(c), (d), or (e).

Proposed Amendment to Civil Rule 23.2

LR 23.2 Motion for Certification; Briefs.

Within 90 days of filing a class action complaint, or at such other time as the presiding judge by order directs, an attorney for the plaintiff must move for certification.

Proposed New Civil Rule 54.1

LR 54.1 Time for Filing Bill of Costs.

A party awarded costs by final judgment or by judgment that a presiding judge directs be entered as final under Fed. R. Civ. P. 54(b) must apply to the clerk for taxation of such costs by filing a bill of costs in a form approved by the clerk. Unless otherwise provided by statute or by order of the presiding judge, the bill of costs must be filed with the clerk and served on any party entitled to such service no later than 14 days after the clerk enters the judgment on the docket.

Proposed Amendment to Civil Rule 56.2(b)

LR 56.2 Limits on Time for Filing and Number of Motions.

(a) Time for Filing. Unless otherwise directed by the presiding judge, no motion for summary judgment may be filed within 90 days of the trial setting.

(b) Number. Unless otherwise directed by the presiding judge, or permitted by law, ~~the Federal Rules of Civil Procedure~~, a party may file no more than one motion for summary judgment.

Proposed Amendment to Civil Rule 83.7

LR 83.7 Admission of Attorneys.

Attorneys must fulfill the following requirements to be admitted to practice in this court:

(a) Eligibility for Admission. Any attorney licensed to practice law by the Supreme Court of Texas, or by the highest court of any state or the District of Columbia, may be admitted to the bar of this court if the attorney is of good personal and professional character and is a member in good standing of the bar where the attorney is licensed.

(b) Procedure for Admission. Attorneys desiring admission to the bar of this court must complete an application for admission, to be approved by a district judge, and, except as provided in subsection (c) of this rule, be introduced by a member in good standing of the bar of this court, and take the required oath or affirmation before a ~~district~~ judge of this court. After the oath or affirmation is administered, and the applicant has paid the appropriate fee, the clerk shall issue a certificate stating that the attorney is admitted to practice before this court.

(c) Admission Before Judges of Other Districts. Any nonresident attorney who has completed all requirements for admission to the bar of this court may, with the approval of a district judge of the division where the application is pending, have the oath of admission administered by a ~~district~~ judge in another district. The nonresident attorney must file the oath with the clerk and pay the appropriate fee before the attorney's name will be added to the roll of attorneys for this district.

(d) Admission is Discretionary. All admissions to practice before this court shall be discretionary with the district judge reviewing the application for admission.

Proposed Amendment to Civil Rule 83.8

LR 83.8 Loss of Membership and Discipline of Attorneys.

(a) Loss of Membership. A member of the bar of this court is subject to suspension or disbarment by the court ~~Membership in the bar of this court shall be automatically revoked~~ under the following circumstances:

(1) if for any reason other than nonpayment of dues, failure to meet continuing legal education requirements, or voluntary resignation unrelated to a disciplinary proceeding or problem, an attorney loses, either temporarily or

permanently, the right to practice law before:

(A) the courts of the State of Texas;

(B) the highest court of any other state or the District of Columbia; or

(C) any federal court; or

(2) if an attorney fails to maintain the right to practice law before the highest court of at least one state or the District of Columbia, unless the member's failure to maintain such right results from nonpayment of dues or failure to meet continuing legal education requirements.

(b) Grounds for Disciplinary Action. A presiding judge, after giving opportunity to show cause to the contrary, may take any appropriate disciplinary action against a member of the bar for:

(1) conduct unbecoming a member of the bar;

(2) failure to comply with any rule or order of this court;

(3) unethical behavior;

(4) inability to conduct litigation properly;

(5) conviction by any court of a felony or crime involving dishonesty or false statement; or

(6) having been publicly or privately disciplined by any court, bar, court agency or committee.

(c) Appeal of Disciplinary Action. ~~If an attorney's membership in the bar of this court is suspended or revoked, the~~ An attorney who is suspended or disbarred under LR 83.8(b) shall have the right to petition the chief judge of this court for relief. The petition must be filed within 10 days after the discipline is ordered. The chief judge shall have absolute discretion as to what, if any, further action will be taken in respect to the matter.

(d) Reporting by Members. Any member of the bar of this court who has:

(1) lost or relinquished, temporarily or permanently, the right to practice in any court of record;

(2) been disciplined, publicly or privately, by any court, bar, court agency, ~~or committee; or~~

(3) ~~been convicted of a felony or crime involving dishonesty or false~~ statement,

shall promptly report such fact in writing to the clerk, supplying full details and copies of all pertinent documents reflecting, or explaining, such action.

(e) Unethical Behavior. The term "unethical behavior," as used in this rule, includes any conduct that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the State of Texas.

(f) Readmission. An attorney applying for readmission to the bar of this court must submit an application for readmission, together with the following materials:

(1) a full disclosure concerning the attorney's loss or relinquishment of membership in the bar of this court; and

(2) all information required by subsection (d) of this rule concerning facts that occurred prior to the date of application for readmission.

(g) Appointment of Counsel. A presiding judge shall have the right to appoint any member of the court's bar to assist in the handling of any proceeding contemplated by or resulting from this rule. An attorney appointed under this rule shall perform as requested unless relieved from doing so. An attorney desiring relief from appointment must move for such relief, which will be granted only upon a showing of good cause.

(h) Reciprocal Discipline.

(1) A member of the bar who is subject to suspension or disbarment under LR 83.8(a) must be given written notice by the chief judge, or by a district judge designated by the chief judge, that the court intends to suspend or disbar the member. The notice must identify the ground for imposing reciprocal discipline and provide the member an opportunity to show cause, within the time prescribed by the notice, why the member should not be suspended or disbarred.

(2) If the member does not respond to the notice, or responds but does not oppose reciprocal discipline, the chief judge or a designee district judge may enter an appropriate order after the prescribed time for a response expires or the response is received.

(3) If the member responds and, in whole or in part, opposes reciprocal discipline, the chief judge, or a district judge designated by the chief judge, must designate three district judges to hear the matter. The decision of a majority of the three-judge panel concerning the appropriate discipline shall be the final ruling of this court.

Proposed Amendment to Civil Rule 83.12

LR 83.12 Withdrawal of Attorney.

An attorney desiring to withdraw in any case must file a motion to withdraw. This motion must, in addition to the matters required by LR 7.1, specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.

Proposed Amendment to Criminal Rule 57.7

LCrR 57.7 Admission of Attorneys.

Attorneys must fulfill the following requirements to be admitted to practice in this court:

(a) Eligibility for Admission. Any attorney licensed to practice law by the Supreme Court of Texas, or by the highest court of any state or the District of Columbia, may be admitted to the bar of this court if the attorney is of good personal and professional character and is a member in good standing of the bar where the attorney is licensed.

(b) Procedure for Admission. Attorneys desiring admission to the bar of this court must complete an application for admission, to be approved by a district judge, and, except as provided in subsection (c) of this rule, be introduced by a member in good standing of the bar of this court, and take the required oath or affirmation before a ~~district~~ judge of this court. After the oath or affirmation is administered, and the applicant has paid the appropriate fee, the clerk shall issue a certificate stating that the attorney is admitted to practice before this court.

(c) Admission Before Judges of Other Districts. Any nonresident attorney who has ~~completed all requirements for admission to the bar of this court may, with the approval of~~ a district judge of the division where the application is pending, have the oath of admission ~~administered by a district judge in another district~~. ~~The nonresident attorney must file the~~ oath with the clerk and pay the appropriate fee before the attorney's name will be added to the roll of attorneys for this district.

(d) Admission is Discretionary. All admissions to practice before this court shall be discretionary with the district judge reviewing the application for admission.

Proposed Amendments to Criminal Rule 57.8

LCrR 57.8 Loss of Membership and Discipline of Attorneys.

(a) Loss of Membership. ~~A member of the bar of this court is subject to suspension or disbarment by the court~~ ~~Membership in the bar of this court shall be automatically revoked~~ under the following circumstances

(1) if for any reason other than nonpayment of dues, failure to meet continuing legal education requirements, or voluntary resignation unrelated to a disciplinary proceeding or problem, an attorney loses, either temporarily or permanently, the right to practice law before:

(A) the courts of the State of Texas;

(B) the highest court of any other state or the District of Columbia; or

(C) any federal court; or

(2) if an attorney fails to maintain the right to practice law before the highest court of at least one state or the District of Columbia, unless the member's failure to maintain such right results from nonpayment of dues or failure to meet continuing legal education requirements.

(b) Grounds for Disciplinary Action. A presiding judge, after giving opportunity to show cause to the contrary, may take any appropriate disciplinary action against a member of the bar for:

(1) conduct unbecoming a member of the bar;

(2) failure to comply with any rule or order of this court;

(3) unethical behavior;

(4) inability to conduct litigation properly;

(5) conviction by any court of a felony or crime involving dishonesty or false statement; or

(6) having been publicly or privately disciplined by any court, bar, court agency or committee.

(c) Appeal of Disciplinary Action. ~~If an attorney's membership in the bar of this court is suspended or revoked, the~~ An attorney who is suspended or disbarred under LR 83.8(b) shall have the right to petition the chief judge of this court for relief. The petition must be filed within 10 days after the discipline is ordered. The chief judge shall have absolute discretion as to what, if any, further action will be taken in respect to the matter.

(d) Reporting by Members. Any member of the bar of this court who has:

(1) lost or relinquished, temporarily or permanently, the right to practice in any court of record;

(2) been disciplined, publicly or privately, by any court, bar, court agency, or committee; or

(3) been convicted of a felony or crime involving dishonesty or false statement,

shall promptly report such fact in writing to the clerk, supplying full details and copies of all pertinent documents reflecting, or explaining, such action.

(e) Unethical Behavior. The term "unethical behavior," as used in this rule, includes any conduct that violates any code, rule, or standard of professional conduct or responsibility governing the conduct of attorneys authorized to practice law in the State of Texas.

(f) Readmission. An attorney applying for readmission to the bar of this court must submit an application for readmission, together with the following materials:

(1) a full disclosure concerning the attorney's loss or relinquishment of membership in the bar of this court; and

(2) all information required by subsection (d) of this rule concerning facts that occurred prior to the date of application for readmission.

(g) Appointment of Counsel. The judge reviewing an application for admission shall have the right to appoint any member of the court's bar to assist in the handling of any proceeding contemplated by or resulting from this rule. An attorney appointed under this rule shall perform as requested unless relieved from doing so. An attorney desiring relief from appointment must move for such relief, which will be granted only upon a showing of good cause.

(h) Reciprocal Discipline.

(1) A member of the bar who is subject to suspension or disbarment under LCrR 57.8(a) must be given written notice by the chief judge, or by a district judge designated by the chief judge, that the court intends to suspend or disbar the member. The notice must identify the ground for imposing reciprocal discipline and provide the member an opportunity to show cause, within the time prescribed by the notice, why the member should not be suspended or disbarred.

(2) If the member does not respond to the notice, or responds but does not oppose reciprocal discipline, the chief judge or a designee district judge may enter an appropriate order after the prescribed time for a response expires or the response is received.

(3) If the member responds and, in whole or in part, opposes reciprocal discipline, the chief judge, or a district judge designated by the chief judge, must designate three district judges to hear the matter. The decision of a majority of the three-judge panel concerning the appropriate discipline shall be the final ruling of this court.

Proposed Amendment to Criminal Rule 57.12

LCrR 57.12 Withdrawal of Attorney.

An attorney desiring to withdraw in any case must file a motion to withdraw. This motion must, in addition to the matters required by LCrR 47.1, specify the reasons requiring withdrawal and provide the name and address of the succeeding attorney. If the succeeding attorney is not known, the motion must set forth the name, address, and telephone number of the client and either bear the client's signature approving withdrawal or state specifically why, after due diligence, the attorney was unable to obtain the client's signature.