

SUPREME COURT OF WISCONSIN

NOTICE

This order is subject to further editing and modification. The final version will appear in the bound volume of the official reports.

No. 04-02

In the matter of the Amendment of Supreme Court Rules 12.04 and 12.05 - Client's Security Fund and Supreme Court Rule 22.29 - Petitions for Reinstatement.

FILED

AUG 2, 2004

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

On April 21, 2004, the court held a public hearing on the petition filed January 21, 2004, by the Board of Governors for the State Bar of Wisconsin, seeking to amend Supreme Court Rules 12.04, 12.05, and 22.29, so as to rename the Clients' Security Fund the Wisconsin Lawyers' Fund for Client Protection, and to amend and clarify the requirements for petitions for reinstatement. At the ensuing open administrative conference the court unanimously adopted the petition.

IT IS ORDERED that, effective January 1, 2005, Supreme Court Rule Chapters 12 and 22 are amended as follows:

SECTION 1. 12.04 (title) and (1) of the supreme court rules are amended to read:

12.04 (title) ~~Clients' security fund~~ Wisconsin lawyers' fund for Client Protection: creation and purpose; definitions.

(1) A ~~clients' security fund~~ Wisconsin Lawyers' Fund for Client Protection of the state bar of Wisconsin is created to reimburse, to the extent and in the manner provided by this chapter, losses caused by the dishonest conduct of members of the state bar of Wisconsin.

COMMENT

The Wisconsin Lawyers' Fund for Client Protection was established in 1981 and was originally entitled The Clients' Security Fund. The name change reflects amendments to the ABA Model Rules for Lawyer's Funds for Client Protection, and is more descriptive of the funds' purpose.

SECTION 2. 12.04 (2) (intro.), (d) and (f) of the supreme court rules are amended to read:

12.04 **(2) (intro.)** In ~~this chapter~~ ss. 12.04 to 12.11:

(d) "Committee" means the ~~clients' security fund~~ Wisconsin lawyers' fund for client protection committee.

(f) "Fund" means the ~~clients' security fund~~ Wisconsin lawyers' fund for client protection of the state bar of Wisconsin.

SECTION 3. 12.05(1) of the supreme court rules is amended to read:

12.05**(1)** The fund shall be operated and administered by the committee of the state bar to be known as the

~~clients' security fund~~ Wisconsin lawyers' fund for client protection committee. The committee shall consist of 5 lawyers and 2 nonlawyer members who are appointed by the president of the state bar. The initial terms of the members are: one lawyer to serve until July 1, 1982; one lawyer to serve until July 1, 1983; one lawyer and one nonlawyer member to serve until July 1, 1984; one lawyer to serve until July 1, 1985; one lawyer and one nonlawyer member to serve until July 1, 1986. Upon the expiration of the initial appointments, each subsequent appointment shall be for a term of 5 years. No person who has served a full term of 5 years shall be eligible for reappointment until one year after the termination of his or her last term. A vacancy on the committee shall be filled by appointment by the president of the state bar for the unexpired term.

SECTION 4. 22.29(4)(m) of the supreme court rules is amended to read:

22.29 **(4)** (m) The petitioner has made restitution to or settled all claims of persons injured or harmed by petitioner's misconduct, including reimbursement to the Wisconsin lawyers' fund for client protection for all payments made from that fund, or, if not, the petitioner's explanation of the failure or inability to do so.

COMMENT

An attorney seeking reinstatement of a suspended or revoked license is required to reimburse the Fund for any payments made to injured clients as a result of the attorney's conduct, or to explain why this is not possible. Fund payment to a client signifies that the lawyer's dishonest conduct caused a loss that was restored through an assessment against all members of the bar. The attorney responsible should be required to reimburse the Fund before resuming practice. In cases where the attorney demonstrates that he or she cannot make full restitution to injured clients and to the Fund, the Fund will defer its right to reimbursement until the clients have been made whole.

IT IS ORDERED that notice of this amendment of SCR 12.04, 12.05, and 22.29 be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this 11th day of August, 2004.

BY THE COURT:

Christopher J. Paulsen
Chief Deputy Clerk of Supreme Court