
**In the matter of amending Supreme Court Rules pertaining to
attorney disciplinary proceedings**

PETITION 19-__

**PETITION OF the OLR Process Review Committee’s Subcommittee on Charging FOR
AN ORDER CREATING Supreme Court Rule 22.185 AND AMENDING Supreme Court
Rules 22.24 (1) and 22.38.**

For the reasons set forth in the accompanying supporting memorandum, the OLR Process Review Committee’s Subcommittee on Charging respectfully petitions the Supreme Court to create and amend certain Supreme Court Rules affecting attorney disciplinary proceedings.

PETITION

The OLR Process Review Committee’s Subcommittee on Charging respectfully requests that the Supreme Court adopt the following rule:

**Section 1. SCR 22.185 is created to read:
22.185 Enforcement of Disciplinary Orders.**

(1) The supreme court, on its own motion, upon the motion of the director, or upon the motion of a special investigator acting under SCR 22.25 filed in the disciplinary proceeding in which an order was issued, may enforce any disciplinary order where the respondent has failed to substantially comply with the order.

(2) Upon filing of a motion under sub. (1), the supreme court may order the respondent to show cause why the relief requested in the motion should not be granted. Within the time set forth in the order, the respondent shall have the right to file with the supreme court a written response to the order to show cause, and respondent shall serve a copy of such response on the director, or special investigator. The director, or special investigator, may file a reply memorandum within 10 days after filing of the response.

(3) The supreme court may decide the motion upon the submissions of the parties, or may refer the matter to the referee appointed in the proceeding, who shall promptly conduct a hearing and file a report with the supreme court containing findings of fact, conclusions of law, and a recommendation for disposition of the motion. Unless otherwise directed by the supreme court, the referee shall follow the procedures in SCR 22.15 and SCR 22.16, and may conduct the hearing by telephone. A report issued by the referee is reviewable under SCR 22.17.

(4) Upon the submissions of the parties, or upon receipt of the report of the referee, the supreme court shall decide the motion, and may either deny or dismiss the motion, or issue such orders as are necessary to enforce the order.

(5) Nothing in this rule shall:

(a) Limit the authority of the director, or a special investigator, to initiate an investigation or proceeding for misconduct or medical incapacity under these rules.

(b) Limit the constitutional, statutory, or inherent authority of the supreme court to enforce an order issued in a disciplinary proceeding.

Section 2. SCR 22.24 (1) is amended to read:

22.24 (1) The supreme court may assess against the respondent all or a portion of the costs of a disciplinary proceeding in which misconduct is found, a medical incapacity proceeding in which it finds a medical incapacity, ~~or a reinstatement proceeding, or a motion to enforce an order issued in a disciplinary proceeding,~~ and may enter a judgment for costs. The director may assess all or a portion of the costs of an investigation when discipline is imposed under SCR 22.09. Costs are payable to the office of lawyer regulation.

Section 3. SCR 22.38 is amended to read:

22.38 Allegations of misconduct in a complaint, allegations of medical incapacity in a petition, allegations of noncompliance with an order of the supreme court issued in a disciplinary proceeding, and character and fitness to practice law shall be established by evidence that is clear, satisfactory and convincing.

Respectfully submitted this ____ day of _____, 2019.

Hon. Gerald Ptacek, Chair, OLR Procedure Review Committee

Paul Schwarzenbart, Chair, Charging Process Subcommittee