

FILED

JAN 24 2020

**DOUGLAS T. SHIMA
CLERK OF APPELLATE COURTS**

IN THE SUPREME COURT OF THE STATE OF KANSAS

ORDER

2020-RL-004

RULES RELATING TO DISCIPLINE OF ATTORNEYS

The attached Supreme Court Rules 208 through 208A are hereby amended, effective the date of this order.

Dated this 24th day of January 2020.

FOR THE COURT:



MARLA LUCKERT
Chief Justice

RULES RELATING TO DISCIPLINE OF ATTORNEYS

Rule 208

ATTORNEY REGISTRATION

(a) **Definitions.**

- (1) **"Licensing Period"** means the period of one year beginning July 1 and ending June 30.
- (2) **"Registration fee"** means the amount of fee established by Supreme Court order for a status listed in subsection (b)(1).

(b) **Annual Registration.** In the year an attorney is admitted to the practice of law by the Supreme Court, the attorney must register with the ~~clerk of the appellate courts~~ Office of Judicial Administration on a form provided by the ~~clerk~~ Office of Judicial Administration no later than 30 days after taking the oath of admission under Rule 720. Each year thereafter, an attorney admitted to the Kansas bar, including a justice or a judge, must register with the ~~clerk~~ Office of Judicial Administration as provided in this rule.

- (1) **Status.** An attorney may register as active, inactive, retired, or disabled due to mental or physical disability.
- (2) **Practice of Law.** Except as otherwise provided in paragraph (3), only an attorney registered as active may practice law in Kansas.
- (3) **Pro Bono Exception.** An attorney registered as retired or inactive may practice as provided in Rule 712B.
- (4) **Fee.** An attorney must pay an annual registration fee in an amount established by Supreme Court order. The attorney must pay the registration fee based on the attorney's status shown in the records of the ~~clerk~~ Office of Judicial Administration as of July 1. No registration fee will be charged to:
 - (A) an attorney newly admitted to the practice of law in Kansas until the first regular registration date following admission;
 - (B) an attorney who has retired from the practice of law, has reached the age of 66 or more on or before July 1, and has requested a change to retired status; or

- (C) an attorney who is on disabled status due to physical or mental disability.
- (5) **Exemptions.** The following attorneys are exempt from annual registration:
- (A) an attorney appearing pro hac vice in any action or proceeding in this state solely in accordance with Supreme Court Rules 1.10 or 116;
 - (B) an attorney who has registered as retired or as disabled due to mental or physical disability; and
 - (C) an attorney who has been transferred to disabled status by the Supreme Court under Rule 220.
- (6) **Continuing Legal Education (CLE) Fee.** Payment of the annual CLE fee and any applicable late fee under Rule 808 of the Rules Relating to Continuing Legal Education is required for an active attorney.
- (7) **Reaffirmation of Attorney Oath Under Rule 720.** During annual registration, an attorney must reaffirm their oath under Rule 720 in the manner directed by the Court.
- (c) **Registration Form; Statement of Registration Fee.** By June 1 of each year, the ~~clerk of the appellate courts~~ Office of Judicial Administration will mail to each registered attorney, at the attorney's preferred address on record ~~in the clerk's office with the Office of Judicial Administration~~, a registration form that states the amount of the registration fee that must be paid by June 30 of the year in which the Licensing Period begins. As a substitute for mailing under this subsection, the Office of Judicial Administration ~~clerk~~ may email to each registered attorney instructions for completing an online annual registration.
- (d) **Registration Deadline.** The registration form and fee under subsection (c) must be received by the ~~clerk of the appellate courts~~ Office of Judicial Administration, or online registration must be completed, by June 30 prior to the start of the next Licensing Period that begins July 1. Failure of an attorney to receive a statement of the registration fee from the ~~clerk~~ Office of Judicial Administration or instructions for online registration from the ~~clerk~~ Office of Judicial Administration does not excuse payment of the fee.
- (e) **Late Fee.** A registration form and fee received by the ~~clerk of the appellate courts~~ Office of Judicial Administration after June 30 must be accompanied by a \$100 late fee. Completion of online registration after June 30 will cause a \$100 late fee to be assessed automatically.

- (f) **Failure to Complete Annual Registration.** An attorney required to register annually whose registration form and fee are not received by the ~~clerk of the appellate courts~~ Office of Judicial Administration by June 30 or who has not completed online registration by June 30 or who fails to pay any late fee may be administratively suspended from the practice of law under the following procedure.
- (1) **Notice.** The ~~clerk~~ Office of Judicial Administration will mail a notice to an attorney who has failed to register, pay the registration fee, or pay any late fee, stating that the attorney's right to practice law is subject to being summarily suspended after 30 days from the mailing of the notice if the registration form and any applicable fees are not received by the ~~clerk~~ Office of Judicial Administration within that time. The ~~clerk~~ Office of Judicial Administration will mail the notice to the attorney's preferred address on record ~~in the clerk's office~~ with the Office of Judicial Administration. K.S.A. 60-303(c) controls service of any papers or notices, except as otherwise provided in these rules.
 - (2) **Certification.** The ~~clerk~~ judicial administrator will certify to the Supreme Court the name of an attorney who fails to register or pay the applicable fees under (f)(1) before the expiration of the period of time specified in the notice.
 - (3) **Administrative Suspension.** The Supreme Court will issue an order suspending from the practice of law an attorney whose name the ~~clerk~~ judicial administrator certifies under (f)(2). The ~~clerk~~ Office of Judicial Administration will provide a list of suspended active attorneys to the clerk of the district court and the chief judge of each judicial district.
- (g) **Change of Status from Inactive to Active.** An attorney may apply for a change of status from inactive to active as follows.
- (1) **Inactive Less than Two Years.** An attorney who is registered as inactive for less than two years may change status to active by:
 - (A) submitting a request for change of status to active to the Office of Judicial Administration;
 - (B) complying with any condition imposed by the Supreme Court;
 - (C) completing any requirement imposed by the Kansas Continuing Legal Education Board; and
 - (D) paying any fees imposed by the Supreme Court, including a \$25 fee for change in status.

- (2) **Inactive For at Least Two but Less than Ten Years.** An attorney who has been registered as inactive for at least two years but less than ten years may change status to active by:
 - (A) submitting an Application for Change of Registration Status Form to the Office of Judicial Administration and
 - (B) complying with the requirements in (g)(1)(B)-(D).
- (3) **Inactive Ten Years or More.** An attorney who has been registered as inactive for ten years or more may change status to active by:
 - (A) complying with the requirements in (g)(2) and
 - (B) if required by the Supreme Court after it reviews the application, completing a bar review course approved by the Supreme Court.
- (4) **Effective Date of Change of Status.** A change of an attorney's registered status from inactive to active is not effective until approved by the Supreme Court.
 - (A) A request for change in status to active effective prior to July 1 requires payment of the change of status fee and the difference between the active fee and the inactive fee for the current Licensing Period. The attorney will then be responsible for paying the active fee for the next Licensing Period when it becomes due.
 - (B) A request for change in status to active effective July 1 requires payment of the change of status fee and the active fee by June 30.
- (h) **Change of Status from Retired to Active.** An attorney may apply for a change of status from retired to active by submitting to ~~the Supreme Court~~ the Office of Judicial Administration an Application for Change of Registration Status Form. The Supreme Court may:
 - (1) order the disciplinary administrator to conduct an investigation of the applicant;
 - (2) order the attorney to appear before a hearing panel of the Kansas Board for Discipline of Attorneys to consider the application; and
 - (3) impose appropriate conditions, costs, and registration fees before or upon granting the change of status.

- (i) **Change of Status from Active to Inactive or from Active to Retired.** An attorney who is registered as active may change status to inactive or retired. To be eligible for retired status, an attorney must have retired from the practice of law and have reached the age of 66. A change of registration status under this subsection must be received by June 30 to be effective for the next Licensing Period. An attorney may change to inactive or retired status by:
- (1) submitting a signed, written request to the ~~clerk of the appellate courts~~ Office of Judicial Administration for change of status to either inactive or retired and
 - (2) completing any requirement imposed by the Kansas Continuing Legal Education Board.
- (j) **Reinstatement After Administrative Suspension.** An attorney who has been suspended under subsection (f)(3) or Rule 808 may seek an order of the Supreme Court to be reinstated to active or inactive status by:
- (1) submitting an Application for Reinstatement Form to the Office of Judicial Administration;
 - (2) paying all delinquent registration fees and a \$100 reinstatement fee, unless the Supreme Court for good cause waives any portion of payment;
 - (3) paying any additional amount ordered and complying with any additional condition imposed by the Supreme Court; and
 - (4) completing any requirement imposed by the Kansas Continuing Legal Education Board.
- (k) **Service Fee.** The ~~clerk of the appellate courts~~ Office of Judicial Administration will charge a \$30 service fee for a check that is returned unpaid. An attorney whose check is returned unpaid must pay the service fee before a change of status can be approved, annual registration can be considered complete, or reinstatement can be granted.
- (l) **Registration Card.** The ~~clerk of the appellate courts~~ Office of Judicial Administration will issue an annual registration card in a form approved by the Supreme Court to each attorney registered as active.
- (m) **Bar Disciplinary Fee Fund.** The ~~clerk of the appellate courts~~ Office of Judicial Administration will deposit all registration fees in the bar disciplinary fee fund. Compensation and expenses of the Office of the Disciplinary Administrator and the Kansas Board for Discipline of Attorneys will be paid by disbursements from the fund. Disbursements from the fund will be made only on receipt of a voucher signed by a

Supreme Court Justice or the court's designee. Any unused balance in the fund may be applied to an appropriate use determined by the Supreme Court.

- (n) **Change of Address and Contact Information.** A registered attorney must notify the ~~clerk of the appellate courts~~ Office of Judicial Administration no later than 30 days after a change of legal name, residential address, business address, email address, business telephone number, residence/personal telephone number, liability insurer, or trust account information.
- (o) **Online Registration.** Participation in online registration will be voluntary in 2019 and 2020. Online registration will be mandatory in 2021 and each year thereafter.

Rule 208A

MANDATORY DISCLOSURE OF PROFESSIONAL LIABILITY INSURANCE

- (a) Each attorney admitted to the active practice of law ~~shall~~ must certify as part of annual registration ~~pursuant to~~ under Rule 208:
 - (1) whether the attorney is engaged in the private practice of law;
 - (2) if engaged in the private practice of law, whether the attorney is currently covered by professional liability insurance; and
 - (3) whether the attorney is exempt from the provisions of this rule because the attorney is engaged in the practice of law as a full-time government attorney or in-house counsel and does not represent clients outside that capacity.
- (b) Each attorney admitted to the active practice of law in this jurisdiction who reports being covered by professional liability insurance must ~~shall~~ notify the ~~clerk of the appellate courts~~ Office of Judicial Administration in writing within 30 days if the insurance policy providing coverage lapses, is no longer in effect, or terminates for any reason.
- (c) The information submitted ~~pursuant to~~ in accordance with this rule will be made available to the public ~~by such means as may be~~ in a manner designated by the Kansas Supreme Court.
- (d) Any attorney admitted to the active practice of law who fails to comply with this rule may be suspended from the practice of law until such time as the attorney complies. Supplying false information in response to this rule ~~shall~~ will subject the attorney to appropriate disciplinary action.