

Rule 228

PROCEDURE BEFORE SUPREME COURT

- (a) **Case Caption.** A case in the Supreme Court under these rules must be captioned as follows:
In the Matter of _____ No. _____

(Respondent) or (Petitioner).
- (b) **Docketing.** To docket a case in the Supreme Court, the disciplinary administrator must complete the following:
- (1) file any formal complaint, answer, and final hearing report or summary submission agreement; and
 - (2) submit the record and table of contents as directed by the clerk of the appellate courts.
- (c) **Record.** The record must include the following:
- (1) each filing by the disciplinary administrator and respondent, any order issued by the hearing panel, the final hearing report issued by the panel, and any agreement regarding a summary submission entered into by the disciplinary administrator and respondent;
 - (2) a transcript of any hearing and deposition;
 - (3) the disciplinary administrator's exhibits offered for admission into evidence; and
 - (4) the respondent's exhibits offered for admission into evidence.
- (d) **Notice of Docketing.** After the disciplinary administrator docketed a case, the clerk of the appellate courts will notify the respondent by certified mail that the case has been docketed.
- (e) **When Exception Required.** No later than 21 days after providing the notice under subsection (d), the disciplinary administrator and the respondent must file one of the following unless subsection (f)(2) applies:
- (1) an exception to a finding of fact or conclusion of law in the final hearing report to preserve the issue for review by the Supreme Court; or
 - (2) a statement that the party will not file an exception to the findings of fact or conclusions of law in the final hearing report.
- (f) **When Exception Not Required or Allowed.**
- (1) The disciplinary administrator and the respondent may contest the recommendation of discipline made by a hearing panel without filing an exception.
 - (2) Neither party may file an exception in a case submitted to the Supreme Court by summary submission under Rule 223.

- (g) **No Exception.**
 - (1) **By Respondent.** If the respondent files a statement under subsection (e)(2) that the respondent will not file an exception or if the respondent fails to timely file an exception, the findings of fact and conclusions of law in the final hearing report will be deemed admitted by the respondent.
 - (2) **By Disciplinary Administrator.** If the disciplinary administrator files a statement under subsection (e)(2) that the disciplinary administrator will not file an exception or if the disciplinary administrator fails to timely file an exception, the findings of fact and conclusions of law in the final hearing report will be deemed admitted by the disciplinary administrator.
- (h) **Exception Filed.** When the disciplinary administrator or the respondent timely files an exception under subsection (e)(1) to a finding of fact or conclusion of law, the following provisions apply.
 - (1) **Transcript.** The clerk of the appellate courts will order a copy of the transcript of the hearing on the formal complaint. The clerk will provide the copy to the respondent.
 - (2) **Briefs.**
 - (A) The party filing the exception must file an opening brief no later than 30 days after the clerk provides the transcript to the respondent. If both parties file an exception, the disciplinary administrator must file an opening brief no later than 30 days after the clerk provides the transcript to the respondent.
 - (B) The party responding to the opening brief must file a response brief no later than 30 days after service of the opening brief.
 - (C) The party filing the opening brief may file a reply brief no later than 14 days after service of the response brief.
 - (D) The parties must file and serve the briefs as directed by the clerk of the appellate courts, and the briefs must be in the format provided by Rule 6.02 et seq.
 - (E) If either party fails to file a brief, that party will be deemed to have admitted the findings of fact and conclusions of law in the final hearing report.
- (i) **Oral Argument.** The clerk of the appellate courts will set the case for oral argument before the Supreme Court. The clerk will notify the respondent and the disciplinary administrator of the date, time, and location or manner of the oral argument. The respondent and the disciplinary administrator must appear at the oral argument. This subsection applies even if the case is submitted under Rule 223 or if

the respondent or the disciplinary administrator fails to file an exception or a brief.

- (j) **Discipline Effective Immediately.** Any discipline ordered by the Supreme Court is effective immediately on the filing of the order or opinion with the clerk of the appellate courts, unless otherwise ordered by the court.
- (k) **Motion for Rehearing; Motion for Modification.** No later than 21 days after the filing of an order or opinion of the Supreme Court imposing discipline, the respondent may file a motion for rehearing or a motion for modification under Rule 7.06. The filing of the motion does not stay the effect of an order of discipline, unless otherwise ordered by the court.

[**History:** New rule adopted effective January 1, 2021; [Am. effective November 29, 2021.](#)]