

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1 and 5 of the 1974 Louisiana Constitution, and the inherent power of this Court, and considering the need to provide for the resignation of Bar Association members;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

PART I. Louisiana Supreme Court Rule XVIII, Section 5 be and is hereby enacted to read as follows:

RULE XVIII. ROLL OF ATTORNEYS

* * *

Section 5. Resignation from the Practice of Law

A lawyer who is not the subject of a pending disciplinary investigation or proceeding may file a written request with the Louisiana Supreme Court seeking to resign from the practice of law. The request shall be accompanied by a certificate, sworn to by the lawyer, that:

1. The request is freely and voluntarily made;
 2. All clients have been notified of the intent to seek resignation;
 3. The lawyer has properly withdrawn from all pending representations;
 4. The lawyer has returned all client funds, property, and files;
- and

5. The lawyer has committed no ethical violations or other acts of misconduct which could result in the imposition of lawyer discipline.

The sworn certificate shall include a listing of all jurisdictions in which the lawyer is admitted to the practice of law and a recitation of any disciplinary action taken against the lawyer in any other jurisdiction. The sworn certificate shall also include a listing of any pending complaints, claims, or formal inquiries filed or made against the lawyer in any other jurisdiction in which the lawyer is admitted.

The request shall also be accompanied by a certificate from the office of disciplinary counsel certifying that no disciplinary investigations or proceedings are pending against the lawyer. If the court finds that the lawyer's request complies with the provisions of this rule, the court may issue a public order reflecting that the lawyer voluntarily resigned from the practice of law. The court retains disciplinary jurisdiction over any lawyer who resigns pursuant to this section when allegations of unethical conduct are filed with or brought to the attention of the office of disciplinary counsel subsequent to the lawyer's resignation. The court also retains disciplinary jurisdiction over lawyers who resign pursuant to this section when it is alleged that the lawyer has engaged in the unauthorized practice of law after resigning.

Any lawyer seeking to be reinstated to the practice of law following a resignation must petition the Supreme Court for reinstatement.

PART II. Louisiana Supreme Court Rule XIX, Section 17 A, B and C be and are hereby amended to read as follows:

Section 17. Dissemination of Disciplinary Information.

A. Notice to Disciplinary Agencies. The disciplinary agency shall transmit notice of public discipline, transfers to or from disability inactive status, reinstatements, readmissions, permanent resignations, and certified copies of judgments of conviction to the disciplinary enforcement agency of every other jurisdiction in which the respondent is admitted.

B. Public Notice. The disciplinary agency shall cause notices of reprimand, suspension, disbarment, reinstatement, readmission, transfers to or from disability inactive status, and permanent resignation to be published in the journal of the state bar and in a newspaper of general circulation in each judicial district in which the lawyer maintained an office for the practice of law.

C. Notice to the Courts. The clerk of this court shall promptly cause to be transmitted a copy of the order of suspension, disbarment, reinstatement, readmission, permanent resignation, and transfer to or from disability inactive status to all courts in this state.

* * *

PART III. Louisiana Supreme Court Rule XIX, Section 20.1 be and is hereby enacted to read as follows:

Section 20.1. Permanent Resignation from the Practice of Law in Lieu of Discipline.

A lawyer against whom formal charges of misconduct have or may be filed may file a written request with the Louisiana Supreme Court seeking permanent resignation from the practice of law in lieu of discipline.

A. Affidavit of Consent. A request seeking permanent resignation from the practice of law shall be accompanied by an affidavit of consent wherein the lawyer states:

(1) the request is freely and voluntarily submitted; the lawyer is not being subjected to coercion or duress; and the lawyer is fully aware of the implications of submitting the request for permanent resignation;

(2) the lawyer is aware that there is presently pending an investigation into, or proceedings involving, allegations that there exist grounds for discipline, the nature of which shall be specifically set forth;

(3) the lawyer agrees that he/she:

(i) will never practice law in Louisiana or in any other jurisdiction;

(ii) will permanently resign from the practice of law in all other jurisdictions in which the lawyer is admitted to practice;

(iii) will never seek readmission to the practice of law in Louisiana or in any other jurisdiction; and

(iv) will never seek admission to the practice of law in any other jurisdiction.

The affidavit of consent shall include a listing of all jurisdictions in which the lawyer is admitted to the practice of law and a recitation of any disciplinary action taken against the lawyer in any other jurisdiction. The affidavit of consent shall also include a listing of any pending complaints, claims, or formal inquiries filed or made against the lawyer in any other jurisdiction in which the lawyer is admitted.

B. Disciplinary Costs. The lawyer shall include with the request a certificate from the board administrator attesting to the fact that all costs incurred by the Louisiana Attorney Disciplinary Board in the investigation and/or proceedings associated therewith have been paid in full.

C. Service Upon Disciplinary Counsel. A request for permanent resignation in lieu of discipline filed under this section shall be served upon the office of disciplinary counsel for review and response. Within thirty (30) days of service, disciplinary counsel may concur, oppose, or recommend modification of the request prior to action by the court.

(1) A concurrence filed by the office of disciplinary counsel shall be accompanied by a summary of the allegations of misconduct giving rise to the disciplinary investigation or proceeding. The summary shall be sufficient to fairly inform the court and the public of the nature of the facts and misconduct giving rise to the disciplinary investigation or proceeding.

(2) An opposition filed by disciplinary counsel shall be public. The factual allegations in support of disciplinary counsel's opposition

may remain confidential for good cause shown and in the discretion of the court.

D. Denial of Request. A request for permanent resignation in lieu of discipline which is denied by the court shall be withdrawn, and may not be used against the lawyer in any subsequent proceeding.

E. Public Nature of Proceeding. All proceedings in which a lawyer seeks permanent resignation in lieu of discipline shall be public, unless otherwise ordered by the court.

F. Order of Resignation. The court may accept or reject the request for permanent resignation, or take any other action it feels is appropriate. If the court accepts a permanent resignation, the Order of Permanent Resignation shall be a matter of public record.

A request for permanent resignation in lieu of discipline which is granted by the court shall, as a condition thereto, permanently prohibit the lawyer from practicing law in Louisiana or in any other jurisdiction in which the lawyer is admitted to the practice of law; permanently prohibit the lawyer from seeking readmission to the practice of law in this state or in any other jurisdiction in which the lawyer is admitted; and permanently prohibit the lawyer from seeking admission to the practice of law in any jurisdiction. Jurisdictions seeking to impose reciprocal discipline shall be entitled to receive the entire record of the lawyer's request seeking permanent resignation.

PART IV. Louisiana Supreme Court Rule XIX, Section 26 A, E, and H be and are hereby amended to read as follows:

Section 26. Notice to Clients, Adverse Parties, and Other Counsel.

A. Recipients of Notice; Contents. Within thirty days after the date of the court order imposing discipline, transfer to disability inactive status, or permanent resignation, a respondent who permanently resigns in lieu of discipline, or a respondent who is disbarred, transferred to disability inactive status, placed on interim suspension, or suspended for more than six months shall notify or cause to be notified by registered or certified mail, return receipt requested,

- (1) all clients being represented in pending matters;
- (2) any co-counsel in pending matters; and
- (3) any opposing counsel in pending matters, or in the absence of opposing counsel, the adverse parties, of the order of the court and that the lawyer is therefore disqualified to act as lawyer after the effective date of the order.

The notice to be given to the lawyer(s) for an adverse party, or, in the absence of opposing counsel, the adverse parties, shall state the place of residence of the client of the respondent.

* * *

E. Effective Date of Order; Refund of Fees. Court orders imposing discipline or transfer to disability inactive status are effective in accordance with La. C.C.P. Art. 2167, unless otherwise ordered. Orders imposing discipline in accordance with Section 20, orders which impose an

interim suspension, and permanent resignation orders are effective immediately, unless otherwise ordered by the court. The respondent shall refund within thirty days after entry of the order any part of any fees paid in advance that has not been earned.

* * *

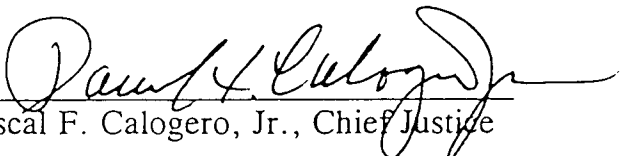
H. Affidavit Filed with Court. Within thirty days after the effective date of the disbarment or suspension order, order of transfer to disability inactive status, or order of permanent resignation, the respondent shall file with this court an affidavit showing:

- (1) Compliance with the provisions of the order and with these rules;
- (2) All other state, federal and administrative jurisdictions to which the lawyer is admitted to practice;
- (3) Residence or other addresses where communications may thereafter be directed; and
- (4) Service of a copy of the affidavit upon disciplinary counsel.

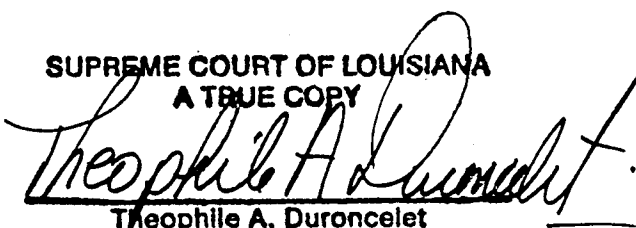
This rule shall become effective upon signing and shall remain in full force and effect thereafter, until amended or changed under the authority of future orders of this Court.

New Orleans, Louisiana, this 5th day of July, 2001.

FOR THE COURT:


Pascal F. Calogero, Jr., Chief Justice

**SUPREME COURT OF LOUISIANA
A TRUE COPY**


Theophile A. Duroncelet
Chief Deputy Clerk of Court