

**IN THE COURT OF CENTRAL JURISDICTION
COURT ORDER 50**

IN THE MATTER OF ATTORNEY AND LAY ADVOCATE DISCIPLINE

“The Court of Central Jurisdiction shall have the power to prescribe rules governing the admission of individuals to practice law and to prescribe rules governing conduct in the practice of law, and rules concerning the presentation, hearing and determination of accusations against individuals practicing law.” 5 MLBSA §106. This Rule is issued in accordance with the Court’s authority found in Section 106. The Rule is effective once signed by the Chief Justice.

I. Disciplinary Procedures

a. Reporting. Any person who believes that a member of the Mille Lacs Band Bar violated the Minnesota Rules of Professional Conduct, or any Mille Lacs Band law governing attorneys admitted to practice before the Court of Central Jurisdiction, may report the alleged violation, in writing, to the Chief Justice of the Court of Appeals of the Court of Central Jurisdiction. The written submission may be in the form of a letter and should provide sufficient detail of the alleged violation to allow the Chief Justice to determine which Rule of Professional Conduct may have been violated, and shall include the names and addresses of all interested parties. Law trained persons should identify the Rule(s) that he/she believes that the member of the Bar violated. Upon receipt of the report, the Court Administrator shall direct the Appellate Clerk to open the case under an appellate case number.

b. Review by the Chief Justice. The Chief Justice shall review the alleged violation. If the Chief Justice finds that the allegation is frivolous or without merit, written notice of such a finding shall be provided to the complainant; the records shall be filed with the appellate cases; and no further action shall be taken by the Court. If the Chief Justice finds that the allegation is not frivolous, he/she shall issue an order to the alleged offender requiring him/her to respond to the allegation in writing. A copy of the alleged violation shall be attached to the order. Within 15 days from the date the order is served, the alleged offender shall file written response with the Chief Justice.

c. Probable Cause. The Chief Justice shall consult with a disinterested Mille Lacs Band Magistrate to determine whether there is probable cause to believe that the alleged offender violated the Minnesota Rules of Professional Conduct, or any Mille Lacs Band law governing attorneys admitted to practice before the Court of Central Jurisdiction. Such determination shall be made within 30 days after the alleged offender’s response to the alleged violation is due. The Chief Justice shall send a copy of the determination to the complainant and the alleged offender. The determination shall be in writing and contain written findings and conclusions supporting the Chief Justice’s determination that there is, or is not, probable cause to believe that the member of the bar violated the Minnesota Rules of Professional Conduct. If deemed appropriate, the Chief Justice may dismiss the alleged violation at this stage for one or more of the following reasons:

1. The alleged violation concerns only a fee dispute and not a clearly excessive or improper fee;
2. The alleged violation does not contain a claim of misconduct;
3. The alleged violation does not contain sufficient specific allegations on which to conduct an investigation;
4. The alleged violation concerns personal behavior outside the practice of law that does not constitute violations of the Minnesota Rules of Professional Conduct.

d. Violation Unfounded. If the Chief Justice determines that the alleged offender did not violate the Minnesota Rules of Professional Conduct, the case shall be closed and sealed. The Court shall have discretion to re-open a sealed file for good cause.

e. Notice of Hearing. If the Chief Justice issues a finding of probable cause that the alleged offender violated the Minnesota Rules of Professional Conduct, or any Mille Lacs Band law governing attorneys admitted to practice before the Court of Central Jurisdiction, the Court of Appeals shall conduct a hearing on the alleged violation. Reasonable notice of the time, date, and place of hearing shall be given to all parties to the alleged violation. The hearing date shall be at least thirty business (30) days after the probable cause finding. The notice shall be served on the alleged offender at his/her address of record submitted to the Court by the alleged offender in his/her Bar member file or, for lay advocates, his/her most recent court filing. Service by first-class mail shall be sufficient.

f. Conduct of Hearing. The hearing shall be open to the public unless the complaint involves matters related to confidential juvenile matters, in which case the Court may close the proceedings to the public. The hearing shall be governed by the following procedures:

1. At least twenty (20) business days prior to the hearing date, any interested party to the proceedings may file a motion requesting that the Court of Appeals enter a scheduling order that will establish deadlines for motions, briefs, discovery, and any other issues deemed appropriate by the Court of Appeals.
2. All parties to the alleged violation may be represented by legal counsel at their own expense;
3. The parties or their counsel may examine and cross-examine witnesses and present evidence;
4. Continuances may be granted in the discretion of the Court, for good cause shown.
5. The times specified by this subsection for notice and deadlines may be altered by the Court for good cause; and,

6. If the alleged offender fails to appear for the hearing after proper service is made, the Court may proceed by default.

g. Written Decision. The Court shall render a written decision within 15 days after completion of the hearing. If the Court orders suspension or disbarment, any conditions or requirements for reinstatement of the offender to practice before the Court shall be stated in the order. Such decision shall be final. The Court shall serve copies of the decision to the complainant and the alleged offender.

h. Sanctions. If the Court determines after its hearing that an attorney or lay advocate violated the Minnesota Rules of Professional Conduct, it may impose one or more of the following sanctions:

1. Public or private reprimand. A private, written reprimand shall be filed in the case file. The case shall be file with the Court's appellate decisions. The file shall be confidential and not open to public review. A public, written reprimand shall be issued by the Court and placed in the case file. The Court Administrator shall present the order to the Mille Lacs Band newspaper and any other interested media outlet for publication. Issuing and causing a public reprimand to be published shall be a judicial duty and the Court and court staff shall be immune from liability pursuant to 5 MLBSA §119. The Court file shall be open to the public under the same conditions as any other non-confidential file.
2. Assessment of actual costs for the disciplinary proceedings and the investigation leading to the hearing; or monetary fines against the offender up to a maximum fine of \$5,000, in the discretion of the Court to deter future conduct by the offender or other practitioners; or both costs and a fine.
3. Suspension of the right to practice before the Court of Central Jurisdiction for a fixed period of time.
4. Disbarment of the attorney or lay advocate.

i. Misconduct in the Presence of the Court. Nothing contained herein shall prevent any Magistrate, Judge, or Justice of the Court of Central Jurisdiction who observes a violation of the Minnesota Rules of Professional Conduct, or any Mille Lacs Band law governing attorneys admitted to practice before the Court of Central Jurisdiction, from exercising discretion to take immediate action for direct contempt of court concerning such violation. Such judicial officer shall then file a written alleged violation in accordance with these procedures. Any summary penalties imposed by the judicial officer for direct contempt of court shall be in addition to the sanction, if any, imposed by the Court of Appeals in a disciplinary proceeding. The Court of Appeals shall have discretion to take into account any summary discipline and reduce its sanction, if any, under this Rule.

j. Cross-reporting. The Chief Judge shall transmit a certified copy of any order imposing discipline on an attorney to all jurisdictions in which the disciplined attorney is licensed to practice.

k. Judicial Assignment. If the Chief Justice recuses from the matter or is unavailable, the Court Administrator shall assign the case to a disinterested Associate Justice. An attorney or lay advocate's behavior in an appearance before the Court of Central Jurisdiction that resulted in disciplinary action shall not be grounds to disqualify a Justice. However, if a Mille Lacs Band Magistrate was assigned to the hearing in which the offensive behavior occurred, a different Magistrate should be assigned to the disciplinary proceedings.

II. Reciprocal Discipline

a. Duty to Inform Court. Licensed attorneys have a duty to inform the Court Administrator of any discipline imposed by any other jurisdiction where the attorney is admitted within 10 days of service of the order imposing sanctions. In cases where an attorney has been or will be suspended or disbarred by another jurisdiction, this Court shall suspend or disbar the attorney reciprocally.

b. Request for Show Cause Hearing. Either before or after the Court of Appeals issues an order imposing suspension or disbarment, the subject attorney may request a hearing to show cause why this Court should not impose reciprocal discipline. In its discretion, the Court of Appeals may delay imposition of reciprocal discipline, or temporarily stay its order imposing reciprocal discipline, until the conclusion of the show cause hearing.

c. Hearing and Decision. The Court will hold the show cause hearing within 30 days of receipt of the request for the show cause hearing. After hearing from the disciplined attorney, the Court may enter such order as it deems appropriate. The order of the Court is final.

d. Failure to Inform. The Court may sanction an attorney for failure to comply with Subsection (a) of Section II. The Court shall have discretion to determine the appropriate sanction, if any, to impose for failure to comply with Subsection (a). If a sanction is imposed, the purpose shall be to deter future violations of Subsection (a) by members of the Mille Lacs Band Bar.

III. Conviction of Crimes

a. Duty to Inform Court. An attorney shall send to the Court Administrator written notice of his or her conviction of any misdemeanor, tribal criminal conviction, or felony in any jurisdiction within 10 days of entry of the judgment of conviction. An attorney shall send to the Court Administrator of Appeals written notice of his or her plea of guilty to any misdemeanor, tribal criminal offense, or felony in any jurisdiction within 10 days of making the plea even in cases where there is no conviction resulting from the plea because of a deferred prosecution agreement, deferred judgment, or any other reason. The written notice shall include the name and address of the court in which the judgment of conviction was entered, the date of the judgment of conviction and the specific section of the applicable criminal or penal code upon

which the conviction is predicated. The Court Administrator shall transmit a copy of any such notice to the Chief Justice of the Court of Central Jurisdiction.

b. Reciprocal Discipline. The Court of Central Jurisdiction shall impose the same discipline as the attorney's primary licensing jurisdiction in accordance with the Court's Reciprocal Discipline procedures. If the attorney's primary licensing jurisdiction does not impose any sanctions related to the crime, the Court of Central Jurisdiction shall have discretion whether or not to impose sanctions.

c. Failure to Inform. The Court may sanction an attorney for failure to comply with Subsection (a) of Section III. The Court shall have discretion to determine the appropriate sanction, if any, to impose for failure to comply with Subsection (a). If a sanction is imposed, the purpose shall be to deter future violations of Subsection (a) by members of the Mille Lacs Band Bar.

IV. Reinstatement

a. Attorneys

1. No attorney who has been suspended or disbarred by the Court of Central Jurisdiction shall be re-admitted to its Bar as an attorney or lay advocate until the jurisdiction that originally disciplined the attorney reinstates the attorney to the practice of law. If the Court of Central Jurisdiction suspended or disbarred the attorney, then reinstatement shall be preconditioned on the attorney meeting the reinstatement requirements stated in the order of suspension/disbarment.

2. Once the attorney is reinstated by the disciplining jurisdiction or he/she completes the requirements for reinstatement imposed by the Court of Appeals, he/she may petition the Court of Appeals for reinstatement. The Court shall have discretion as to whether the attorney should be reinstated. The Court's order for reinstatement or denying reinstatement shall be by written opinion. The Court of Appeals' decision shall be final.

b. Lay Advocates

Any lay advocate who has been suspended or disbarred by the Court of Central Jurisdiction shall not be allowed to represent litigants in the Court of Central Jurisdiction until he/she complies with the requirements for reinstatement listed in the discipline order against the lay advocate. Once the lay advocate completes the requirements, he/she may petition the Court of Appeals for reinstatement. The Court shall have discretion as to whether the lay advocate should be reinstated. The Court's order for reinstatement or denying reinstatement shall be by written opinion. The Court of Appeals decision shall be final.

IT IS SO ORDERED,

_____, Chief Justice

Dated at Vineland, Minnesota, this _____ day of _____, 2013.

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