



## BAR COUNSEL INSIDER

*Bar Counsel Insider provides practical and important information to State Bar members about ethics and the disciplinary process.*

### Responsibilities of a Suspended Attorney

It's the first section many lawyers turn to when reading ARIZONA ATTORNEY: Lawyer Regulation. Everybody finds the subject interesting, but nobody likes to think about what would happen should we find ourselves on the wrong end of discipline one day.

Another reason to think about it is if your opposing counsel has been suspended. What does that lawyer have to do? Supreme Court Rule 72 imposes numerous responsibilities on a suspended attorney. Failing to comply with the suspension requirements is quickly becoming one of the fastest ways to disbarment proceedings.

Within 10 days of the order imposing suspension, Rule 72(a) requires the suspended attorney to notify by registered or certified mail, return receipt requested, numerous people of the judgment as well as the fact that the lawyer is disqualified to act as a lawyer. This notice must go to all clients being represented in pending matters, any co-counsel in pending matters, any opposing counsel in pending matters, or, in the absence of such counsel, the adverse parties, and each court and division in which the attorney has any pending matter, whether active or inactive. In addition, Rule 72(b) requires the attorney to move to withdraw from all representation prior to the effective date of the suspension, and Rule 72(c) requires the suspended attorney to return all client papers and property in a timely manner.

Finally, Rule 72(e) requires the suspended attorney

to file an affidavit with the Disciplinary Commission, the Supreme Court and Bar Counsel showing full compliance with these requirements, listing all other jurisdictions in which the attorney is admitted to practice, listing the attorney's residence or address where he can be reached, and avowing that he has served a copy of the affidavit upon Bar Counsel. Pursuant to Rule 72(f), a suspended attorney must keep records of compliance with these rules in order to be reinstated following his suspension.

To be reinstated, a lawyer also must comply with another important suspension requirement: The suspended attorney must *not engage in the unauthorized practice of law during his suspension*. Sounds easy, but it may surprise you to learn what qualifies as the unauthorized practice of law.

To avoid running afoul of ER 5.5's UPL prohibitions, a suspended attorney must not actually practice law or give legal advice, must not maintain an office for the practice of law (meaning his name needs to come down or be covered up on the building/door), and must not hold out to the public or represent that he is admitted to practice law (meaning that he can't use his business cards, can't use the suffix Esq. or J.D., and can't have his name on firm letterhead). These restrictions go into effect immediately upon entry of the judgment and order, even though the order of suspension does not take effect until 30 days after entry.

*Contact the State Bar's Ethics Hotline at (602) 340-7284.*

#### CORRECTION

In the October issue, a Lawyer Regulation summary incorrectly identified the name of a disciplined lawyer. That name should have read Robert H. Green, Jr., Bar No. 015089. We apologize for the error.