

NOTICES

Statewide Grievance Committee and Grievance Panel Rules of Procedure

Notice is hereby given that on September 21, 2006, the Statewide Grievance Committee adopted, in accordance with Practice Book Section 2-33(c)(2) and (3), the following amendments to the Statewide Grievance Committee and Grievance Panel Rules of Procedure, to become effective on October 24, 2006. New language is indicated by underlining. Deleted language is struck through.

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STATEWIDE GRIEVANCE COMMITTEE RULES OF PROCEDURE

RULE 9. OVERDRAFT NOTIFICATION

A. Approval of Financial Institutions.

1. Pursuant to Practice Book Section 2-28, attorney trust accounts must be maintained only in financial institutions approved by the Statewide Grievance Committee.

2. A financial institution seeking approval by the Statewide Grievance Committee shall submit a form to the Statewide Bar Counsel by which it agrees to report to the Committee the fact that an instrument has been presented against an attorney trust account containing insufficient funds, irrespective of whether or not the instrument is honored. The Statewide Bar Counsel shall transmit the form to the Statewide Grievance Committee for its consideration within 45 days of receipt by the Statewide Bar Counsel. Forms shall be made available to financial institutions seeking approval upon request to the Statewide Bar Counsel.

3. Approval of a financial institution shall be contingent upon the agreement of the financial institution to provide no less than 30 days notice of its decision to cancel its agreement with the Statewide Grievance Committee. Notice of the cancellation of an agreement by a financial institution with the Statewide Grievance Committee shall be submitted by the financial institution in writing to the Statewide Bar Counsel.

4. The Statewide Grievance Committee may terminate the approved status of a financial institution upon the failure of the financial institution to report to the Statewide Bar Counsel within seven business days from the date of such presentation, any instrument presented against an attorney trust account containing insufficient funds, except that the financial institution shall not be required to report to the Statewide Grievance Committee the fact that an instrument has been presented against an attorney trust account containing insufficient funds if funds in an amount sufficient to cover the deficiency in the trust account are deposited within one business day of the presentation of the instrument. The report shall be substantially in the following format:

(a) in the case of a dishonored instrument, the report shall be identical to the overdraft notice customarily forwarded to the depositor;

(b) in the case of instruments that are presented against insufficient funds but which are honored, the report shall identify the financial institution, the attorney or law firm, the account number, the date of presentation for payment and the date paid, a copy of the instrument presented, as well as the amount of the overdraft created thereby.

5. Upon information and belief that an approved financial institution has failed to comply with its agreement to report the presentation of an instrument against insufficient funds and to provide a copy of the instrument, the Statewide Bar Counsel shall, in writing, request an explanation of the failure from the financial institution. The financial institution shall have ten days from the date of the letter of inquiry from the Statewide Bar Counsel to provide an explanation. The Statewide Bar Counsel shall forward the explanation of the financial institution, or notice of its failure to submit an explanation, to the Statewide Grievance Committee. After its review of the explanation or lack thereof, the Statewide Grievance Committee may direct the Statewide Bar Counsel to (a) request a further explanation of the financial institution's actions, (b) accept the explanation of the financial institution, or (c) terminate the approved status of the financial institution. Upon the decision of the Grievance Committee to terminate the approved status of a financial institution, the Statewide Grievance Committee shall cause to have notice of the termination published in the Connecticut Law Journal.

B. Review of Overdraft Notifications

1. Upon receipt of a notice of the presentation of an instrument against insufficient funds, the Statewide Bar Counsel shall notify, in writing, the attorney or law firm in whose name the account is registered of the receipt of the overdraft notification. The attorney or law firm shall have ten days from the date of the letter of notification forwarded by the Statewide Bar Counsel to submit an explanation of the overdraft. Such explanation shall be supported by documentation reasonably sufficient to demonstrate the basis of the overdraft.

2. Upon the failure of the attorney or law firm to submit an explanation of the overdraft, the Statewide Bar Counsel shall, on behalf of the Statewide Grievance Committee, initiate a grievance complaint and forward same to the appropriate grievance panel.

3. The Statewide Bar Counsel or an Assistant Bar Counsel shall review all overdraft notification explanations submitted by lawyers and law firms and (a) if the Statewide Bar Counsel or Assistant Bar Counsel determines that the overdraft was not a result of misconduct, close the file on the matter or (b) if the Statewide Bar Counsel or Assistant Bar Counsel is not satisfied with the explanation, refer the matter to the Statewide Grievance Committee which shall review the matter in accordance with section B.4.

4. The Statewide Grievance Committee shall review all overdraft notification explanations referred by the Statewide Bar Counsel or an Assistant Bar Counsel in accordance with section B.3 submitted by lawyers and law firms and (a) if it determines that the overdraft was not a result of misconduct, close its file on the matter or (b) if it is not satisfied with the explanation, (i) refer the matter to a grievance panel for investigation, or the initiation of a complaint, or both, or (ii) instruct the Statewide Bar Counsel to initiate a grievance complaint. If the matter has been previously investigated by a grievance panel and the grievance panel chooses not to file a grievance complaint, the Statewide Grievance Committee may

refer the matter to a reviewing committee for investigation or the initiation of a complaint, or both, if the matter has previously been reviewed by a grievance panel.

5. If a grievance panel to which an overdraft notification matter has been referred pursuant to subsection 4 of this section determines that the initiation of a grievance complaint is not warranted, it shall file its determination, along with an explanation of its decision, with the Statewide Grievance Committee. If a grievance panel initiates a grievance complaint pursuant to subsection 4 of this section, said complaint shall be referred to a separate grievance panel for a determination of probable cause.

6. Whenever a grievance complaint is initiated pursuant to Section B of this rule, a copy of said complaint shall be forwarded to the Disciplinary Counsel for a determination as to whether interim suspension should be sought pursuant to Practice Book Section 2-42.

GRIEVANCE PANEL RULES OF PROCEDURE

RULE 1. GENERAL REGULATIONS

A. Each Grievance Panel shall meet to consider complaints and other appropriate matters as often as the Panel deems necessary to properly and expeditiously discharge its duties.

B. All decisions of a Panel shall be by majority vote of those present and voting. Two members shall constitute a quorum. In the event of a tie vote, a Panel member or alternate shall be designated by the two voting members to review the entire record of the complaint and cast the deciding vote.

C. All decisions of a Panel shall be in writing and mailed to the Complainant and Respondent involved, and to Disciplinary Counsel if involved pursuant to Practice Book § 2-29(f).

D. All matters received by a Panel shall be confidential except as otherwise provided by law.

E. Each Grievance Panel shall investigate all complaints against attorneys forwarded to it. A decision by a Complainant to withdraw a complaint after its filing shall not operate as a withdrawal of the complaint or terminate the grievance process. Each Grievance Panel shall discharge its functions under the rules of the Superior Court regardless of a Complainant's decision not to pursue the complaint.

F. A Grievance Panel shall not review for the purposes of determining whether there exists probable cause complaints initiated by it pursuant to Practice Book §§ 2-29(e)(1) and 2-32(a). Such complaints shall be forwarded for investigation and determination of probable cause pursuant to Practice Book § 2-32(e)-(i) to a Grievance Panel other than the one initiating the complaint.

G. A Grievance Panel's written determination that probable cause exists that the attorney is guilty of misconduct, filed pursuant to § 2-32(i) of the Connecticut Practice Book, shall include but not be limited to the following:

1. A list of the specific Rules of Professional Conduct and/or Practice Book Sections considered by the Panel in reviewing the matter;
2. A brief discussion of the facts of the matter as applied to the specific Rules and Sections; and

3. The specific Rule or Rules of Professional Conduct and/or Practice Book Section or Sections upon which the probable cause determination is predicated.

H. A Grievance Panel's written determination that probable cause does not exist that the attorney is guilty of misconduct, filed pursuant to § 2-32(i) of the Connecticut Practice Book, shall include but not be limited to the following:

1. A list of specific Rules of Professional Conduct and/or Practice Book Sections considered by the Panel in rendering its determination; and
2. A brief discussion of the facts of the matter as applied to the specific Rules and/or Sections.

I. Upon receipt of an answer to a complaint filed by a Respondent pursuant to Practice Book § 2-32(a)(1), the Grievance Panel shall forward a copy of the answer to the Complainant, and to Disciplinary Counsel if involved pursuant to Practice Book § 2-29(f). During the course of its investigation, the Grievance Panel may require the Complainant and the Respondent to provide an original and six properly collated copies of any submissions to the Grievance Panel.

J. In any matter referred by the Statewide Grievance Committee or its counsel to a Grievance Panel for investigation, including overdraft notifications, said Grievance Panel shall complete its investigation within the same time frame as set forth for the investigation of grievance complaints under Practice Book Section 2-32(i).
