

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-21-0027
RULE 64(f)(1)(B) RULES OF THE)
SUPREME COURT) **FILED: 12/8/2021**
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**ORDER AMENDING RULE 64(f)(1)(B), RULES OF
THE SUPREME COURT OF ARIZONA**

On May 27, 2021, Hon. William J. O’Neil (ret.) filed a petition to amend Rule 64 of the Rules of the Supreme Court Of Arizona. At that time, the Court granted Petitioner’s request for expedited consideration and opened the petition for public comment through October 1, 2021.

Following the August 2021 Rules Agenda, the Court entered an order on August 30, 2021, adopting the rule changes on an emergency basis under Rule 28(h)(2) of the Rules of the Supreme Court of Arizona. The order also provided that during the December 2021 Rules Agenda, the Court would consider whether to adopt the rule changes on permanent basis.

As the Court has not received any comments and as the Court remains convinced that the rule amendments is appropriate,

IT IS ORDERED that the amendments to Rule 64(f)(1)(B) of the Rules of the Supreme Court of Arizona, which the Court adopted on an emergency basis on August 30, 2021, are hereby adopted permanently in accordance with Attachment A to this

order, effective January 1, 2022. Attachment A is the same as Attachment A to this Court's August 30, 2021 order.

DATED this 8th day of December, 2021.

_____/s/_____
ROBERT BRUTINEL
Chief Justice

TO:

Rule 28 Distribution
Hon. William J. O'Neil (ret.)

ATTACHMENT¹

RULES OF THE SUPREME COURT OF ARIZONA

V. REGULATION OF THE PRACTICE OF LAW

Rule 64. Reinstatement Eligibility

(a)–(e) [No change]

(f) Reinstatement After Summary Suspension by the Board of Governors; Resignation in Lieu of Reinstatement.

1. *Reinstatement After Summary Suspension.*

(A) [No change]

B. After Two (2) Years. If an application is not filed within two years from the effective date of suspension, the reinstatement procedure set forth in Rule 65 of these rules shall apply.

(i) If the suspension is based solely on failure to pay annual dues and/or failure to maintain required MCLE, the applicant need not demonstrate rehabilitation; the applicant need only prove compliance with all rules, fitness to practice, and competence under Rule 65(b)(2).

(ii) An applicant without earlier discipline of suspension or disbarment must file a Rule 65(a) compliant application and pay all fees and payments required under Rule 65(a)(3).

a. If such an applicant seeks reinstatement due to resignation in good standing or failure to pay annual dues and/or failure to maintain required MCLE, that applicant may enter an agreement for reinstatement with the State Bar without having to comply with Rule 65(b)(1) and (3).

1. The State Bar must complete its investigation and support reinstatement before the parties enter the signed written reinstatement agreement.

2. The agreement must contain stipulated conclusions of law that applicant is fit to practice law, competent, has complied with all discipline rules, met all requirements for reinstatement to the practice of law, and is qualified to be reinstated as an active member of the State Bar of Arizona. Such conclusions must be supported by a stipulation of facts and exhibits.

¹ Additions to the text of the rule are shown by underscoring and deletions of text are shown by ~~strike through~~.

b. Within thirty (30) days, the presiding disciplinary judge must file a decision with the disciplinary clerk and serve a copy on the parties. The presiding disciplinary judge must accept, reject, or recommend modification of the proposed agreement. The decision must incorporate all or portions of the agreement.

1. If the agreement is accepted, the presiding disciplinary judge must enter an order of reinstatement.

2. If a modification is recommended, the presiding disciplinary judge must state the nature and substance of the proposed modifications and give the parties thirty (30) days to accept any proposed modification or file a modified agreement for consideration.

3. If the parties fail to accept any proposed modification or file a modified agreement, the application must be set for hearing before a hearing panel.

4. If the agreement is rejected, the presiding disciplinary judge must state the reasons for rejection, and the application will be set for hearing before a hearing panel.

(iii) Notwithstanding ~~this~~ these provisions a suspended member may apply for reinstatement under the provisions of paragraph (f)(1)(A) as set forth above by submitting proof that the suspended member:

~~(i)–(iv)~~ **[renumbered as (a) – (c)]**

Upon verification of compliance, the board shall enter an order of reinstatement.

2. **[No change]**