

SUPREME COURT OF LOUISIANA

ORDER

Acting in accordance with Article V, Sections 1, 5 and 25 of the 1974 Louisiana Constitution, and the inherent power of this Court, and considering the need to adopt Court Rules concerning access by the Justices of this Court to judicial and lawyer disciplinary information,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Part I. Part M of the Rules of the Supreme Court of Louisiana be and is hereby enacted, to be entitled “**ACCESS TO JUDICIAL AND LAWYER DISCIPLINARY INFORMATION.**”

Part II. Part M, Rule XXXVII of the Rules of the Supreme Court of Louisiana be and is hereby enacted to read as follows:

**RULE XXXVII. ACCESS TO JUDICIAL DISCIPLINARY
INFORMATION WHEN CONSIDERING THE APPOINTMENT
AND ASSIGNMENT OF JUDGES**

The Supreme Court of Louisiana has plenary constitutional authority to assign a sitting or retired judge to any court. 1974 La. Const., Article V, Section 5A. The Court also has exclusive constitutional authority to appoint qualified persons to fill judicial vacancies. 1974 La. Const., Art. V, Section 22(B). Article V, Section 25 of the Louisiana Constitution concerns the Judiciary Commission, and

confers upon the Commission the power to make recommendations to the Supreme Court of Louisiana concerning the discipline of state court judges. Article V, Section 25(C) also provides that the Supreme Court of Louisiana “shall make rules implementing this Section [25] and providing for confidentiality and privilege of Commission proceedings.”

In order to protect the public, the Supreme Court of Louisiana has a compelling interest in appointing and assigning sitting or retired judges who are not burdened by significant disciplinary impediments. The Court also has a compelling interest in appointing sitting or retired judges to committees, or to perform other court or quasi-judicial duties, who are not burdened by significant disciplinary impediments. In furtherance of protecting the public interest, the following Rule is adopted.

Upon request of the Court, Special Counsel to the Judiciary Commission shall provide judicial disciplinary information and documents concerning any sitting or retired judge to the Chief Executive Officer of the Commission. The Chief Executive Officer may provide this information to the Court for the limited purpose of allowing the Court to assess the suitability of judges for *ad hoc* or *pro tempore* appointments or assignments, for appointment to court committees, or to perform other court or quasi-judicial duties.

In any Judiciary Commission matter in which a file has been opened by the Commission, Special Counsel shall provide the complaint (if any) and other pertinent disciplinary information and documents to the Chief Executive Officer of the Commission. The Chief Executive

Officer may provide this information to the Court for the limited purpose of allowing the Court to assess the suitability of judges for *ad hoc* or *pro tempore* appointments or assignments, for appointment to court committees, or to perform other court or quasi-judicial duties.

In the absence of the Chief Executive Officer, Special Counsel may provide relevant judicial disciplinary information to the Deputy Chief Executive Officer or to the Deputy Judicial Administrator/ General Counsel.

Information that is provided pursuant to this Rule shall be excepted from the confidentiality provisions of La. S. Ct. Rule XXIII, Section 23. Information that is provided pursuant to this Rule shall remain confidential within the Court.

Part III. Part M, Rule XXVIII of the Rules of the Supreme Court of Louisiana be and is hereby enacted to read as follows:

RULE XXXVIII. ACCESS TO LAWYER DISCIPLINARY INFORMATION WHEN CONSIDERING THE APPOINTMENT OF ATTORNEYS

The Supreme Court of Louisiana has exclusive and plenary power to define and regulate all facets of the practice of law, including the admission of attorneys to the Bar. *Bester v. Supreme Court Committee on Bar Admissions*, 2000-1360 (La. 2/21/01), 779 So.2d 1360; *Succession of Wallace*, 574 So.2d 348 (La. 1991). The Court has exclusive constitutional authority to appoint qualified persons, including attorneys, to fill judicial vacancies. 1974 La. Const., Art. V, Section

22(B). The Supreme Court of Louisiana also has exclusive constitutional authority to “provide by rule for appointments of attorneys as temporary or *ad hoc* judges of city, municipal, traffic, parish, juvenile, or family courts.” 1974 La. Const., Art. V, §5(A).

In order to protect the public, the Supreme Court of Louisiana has a compelling interest in appointing, or allowing other courts to appoint, as *pro tempore* or *ad hoc* judges, attorneys who are not burdened by significant disciplinary impediments. Furthermore, the Court has a compelling interest in appointing to committees, or assigning to court-related work, attorneys who are not burdened by significant disciplinary impediments. In furtherance of protecting the public interest, the following Rule is adopted.

Upon request of the Court, Chief Disciplinary Counsel shall provide the Judicial Administrator, the Chief Deputy Judicial Administrator, or the Deputy Judicial Administrator/General Counsel with pertinent lawyer discipline documents and information. The aforementioned officials may then provide the information to the Court for the limited purpose of allowing the Court to assess the suitability of attorneys for appointment as a judge *ad hoc* or *pro tempore*, for appointment to court committees, or for performing other court-related work.

Information that is provided pursuant to this Rule shall be excepted from the confidentiality provisions of Louisiana Supreme Court Rule XIX, Section 16. Information that is provided pursuant to this Rule shall remain confidential within the Court.

These rule changes shall become effective upon signing and shall remain in full force and effect thereafter, until amended or changed through future Orders of this Court.

New Orleans, Louisiana this _____ day of _____, 2008.

FOR THE COURT:

Pascal F. Calogero, Jr., Chief Justice