

Supreme Court of Florida

No. 73,631

THE FLORIDA BAR

RE: AMENDMENT TO RULES
REGULATING THE FLORIDA BAR,
RULE 3-7.5(k)(1)
COST OF PROCEEDINGS

[April 20, 1989]

PER CURIAM.

The Florida Bar (Bar) has petitioned this Court to amend Rule Regulating The Florida Bar 3-7.5(k)(1), pursuant to rule 1-12.1. The amendment was approved by the Bar's board of governors and this Court granted the Bar's motion to waive the prefiling publication requirement. Subsequent to filing, the proposed amendment was published in the February 15, 1989, edition of The Florida Bar News. No objections or comments have been filed with this Court.

The amendment, which provides that investigative costs may be included in the costs assessed by the referee in disciplinary proceedings, is in response to our ruling in The Florida Bar v. Allen, 537 So.2d 105 (Fla. 1989), wherein we held that under the then current language contained in rule 3-7.5(k)(1) such costs could not be so taxed. We agree with the Bar that these costs should be borne by the disciplined party where appropriate. The amendment also provides that administrative costs shall be increased from \$150 at the grievance level and \$150 at the referee level to a flat assessment of \$500, to more accurately

reflect the Bar's administrative expenses. The text of the amendment is as follows:

3-7.5(k) Referee's Report.

(1) Contents of report. Within thirty (30) days after the conclusion of a trial before a referee or ten (10) days after the referee receives the transcripts of all hearings, whichever is later, or within such extended period of time as may be allowed by the chief justice for good cause shown, the referee shall make a report and enter it as part of the record, but failure to enter the report in the time prescribed shall not deprive the referee of jurisdiction. The referee's report shall include:

. . . .

(5) a statement of costs of the proceedings incurred by The Florida Bar and recommendations as to the manner in which such costs should be taxed. The costs of the proceedings shall include investigative costs, including travel and out-of-pocket expenses, court reporters' fees, copy costs, witness fees and traveling expenses, and reasonable traveling and out-of-pocket expenses of the referee and bar counsel, if any. Costs shall also include a ~~\$150~~ \$500 charge for administrative costs ~~at the grievance committee level~~ and a ~~\$150~~ charge for administrative costs ~~at the referee level~~. Costs taxed shall be payable to The Florida Bar.

The petition is granted. This amendment will be effective upon the filing of this opinion.

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, SHAW, BARKETT, GRIMES and KOGAN, JJ., Concur

Original Proceeding - Rules Regulating The Florida Bar

Rutledge R. Liles, President, Jacksonville, Florida; Stephen N. Zack, President-elect, Miami, Florida; and John F. Harkness, Jr., Executive Director and John A. Boggs, Director of Lawyer Regulation, Tallahassee, Florida,

for The Florida Bar, Petitioner