FILED
JUL 15 2019
Clerk, U.S. District & Bankruptcy
Courts for the District of Columbia

UNITED STATES DISTRICT CORT
FOR THE DISTRICT OF COLUMBIA

Voting: Chief Judge Howell, Judges Sullivan, Kollar-Kotelly, Boasberg, A. B. Jackson, Contreras, K. B. Jackson, Cooper, Chutkan, Moss, Mehta, Kelly, McFadden, Friedrich, Hogan, Huvelle, Walton and Bates.

ORDER

It is the 15th day of July 2019 ordered that effective immediately, the underlisted sections of the Local Rules are amended as follows, with the Clerk of Court being authorized to make technical and conforming changes as necessary

[New language is underlined, old language stricken]

~~LCvR 83.20/LCrR 57.31~~

~~LAWYER COUNSELING PANEL~~

~~(a) REFERRAL OF ATTORNEYS FOR COUNSELING.~~

~~Judges or the Committee on Grievances may refer to the Lawyer Counseling Panel established by this Rule any member of the Bar of this Court who exhibits a deficiency in performance and who, in the judge's or the Committee's opinion, would likely benefit from counseling by other trial attorneys on matters of litigation practice, ethics, or apparent abuse of alcohol or drugs. The judge or the Committee will notify both the panel and the attorney of the referral and the basis therefor. The referral shall be confidential.~~

~~(b) THE COUNSELING PANEL.~~

~~The counseling panel shall be composed of experienced litigation practitioners appointed by the Court, one of whose members shall be designated Chair.~~

~~(c) PANEL PROCEEDINGS.~~

~~The Chair of the Lawyer Counseling Panel shall receive references from judges or the Committee on Grievances and assign the referred member to a particular panel member for counseling. Participation in the counseling program by referred attorneys shall be voluntary. Any conversations between the referred attorney and members of the panel shall be confidential and shall not waive any attorney client privilege. The Panel will make no findings or report of its action as to any referred attorney, other than a report to the referring judge, or the Committee on Grievances as to whether the attorney did~~

~~or did not participate in counseling.~~

~~(d) CONFIDENTIALITY AND IMMUNITY.~~

~~All documents and communications relating or referring to the Panel's referrals shall remain confidential and privileged.~~

~~All meetings and discussions of the Lawyer Counseling Panel shall be held in camera and the business conducted therein shall remain confidential and privileged. All records, reports, correspondence and minutes of the Panel shall be maintained by the Chair of the Lawyer Counseling Panel and shall not be disclosed except by order or direction of the Chief Judge (or the designee of the Chief Judge).~~

~~When exercising the power relegated by the Court, Panel members shall be absolutely immune from suit for any conduct in connection with their duties. Referrals and counseling with respect thereto shall be absolutely privileged and no claim or action predicated thereon may be instituted or maintained.~~

~~***COMMENT TO LCvR 83.20(a) and (c):*** *This rule was modified to permit the Committee on Grievances to refer attorneys to the Lawyer Counseling Panel and receive reports from the Panel concerning whether the referred attorney participated in counseling.*~~

LCvR 83.20/LCrR 57.31

LAWYER COUNSELING

(a) REFERRAL OF ATTORNEYS FOR COUNSELING.

Judges or the Committee on Grievances may refer to the Lawyer Assistance Program (LAP) or other similar program of the District of Columbia Bar any attorney who is a member of the Bar of this Court who, in the judge's or the Committee's opinion, would likely benefit from the services offered by the LAP or the Practice Management Advisory Service (PMAS) of the D.C. Bar on matters of mental health, substance abuse, ethics or practice management. The Judge, the Committee, or a designee of the Court, will notify both the LAP manager and the attorney of the referral and the basis therefor. The referral shall be confidential. The LAP manager shall conduct intake and counseling and make other appropriate referrals, including, as appropriate, to the PMAS.

(b) CONFIDENTIALITY.

Participation in the LAP and PMAS programs by referred attorneys shall be voluntary; any conversations between the referred attorney and representatives of the LAP or PMAS shall be confidential within the scope of D.C. Rule of Professional Conduct 1.6(i) and (j), and shall not waive any attorney client privilege; and shall be confidential within the scope of

42 U.S.C. Sec. 290dd-2 and federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records [42 C.F.R. Part 2]. The LAP or PMAS will make no findings or report of its action as to any referred attorney, other than a report to the referring judge, the Committee on Grievances, or a designee of the Court as to whether the attorney did or did not participate in counseling or practice management assistance. All documents, records, reports, correspondence and communications relating or referring to referrals to the LAP or the PMAS of the D.C. Bar shall remain confidential and privileged and shall not be disclosed except by order of the Chief Judge (or the designee of the Chief Judge).

(c) FEES.

An attorney referred to the LAP and/or PMAS who is not a member of the D.C. Bar will be required to pay fees for services provided by LAP and/or PMAS, as set forth in a rate schedule agreed upon by the D.C. Bar and the Court.

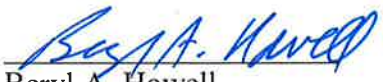
(d) IMMUNITY.

All persons engaged in such counseling, evaluating or monitoring of other attorneys pursuant to a referral from this Court, and all assistants or employees of persons engaged in such counseling, evaluating or monitoring shall be immune from disciplinary complaint and from civil suit for any conduct in the course of their official duties.

COMMENT TO LCvR 83.20: *(2019) This rule was revised in its entirety to permit Judges or the Committee on Grievances to refer D.C. Bar attorneys to the Lawyer Assistance Program or Practice Management Advisory Service of the District of Columbia Bar.*

(Conforming Edits: References to the counseling program will be struck from LCvR 83.9 and LCrR 57.21.1.)

FOR THE COURT:



Beryl A. Howell
Chief Judge