

Supreme Court of Florida

No. SC15-687

IN RE: AMENDMENTS TO RULE REGULATING THE FLORIDA BAR 10-9.1.

[October 15, 2015]

PER CURIAM.

The Court, on its own motion, amends Rule 10-9.1 (Procedures for Issuance of Advisory Opinions on the Unlicensed Practice of Law) of the Rules Regulating the Florida Bar (Bar Rules). We have jurisdiction. See art. V, § 15, Fla. Const.

In our opinion in The Florida Bar Re: Advisory Opinion – Scharrer v. Fundamental Administrative Services, No. SC14-1730 (Fla. Oct. 15, 2015), we clarified that the decision in Goldberg v. Merrill Lynch Credit Corp., 35 So. 3d 905 (Fla. 2010), requires that a civil complaint alleging a cause of action for damages based on the unlicensed practice of law must allege that this Court has ruled that the specified conduct at issue is the unlicensed or unauthorized practice of law, and that, if this Court has not yet ruled that the actions at issue constitute unlicensed practice, the civil case may be dismissed without prejudice or stayed until the

parties can seek such a determination. We also concluded that the language in Bar Rule 10-9.1(c), requiring that a civil suit be “voluntarily dismissed” without prejudice, is inconsistent with Goldberg. Accordingly, we hereby amend Rule Regulating the Florida Bar 10-9.1(c) as set forth in the appendix to this opinion, to remove the requirement for a “voluntary” dismissal. Deleted text is indicated by struck-through type. The amendment shall become effective immediately upon release of this opinion.

It is so ordered.

LABARGA, C.J., and PARIENTE, LEWIS, QUINCE, POLSTON, and PERRY, JJ., concur.

CANADY, J., concurs in result.

THE FILING OF A MOTION FOR REHEARING SHALL NOT ALTER THE EFFECTIVE DATE OF THESE AMENDMENTS.

Original Proceeding – Rules Regulating The Florida Bar

APPENDIX

RULE 10-9.1 PROCEDURES FOR ISSUANCE OF ADVISORY OPINIONS ON THE UNLICENSED PRACTICE OF LAW

(a) – (b) [No Change]

(c) Limitations on Opinions. No opinion shall be rendered with respect to any case or controversy pending in any court or tribunal in this jurisdiction and no informal opinion shall be issued except as provided in rule 10-9.1(g)(1). However, the committee shall issue a formal advisory opinion under circumstances described by the court in *Harold Goldberg v. Merrill Lynch Credit Corporation*, 35 So. 3d 905 (Fla. 2010), when the petitioner is a party to a lawsuit and that suit has been stayed or ~~voluntarily~~ dismissed without prejudice.

(d) – (g) [No Change]