

COMMONWEALTH OF MASSACHUSETTS

At the Supreme Judicial Court holden at Boston within and for
said Commonwealth on the 19th day of March, in the year of our
Lord two thousand and fifteen:

present,

<u>HON. RALPH D. GANTS</u>)	Chief Justice
)	
<u>HON. FRANCIS X. SPINA</u>)	
)	
<u>HON. ROBERT J. CORDY</u>)	Justices
)	
<u>HON. MARGOT BOTSFORD</u>)	
)	
<u>HON. FERNANDE R.V. DUFFLY</u>)	
)	
<u>HON. BARBARA A. LENK</u>)	
)	
<u>HON. GERALDINE S. HINES</u>)	

ORDERED: That Chapter Two of the Rules of the Supreme
Judicial Court of Massachusetts is hereby amended as follows:

Rule 2:23

By inserting the new Rule 2:23 attached
hereto.

The amendments accomplished by this order shall take effect on April 1, 2015.

ORDERED:

<u>RALPH D. GANTS</u>)	Chief Justice
)	
<u>FRANCIS X. SPINA</u>)	
)	
<u>ROBERT J. CORDY</u>)	Justices
)	
<u>MARGOT BOTSFORD</u>)	
)	
<u>FERNANDE R.V. DUFFLY</u>)	
)	
<u>BARBARA A. LENK</u>)	
)	
<u>GERALDINE S. HINES</u>)	

Rule 2:23 Appeals in Bar Discipline Cases

[Applicable to all bar discipline cases entered in the Supreme Judicial Court for Suffolk County after April 1, 2009]

(a) A party aggrieved by a final order or judgment of the single justice in a bar discipline case may appeal to the full court for review of the order or judgment. A notice of appeal must be filed with the clerk of the Supreme Judicial Court for Suffolk County within ten days of entry of the final order or judgment for which review is sought. An appeal shall not stay any order or judgment of suspension or disbarment unless the single justice or this court so orders.

(b) The appeal shall initially be presented to the full court on the record that was before the single justice, together with a preliminary memorandum from the appellant and, if requested, from the appellee. The appellant shall be responsible for preparing and filing a record appendix containing copies of all the relevant papers from the single justice proceeding, including but not limited to the hearing committee report, appeal panel report, if any, board of bar overseers memorandum, the order or judgment of the single justice, and any memorandum of decision of the single justice. The appellant's preliminary memorandum, which shall not exceed twenty pages, double spaced, shall set forth the relevant background and summarize the appellant's arguments on appeal, with citations to applicable authority. It is incumbent on the appellant to demonstrate in this memorandum that there has been an error of law or abuse of discretion by the single justice; that the decision is not supported by substantial evidence; that the sanction is markedly disparate from the sanctions imposed in other cases involving similar circumstances; or that for other reasons the decision will result in a substantial injustice.

Nine copies of the record appendix and preliminary memorandum shall be filed with the clerk of the Supreme Judicial Court for the Commonwealth within thirty days after the appeal has been docketed in the full court; one copy of the record appendix and memorandum shall be served on each other party. In the case of multiple appellants or cross-appellants, each appellant shall be permitted to file a preliminary memorandum within this time frame, but in such a case, the appellants shall submit, and share the cost of, a single record appendix. If requested by the court, the appellee may file a responsive memorandum, not to exceed twenty pages, double spaced, within twenty days of the court's request.

Extensions of time for filing memoranda will rarely be granted and should not be anticipated.

(c) Based on its review of the parties' memoranda and the record appendix, the full court may affirm, reverse, or modify the order or judgment of the single justice without oral argument; alternatively, the court may direct the appeal to proceed in the regular course, in which case the parties will be permitted to file full briefs conformably with the Rules of Appellate Procedure and the case will be scheduled for oral argument.

(d) The Rules of Appellate Procedure shall apply to appeals covered by this rule to the extent they are not inconsistent with this rule.