

**KENTUCKY BAR ASSOCIATION
RULES OF THE SUPREME COURT OF KENTUCKY**

PRACTICE OF LAW

SCR 3.330 Order of proceedings and burden of proof

(1) The Trial Commissioner shall determine and regulate the order of proceedings at the hearing. Upon request of a party or upon direction of the Trial Commissioner, the Disciplinary Clerk shall issue subpoenas for the attendance of witnesses or the production of evidence.

(2) Every subpoena shall command each person to whom it is directed to attend and give testimony and/or to produce designated documents in that person's possession, custody, or control, at the time and place therein specified. Notice of the subpoena shall be provided to each party and to any person or entity whose information is being requested. Copies of all documents received in response to the subpoena shall be furnished to the opposing party, except on Motion and for good cause shown.

(3) Prehearing discovery shall proceed in accordance with this rule as directed by the Trial Commissioner rather than by the Kentucky Rules of Civil Procedure. If reasonably necessary to prepare the case for hearing, the Trial Commissioner may allow the taking of depositions and require the production of documents.

(4) The burden of proof shall rest upon the Association in a disciplinary proceeding, and the facts must be proven by a preponderance of the evidence. In reinstatement hearings the burden shall rest upon the Applicant, and he/she must demonstrate by clear and convincing evidence his/her suitability for reinstatement.

(5) Before submission the Trial Commissioner may direct such oral argument as he/she deems appropriate and may allow briefs, not to exceed 30 pages, from all parties, which shall be filed simultaneously within 30 days after the record is filed with the Disciplinary Clerk. The trial commissioner shall have discretion to extend the page limit of briefs.

HISTORY: Amended by Order 2017-18, eff. 1-1-2018; prior amendments eff. 1-1-14 (Order 2013-12), 2-1-08 (Order 2007-007), 10-1-98 (Order 98-1), 4-1-82 (Order 82-1), 1-1-78, 7-2-71