

ATTACHMENT 1

Proposed Amendments to State Bar Rule 2.16, subdivision (C) (Public comment version in legislative style, January 7, 2011)

Rule 2.16 Waivers

- (A) In this rule, “annual membership fees” and “penalties” are construed narrowly and do not include
- (1) disciplinary costs¹ or monetary sanctions,²
 - (2) Client Security Fund disbursements and costs,³
 - (3) mandatory fee arbitration award penalties and costs,⁴
 - (4) Minimum Continuing Legal Education (“MCLE”) noncompliance or reinstatement penalties, or
 - (5) any other charges that may be added to annual membership fees for failure to comply with obligations imposed by court order, statute, or rule.
- (B) To be considered for the current year, a request must be submitted by February 1. Requests submitted after February 1 must be accompanied by full payment of any outstanding charges, which will be refunded if the request is granted.
- (C) The Secretary may waive up to \$1,000 in annual membership fees and related penalties for the year in which they are due, provided that the request is
- (1) in writing;
 - (2) supported by satisfactory documentation; and
 - (3) for any of the following reasons:
 - (a) ~~the member is prevented or greatly impaired from pursuing a livelihood for a substantial part of the membership year because of a physical or mental condition, natural disaster, or family emergency;~~
 - (b) ~~the member has a total annual income from all sources of \$20,000 or less;~~

¹ Business and Professions Code § 6086.10.

² Business and Professions Code § 6086.13.

³ Business and Professions Code § 6140.5.

⁴ Business and Professions Code § 6203(d)(3).

- ~~(c)~~ (a) the member serves full-time as a magistrate, commissioner, or referee for a state or federal court of record; or
 - ~~(d)~~ (b) the member is a retired judge who accepts assignments from the Chief Justice of California to act in a judicial capacity at least 90% of the calendar year; or
 - ~~(e)~~ the State Bar has erroneously assessed the annual membership fees or related penalties; or
 - ~~(f)~~ for any other reason, on a one-time-only basis, if the member has no previous record of discipline, suspension or involuntary inactive enrollment.
- (D) The Secretary may waive annual membership fees and related penalties for a member serving in the Army National Guard, the Army Reserve, the Naval Reserve, the Marine Corps Reserve, the Air National Guard of the United States, the Air Force Reserve, or the Coast Guard Reserve provided that
- (1) the member has been ordered to report to full-time active duty for more than thirty days;
 - (2) a request for waiver is submitted in writing by the member, member's spouse, relative, law partner or associate, or legal representative and accompanied by:
 - (a) a copy of the order to report for active duty, or
 - (b) a copy of the order to report for active duty and a certified declaration by a JAG officer that the member has served on active duty for more than thirty days.
- A member granted a waiver under this rule must notify the State Bar within thirty days upon termination of the assignment to active duty.
- (E) Annual membership fees are waived for the year in which a judicial officer leaves office and returns to membership in the State Bar.
- (F) Annual membership fees are waived for inactive members who are 70 years of age on February 1.
- (G) Annual membership fees may be waived for a member who is an emeritus attorney.
- (H) The board reserves the right for good cause
- (1) to grant requests for waivers denied by the Secretary; and
 - (2) to consider all other requests for waivers.
- (I) A waiver granted under this rule does not remove a court-ordered suspension for nonpayment of fees or penalties.

Rule 2.16 adopted effective June 17, 2006; amended effective July 20, 2007; amended effective July 17, 2009.