

<b>STATE BAR COURT OF CALIFORNIA</b>  <b>HEARING DEPARTMENT</b>  <b>845 S. Figueroa Street, 3<sup>rd</sup> Floor</b> <b>Los Angeles, CA 90017</b>	FOR CLERK'S USE ONLY:  <div style="text-align: right;"> <b>FILED</b>  <b>FEB 22 2016</b>          STATE BAR COURT          CLERK'S OFFICE          LOS ANGELES       </div>
In the Matter of:  <b>ROBERT H. SACK,</b>  <b>Member No.:165033,</b>  A Member of the State Bar.	Case No(s):    00-O-13349, 00-O-13651, 00-O-14522, 00-O-14675, 02-O-11677 (S147606); and 07-O-13898 (S184797);  <b>ORDER GRANTING MOTION FOR EXTENSION OF</b> <b>TIME TO PAY COSTS</b>

On January 13, 2016, Respondent filed a motion seeking a six-month extension of his obligation to pay the \$1,000 of disciplinary costs due by February 1, 2016. The basis for such motion was Respondent's alleged financial inability to pay such costs. The motion, however, failed to include the required financial statement.

On January 13, 2016, the State Bar filed an opposition to the motion due to Respondent's failure to attach a completed financial statement.

On January 25, 2016, this court denied the motion based on its procedural deficiency.

On February 12, 2016, Respondent filed a motion for reconsideration, attaching to it a completed financial statement and a declaration showing additional financial distress.

On February 18, 2016, the State Bar filed an opposition to the motion, arguing that Respondent has failed to explain his prior failure to attach the required financial statement and noting that Respondent had been able to meet a portion of the new financial burden identified in his motion for reconsideration.

As previously concluded by this court in its order issued on January 10, 2014:

*Respondent's financial hardship has been a repeated source of proceedings before this court. In January 2007, he was suspended by the California Supreme Court for a minimum of two years and until he pays restitution totaling more than \$40,000, plus interest calculated at 10 percent per annum, to several former clients (or, significantly, to the Client Security Fund in the event it pays funds to those individuals). In addition Respondent was ordered to pay costs exceeding \$17,000. He has remained suspended since that time, preventing him from being able to earn money sufficient to support his family and pay the obligations arising from his disciplinary problems.*

*In 2010, Respondent was again disciplined by the Supreme Court for misconduct resulting from Respondent's efforts to work for an attorney while he was suspended. That discipline also included a period of actual suspension that is ongoing and resulted in another cost award.*

*As noted by the State Bar in its opposition to the current motions, this court has repeatedly concluded over the last six years that good cause exists to grant relief under Business and Professions Code section 6068.10(c) because of Respondent's financial hardship. On two separate occasions, the California Supreme Court has granted this court authority to evaluate whether the "an until" condition, requiring satisfaction of Respondent's restitution obligation, should be modified because of his financial circumstances. Most recently, this court concluded late last year that the "and until" requirement should be modified to delete Respondent's obligation to pay the interest that has accrued on the principal amounts.*

*That modification, however, has little practical impact on Respondent's ability to return to active status due to the fact that the Client Security Fund had previously paid a significant portion of the restitution obligation, is entitled by law to receive legal interest on such payments from the time of such payments, and Respondent, by law, is precluded from being returned to active status until the CSF has been fully reimbursed for all such payments and accrued interest. When Respondent asked this court to provide some relief with regard to that obligation, it was concluded that this court lacked any authority to provide such relief. The new pending motions were then filed.*

*This court is familiar with Respondent's difficulties in earning sufficient funds since he has been suspended from the practice of law to even provide for his family, notwithstanding his diligent efforts to do so. While he has now succeeded in securing a law clerk/paralegal job paying \$3,000 per month, recently upped to \$4,000 based on Respondent's good work, that monthly income is little more than subsistence income for Respondent's family of three and it certainly does not provide an adequate surplus income stream to enable Respondent to meet all of the financial obligations arising from his obligations to (1) his former clients, (2) the CSF (including the ongoing accrual on interest on that obligation), and (3) the State Bar for unpaid portions of the two prior cost awards.*

*The relief provisions of section 6068.10(c) make clear that an errant attorney's obligation to pay costs to the State Bar is not intended to cause an undue, life-long financial hardship for the attorney. Given the many ways in which Respondent is being required to address the financial consequences of his prior misconduct, any additional rehabilitative value resulting the obligation to pay costs to the State Bar is de minimis. Moreover, as previously noted by this court, that rehabilitation purpose is likely negated when the disciplined individual is confronted with a financial obligation that is impossible to satisfy. Such is the case here.*

*Good cause appearing, the unpaid costs in the captioned matters are hereby consolidated and reduced to a total sum of \$5,000. In addition, the time for such costs to be paid is extended so that such costs will be due and payable in five annual installments, with annual payments of a minimum of \$1,000 to be paid by Respondent on or before February 1 of the years 2015, 2016, 2017, 2018, and 2019. Respondent is ordered to submit his payments to the State Bar's Membership Billing Office and to provide proof of each such payment to the State Bar's Office of Probation within ten (10) days of each such payment. In the event Respondent fails to make any installment payment or submits any installment payment more than ten (10) days after the due date without the prior written approval of the State Bar or the State Bar Court, the unpaid balance of the discipline costs will become immediately due and owing and the State Bar, without*

*further notice to or approval of the State Bar Court, may obtain and seek a judgment for that unpaid balance.*

All of the above observations and findings by this court continue to apply to Respondent's unfortunate situation.

Worse, the papers filed in conjunction with the pending request by Respondent for limited financial relief make clear that Respondent is now the subject of a disbarment recommendation that he is seeking to have heard by the Review Department. As part of that procedure, he was ordered by the Review Department to pay the \$1,950 cost of the required transcript on or before February 16, 2016. The financial burden of that deadline clearly conflicted with the existing February 1, 2016 deadline for Respondent to make the \$1,000 annual installment payment of his previously assessed disciplinary costs.

Finally, Respondent has presented uncontradicted evidence of new and anticipated future expenses, possibly significant, resulting from a serious medical condition of his son. Given the recognized limitations of Respondent's current and future income stream, such anticipated expenses raise the likelihood of even greater financial hardship.

Good cause having been demonstrated, Respondent's motion for reconsideration and his original motion for a six-month extension of the February 1, 2016 payment are both GRANTED.

**IT IS SO ORDERED.**

Dated: February 22, 2016

  
DONALD F. MILES  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on February 22, 2016, I deposited a true copy of the following document(s):

### ORDER GRANTING MOTION FOR EXTENSION OF TIME TO PAY COSTS

in a sealed envelope for collection and mailing on that date as follows:

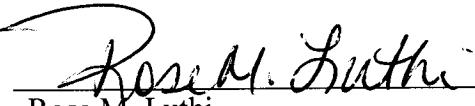
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:

ROBERT H. SACK  
LAW OFC ROBERT SACK  
1635 13TH ST  
LOS OSOS, CA 93402 - 2297

- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

ERIN JOYCE, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on February 22, 2016.

  
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Rose M. Luthi  
Case Administrator  
State Bar Court