

**PUBLIC MATTER**

**FILED** *Rw*

JUL 12 2011

STATE BAR COURT CLERK'S OFFICE  
SAN FRANCISCO

**STATE BAR COURT OF CALIFORNIA**

**HEARING DEPARTMENT – SAN FRANCISCO**

In the Matter of	)	Case No.: <b>08-O-12762</b>
	)	
<b>ROBERT JOHN McNAIR,</b>	)	<b>ORDER GRANTING PARTIAL RELIEF</b>
	)	<b>FROM COSTS AND EXTENDING TIME</b>
<b>Member No. 147939,</b>	)	<b>TO PAY DISCIPLINARY COSTS</b>
	)	
<u>A Member of the State Bar.</u>	)	

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

On May 6, 2011, petitioner **Robert John McNair** (petitioner) filed a motion seeking total relief from the assessed disciplinary costs associated with State Bar Court case No. 08-O-12762, or, in the alternative, a reduction in the amount of the disciplinary costs and an extension of time within which to pay the reduced amount (Motion). Petitioner's Motion is based on financial hardship.

On May 25, 2011, the State Bar of California, Office of the Chief trial Counsel (State Bar) by and through Deputy Trial Counsel Maria J. Oropeza filed a response, opposing petitioner's request. (Rules Proc. of State Bar, rule 5.130.) The State Bar objected to petitioner's Motion, noting that it was prematurely filed, as the Supreme Court had not yet issued an order imposing discipline regarding State Bar Court case No. 08-O-12762. However, given that Supreme Court order No. S192079 associated with State Bar Court case No. 08-O-12762



was filed on June 13, 2011, the court has determined that it would be a waste of judicial resources to deny petitioner's Motion and require that a new motion be refiled.

In its opposition to petitioner's Motion, the State Bar further noted that rule 5.130(B) of the Rules of Procedure require that a motion for relief based on financial hardship be accompanied by the member's completed financial statement in the form prescribed by the court. Although petitioner did list his monthly income and expenses in his declaration, which was signed under penalty of perjury, the declaration that he provided was not in the form prescribed by the court. Therefore, on June 27, 2011, at a telephonic status conference in this proceeding, the court instructed petitioner's counsel that the financial statement must be resubmitted in the form prescribed by the court.

On July 11, 2011, petitioner filed a Financial Declaration in Support of Motion for Relief from or Extension of Time to Pay Disciplinary Costs in the form prescribed by the court, as required by the Rules of Procedure.

After carefully considering all issues set forth in the pleadings submitted by petitioner and the State Bar and the evidence provided therewith, the court finds that petitioner has demonstrated financial hardship. Accordingly, the court GRANTS petitioner's Motion by reducing the \$11,107 in disciplinary costs, assessed by the State Bar in its April 6, 2011 Certificate of Costs to \$5,553.50 (i.e., a 50 percent reduction). In addition, the court finds that petitioner has established sufficient financial hardship and special circumstances to grant him an extension of time to pay the remaining reduced cost of \$5,553.50 (\$11,107 less \$5,553.50).

#### **ORDER**

Petitioner Robert John McNair's May 6, 2011 motion for relief from order assessing costs is **GRANTED** to the extent that the court **ORDERS** that: (1) the disciplinary costs assessed against petitioner by Supreme Court order No. S192079 (State Bar Court case No. 08-

O-12762), filed on June 13, 201, effective July 13, 2011, are reduced from \$11,107 to \$5,553.50 and (2) petitioner must pay one-fifth of the reduced costs of \$5,553.50 ( i.e., \$1,110.70) with his annual State Bar membership fees for each of the years 2012, 2013, 2014, 2015, and 2016. (Bus. & Prof. Code, § 6086.10, subd. (c).)

The court further **ORDERS** that, if petitioner fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court under Business and Professions Code section 6086.10, subdivision (c) and Rules of Procedure of the State Bar, rule 5.130 or 5.132, the remaining balance of the costs is due and payable immediately. (Rules Proc. of State Bar, rule 5.134.) The payment of costs remains enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

**IT IS SO ORDERED.**

Dated: July 13, 2011

  
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LUCY ARMENDARIZ  
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 San Francisco, on July 12, 2011, I deposited a true copy of the following document(s):

### ORDER GRANTING PARTIAL RELIEF FROM COSTS AND EXTENDING TIME TO PAY DISCIPLINARY 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 San Francisco, California, addressed as follows:

WILLIAM M BALIN  
345 FRANKLIN ST  
SAN FRANCISCO, CA 94102

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

MARIA J. OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on July 12, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court