

PUBLIC MATTER

FILED *R*

AUG 04 2011

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SAN FRANCISCO

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO



In the Matter of	)	Case No.: 08-O-12762 (S192079)
	)	
ROBERT JOHN McNAIR	)	ORDER RE MOTION FOR
	)	RECONSIDERATION and
Former Member No. 147939	)	ORDER MODIFYING THE COURT'S
	)	JULY 12, 2011 ORDER GRANTING
A Former Member of the State Bar.	)	PARTIAL RELIEF FROM COSTS AND
	)	EXTENDING TIME TO PAY
	)	DISCIPLINARY COSTS

TO ALL PARTIES AND COUNSEL IN THE ABOVE ENTITLED MATTER:

On July 13, 2011, the State Bar of California, Office of the Chief Trial Counsel (State Bar) by Deputy Trial Counsel (DTC) Maria J. Oropeza (Oropeza), filed a motion for reconsideration of this court's July 12, 2011 "Order Granting Partial Relief from Costs and Extending Time to Pay Disciplinary Costs" (Order). On July 25, 2011, Robert John McNair (McNair) through his counsel, William M. Balin (Balin) filed "Respondent's Opposition to Motion for Reconsideration of Order Granting Partial Relief from Costs" (Opposition).

Having considered the State Bar's motion for reconsideration and the Opposition filed by McNair, and good cause appearing, the motion is hereby **GRANTED**, in part, and **DENIED**, in part, as follows:

1. The court's July 12, 2011 Order granted McNair partial relief from disciplinary costs, based on the ground of financial hardship. Given the State Bar's inability to provide new

or different facts, circumstances or law, as that ground is applied in civil matters under Code of Civil Procedure section 1008, and having failed to show that the July 12, 2011 Order contains one or more errors of fact or law on which the court based its determination to reduce the disciplinary costs at issue,<sup>1</sup> the State Bar's request that the court reconsider the reduction in disciplinary costs is hereby **DENIED**.

2. Pursuant to the Supreme Court Order S192079, McNair is no longer a member of the Bar. Thus, the court erred in its July 12, 2011 Order when it required that McNair pay his disciplinary costs with membership dues. Based on that error, the State Bar's request that said error be corrected is **GRANTED**; and, the July 12, 2011 "Order Granting Partial Relief from Costs and Extending Time to Pay Disciplinary Costs" is hereby **MODIFIED** to correct the error regarding the manner of payment as follows:

a. On page 3 of the July 12, 2011 Order, the language stating, "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).)" is **DELETED**; and, in its place the following language is **INSERTED**, "beginning April 1, 2012, petitioner Robert John McNair must pay a minimum of \$278 per calendar quarter for the next five years until the reduced disciplinary costs in the amount of \$5,553.50 are paid in full. These quarterly installment payments are due no later than the 10<sup>th</sup> day of each January, April, July, and October. Thus, McNair's first installment payment is due no later than April 10, 2012."

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<sup>1</sup> In their pleadings relating to McNair's original motion for relief from disciplinary costs and in their pleadings relating to the State Bar's instant motion for reconsideration of the court's July 12, 2011 order, both parties at times have engaged in hyperbolic arguments at best and frivolous arguments at worst, taking liberties with the facts. Neither the court's July 12, 2011 order, nor the instant order is based upon those arguments and/or the less than accurate facts contained therein.

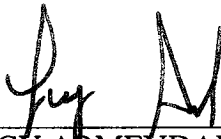
Additionally, on its own motion, the July 12, 2011 "Order Granting Partial Relief from Costs and Extending Time to Pay Disciplinary Costs" is hereby **MODIFIED** to correct the following error:

On Page 3 of the Order, the date "June 13 201" is **DELETED** and in its place is **INSERTED**, "June 13, 2011."

Accordingly, the State Bar's request that the court reconsider the reduction in the amount of disciplinary costs that Robert John McNair will be required to pay is hereby **DENIED** and the court's July 12, 2011 ORDER is **MODIFIED** as set forth, *ante*.

**IT IS SO ORDERED.**

Dated: August 4, 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 August 4, 2011, I deposited a true copy of the following document(s):

ORDER RE MOTION FOR RECONSIDERATION AND ORDER MODIFYING THE  
COURT'S JULY 12, 2011 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 August 4, 2011.



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Bernadette C.O. Molina  
Case Administrator  
State Bar Court