

FILED

AUG 11 2011

STATE BAR COURT CLERK'S OFFICE
SAN FRANCISCO

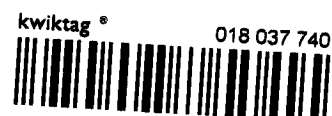
**STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – SAN FRANCISCO**

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

TO ALL COUNSEL AND PARTIES 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,¹ the State Bar's request that the court reconsider the reduction in disciplinary costs is hereby **DENIED**.

2. Pursuant to 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. The State Bar's request that said error be corrected is **GRANTED**; and to correct that error and to clarify the July 12, 2011 "Order Granting Partial Relief from Costs and Extending Time to Pay Disciplinary Costs," that Order is hereby **MODIFIED** as follows:

a. On page 2 of the July 12, 2011 Order, in the paragraph immediately preceding the heading entitled, "**ORDER**," and which begins with the words, "After carefully considering all issues. . .," the last two sentences of that paragraph are **DELETED** in their entirety. In their place the following two sentences are **INSERTED**:

Accordingly, the court **GRANTS** petitioner's Motion by reducing the base charge of \$11,107 of the 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 in which to pay the remaining reduced disciplinary costs.

¹ 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.

b. On page 2 of the July 12, 2011 Order, **DELETE** in its entirety the first paragraph that immediately follows the heading entitled, "**ORDER.**" In its place


INSERT the following paragraph:

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 base charge of the disciplinary costs assessed against petitioner by Supreme Court order No. S192079 (State Bar Court case No. 08-O-12762), filed on June 13, 2011, effective July 13, 2011, is reduced from \$11,107 to \$5,553.50; and (2) 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 are paid in full. These quarterly installment payments are due no later than the 10th day of each January, April, July, and October. Thus, McNair's first installment payment is due no later than April 10, 2012.

Accordingly, the State Bar's request that the court reconsider the reduction in the amount of disciplinary costs that respondent will be required to pay is hereby **DENIED** and the court's July 12, 2011 ORDER is **MODIFIED** as set forth, *ante*. In all other respects, the July 12, 2011 Order remains unchanged.

IT IS SO ORDERED.

Dated: August 11, 2011



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 11, 2011, I deposited a true copy of the following document(s):

ORDER VACATING THE AUGUST 4, 2011 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

ORDER RE MOTION FOR RECONSIDERATION and ORDER MODIFYING THE COURT'S JULY 12, 2011 ORDER GRANTING PARTIAL RELIEF FROM DISCIPLINARY COSTS AND EXTENDING TIME TO PAY DISCIPLINARY COSTS

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

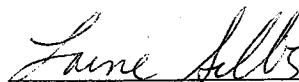
- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:

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 OROPEZA, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on August 11, 2011.



Laine Silber
Case Administrator
State Bar Court