

FILED

MAY 28 2009

RC

STATE BAR COURT
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LOS ANGELES

STATE BAR COURT OF CALIFORNIA
HEARING DEPARTMENT – LOS ANGELES

In the Matter of)	Case No.: 98-Q-03176-DFM
)	(S077464)
EDWARD P. LAUFER,)	
Former Bar No. 103337,)	ORDER EXTENDING TIME
)	TO PAY COSTS
<u>A Former Member of the State Bar.</u>)	

This matter is before the court on EDWARD P. LAUFER’S March 12, 2009, motion for relief from order assessing discipline costs.¹ On March 24, 2009, the State Bar's Office of the Chief Trial Counsel (hereafter State Bar) filed an opposition to Laufer’s motion. On April 2, 2009, Laufer filed a response to the State Bar's opposition. And, on April 10, 2009, Laufer filed a financial declaration in support of his motion. (See Rules Proc. of State Bar, rule 282(b)(2).)

In his motion, Laufer seeks relief from the Supreme Court’s March 26, 1999, order in *In the Matter of the Resignation of Edward P. Laufer, A Member of the State Bar of California*,

¹ Laufer incorrectly titled his motion a petition for relief. (See Rules Proc. of State Bar, rule 282.) In addition, in his motion, Laufer incorrectly states that he resigned from the State Bar with disciplinary charges pending by: writing, on a sheet of paper, “I hereby resign”; signing the note; and sending it to the State Bar. Former “Rule 960 of the California Rules of Court [now California Rules of Court, rule 9.21] was, at the time of [Laufer’s] resignation, . . . the exclusive method for an attorney with charges pending to voluntarily resign from membership in the State Bar and relinquish the right to practice law. [Citation.]” (*In the Matter of Sheppard* (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91, 96.) Accordingly, it is clear that Laufer’s resignation was not a 3-word note, but was in a form substantially identical to that specified in former rule 960(b) (now rule 9.21(b)), which was over 125 words in length, and was not effective “until it [was] accepted by the Supreme Court after consideration and recommendation by the Board of Governors of the State Bar.” (Former rule 960(a) [now rule 9.21(a)].)

case number S077464 (State Bar Court case number 98-Q-03176). More specifically, Laufer requests that the court waive all of the \$3,712.10 in assessed costs or, in the alternative, “for whatever other relief this court may deem just and proper.”

To support his motion, Laufer argues that the bill he recently received from the State Bar for the \$3,712.10 in costs that were assessed about 13 years ago “is fundamentally unfair, arbitrary and capricious; the State Bar is bullying the little guy and simply acting. . . from being under pressure to collect monies due in these hard economic times.” This court cannot agree. In fact, the United States Court of Appeals for the Ninth Circuit rejected very similar arguments in *Gadda v. State Bar of California* (9th Cir. 2007) 511 F.3d 933. In that case, the Ninth Circuit *unequivocally* (and correctly) held that the retroactive application of the 2003 amendment to Business and Professions Code section 6086.10, which amendment authorizes the State Bar to enforce Supreme Court orders imposing disciplinary costs as “money judgments,” violates neither the due process clause of the Fourteenth Amendment nor the ex post facto clause of the United States Constitution. (*Gadda v. State Bar of California, supra*, 511 F.3d at pp. 938, 939.)

Laufer has failed to establish grounds of hardship, special circumstances, or other good cause sufficient for this court to waive all or part of the \$3,712.10 in assessed costs.

Nonetheless, Laufer has established sufficient financial hardship for this court to grant him an extension of time to pay the assessed costs. In its opposition to Laufer’s motion, the State Bar proposed certain conditions regarding any order granting Laufer an extension of time to pay costs with which this court agrees and incorporates into its order.

ORDER

In light of his financial hardship, the court ORDERS that the time in which EDWARD P. LAUFER must pay the \$3,712.10 in disciplinary costs imposed on him by the Supreme Court in this matter is extended as follows. (Bus. & Prof. Code, § 6086.10, subd. (c); Rules Proc. of State

Bar, rule 282.) Beginning October 1, 2009, Laufer must pay a minimum of \$185.61 per calendar quarter for the next five years (i.e., until the entire \$3,712.10 is paid). These quarterly installment payments are due no later than the 10th day of each January, April, July, and October. (Thus, Laufer's first installment payment is due no later than October 10, 2009.)

The court further orders that Laufer submit his payments directly to the State Bar's Membership Billing Office in San Francisco and that he promptly submit proof of each payment to the State Bar's Office of Probation in Los Angeles.

Finally, the court orders that, if Laufer fails to pay any installment payment more than 10 days after its due date without the *prior written approval* of the State Bar's Office of Probation, the remaining unpaid balance of the costs is due immediately and is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

Dated: May 28, 2009.



DONALD F. MILES
Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; 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 May 28, 2009, I deposited a true copy of the following document(s):

ORDER EXTENDING 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:

**EDWARD P. LAUFER
117 E MAIN ST
EL CAJON, CA 92020**

**EDWARD P. LAUFER
4364 BONITA ROAD #312
BONITA, CA 91902**

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

SCOTT DREXEL, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on May 28, 2009.



Tammy Cleaver
Case Administrator
State Bar Court