

OCT 14 2005

STATE BAR COURT CLERK'S OFFICE
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**THE STATE BAR COURT
HEARING DEPARTMENT - SAN FRANCISCO**

In the Matter of
CAROL ANN O'NEILL,
Petitioner for Reinstatement.

Case No. 05-R-00997-JMR
DECISION

I. INTRODUCTION

This matter comes before the court on a petition for reinstatement to the practice of law filed by Petitioner Carol Ann O'Neil on March 2, 2005. Petitioner was represented by counsel, Michael E. Wine. The State Bar was represented by Robin B. Brune of the Office of the Chief Trial Counsel. In a response filed July 6, 2005, the State Bar stated that it did not oppose the petition and waived further discovery and trial. On July 14, 2005, petitioner filed a supplement to the petition.

The matter was submitted for decision without hearing on August 1, 2005.

Petitioner has demonstrated, by clear and convincing evidence, that she has satisfied the requirements for reinstatement to the practice of law. Therefore, the court recommends that petitioner be reinstated to the practice of law in California.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

A. Petitioner's Background

Petitioner was admitted to the practice of law in the State of California on December 22, 1976, and was a member of the State Bar until she resigned without charges pending. Her resignation was accepted by the Supreme Court effective July 31, 1993, in case no. SO33511.



1 Petitioner was also admitted to the practice of law in the State of Michigan 1984 and has
2 never been the subject of any disciplinary proceedings there. She never practiced law in Michigan
3 and believes she was never on active status there. She and her husband moved from Michigan in
4 1986.

5 Petitioner practiced law in California until 1983 when she moved out of state due to her
6 husband's employment. She resigned from the State Bar of California in 1993 because of her
7 prolonged residence in Colorado.

8 In 1998, petitioner reestablished residence in California. However, her primary focus from
9 the time of the birth of her children in 1986 and 1988 until 2000 was child-rearing. She was a full-
10 time homemaker with young children and did not work outside the home again until 1997. She
11 returned to employment in the legal field as a paralegal in October 2000.

12 In January 2001, petitioner filed a petition for reinstatement. (State Bar Court case no. 01-R-
13 00101-JMR.) Petitioner and the State Bar agreed that she would continue to work as a paralegal and
14 complete additional legal education. She withdrew her petition for reinstatement at a status
15 conference held on February 5, 2001, and the petition was dismissed without prejudice.

16 From October 2000 to the present, petitioner has been employed as a paralegal, initially under
17 the supervision of sole practitioner Roger K. Vehrs. In March 2001, she commenced working at
18 McCormick, Barstow, Sheppard, Wayte and Carruth in Fresno, California, under the supervision of
19 Gregory S. Mason. As a paralegal, she has drafted discovery requests and responses, mediation
20 briefs, settlement conference statements and motions; conducted client interviews and research; hired
21 experts; subpoenaed records, witnesses and documents; and prepared trial records and binders.
22 Mason and other attorneys in the firm attest to her competence and legal abilities. The firm would
23 hire her as an attorney if her license to practice law in California were reinstated.

24 Petitioner has attended in excess of 80 hours of continuing legal education programs,
25 including classes in ethics, substance abuse prevention, detection and treatment, elimination of bias
26 in the legal profession, evidence, land use, health law, trusts and estates, business litigation, federal
27 practice, law practice management, criminal law, insurance law, commercial evictions and civil
28 litigation. Petitioner has attended or taught courses for the San Joaquin Association of Legal

1 Assistants and Fresno City College paralegal program which were approved for California MCLE
2 credit.

3 Petitioner has also taught or attended courses for the National Business Institute of Paralegal
4 Education. Although these courses were not approved for MCLE credit, they represent 23.5 hours
5 of additional instruction.

6 Petitioner has engaged in community work, including being active in her church and in a
7 local high school's mentor program for disadvantaged, at-risk students, organizing blood drives and
8 charity fundraisers, volunteering and fundraising at her children's schools, participating in a
9 women's inmate visitation program and volunteering to provide meals at homeless and women's
10 shelters.

11 Petitioner has never been charged with or convicted of any criminal offenses or had lawsuits
12 filed against her regarding the practice of law. There are no reimbursement requests pending with
13 the Client Security Fund regarding petitioner. She has no outstanding State Bar membership fees.

14 **B. California Rules of Court, Rule 951(f); Rules of Procedure of State Bar, Rule 665(c)**

15 To be reinstated to the practice of law, an attorney who resigned without charges pending
16 must establish by clear and convincing evidence that he or she has passed a professional
17 responsibility examination, has present moral qualifications for reinstatement and has present ability
18 and learning in the general law. (Cal. Rules of Court, rule 951(f); Rules Proc. of State Bar, rule
19 665(c).)

20 **C. Professional Responsibility Examination**

21 Petitioner has complied with California Rules of Court, rule 951(f), by taking and passing
22 the Multistate Professional Responsibility Examination on November 23, 2004.

23 **D. Character Witnesses**

24 Petitioner has offered the testimony of 12 witnesses who know her well, all of whom
25 uniformly substantiated her excellent moral character and extensive pro bono work. They credibly
26 attested to her honesty, integrity, trustworthiness, compassion and work ethic. They would either
27 hire her or recommend her to be hired as an attorney. These witnesses include her minister, three
28 attorneys from her work, another attorney from the community, family and friends.

1 **E. Moral Qualifications**

2 As to moral qualifications, the question before the court is "whether Petitioner is a fit and
3 proper person to practice law at this time." (*Pacheco v. State Bar* (1987) 43 Cal.3d 1041.) Petitioner
4 has proven by clear and convincing evidence the requisite good moral character for reinstatement
5 to the practice of law. She has demonstrated that she is fit to practice law in California. She has
6 offered the testimony of 12 witnesses who know her well, all of whom uniformly attest to her good
7 moral character. They would either hire her or recommend her to be hired as an attorney to others.

8 Four of these witnesses are attorneys, including her supervisor and two other attorneys at her
9 work. They uniformly attests to her good moral character, legal knowledge, skills and abilities.
10 They intend to hire her if her license to practice law in California is reinstated. "Letters of
11 recommendation and the favorable testimony, especially that of employers and attorneys, are entitled
12 to considerable weight. [Citations.]" (*Feinstein v. State Bar* (1952) 39 Cal.2d 541, 547.)

13 **F. Present Learning and Ability in the General Law**

14 The court finds by clear and convincing evidence that petitioner possesses present learning
15 and ability in the general law required for reinstatement. Her work as a paralegal, her attendance
16 at a wide variety of MCLE-approved courses and her teaching of law-related classes demonstrate that
17 petitioner possesses the required present learning and ability in the general law. In addition, her
18 employers attest to her legal knowledge and ability in the general law.

19 **III. RECOMMENDATION AND ORDER**

20 For the foregoing reasons, the court concludes that petitioner has sustained her burden by
21 clear and convincing evidence by establishing: (1) that she passed the Multistate Professional
22 Responsibility Examination; (2) that she possesses present moral qualifications; and (3) that she has
23 present learning and ability in the general law for reinstatement to the practice of law in California.
24 Accordingly, the court recommends that the petition for reinstatement be **GRANTED** and that Carol
25 Ann O'Neil be reinstated as a member of the State Bar of California.

26 Based on the State Bar's non-opposition to the petition, the court deems it appropriate to
27 consider the time to appeal this decision waived and to have this recommendation expedited.
28 Accordingly, the State Bar is hereby ordered to show cause in writing if it does not waive the appeal

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time of this matter. Any such response shall be filed within five (5) days of the date this order is filed.

Subject to a timely objection, **IT IS HEREBY ORDERED** that the time to file an appeal has been waived and the recommendation for reinstatement should be forwarded to the Supreme Court without delay. The order directing that the time to file an appeal has been waived will be effective six (6) days after the date this order is filed unless a timely objection is filed.

Dated: October 14, 2005



JOANN M. REMKE
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 San Francisco, on October 14, 2005, I deposited a true copy of the following document(s):

DECISION

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:

MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA CA 91101 5113

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

ROBIN BRUNE, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on **October 14, 2005**.



Bernadette C. O. Molina
Case Administrator
State Bar Court