

Drexel, Scott

From: David Cameron Carr [dccarr@ethics-lawyer.com]
Sent: Tuesday, February 03, 2009 11:25 AM
To: Berrio, Itzel
Subject: Public Comment -- Permanent Disbarment

The Association of Discipline Defense Counsel offers the following comments to proposed amendments to rule 9.10, California Rules of Court regarding permanent disbarment.

We support the proposed amendments. They reflect the weight of California authority regarding the permissible grounds for a permanent prohibition against applying for reinstatement. They reject earlier proposals that would impose "permanent disbarment" upon a set of arbitrary criteria. The proposed rule amendments uphold that principal that the opportunity to meet the high burden of reinstatement should not be unreasonably denied.

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**SAN DIEGO COUNTY
BAR ASSOCIATION**

January 28, 2009

Itzel D. Berrio
The State Bar of California
Office of the Chief Trial Counsel
180 Howard St.
San Francisco, CA 94105

Re: Proposed Amendment to California Rule of Court Rule 9.10

Dear Ms. Berrio:

On behalf of the San Diego County Bar Association, I respectfully submit the attached Response to the proposed amendment. The Response of the SDCBA Legal Ethics Committee has been adopted by the SDCBA as its official Response.

We appreciate the opportunity to participate in this process.

Respectfully Submitted,

Jerrilyn T. Malana, President
San Diego County Bar Association

Enclosure

Cc: SDCBA Legal Ethics Committee Chairperson (with Attachments)

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The San Diego County Bar Association supports the proposed version of rule 9.10, Cal. Rules of Ct. and recommends that it be forwarded to the California Supreme Court for its review. The Rule reflects the Supreme Court's historical position that the opportunity to try meet the high burden of reinstatement should not be needlessly restricted. The SDCBA therefore favors its adoption.

Drexel, Scott

From: Robert Klepa [rklepa@ucla.edu]
Sent: Monday, January 26, 2009 2:46 PM
To: Berrio, Itzel
Subject: changes in rules for readmission after disbarment

Itzel D. Berrio
The State Bar of California
Office of the Chief Trial Counsel
180 Howard St.
San Francisco, CA 94105
415-538-2541
415-538-2214 Fax

Dear sir,

I agree with the proposed change in the rules for readmission after disbarment. If the State of California has gone to the expense and trouble of bringing a disbarment action and their allegations are confirmed by the hearing judge and supreme court, the bar for readmission should be kept high.

My understanding is that lawyers must wait a minimum period of years before reapplying for admission. This break from the practice of law may dull their skills in applying and dim their memories of the substantive law they must know. Requiring that they retake the bar exam is a reasonable requirement to ensure that they have the knowledge they need to practice law successfully.

However, I do not feel the provision goes far enough. I believe that some lawyers are so bad at what they do that disbarment should be permanent. In the same way that a criminal prosecutor can ask for the death penalty if the crime is bad enough, the state bar should be able to ask for a permanent disbarment if the lawyer's misconduct is severe enough.

I hope someday the rules are changed to allow a permanent disbarment.

Robert

P.S. Does the change to rule 9.1 apply to lawyers who resign and seek reinstatement, or only those who are disbarred? Please advise.

Drexel, Scott

From: padaei@aol.com
Sent: Friday, January 30, 2009 3:05 PM
To: Berrio, Itzel
Subject: Permanent Disbarment is a bad idea

The proposals regarding permanent disbarment is a solution in search of a problem, which actually create other problems.

There is no need for a permanent disbarment provision. If activities are so egregious or numerous, a disbarred attorney simply would not be reinstated. While the standards for reinstatement following disbarment should be raised, reinstatement is and should remain a matter for the Supreme Court.

For the purposes of protecting the public, all the public needs to know is that the attorney is disbarred.

Imagine the following nightmare scenario:

- (1) An attorney is convicted of a crime or found liable for one or more acts which require permanent disbarment, and is permanently disbarred.
- (2) Years later, it is determined that the attorney's conviction is wrongful or that the attorney was found liable for acts the attorney did not do.

Under the proposed rules, the attorney's law license is lost forever, even though the attorney may be innocent and may have done nothing wrong. A better approach would be to raise the requirements for reinstatement so that instead of permanent disbarment, the barrier for reinstatement in the select group of cases for which permanent disbarment is being sought would extremely high and require extraordinary circumstances for an attorney to be reinstated.

Paul Eisner 70745