

**PROPOSED AMENDMENTS TO THE
CALIFORNIA RULES OF COURT
AND TO THE RULES OF PROCEDURE OF THE STATE BAR**

[Proposed additions to current rule in **Bold**; Proposed deletions to current rule in ~~Strikeout~~]
(Approved by the Board of Governors March 6, 2009)
(Subject to Approval by The Supreme Court)

CALIFORNIA RULES OF COURT

**Rule 9.21. Resignations of Members of the State Bar With Disciplinary Charges
Pending**

(a) [General Provisions]

A member of the State Bar against whom disciplinary charges are pending may tender a written resignation from membership in the State Bar and relinquishment of the right to practice law. The written resignation must be signed and dated by the member at the time it is tendered and must be tendered to the Office of the Clerk, State Bar Court, 1149 South Hill Street, Los Angeles, California 90015. The resignation must be substantially in the form specified in (b) of this rule. In submitting a resignation under this rule, a member of the State Bar agrees to be transferred to inactive membership in the State Bar effective on the filing of the resignation by the State Bar. Within 30 days after filing of the resignation, the member must perform the acts specified in rule 9.20(a)(1)–(4) and (b) and within 40 days after filing of the resignation, the member must file with the Office of the Clerk, State Bar Court, at the above address, the proof of compliance specified in rule 9.20(c). No resignation is effective unless and until it is accepted by the Supreme Court after consideration and recommendation by the **State Bar Court Board of Governors of the State Bar**.

(b) [Form of Resignation]

The member's written resignation must be in substantially the following form:

"I, [name of member], against whom charges are pending, hereby resign as a member of the State Bar of California and relinquish all right to practice law in the State of California. I agree that, in the event that this resignation is accepted and I later file a petition for reinstatement, the State Bar will consider in connection therewith all disciplinary matters and proceedings against me at the time this resignation is accepted, in addition to other appropriate matters. **I also agree that the Supreme Court may decline to accept my resignation unless I reach agreement with the Chief Trial Counsel on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against me at the time of my resignation.** I further agree that, on the filing of this resignation by the Office of the Clerk, State Bar Court, that I will be transferred to inactive membership of the State Bar. On such transfer, I acknowledge that I will be ineligible to practice law or to advertise or hold myself out as practicing or as entitled to practice law. I further agree that, within 30 days of the filing of the resignation by the Office of the Clerk, State Bar Court, I will perform the acts specified in rule 9.20(a)–(b) of the California Rules of Court, and within 40 days of the date of filing of this resignation by the Office of the Clerk, State Bar Court, I will notify that office as specified in rule 9.20(c) of the California Rules of Court."

- (c) [Consideration of Resignation by State Bar **Court** ~~Board of Governors~~ and Supreme Court]

When the Office of the Clerk of the State Bar Court receives a member's resignation tendered in conformity with this rule, it must promptly file the resignation. The ~~Board of Governors of the~~ State Bar **Court** must thereafter consider the member's resignation **and the stipulated facts and conclusions of law, if any, agreed upon between the member and the Chief Trial Counsel**, and **must** recommend to the Supreme Court whether the resignation should be accepted. **The State Bar Court's recommendation must be made in light of the grounds set forth in subsection (d) of this rule and, if the State Bar Court recommends acceptance of the resignation notwithstanding the existence of one or more of the grounds set forth in subsection (d), the State Bar Court's recommendation must include an explanation of the reasons for the recommendation that the resignation be accepted.** ~~and, if so, whether testimony should be preserved.~~ The Office of the Clerk of the State Bar Court must transmit to the Clerk of the Supreme Court three certified copies of the ~~Board's~~ **State Bar Court's** recommendation together with the member's resignation, when, by the terms of the ~~Board's~~ **State Bar Court's** recommendation, the resignation should be transmitted to the Supreme Court.

- (d) [Grounds for Rejection of Resignation by the Supreme Court]

The Supreme Court will make such orders concerning the member's resignation as it deems appropriate. The Supreme Court may decline to accept the resignation based on a report by the **State Bar Court** ~~Board of Governors~~ that:

- (1) Preservation of necessary testimony is not complete;
- (2) After transfer to inactive status, the member has practiced law or has advertised or held himself or herself out as entitled to practice law;
- (3) The member has failed to perform the acts specified by rule 9.20(a)-(b);
- (4) ~~That the~~ **The** member has failed to provide proof of compliance as specified in rule 9.20(c);
- (5) The Supreme Court has filed an order of disbarment as to the member; ~~or~~
- (6) **The State Bar Court has filed a decision or opinion recommending the member's disbarment;**
- (7) **The member has previously resigned or has been disbarred and reinstated to the practice of law;**
- (8) **The member and the Chief Trial Counsel have not reached agreement on a written stipulation as to facts and conclusions of law regarding the disciplinary matters and proceedings that were pending against the member at the time the resignation was tendered; or**
- (9) ~~On such other evidence as may show that acceptance~~ **Acceptance** of the resignation of the member will reasonably be inconsistent with the need to protect the public, the courts, or the legal profession.

**RULES OF PROCEDURE OF
THE STATE BAR OF CALIFORNIA**

(Adopted by the Board of Governors March 6, 2009)

(Effective upon The Supreme Court's adoption of Rule 9.21, CA Rules of Court)

**RULE 658. CONSIDERATION AND TRANSMITTAL OF RESIGNATIONS WITH
DISCIPLINARY CHARGES PENDING**

- (a) The written resignation of a member against whom disciplinary charges are pending shall be submitted to the Clerk of the State Bar Court in Los Angeles. The Clerk shall file the resignation if it is dated, bears the original signature of the member and is in the form required by rule 9.21(b) of the California Rules of Court. Upon the filing of the resignation, the Clerk shall serve a copy of the resignation upon the Office of the Chief Trial Counsel.
- (b) Within sixty (60) days from the date upon which the member's resignation is filed, the member and the Office of the Chief Trial Counsel shall enter into a written stipulation as to facts and conclusions of law regarding any disciplinary complaints, investigations or proceedings that are pending against the member at the time his or her resignation was filed with the Clerk of the State Bar Court. If the member and the Office of the Chief Trial Counsel have not entered into such stipulation, the Office of the Chief Trial Counsel shall report that fact and the reasons therefor to the Review Department within the aforementioned 60-day period. Such report shall be served upon the member pursuant to rule 61. Within sixty (60) days of the date upon which the member's resignation is filed, the Office of the Chief Trial Counsel shall also file with the Review Department and serve upon the member pursuant to rule 61, a report setting forth the extent, if any, to which any of the factors enumerated in rule 9.21(d) of the California Rules of Court are present and whether, in light of the application of those factors, the member's resignation should be accepted.
- (c) Within thirty (30) days of service of the Office of the Chief Trial Counsel's report regarding the acceptance of the member's resignation, the member may file with the Review Department a response to the Office of the Chief Trial Counsel's report and shall serve such response on the Office of the Chief Trial Counsel.
- (d) Within thirty (30) days of the filing of the member's response to the report of the Office of the Chief Trial Counsel's report or the expiration of the period for filing such response, which occurs first, the Review Department shall file an order or decision pursuant to rule 9.21(c) of the California Rules of Court recommending, in light of the factors enumerated in rule 9.21(d) of that rule, whether the member's resignation should be accepted by the Supreme Court and the reasons for the Review Department's recommendation.
- (e) Within fifteen (15) days of the filing of the Review Department's order regarding the member's resignation, the Clerk of the State Bar Court shall transmit the member's resignation to the Clerk of the Supreme Court, together with the Review Department's order or decision regarding acceptance or rejection of the resignation.