

AGENDA ITEM

JULY 54-153

Annual Recommendation
to the Supreme Court for
Expungement of
Suspensions for
Nonpayment of Fees in
accordance with Rule of
Court 9.6 (b)

DATE: July 1, 2010

TO: Members of the Board of Governors,
Members of the Board Committee on Member Involvement,
Relations, and Services

FROM: Dina DiLoreto, Director of Administration, Member Services

SUBJECT: Annual Recommendation to the Supreme Court for Expungement
of Suspensions for Nonpayment of Fees in accordance with Rule of
Court 9.6(b)

ATTACHMENT: List of eligible members whose suspension for nonpayment of
fees is to be expunged (available at meeting)

EXECUTIVE SUMMARY

California Rule of Court 9.6 (b) provides for an annual Board recommendation to the California Supreme Court of expungement of non-disciplinary suspensions for nonpayment of fees that meet criteria stated in the rule. This year, there are approximately 100 members who have one fee suspension that occurred more than 7 years ago, for 90 days or less, and who have no other record of suspension or involuntary inactive enrollment for discipline or otherwise. Pursuant to Rule 9.6(b), they are eligible for recommendation that the Supreme Court grant a one-time only expungement. If the Board approves the recommendation, a list of eligible members will be transmitted to the Supreme Court for its order of expungement. A finalized list of members who will benefit will be made available at the Board meeting.

Questions concerning this item should be directed to Dina DiLoreto at 415-538-2121 or Dina.DiLoreto@calbar.ca.gov.

BACKGROUND

California Rule of Court 9.6 (b) allows for the one-time expungement of a State Bar of California member's record of fee suspension if the following conditions apply:

- 1) The member has not on any previous occasion obtained expungement under the terms of rule 9.6(b);
- 2) The suspension was for 90 days or less;
- 3) The suspension ended at least seven years before the date of submission of member's name to the Supreme Court; and
- 4) The member has no other record of suspension or involuntary inactive enrollment for discipline or otherwise.

State Bar staff has prepared a list of approximately 100 members who qualify under the criteria of Rule 9.6 (b). The list has been extensively checked and a process has been developed to expunge these members' records. A list of eligible members will be made available at the meeting.

Should the Board recommend expungement of eligible members' suspension for nonpayment of fees, State Bar staff will transmit the list to the Supreme Court with a recommendation that each of these members' public record of suspension for nonpayment of membership fees be expunged. Upon issuance of the Court's order, eligible members will be notified by mail that such record has been expunged and a copy of the expungement order will be included.

Rule 9.6(c) requires that the State Bar of California maintain such internal records as are necessary to apply the terms of 9.6(b) of this rule and to report to appropriate governmental entities the member's eligibility for a judgeship under the California Constitution, article VI, section 15 which requires judicial nominees to report all suspensions within the last 10 years of their judicial application. State Bar staff has developed a process and protocol to meet this requirement. Rule 9.6(d) outlines the members' duty of disclosure under these circumstances.

BOARD AUTHORITY

California Rules of Court, rule 9.6(b) authorizes the State Bar to transmit to the Supreme Court, on an annual basis, the names of those members who meet the criteria of rule 9.6(b) along with a recommendation that their public record of suspension for non-payment of membership fees be expunged. To be eligible for expungement, the following criteria must be met:

- 1) The member has not on any previous occasion obtained expungement under the terms of rule 9.6(b);
- 2) The suspension was for 90 days or less;

- 3) The suspension ended at least seven years before the date of submission of member's name to the Supreme Court;
- 4) The member has no other record of suspension of involuntary inactive enrollment for discipline or otherwise.

FISCAL AND PERSONNEL IMPACT

These actions were included in the 2010 budget and personnel planning; therefore, there will be no additional fiscal or personnel impact.

BOARD BOOK/ADMINISTRATIVE MANUAL IMPACT

None.

RULE AMENDMENTS

None.

PROPOSED RESOLUTIONS

If the Board Committee on Member Involvement, Relations, and Services concurs with the recommendation, adoption of the following resolution would be in order:

RESOLVED: that the Board Committee on Member Involvement, Relations, and Services hereby ascertains and determines that each of the persons named in the list this day before the board committee is a member of the State Bar of California who meets the criteria for expungement set forth in California Rule of Court 9.6; and it is

FURTHER RESOLVED: that the Board Committee on Member Involvement, Relations, and Services recommends that the Board of Governors recommends to the California Supreme Court that each such person's suspension for nonpayment of fees be expunged from the membership records of the State Bar; and it is

FURTHER RESOLVED: that, upon the Court's order of expungement, staff is directed to immediately expunge the suspension for nonpayment of fees from the membership records and notify the member of the Court's order and the expungement.

If the Board of Governors concurs with the recommendation of Board Committee on Member Involvement, Relations, and Services, adoption of the following resolution would be in order:

RESOLVED: that the Board of Governors hereby ascertains and determines that each of the persons named in the list this day before the Board is a member of the State Bar of California who meets the criteria for expungement set forth in California Rule of Court 9.6; and it is

FURTHER RESOLVED: that upon recommendation of the Board Committee on Member Involvement, Relations, and Services, the Board of Governors recommends to the California Supreme Court that each such person's suspension for nonpayment of fees be expunged from the membership records of the State Bar; and it is

FURTHER RESOLVED: that, upon the Court's order of expungement, staff is directed to immediately expunge the suspension for nonpayment of fees from the membership records and notify the member of the Court's order and the expungement.