

SUPPORTING MEMORANDUM In the
Matter of the Petition For
Amendment to Supreme Court
Rules 10.03 (3) & (7) Regarding
Inactive Members Requesting
Active Status and Readmission
After Resignation from the State
Bar

TO: Chief Justice Shirley S. Abrahamson
Justice Ann Walsh Bradley
Justice N. Patrick Crooks
Justice David T. Prosser, Jr.
Justice Patience D. Roggensack
Justice Annette Kingsland Ziegler
Justice Michael J. Gableman

Filed with the Clerk of Court Diane M. Fremgen
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The State Bar of Wisconsin, Board of Bar Examiners,
Board of Administrative Oversight, and Office of Lawyer
Regulation provide the following memorandum in support of
the petition to amend Supreme Court Rules (SCR) 10.03(3) &
(7).

Inactive Members Requesting Active Status

Inactive members may request active status by filing a
written request with the secretary of the state bar;
provided that "[n]o inactive member who has not actively

practiced law in this state or in another state during the last 10 years may be transferred to active membership until the transfer is approved by the supreme court" Supreme Court Rule 10.03(3)(b).

The present rule does not establish a minimum requirement for the length of active practice in another jurisdiction. Thus, it would be permissible for a member who has been inactive in Wisconsin for more than ten years to be transferred to active status if presently active in another state, even if not active in another state for any significant period of time.

Petitioners believe that a fitness investigation and continuing legal education compliance review should occur when a member inactive for over 10 years requests active status. This will serve to protect the public, and will result in minimal additional expenditure of resources.

Readmission After Resignation

Voluntarily resignation from the State Bar is controlled by SCR 10.03(7), which states:

(7) Voluntary resignation of membership. If a member of the state bar files with the executive director a written notice of the member's surrender of his or her license to practice law and the acceptance by the supreme court of his or her resignation in the state bar, the person shall then cease to be a member of the state bar and his or her name shall be removed from the membership register. Before accepting a

resignation, the supreme court shall request from the office of lawyer regulation information concerning whether the attorney is the subject of any pending grievances, investigations, or proceedings.

The supreme court rules do not have a rule regarding readmission after a voluntary resignation. In the matters it has received, OLR advised the Supreme Court there is no prescribed procedure, and treated the petition similar to a petition for reinstatement from a 3+ year administrative suspension for failure to pay dues:

SCR 10.03(6m)(b). An attorney whose suspension for nonpayment of annual membership dues for state bar operations or assessments imposed by the supreme court has been for a period of 3 or more consecutive years may file a petition for reinstatement with the supreme court. A copy of the petition shall be served on the board of bar examiners and the office of lawyer regulation. Separate payments in the amount of \$200 each shall be made to the board of bar examiners and the office of lawyer regulation and shall accompany the petition. Within 90 days after service of the petition for reinstatement, the board shall make a determination regarding compliance and file its finding with the supreme court. Within 90 days after service of the petition for reinstatement, the director of the office of lawyer regulation shall investigate the eligibility of the petitioner for reinstatement and file a response with the supreme court in support of or in opposition to the petition.

It would be helpful to the Court to have a rule addressing readmission or reinstatement after voluntary resignations. A summary procedure would not provide for an investigation of the lawyer's fitness for readmission. The procedure now in place for reinstatements after dues suspensions over 3 years would best serve the Court. An investigation prior to readmission would allow the Court to consider a petitioner's conduct during the entire period prior to readmission.

Petitioners recommend the Court adopt the proposal at Appendix A as an amendment to SCR 10.03(7).

Respectfully submitted this ___ day of _____, 2013.

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