

Rule 282, Procedure for Relief from or Extension of Time to comply with Order Assessing Costs Against Disciplined or Resigning Respondent, of the Rules of Procedure of the State Bar of California:

- In addition to seeking relief from disciplinary costs or an extension of time to pay those costs, the proposed amendments to rule 282(a) and 282(b)(1) would permit a member against whom judgment enforcement efforts are being made, to seek a compromise of that judgment in the State Bar Court.
- Consistent with the proposed addition of rule 951(g) of the Rules of Court, the proposed amendments to rule 282(b) of the Rules of Procedure would clarify that the State Bar Court has authority to grant appropriate relief from discipline costs or an extension of time to pay those costs even after the Supreme Court has suspended the member for nonpayment of his annual membership fees.
- In its current form, rule 282 does not specifically provide that the Office of the Chief Trial Counsel may file a response to a member's request for relief from costs, does not address the issue of a hearing on the motion and does not indicate whether or not the State Bar Court's ruling on the is subject to review. The proposed addition of new subsections (c), (d) and (e) of rule 282 would (a) specifically grant the Office of the Chief Trial Counsel the right to respond to the motion; (b) provide for a hearing if the Court determines that it would be helpful; and (c) provide that the State Bar Court's ruling on the costs relief motion is subject to review only upon grounds of abuse of discretion or error of law.

Proposed Amendments to
Rule 282, Rules of Procedure of the
State Bar of California

(Deletions are indicated by ~~Strikeout~~. Additions are indicated by ***Bold, Underline, Italics***)

RULE 282. PROCEDURE FOR RELIEF FROM OR EXTENSION OF TIME TO COMPLY WITH ORDER ASSESSING COSTS AGAINST DISCIPLINED OR RESIGNING RESPONDENT.

- (a) A respondent may challenge the propriety under Business and Professions Code section 6086.10(b) of the inclusion of items in the certificate of costs, and/or may challenge the computation of properly included costs, provided, however, that this rule does not authorize a challenge to the State Bar's determination of "reasonable costs" under Business and Professions Code section 6086.10(b)(3). Upon grounds of hardship, special circumstances or other good cause, a respondent assessed ~~against whom~~ costs ***have been assessed*** under rule 280 may move for relief, in whole or in part, from the order assessing ~~those costs or~~ may move for an extension of time to pay those costs ***or for the compromise of a judgement obtained under Business and Professions Code section 6086.10(a). The motion shall be served upon the Office of the Chief Trial Counsel pursuant to rule 61.***
- (b)
- (1) A motion under this rule shall be filed no earlier than the effective date of a public reproof by the State Bar Court or the filing of a Supreme Court order assessing costs, and no later than thirty (30) days thereafter, unless the motion is based in whole or in part on financial hardship ***or upon a request for the compromise of a judgment for costs.***
 - (2) A motion under this rule based in whole or in part on financial hardship must be filed as soon as practicable after the circumstances giving rise to the financial hardship become known, ~~but no later than the following:~~
 - ~~(i) if the respondent has not been actually suspended, thirty (30) days prior to the date set by the Board of Governors as the effective date for suspension of those members who have failed to pay annual membership fees, penalties and costs for the calendar year in which the member's costs are due, or~~
 - ~~(ii) if the respondent has been actually suspended, prior to the earliest date that the respondent's actual suspension can be terminated.~~

The motion shall be accompanied by a completed financial statement of the respondent in the form prescribed by the Court.
 - ~~(3) The time within which a member must pay disciplinary costs due pursuant to Business and Professions Code section 6086.10(a) shall not be extended for a total of more than five (5) years from the original date upon which those costs were assessed.~~
 - ~~(4) After the expiration of the time provided in paragraphs (b)(1) or (b)(2) of this rule or~~

~~the suspension of the member by the Supreme Court for failure to pay disciplinary costs, whichever is earlier, relief from the payment of such costs may be granted only by the Board of Governors pursuant to Business and Professions Code section 6141.1.~~

~~(5) The January 1, 1997, amendments to Business and Professions Code section 6140.7 shall apply only to costs assessments arising from disciplinary recommendations filed in the State Bar Court on or after January 1, 1997. The provisions of paragraph (b) of this rule shall apply such costs assessments. The January 1, 1995, and October 1, 1995, versions of paragraph (b) of this rule shall apply to all costs assessments arising from disciplinary recommendations filed in the State Bar Court prior to January 1, 1997.~~

~~*(c) The Office of the Chief Trial Counsel may file and serve a response to the motion within twenty (20) days from the service of the motion.*~~

~~*(d) No hearing on the motion is required and shall only be held if the Court, in the exercise of its discretion, determines that it will materially contribute to the consideration of the motion.*~~

~~*(e) An order of the Court on the motion shall be reviewed only pursuant to rule 300 and upon grounds of error of law or abuse of discretion.*~~

Eff. January 1, 1995. Revised: October 1, 1995; January 1, 1997.
Source: TRP 462 (substantially revised).