

# AGENDA ITEM

54-131 MARCH

**DATE:** February 14, 2014

**TO:** Members, Member Oversight Committee  
Members, Board of Trustees

**FROM:** Member Liaisons:  
David Torres  
Joanna Mendoza  
Michael Colantuono

**SUBJECT:** Members' Requests for Adjustments to Fees and Penalties

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## EXECUTIVE SUMMARY

Members may request that adjustments be made to their membership fees and penalties. Title Two, Rule 2.16 (H) of the Rules of the State Bar states that the Board reserves the right for good cause grant requests for waivers that were denied by staff and to consider all other requests for waivers. This item consolidates several member requests for which the Board's Member Liaisons have determined that good cause exists to recommend fee adjustments.

Board members with questions or concerns may contact Dina DiLoreto, 415/538-2121 or [dina.diloreto@calbar.ca.gov](mailto:dina.diloreto@calbar.ca.gov).

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## BACKGROUND

Rule 2.16 of Title Two of the Rules of the State Bar of California provides for waiver of annual membership fees and penalties. Rule 2.16 (C) specifies three circumstances where staff may grant a member's request for waiver of up to \$1,000 in annual membership fees and penalties for the year in which they are due. These circumstances are that 1) the member serves full-time as a magistrate, commissioner, or referee for a state or federal court of record, 2) the member is a retired judge who accepts assignments from the Chief Justice in the assigned judges' program of the Administrative Office of the Courts, or 3) the member's total gross annual household income from all sources is \$20,000 or less, in which case the waiver is 50% of the annual membership fees.

Rule 2.16 (H) provides that the Board of Trustees reserves the right for good cause 1) to grant requests for waivers denied by staff and 2) to consider requests that fall outside of staff's authorization for granting a waiver of fees and penalties. Traditionally, Board members who are appointed as Member Liaisons have reviewed the waiver requests that come under Rule 2.16 (H) and have made recommendations to MOC and the Board of Trustees where the Liaisons determined that good cause exists to make fee adjustments.

In assessing what constitutes good cause for purposes of determining whether or not the Board of Trustees should grant a fee waiver, the member's justifications for a fee waiver should be weighed against the public policy reasons for imposing annual membership fees. The primary public policy reason for imposing State Bar membership fees is to provide funding for an effective attorney regulatory system that protects the public and eases the burdens on the courts. The system is funded **solely** through the imposition and collection of annual fees. For this reason, membership fee waivers should not be granted as a matter of course, but rather should be limited to extraordinary compelling, exigent situations where the member did not contribute to the cause of the failure to pay full fees.

## ISSUE

Do the Board Committee on Member Oversight (MOC) and the Board of Trustees agree with the recommendations of the Member Liaisons that good cause exists to grant the requests for fee adjustments for the State Bar member(s) listed below? MOC and the Board of Trustees may deny or agree **in whole** or **in part** with any of the recommendations.

## DISCUSSION

The following member(s) have requested adjustments to their annual State Bar membership fees. Staff has reviewed these requests and established that they do not meet the qualifications for staff waivers (See Rule 2.16 (C)), or that the amounts are greater than \$1,000. The requests that are less than \$1,000 have been reviewed and denied by staff, and the member(s) have appealed to the Member Liaisons. The Liaisons have determined that good cause exists to recommend the adjustments.

**Rita Maria Canales (#181778)** Admitted March 9, 1996. Current status is Active. Member has a balance of \$420. Member requests a waiver of 2014 licensing fees. Member's request is based on financial hardship. Member has received 4 staff waivers and 1 Board waiver in the past 6 years. Member has submitted a letter of explanation, a financial declaration, and other supporting documents.

**Margaret E. Hoyt (#23937)** Admitted February 11, 1953. Current status is Not Eligible. Member has a balance of \$1,030. Request is being made on member's behalf by Roger L. Gambatese, her conservator. Member requests a waiver of her 2013 licensing fees and penalties. Member has not received a waiver in the past 6 years. Member has submitted a letter of explanation, supporting documentation, and a request to be transferred to Inactive status.

**Linda Maureen Lowson (#117989)** Admitted June 11, 1985. Current status is Not Eligible. Member has a balance of \$400. Member requests a waiver of 2013 licensing fees and penalties. Member's request is based on financial hardship. Member has not received a waiver in the past 6 years. Member has submitted a letter of explanation and a financial declaration

**Dana Eileen Malarney (#181923)** Admitted April 26, 1996. Current status is Not Eligible. Member has a balance of \$1,530. Member requests a waiver of 2012 and 2013 licensing fees and penalties. Member's request is based on financial hardship. Member has not received a waiver in the past 6 years. Member has submitted a letter of explanation along with a financial declaration and other supporting documentation.

## **FISCAL / PERSONNEL IMPACT**

This is the first Member Liaisons recommendation submitted for membership year 2014. This item contains 4 recommendations. If the recommended adjustments below are approved, the year to date fiscal impact will be \$1,565.

## **RULE AMENDMENTS**

There are no rule amendments.

## **BOARD BOOK IMPACT**

There is no impact on the Board Book.

## **RECOMMENDATION**

The Member Liaisons believe there is good cause to grant the following fee adjustments as discussed above.

**Rita Maria Canales (#181778)** State Bar waives member's 2014 licensing fees in the amount of \$420.

**Margaret E. Hoyt (#23937)** State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$610

**Linda Maureen Lowson (#117989)** State Bar waives member's 2013 licensing fees and late payment penalties and reinstatement fee in the amount of \$255

**Dana Eileen Malarney (#181923)** State Bar waives member's 2012 and 2013 late payment penalties and reinstatement fee in the amount of \$280

## **PROPOSED BOARD COMMITTEE RESOLUTION**

Should the Member Oversight Committee agree with the above recommendation, the following resolution would be appropriate:

**RESOLVED**, that the Member Oversight Committee recommends that the Board approve the fee adjustments for the following State Bar member(s) as noted below:

**Rita Maria Canales (#181778)** State Bar waives member's 2014 licensing fees in the amount of \$420.

**Margaret E. Hoyt (#23937)** State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$610

**Linda Maureen Lowson (#117989)** State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$255

**Dana Eileen Malarney (#181923)** State Bar waives member's 2012 and 2013 late payment penalties and reinstatement fee in the amount of \$280

## **PROPOSED BOARD OF TRUSTEES RESOLUTION**

Should the Board concur with the Member Oversight Committee's recommendation, the following resolutions would be in order:

**RESOLVED**, that upon the recommendation of the Member Oversight Committee, the Board hereby approves the fee adjustments for the following State Bar member(s) as noted below:

**Rita Maria Canales (#181778)** State Bar waives member's 2014 licensing fees in the amount of \$420.

**Margaret E. Hoyt (#23937)** State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$610

**Linda Maureen Lowson (#117989)** State Bar waives member's 2013 licensing fees, late payment penalties, and reinstatement fee in the amount of \$255

**Dana Eileen Malarney (#181923)** State Bar waives member's 2012 and 2013 late payment penalties and reinstatement fee in the amount of \$280