JOINT ORDER OF THE APPELLATE DIVISION

The Departments of the Appellate Division of the Supreme Court, pursuant to the authority vested in them, do hereby enact, effective October 1, 2016, Part 1240 of Title 22 of the Official Compilation of Codes, Rules and Regulations of the State of New York, entitled "Rules for Attorney Disciplinary Matters," together with uniform form appendices, as set forth in Exhibit A hereto.

Hon. Peter Tom
Presiding Justice
First Judicial Department

Dated: August 18, 2016

Hon. Karen K. Peters
Presiding Justice
Third Judicial Department

Dated: August 18, 2016

Hon. Randall T. Eng
Presiding Justice
Second Judicial Department

Dated: August 18, 2016

Hon. Gerald J. Whalen
Presiding Justice
Fourth Judicial Department

Dated: August 18, 2016

EXHIBIT A

Supreme Court, Appellate Division, All Departments

Part 1240. RULES FOR ATTORNEY DISCIPLINARY MATTERS

(effective October 1, 2016)

TABLE OF CONTENTS

§ 1240.

1. Application 1
2. Definitions 1
3. Discipline Under These Rules Not Preclusive 2
4. Appointment of Committees 2
5. Committee Counsel and Staff 2
6. Conflicts; Disqualification from Representation 2
7. Proceedings Before Committees 3
8. Proceedings in the Appellate Division 6
9. Interim Suspension While Investigation or Proceeding is Pending 9
10. Resignation While Investigation or Proceeding is Pending 9
11. Diversion to a Monitoring Program 10
12. Attorneys Convicted of a Crime 11
13. Discipline for Misconduct in a Foreign Jurisdiction 12
14. Attorney Incapacity 13
15. Conduct of Disbarred or Suspended Attorneys 14
16. Reinstatement of Disbarred or Suspended Attorneys 15
17. Reinstatement of Incapacitated Attorneys 16
18. Confidentiality 17
19. Medical and Psychological Evidence 18
20. Abatement; Effect of Pending Civil or Criminal Matters, Restitution 18
21. Appointment of Attorney to Protect Interests of Clients or Attorney 18
22. Resignation for Non-disciplinary Reasons; Reinstatement 19
23. Volunteers/Indemnification 19
24. Costs and Disbursements 19

Supreme Court, Appellate Division, All Departments

Part 1240. RULES FOR ATTORNEY DISCIPLINARY MATTERS
(effective October 1, 2016)

Appendices

Uniform Forms

Appendix A:
Affidavit in Support of Application to Resign While Proceeding or Investigation is Pending (§1240.10)

Appendix B:
Affidavit of Compliance for Disbarred or Suspended Attorneys (§1240.15 [f])

Appendix C:
Application for Reinstatement to the Bar After Disbarment or Suspension for More Than Six Months (§1240.16 [b])

Appendix D:
Application for Reinstatement to the Bar After Suspension for Six Months or Less (§1240.16 [d])

Appendix E:
Affidavit in Support of Application to Resign for Non-Disciplinary Reasons (§1240.22 [a])

Appendix F:
Affidavit in Support of Application for Reinstatement to the Bar After Non-Disciplinary Resignation (§1240.22 [b])

Supreme Court, Appellate Division, All Departments

Part 1240. RULES FOR ATTORNEY DISCIPLINARY MATTERS
(effective October 1, 2016)

§ 1240.1 Application

These Rules shall apply to (a) all attorneys who are admitted to practice in the State of New York; (b) all in-house counsel registered in the State of New York; (c) all legal consultants licensed in the State of New York; (d) all attorneys who have an office in, practice in, or seek to practice in the State of New York, including those who are engaged in temporary practice pursuant to Part 523 of this Title, who are admitted pro hac vice, or who otherwise engage in conduct subject to the New York Rules of Professional Conduct; and (e) the law firms that have as a member, retain, or otherwise employ any person covered by these Rules.

§ 1240.2 Definitions

(a) Professional Misconduct Defined. A violation of any of the Rules of Professional Conduct, as set forth in Part 1200 of this Title, including the violation of any rule or announced standard of the Appellate Division governing the personal or professional conduct of attorneys, shall constitute professional misconduct within the meaning of Judiciary Law §90(2).

(b) Admonition: discipline issued at the direction of a Committee or the Court pursuant to these Rules, where the respondent has engaged in professional misconduct that does not warrant public discipline by the Court. An Admonition shall constitute private discipline, shall be in writing, may be delivered to a recipient by personal appearance before the Committee or its Chairperson, and may be considered by a Committee or the Court in determining the action to be taken or the discipline to be imposed upon a subsequent finding of misconduct.

(c) Censure: censure pursuant to Judiciary Law §90(2).

(d) Committee: an attorney grievance committee established pursuant to these Rules.

(e) Complainant: a person or entity that submits a complaint to a Committee.

(f) Court: the Appellate Division of the Supreme Court of the State of New York for the Judicial Department having jurisdiction over a complaint, investigation, proceeding or person covered by these Rules.

(g) Disbar; Disbarment: to remove, or the removal, from office pursuant to Judiciary Law §90(2). Such terms shall also apply to any removal based upon a resignation for disciplinary reasons, a felony conviction, or the striking of an attorney's name from the roll of attorneys for any disciplinary reason, as stated in these Rules.

(h) Foreign jurisdiction: a legal jurisdiction of a state (other than New York State), territory, or district of the United States, and all federal courts of the United States, including those within the State of New York.

(i) Letter of Advisement: letter issued at the direction of a Committee pursuant to section 1240.7(d)(2)(iv) of these Rules, upon a finding that the respondent has engaged in conduct requiring comment that, under the facts of the case, does not warrant the imposition of discipline. A Letter of Advisement shall be confidential and shall not constitute discipline, but may be considered by a Committee or the Court in determining the action to be taken or the discipline to be imposed upon a subsequent finding of misconduct.

(j) Respondent: a law firm, an attorney or other person that is the subject of an investigation or a proceeding before the Committee or the Court pursuant to these Rules.

(k) Suspension: the imposition of suspension from practice pursuant to Judiciary Law §90(2).

§ 1240.3 Discipline Under These Rules Not Preclusive

Discipline pursuant to these Rules shall not bar or preclude further or other action by any court, bar association, or other entity with disciplinary authority.

§ 1240.4 Appointment of Committees

Each Department of the Appellate Division shall appoint such Attorney Grievance Committee or Committees (hereinafter referred to as "Committee") within its jurisdiction as it may deem appropriate. Each Committee shall be comprised of at least 21 members, of which no fewer than 3 members shall be non-lawyers. A lawyer member of a Committee shall be appointed to serve as Chairperson. All members of the Committee shall reside or maintain an office within the geographic jurisdiction of the Committee. Two-thirds of the membership of a Committee shall constitute a quorum for the conduct of business; all Committee action shall require the affirmative vote of at least a majority of the members present.

§ 1240.5 Committee Counsel and Staff

Each Department of the Appellate Division shall appoint to a Committee or Committees such chief attorneys and other staff as it deems appropriate.

§ 1240.6 Conflicts; Disqualifications from Representation

(a) No (1) current member of a Committee, (2) partner, associate or member of a law firm associated with a current member of a Committee, (3) current member of a Committee's professional staff, or (4) immediate family member of a current Committee member or Committee staff member, may represent a respondent or complainant in a matter investigated or prosecuted before that Committee.

(b) No referee appointed to hear and report on the issues raised in a proceeding under these Rules may, in the Department in which he or she was appointed, represent a respondent or complainant until the expiration of two years from the date of the submission of that referee's final report.

(c) No former member of the Committee, or former member of the Committee's professional staff, may represent a respondent or complainant in a matter investigated or prosecuted by that Committee until the expiration of two years from that person's last date of Committee service.

(d) No former member of the Committee, or former member of the Committee's professional staff, may represent a respondent or complainant in any matter in which the Committee member or staff member participated personally while in the Committee's service.

§ 1240.7 Proceedings Before Committees

(a) Complaint

(1) Investigations of professional misconduct may be authorized upon receipt by a Committee of a written original complaint, signed by the complainant, which need not be verified. Investigations may also be authorized by a Committee acting sua sponte.

(2) The complaint shall be filed initially in the Judicial Department encompassing the respondent's registration address on file with the Office of Court Administration. If that address lies outside New York State, the complaint shall be filed in the Judicial Department in which the respondent was admitted to the practice of law or otherwise professionally licensed in New York State. The Committee or the Court may transfer a complaint or proceeding to another Department or Committee as justice may require.

(b) Investigation; Disclosure. The Chief Attorney is authorized to:

(1) interview witnesses and obtain any records and other materials and information necessary to determine the validity of a complaint;

(2) direct the respondent to provide a written response to the complaint, and to appear and produce records before the Chief Attorney or a staff attorney for a formal interview or examination under oath;

(3) apply to the Clerk of the Court for a subpoena to compel the attendance of a person as a respondent or witness, or the production of relevant books and papers, when it appears that the examination of such person or the production of such books and papers is necessary for a proper determination of the validity of a

complaint. Subpoenas shall be issued by the Clerk in the name of the Presiding Justice and may be made returnable at a time and place specified therein; and

(4) take any other action deemed necessary for the proper disposition of a complaint.

(c) Disclosure. The Chief Attorney shall provide to the respondent a copy of any complaint not otherwise disposed of pursuant to section 1240.7(d)(1) of these Rules within 60 days of receipt of that complaint. Prior to the taking of any action against a respondent pursuant to sections 1240.7(d)(2)(iv), (v) or (vi) of these Rules, the Chief Attorney shall provide the respondent with the opportunity to review all written statements and other documents that form the basis of the proposed Committee action, excepting material that is attorney work product or otherwise deemed privileged by statute or case law, and materials previously provided to the Committee by the respondent.

(d) Disposition.

(1) Disposition by the Chief Attorney.

(i) The Chief Attorney may, after initial screening, decline to investigate a complaint for reasons including but not limited to the following: (A) the matter involves a person or conduct not covered by these Rules; (B) the allegations, if true, would not constitute professional misconduct; (C) the complaint seeks a legal remedy more appropriately obtained in another forum; or (D) the allegations are intertwined with another pending legal action or proceeding. The complainant shall be provided with a brief description of the basis of any disposition of a complaint by the Chief Attorney.

(ii) The Chief Attorney may, when it appears that a complaint involves a fee dispute, a matter suitable for mediation, or a matter suitable for review by a bar association grievance committee, refer the complaint to a suitable alternative forum upon notice to the respondent and the complainant.

(2) Disposition by the Committee. After investigation of a complaint, with such appearances as the Committee may direct, a Committee may take one or more of the following actions:

(i) dismiss the complaint by letter to the complainant and to the respondent;

(ii) when it appears that a complaint involves a fee dispute, a matter suitable for mediation, or a matter suitable for review by a bar association grievance committee, refer the complaint to a suitable alternative forum upon notice to the respondent and the complainant;

(iii) make an application for diversion pursuant to section 1240.11 of these Rules;

(iv) when the Committee finds that the respondent has engaged in conduct requiring comment that, under the facts of the case, does not warrant imposition of discipline, issue a Letter of Advisement to the respondent;

(v) when the Committee finds, by a fair preponderance of the evidence, that the respondent has engaged in professional misconduct, but that public discipline is not required to protect the public, maintain the integrity and honor of the profession, or deter the commission of similar misconduct, issue a written Admonition to the respondent, which shall clearly state the facts forming the basis for such finding, and the specific rule or other announced standard that was violated. Prior to the imposition of an Admonition, the Committee shall give the respondent 20 days' notice by mail of the Committee's proposed action and shall, at the respondent's request, provide the respondent an opportunity to appear personally before the Committee, or a subcommittee thereof, on such terms as the Committee deems just, to seek reconsideration of the proposed Admonition.

(vi) when the Committee finds that there is probable cause to believe that the respondent engaged in professional misconduct warranting the imposition of public discipline, and that such discipline is appropriate to protect the public, maintain the integrity and honor of the profession, or deter others from committing similar misconduct, authorize a formal disciplinary proceeding as set forth in section 1240.8 of these Rules.

(3) As may be permitted by law, the complainant shall be provided with a brief description of the basis of any disposition of a complaint by the Committee.

(e) Review.

(1) Letter of Advisement.

(i) Within 30 days of the issuance of a Letter of Advisement, the respondent may file a written request for reconsideration with the chair of the Committee, with a copy to the Chief Attorney. Oral argument of the request shall not be permitted. The Chair shall have the discretion to deny reconsideration, or refer the request to the full Committee, or a subcommittee thereof, for whatever action it deems appropriate.

(ii) Within 30 days of the final determination denying a request for reconsideration, the respondent may seek review of a Letter of Advisement by submitting an application to the Court, on notice to the Committee, upon a showing that the issuance of the letter was in violation of a fundamental constitutional right. The respondent has the burden of establishing a violation of such a right.

(2) Admonition. Within 30 days of the issuance of an Admonition, the respondent may make an application to the Court, on notice to the Committee, to vacate the

Admonition. Upon such application and the Committee's response, if any, the Court may consider the entire record and take whatever action it deems appropriate.

(3) Review of Dismissal or Declination to Investigate. Within 30 days of the issuance of notice to a complainant of a Chief Attorney's decision declining to investigate a complaint, or of a Committee's dismissal of a complaint, the complainant may submit a written request for reconsideration to the chair of the Committee. Oral argument of the request shall not be permitted. The Chair shall have the discretion to grant or deny reconsideration, or refer the request to the full Committee, or a subcommittee thereof, for whatever action it deems appropriate.

(4) As permitted by law, a respondent or complainant who has submitted a request for review pursuant to this section shall be provided with a brief description of the basis for the determination of such request. In the event that such review results in a change in the outcome of a determination, any respondent or complainant adversely affected thereby shall be provided with a brief description of the basis for the determination.

§ 1240.8 Proceedings in the Appellate Division

(a) Procedure for formal disciplinary proceedings in the Appellate Division.

(1) Formal disciplinary proceedings shall be deemed special proceedings within the meaning of CPLR Article 4, and shall be conducted in a manner consistent with the rules of the Court, the rules and procedures set forth in this Part, and the requirements of Judiciary Law §90. Unless otherwise directed by the Court, there shall be (i) a notice of petition and petition, which the Committee shall serve upon the respondent in a manner consistent with Judiciary Law §90(6), and which shall be returnable on no less than 20 days' notice; (ii) an answer; and (iii) a reply if appropriate. Except upon consent of the parties or by leave of the Court or referee, no other pleadings or amendment or supplement of pleadings shall be permitted. All pleadings shall be filed with the Court. The Court shall permit or require such appearances as it deems necessary in each case.

(2) Statement of Disputed Facts. Within 20 days after service of the answer or, if applicable, a reply, the Committee shall file with the Court a statement of facts that identifies those allegations that the Committee contends are undisputed and those allegations that the party contends are disputed and for which a hearing is necessary. Within 20 days following submission by the Committee, the respondent shall respond to the Committee's statement and, if appropriate, set forth respondent's statement of facts identifying those allegations that the respondent contends are undisputed and those allegations that the respondent contends are disputed and for which a hearing is necessary. In the alternative, within 30 days after service of the answer or, if applicable, a reply, the parties may (i) file a joint statement advising the Court that the pleadings raise no issue

of fact requiring a hearing, or (ii) file a joint stipulation of disputed and undisputed facts.

(3) Disclosure Concerning Disputed Facts. Except as otherwise ordered by the Court, a party must, no later than 14 days after filing a statement of facts with the Court as required by section 1240.8(a)(2) of these Rules, provide to any other party disclosure concerning the allegations that the party contends are disputed. The disclosure shall identify the following:

(i) the name of each individual likely to have relevant and discoverable information that the disclosing party may use to support or contest the disputed allegation and a general description of the information likely possessed by that individual; and

(ii) a copy of each document that the disclosing party has in its possession or control that the party may use to support or contest the allegation, unless copying such documents would be unduly burdensome or expensive, in which case the disclosing party may provide a description of the documents by category and location, together with an opportunity to inspect and copy such documents.

(4) Subpoenas. Upon application by the Committee or the respondent, the Clerk of the Court may issue subpoenas for the attendance of witnesses and the production of books and papers before Court or the referee designated by the Court to conduct a hearing on the issues raised in the proceeding, at a time and place therein specified. When there is good cause to believe that a potential witness will be unavailable at the time of a hearing, the testimony of that witness may be initiated and conducted, and used at the hearing, in a manner provided by Article 31 of the New York Civil Practice Law and Rules.

(5) Discipline by Consent.

(i) At any time after the filing of the petition with proof of service, the parties may file a joint motion with the Court requesting the imposition of discipline by consent. The joint motion shall include:

(A) a stipulation of facts;

(B) the respondent's conditional admission of the acts of professional misconduct and the specific rules or standards of conduct violated;

(C) any relevant aggravating and mitigating factors, including the respondent's prior disciplinary record; and

(D) the agreed upon discipline to be imposed, which may include monetary restitution authorized by Judiciary Law §90(6-a).

(ii) The joint motion shall be accompanied by an affidavit of the respondent acknowledging that the respondent:

(A) conditionally admits the facts set forth in the stipulation of facts;

(B) consents to the agreed upon discipline;

(C) gives the consent freely and voluntarily without coercion or duress; and

(D) is fully aware of the consequences of consenting to such discipline.

(iii) Notice of the joint motion, without its supporting papers, shall be served upon the referee, if one has been appointed, and all proceedings shall be stayed pending the Court's determination of the motion. If the motion is granted, the Court shall issue a decision imposing discipline upon the respondent based on the stipulated facts and as agreed upon in the joint motion. If the motion is denied, the conditional admissions shall be deemed withdrawn and shall not be used against the respondent or the Committee in the pending proceeding.

(b) Disposition by Appellate Division.

(1) Hearing. Upon application of any party, or on its own motion, the Court may refer a formal disciplinary proceeding to a referee for a hearing on any issue that the Court deems appropriate. The referee may grant requests for additional disclosure as justice may require. Unless otherwise directed by the Court, the referee shall complete the hearing within 60 days following the date of the entry of the order of reference, and shall, following post-hearing submissions, file with the Court a written report setting forth the referee's findings and recommendations. Formal disciplinary charges may be sustained when the referee finds, by a fair preponderance of the evidence, each essential element of the charge. The parties may make such motions to affirm or disaffirm the referee's report as permitted by the Court.

(2) Discipline. In presenting arguments on the issue of appropriate discipline for misconduct, the parties may cite any relevant factor, including but not limited to the nature of the misconduct, aggravating and mitigating circumstances, the parties' contentions regarding the appropriate sanction under the American Bar Association's Standards for Imposing Lawyer Sanctions, and applicable case law and precedent. Upon a finding that any person covered by these Rules has committed professional misconduct, the Court may impose discipline or take other action that is authorized by law and, in the discretion of the Court, is appropriate to protect the public, maintain the honor and integrity of the profession, or deter others from committing similar misconduct.

(c) Applications and Motions to the Appellate Division

Unless otherwise specified by these Rules, applications and motions shall be made in accordance with the rules of the Court in which the proceeding is pending.

§ 1240.9 Interim Suspension While Investigation or Proceeding is Pending

(a) A respondent may be suspended from practice on an interim basis during the pendency of an investigation or proceeding on application or motion of a Committee, following personal service upon the respondent, or by substitute service in a manner approved by the Presiding Justice, and upon a finding by the Court that the respondent has engaged in conduct immediately threatening the public interest. Such a finding may be based upon: (1) the respondent's default in responding to a petition, notice to appear for formal interview, examination, or pursuant to subpoena under these Rules; (2) the respondent's admission under oath to the commission of professional misconduct; (3) the respondent's failure to comply with a lawful demand of the Court or a Committee in an investigation or proceeding under these Rules; (4) the respondent's willful failure or refusal to pay money owed to a client, which debt is demonstrated by an admission, judgment, or other clear and convincing evidence; or (5) other uncontroverted evidence of professional misconduct.

(b) An application for suspension pursuant to this rule may provide notice that a respondent who is suspended under this rule and who has failed to respond to or appear for further investigatory or disciplinary proceedings within six months from the date of the order of suspension may be disbarred by the Court without further notice.

(c) Any order of interim suspension entered by the Court shall set forth the basis for the suspension and provide the respondent with an opportunity for a post-suspension hearing.

(d) An order of interim suspension together with any decision issued pursuant to this subdivision shall be deemed a public record. The papers upon which any such order is based shall be deemed confidential pursuant to Judiciary Law §90(10).

§ 1240.10 Resignation While Investigation or Proceeding is Pending

(a) A respondent may apply to resign by submitting to a Court an application in the form in Appendix A to these Rules, with proof of service on the Committee, setting forth the specific nature of the charges or the allegations under investigation and attesting that:

(1) the proposed resignation is rendered voluntarily, without coercion or duress, and with full awareness of the consequences, and that the Court's approval of the application shall result in the entry of an order disbarring the respondent; and

(2) the respondent cannot successfully defend against the charges or allegations of misconduct.

(b) When the investigation or proceeding includes allegations that the respondent has willfully misappropriated or misapplied money or property in the practice of law, the respondent in the application shall:

(1) identify the person or persons whose money or property was willfully misappropriated or misapplied;

(2) specify the value of such money or property; and

(3) consent to the entry of an order requiring the respondent to make monetary restitution pursuant to Judiciary Law §90(6-a).

(c) Upon receipt of an application for resignation, and after affording the Committee an opportunity to respond, the Court may accept the resignation and remove the respondent from office by order of disbarment pursuant to Judiciary Law §90(2).

§ 1240.11 <u>Diversion to a Monitoring Program</u>

(a) When in defense or as a mitigating factor in an investigation or formal disciplinary charges, the respondent raises a claim of impairment based on alcohol or substance abuse, or other mental or physical health issues, the Court, upon application of any person or on its own motion, may stay the investigation or proceeding and direct the respondent to complete an appropriate treatment and monitoring program approved by the Court. In making such a determination, the Court shall consider:

(1) the nature of the alleged misconduct;

(2) whether the alleged misconduct occurred during a time period when the respondent suffered from the claimed impairment; and

(3) whether diverting the respondent to a monitoring program is in the public interest.

(b) Upon submission of written proof of successful completion of the monitoring program, the Court may direct the discontinuance or resumption of the investigation, charges or proceeding, or take other appropriate action. In the event the respondent fails to comply with the terms of a Court-ordered monitoring program, or the respondent commits additional misconduct during the pendency of the investigation or proceeding, the Court may, after affording the parties an opportunity to be heard, rescind the order of diversion and direct resumption of the disciplinary charges or investigation.

(c) All aspects of a diversion application or a respondent's participation in a monitoring program pursuant to this rule and any records related thereto are confidential or privileged pursuant to Judiciary Law §§90(10) and 499.

(d) Any costs associated with a respondent's participation in a monitoring program pursuant to this section shall be the responsibility of the respondent.

§ 1240.12 <u>Attorneys Convicted of a Crime</u>

(a) An attorney to whom the rules of this Part shall apply who has been found guilty of any crime in a court of the United States or any state, territory or district thereof, whether by plea of guilty or nolo contendere, or by verdict following trial, shall, within 30 days thereof notify the Committee having jurisdiction pursuant to section 1240.7(a)(2) of these Rules of the fact of such finding. Such notification shall be in writing and shall be accompanied by a copy of any judgment, order or certificate of conviction memorializing such finding of guilt. The attorney shall thereafter provide the Committee with any further documentation, transcripts or other materials the Committee shall deem necessary to further its investigation. The obligations imposed by this rule shall neither negate nor supersede the obligations set forth in Judiciary Law §90(4)(c).

(b) Upon receipt of proof that an attorney has been found guilty of any crime described in subdivision (a) of this section, the Committee shall investigate the matter and proceed as follows:

(1) If the Committee concludes that the crime in question is not a felony or serious crime, it may take any action it deems appropriate pursuant to section 1240.7 of these Rules.

(2) If the Committee concludes that the crime in question is a felony or serious crime as those terms are defined in Judiciary Law §90(4), it shall promptly apply to the Court for an order (i) striking the respondent's name from the roll of attorneys; or (ii) suspending the respondent pending further proceedings pursuant to these Rules and issuance of a final order of disposition.

(c) Upon application by the Committee, and after the respondent has been afforded an opportunity to be heard on the application, including any appearances that the Court may direct, the Court shall proceed as follows:

(1) Upon the Court's determination that the respondent has committed a felony within the meaning of Judiciary Law §90(4)(e), the Court shall strike the respondent's name from the roll of attorneys.

(2) Upon the Court's determination that the respondent has committed a serious crime within the meaning of Judiciary Law §90(4)(d),

(i) the Court may direct that the respondent show cause why a final order of suspension, censure or disbarment should not be made; and

(ii) the Court may suspend the respondent pending final disposition unless such a suspension would be inconsistent with the maintenance of the integrity and honor of the profession, the protection of the public and the interest of justice; and

(iii) the Court, upon the request of the respondent, shall refer the matter to a referee or judge appointed by the Court for hearing, report and recommendation; and

(iv) the Court, upon the request of the Committee or upon its own motion, may refer the matter to a referee or judge appointed by the Court for hearing, report and recommendation; and

(v) after the respondent has been afforded an opportunity to be heard, including any appearances that the Court may direct, the Court shall impose such discipline as it deems proper under the circumstances.

(3) Upon the Court's determination that the respondent has committed a crime not constituting a felony or serious crime, it may remit the matter to the Committee to take any action it deems appropriate pursuant to section 1240.7 of these Rules, or direct the commencement of a formal proceeding pursuant to section 1240.8 of these Rules.

(d) A certificate of the conviction of a respondent for any crime shall be conclusive evidence of the respondent's guilt of that crime in any disciplinary proceeding instituted against the respondent based on the conviction.

(e) Applications for reinstatement or to modify or vacate any order issued pursuant to this section shall be made pursuant to section 1240.16 of these Rules.

§ 1240.13 <u>Discipline for Misconduct in a Foreign Jurisdiction</u>

(a) Upon application by a Committee containing proof that a person or firm covered by these Rules has been disciplined by a foreign jurisdiction, the Court shall direct that person or firm to demonstrate, on terms it deems just, why discipline should not be imposed in New York for the underlying misconduct.

(b) The respondent may file an affidavit stating defenses to the imposition of discipline and raising any mitigating factors. Any or all of the following defenses may be raised:

(1) that the procedure in the foreign jurisdiction was so lacking in notice or opportunity to be heard as to constitute a deprivation of due process; or

(2) that there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court could not, consistent with its duties,

accept as final the finding in the foreign jurisdiction as to the respondent's misconduct; or

(3) that the misconduct for which the respondent was disciplined in the foreign jurisdiction does not constitute misconduct in New York.

(c) After the respondent has had an opportunity to be heard, and upon review of the order entered by the foreign jurisdiction, and the record of the proceeding in that jurisdiction, if such record or part thereof is submitted by a party and deemed relevant by the Court, the Court may discipline the respondent for the misconduct committed in the foreign jurisdiction unless it finds that the procedure in the foreign jurisdiction deprived the respondent of due process of law, that there was insufficient proof that the respondent committed the misconduct, or that the imposition of discipline would be unjust.

(d) Any person or firm to whom these Rules shall apply who has been disciplined in a foreign jurisdiction shall, within 30 days after such discipline is imposed, advise the appropriate Court (as described in section 1240.7(a)(2) of these Rules) and Committee of such discipline. Such notification shall be in writing and shall be accompanied by any judgment, order or certificate memorializing the discipline imposed. The person or firm shall thereafter provide the Committee with any further documentation, transcripts or other materials the Committee shall deem necessary to further its investigation.

§ 1240.14 <u>Attorney Incapacity</u>

(a) Upon application by a Committee that includes proof of a judicial determination that a respondent is in need of involuntary care or treatment in a facility for the mentally disabled, or is the subject of an order of incapacity, retention, commitment or treatment pursuant to the Mental Hygiene Law, the Court may enter an order immediately suspending the respondent from the practice of law. The Committee shall serve a copy of the order upon the respondent, a guardian appointed on behalf of the respondent or upon the director of the appropriate facility, as directed by the Court.

(b) At any time during the pendency of a disciplinary proceeding or an investigation conducted pursuant to these Rules, the Committee, or the respondent, may apply to the Court for a determination that the respondent is incapacitated from practicing law by reason of mental disability or condition, alcohol or substance abuse, or any other condition that renders the respondent incapacitated from practicing law. Applications by respondents shall include medical proof demonstrating incapacity. The Court may appoint a medical expert to examine the respondent and render a report. When the Court finds that a respondent is incapacitated from practicing law, the Court shall enter an order immediately suspending the respondent from the practice of law and may stay the pending proceeding or investigation. Upon reinstatement of the incapacitated attorney pursuant to § 1240.17 of these rules, the Court may take such

action as it deems advisable, including a direction for the resumption of the proceeding or investigation.

§ 1240.15 Conduct of Disbarred or Suspended Attorneys

(a) Prohibition Against Practicing Law. Attorneys disbarred or suspended shall comply with Judiciary Law §§478, 479, 484 and 486. After entry of an order of disbarment or suspension, the affected respondent shall not accept any new retainer or engage in any new case or legal matter of any nature as attorney for another. However, during the period between the entry date of the order and its effective date, the respondent may wind up and complete, on behalf of any client, all matters which were pending on the entry date.

(b) Notification of Clients. Within 10 days of the date of entry of an order of suspension or disbarment, the affected respondent shall notify, by certified mail and, where practical, electronic mail, each client of the respondent, the attorney for each party in any pending matter, the court in any pending matter, and the Office of Court Administration for each action where a retainer statement has been filed pursuant to court rules. The notice shall state that the respondent is unable to act as counsel due to disbarment or suspension. A notice to a respondent's client shall advise the client to obtain new counsel. A notice to counsel for a party in a pending action, or to the Office of Court Administration in connection with an action where a retainer statement has been filed pursuant to court rule, shall include the name and address of the respondent's client. Where counsel has been appointed by a court, notice shall also be provided to the appointing court.

(c) Duty to Return Property and Files. Within 30 days of the date of entry of the order of suspension or disbarment, the affected respondent shall deliver to all respondent's clients or third parties, or to a successor attorney designated by such clients or third parties, all money and property (including legal files) in the possession of the respondent to which such clients or third parties are entitled.

(d) Discontinuation of Attorney Advertising. Within 30 days of the date of entry of the order of suspension or disbarment, the affected respondent shall discontinue all public and private notices through advertising, office stationery and signage, email signatures, voicemail messages, social media, and other methods, that assert that the respondent may engage in the practice of law.

(e) Forfeiture of Secure Pass. Within 30 days of the date of entry of the order of suspension or disbarment, the affected respondent shall surrender to the Office of Court Administration any Attorney Secure Pass issued to him or her.

(f) Affidavit of Compliance. Within 45 days after the date of service of the order of disbarment or suspension, the affected respondent shall file with the Court, together with proof of service upon the Committee, an affidavit in the form in Appendix B to these Rules showing a current mailing address for the respondent and that the respondent has complied with the order and these Rules.

(g) Compensation. A respondent who has been disbarred or suspended from the practice of law may not share in any fee for legal services rendered by another attorney during the period of disbarment or suspension but may be compensated on a quantum meruit basis for services rendered prior to the effective date of the disbarment or suspension. On motion of the respondent, with notice to the respondent's client, the amount and manner of compensation shall be determined by the court or agency where the action is pending or, if an action has not been commenced, at a special term of the Supreme Court in the county where the respondent maintained an office. The total amount of the legal fee shall not exceed the amount that the client would have owed if no substitution of counsel had been required.

(h) Required Records. A respondent who has been disbarred or suspended from the practice of law shall keep and maintain records of the respondent's compliance with this rule so that, upon any subsequent proceeding instituted by or against the respondent, proof of compliance with this rule and with the disbarment or suspension order or with the order accepting resignation will be available.

§ 1240.16 <u>Reinstatement of Disbarred or Suspended Attorneys</u>

(a) Upon motion by a respondent who has been disbarred or suspended, with notice to the Committee and the Lawyers' Fund for Client Protection, and following such other notice and proceedings as the Court may direct, the Court may issue an order reinstating such respondent upon a showing, by clear and convincing evidence, that: the respondent has complied with the order of disbarment, suspension or the order removing the respondent from the roll of attorneys; the respondent has complied with the rules of the court; the respondent has the requisite character and fitness to practice law; and it would be in the public interest to reinstate the respondent to the practice of law. Within thirty days of the date on which the application was served upon the Committee, or within such longer time as the Court may allow, the Committee may file an affidavit in relation thereto.

(b) Necessary papers. Papers on an application for reinstatement of a respondent who has been disbarred or suspended for more than six months shall include a copy of the order of disbarment or suspension, and any related decision; an affidavit in the form in Appendix C to these Rules; and proof that the respondent has, no more than one year prior to the date the application is filed, successfully completed the Multistate Professional Responsibility Examination described in section 520.9 of this Title. After the application has been filed, the Court may deny the application with leave to renew upon the submission of proof that the respondent has successfully completed the New York State Bar Examination described in section 520.8 of this Title, or a specified requirement of continuing legal education, or both. A respondent who has been suspended for a period of six months or less shall not be required to submit proof that the respondent has successfully completed the Multistate Professional Responsibility Examination, unless otherwise directed by the Court.

(c) Time of application

(1) A respondent disbarred by order of the Court for misconduct may apply for reinstatement to practice after the expiration of seven years from the entry of the order of disbarment.

(2) A suspended respondent may apply for reinstatement after the expiration of the period of suspension or as otherwise directed by the Court.

(d) Respondents suspended for a fixed term of six months or less. A respondent who has been suspended for six months or less pursuant to disciplinary proceedings may file an application for reinstatement with the Court no more than thirty days prior to the expiration of the term of suspension, in the form prescribed at Appendix D to these Rules, together with proof of service of a copy of same upon the appropriate Committee and the Lawyers' Fund for Client Protection. Within twenty days of the date on which the application was served upon the Committee and Lawyers' Fund, or within such longer time as the Court may allow, the Committee and Lawyers' Fund may file a response thereto. After the Committee and Lawyers' Fund have had an opportunity to be heard, the Court may issue an order reinstating the respondent upon a showing, by clear and convincing evidence, that the respondent has otherwise satisfied the requirements of section 1240.16 (a) of these Rules.

(e) The Court may establish an alternative expedited procedure for reinstatement of attorneys suspended for violation of the registration requirements set forth in Judiciary Law §468-a.

§ 1240.17 <u>Reinstatement of Incapacitated Attorneys</u>

(a) Time of application. A respondent suspended on incapacity grounds pursuant to section 1240.14 of these Rules may apply for reinstatement at such time as the respondent is no longer incapacitated from practicing law.

(b) Necessary papers. Papers on an application for reinstatement following suspension on incapacity grounds shall include a copy of the order of suspension, and any related decision; proof, in evidentiary form, of a declaration of competency or of the respondent's capacity to practice law; a completed affidavit in a form approved by the Court; a copy of a letter to The Lawyers' Fund for Client Protection notifying the Fund that the application has been filed; and such other proofs as the Court may require. A copy of the complete application shall be served upon the Committee.

(c) Such application shall be granted by the Court upon showing by clear and convincing evidence that the respondent's disability or incapacity has been removed and the respondent is fit to resume the practice of law. Upon such application, the Court may take or direct such action as it deems necessary or proper for a determination as to whether the respondent's disability or incapacity has been removed, including a direction of an examination of the respondent by such qualified experts as the Court shall designate. In its discretion, the Court may direct that the expense of such an

examination shall be paid by the respondent. In a proceeding under this section, the burden of proof shall rest with the suspended respondent.

(d) Where a respondent has been suspended by an order in accordance with the provisions of section 1240.14 of these Rules and thereafter, in proceedings duly taken, the respondent has been judicially declared to be competent, the Court may dispense with further evidence that the respondent's disability or incapacity has been removed and may direct the respondent's reinstatement upon such terms as are deemed proper and advisable.

(e) Waiver of Doctor-Patient Privilege Upon Application for Reinstatement. The filing of an application for reinstatement by a respondent suspended for incapacity shall be deemed to constitute a waiver of any doctor-patient privilege existing between the respondent and any psychiatrist, psychologist, physician, hospital or facility who or which has examined or treated the respondent during the period of disability. The respondent shall be required to disclose the name of every psychiatrist, psychologist, physician, hospital or facility by whom or at which the respondent has been examined or treated since the respondent's suspension, and the respondent shall furnish to the Court written consent to each to divulge such information and records as may be requested by court-appointed experts or by the Clerk of the Court.

§ 1240.18 <u>Confidentiality</u>

(a) All disciplinary investigations and proceedings shall be kept confidential by Court personnel, Committee members, staff, and their agents.

(b) All papers, records and documents upon any complaint, inquiry, investigation or proceeding relating to the conduct or discipline of any respondent under these Rules are sealed and deemed private and confidential pursuant to Judiciary Law §90(10). This provision is not intended to proscribe the free interchange of information among the Committees.

(c) All proceedings before a Committee or the Court shall be closed to the public absent a written order of the Court opening the proceedings in whole or in part.

(d) Application to Unseal Confidential Records or for Access to Closed Proceedings. Unless provided for elsewhere in these Rules, an application pursuant to Judiciary Law §90(10) to unseal confidential documents or records, or for access to proceedings that are closed under these Rules, shall be made to the Court and served upon such other persons or entities as the Presiding Justice may direct, if any, and shall specify:

(1) the nature and scope of the inquiry or investigation for which disclosure is sought;

(2) the papers, records or documents sought to be disclosed, or the proceedings that are sought to be opened; and

(3) other methods, if any, of obtaining the information sought, and the reasons such methods are unavailable or impractical.

(e) Upon written request of a representative of The Lawyers' Fund for Client Protection ("Fund") certifying that a person or persons has filed a claim or claims seeking reimbursement from the Fund for the wrongful taking of money or property by any respondent who has been disciplined by the Court, the Committee is authorized to disclose to the Fund such information as it may have on file relating thereto.

§ 1240.19 Medical and Psychological Evidence

Whenever a respondent intends to offer evidence of a medical or psychological condition in mitigation of allegations or charges, he or she shall give written notice to the Committee of the intention to do so no later than 20 days before the scheduled date of any appearance, argument, examination, proceeding, or hearing during which the respondent intends to offer such evidence to the Court, referee, Committee, subcommittee thereof, or counsel to a Committee. Said notice shall be accompanied by (a) the name, business address, and curriculum vitae of any health care professional whom the respondent proposes to call as a witness, or whose written report the respondent intends to submit; and (b) a duly executed and acknowledged written authorization permitting the Committee to obtain and make copies of the records of any such health care professional regarding the respondent's medical or psychological condition at issue.

§ 1240.20 Abatement; Effect of Pending Civil or Criminal Matters; Restitution

(a) Any person's refusal to participate in the investigation of a complaint or related proceeding shall not require abatement, deferral or termination of such investigation or proceeding.

(b) The acquittal of a respondent on criminal charges, or a verdict, judgment, settlement or compromise in a civil litigation involving material allegations substantially similar to those at issue in the disciplinary matter, shall not require termination of a disciplinary investigation.

(c) The restitution of funds that were converted or misapplied by a person covered by these Rules shall not bar the commencement or continuation of a disciplinary investigation or proceeding.

§ 1240.21 Appointment of Attorney to Protect Interests of Clients or Attorney

(a) When an attorney is suspended, disbarred or incapacitated from practicing law pursuant to these Rules, or when the Court determines that an attorney is otherwise unable to protect the interests of his or her clients and has thereby placed clients' interests at substantial risk, the Court may enter an order, upon such notice as it shall direct, appointing one or more attorneys to take possession of the attorney's files, examine the files, advise the clients to secure another attorney or take any other action necessary to protect the clients' interests. An application for such an order shall be by motion, with notice to the Committee, and shall include an affidavit

setting forth the relationship, if any, as between the moving party, the attorney to be appointed and the suspended, disbarred or incapacitated attorney.

(b) Compensation. The Court may determine and award compensation and costs to an attorney appointed pursuant to this rule, and may direct that compensation of the appointee and any other expenses be paid by the attorney whose conduct or inaction gave rise to those expenses.

(c) Confidentiality. An attorney appointed pursuant to this rule shall not disclose any information contained in any client files without the client's consent, except as is necessary to carry out the order appointing the attorney or to protect the client's interests.

§ 1240.22 Resignation for Non-Disciplinary Reasons; Reinstatement

(a) Resignation of attorney for non-disciplinary reasons.

(1) An attorney may apply to the Court for permission to resign from the bar for non-disciplinary reasons by submitting an affidavit in the form in Appendix E to these Rules. A copy of the application shall be served upon the Committee and the Lawyers' Fund for Client Protection, and such other persons as the Court may direct.

(2) When the Court determines that an attorney is eligible to resign for non-disciplinary reasons, it shall enter an order removing the attorney's name from the roll of attorneys and stating the non-disciplinary nature of the resignation.

(b) Reinstatement. An attorney who has resigned from the bar for non-disciplinary reasons may apply for reinstatement by filing with the Court an affidavit in the form in Appendix F to these Rules. The Court may grant the application and restore the attorney's name to the roll of attorneys; or deny the application with leave to renew upon proof that the applicant has successfully completed the Multistate Professional Responsibility Examination described in section 520.9 of this Title, or the New York State Bar Examination described in section 520.8 of this Title; or take such other action as it deems appropriate.

§ 1240.23 Volunteers/Indemnification

Members of the Committee, as well as referees, bar mediators, bar grievance committee members when assisting the Court of the Committee, and pro bono special counsel acting pursuant to duties or assignments under these Rules, are volunteers and are expressly authorized to participate in a State-sponsored volunteer program, pursuant to Public Officers Law §17(1).

§ 1240.24 Costs and Disbursements

The necessary costs and disbursements of an agency, committee or appointed attorney in conducting a proceeding under this Part shall be paid in accordance with Judiciary Law §90(6).

Appendix A

APPENDIX A

Affidavit in Support of Application to Resign
While Proceeding or Investigation is Pending

INSTRUCTIONS

An application pursuant to section 1240.10 of these Rules to resign as an attorney and counselor-at-law while a proceeding or investigation is pending shall comply with the following requirements:

(1) The application shall be submitted in affidavit form, subscribed and sworn to before a notary public or other person authorized to administer an oath, and shall be worded and numbered as set forth below.

(2) The affidavit shall bear the caption and the docket number, if any, of the proceeding pending before the Court. If no proceeding is pending, the caption shall denominate the Committee conducting the investigation as the petitioner, and the subject of the investigation as the respondent.

(3) In completing the affidavit, the respondent should not omit any passages.

(4) Place the moving papers in the following order:

a. The respondent's form affidavit;
b. The exhibits supporting that form affidavit; and
c. An affidavit reflecting service upon the Chief Attorney of the appropriate Committee.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

_____

AFFIDAVIT IN SUPPORT OF APPLICATION TO RESIGN WHILE PROCEEDING OR INVESTIGATION IS PENDING

_____

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.10 of the Uniform Rules for Attorney Disciplinary Matters, to resign as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. All communications may be addressed to me at the office of my attorney, [name], at [address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address:
_____.

6. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

7. I have also been admitted to practice in the following courts or jurisdictions: _____.

- OR -

I attest that I have not been admitted to practice in any other courts or jurisdictions.

8. I am the subject of disciplinary charges pending before this Court in this proceeding, as set forth in the petition dated [date]. I acknowledge that the charges include at least the following acts of professional misconduct: _____.

- OR -

I am currently the subject of an investigation conducted by the [name of applicable Committee] involving allegations of professional misconduct on my part. I acknowledge that the allegations include at least the following acts of professional misconduct:

_____.

9. I attest that I cannot successfully defend against the [charges **-or-** allegations] based upon the facts and circumstances of my professional conduct as described herein.

10. My resignation is freely and voluntarily rendered, without coercion or duress by anyone, and with full awareness of the consequences, including that the Court's acceptance and approval shall result in the entry of an order of disbarment striking my name from the roll of attorneys and counselors-at-law.

11. I hereby consent to the entry of an order by the Court, pursuant to Judiciary Law § 90 (6-a), directing (1) that I make monetary restitution to the following persons in the amounts indicated: [state the name of each person whose money or property was willfully misappropriated or misapplied, and specify the value of such money or property], and (2) that I reimburse the Lawyers' Fund for Client Protection the sum of [specify dollar amount].

- OR -

I attest that the [proceeding **-or-** investigation] does not include [charges **-or-** allegations] that I willfully misappropriated or misapplied money or property in the practice of law.

12. This resignation is submitted subject to any future application that may be made by a Committee to any Department of the Appellate Division for an order, pursuant to Judiciary Law § 90 (6-a), directing that I make restitution or reimburse the Lawyers' Fund for Client Protection, and I consent to the continuing jurisdiction of the Appellate Division to make such an order.

13. I acknowledge and agree that pending issuance of an order accepting this resignation, I shall not undertake to represent any new clients or accept any retainers for future legal services to be rendered and that there will be no transactional activity in any fiduciary account to which I have access, other than for payment of funds held therein on behalf of clients or others entitled to receive them.

14. I understand further that, in the event the Court accepts my resignation, the order resulting from this application and the records and documents filed in relation to the aforementioned [charges **-or-** allegations], including this affidavit, shall be deemed public records pursuant to

Judiciary Law § 90 (10).

WHEREFORE, I request that the Court accept my application to resign as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

_____
Notary Public

Appendix B

APPENDIX B

Affidavit of Compliance for Disbarred or Suspended Attorneys

INSTRUCTIONS

(1) The affidavit required by section 1240.15 (f) of these Rules shall be worded and numbered as set forth below.

(2) The affidavit shall be subscribed and sworn to before a notary public or other person authorized to administer an oath.

(3) The affidavit shall bear the caption and the docket number, if any, of the proceeding resulting in the respondent's disbarment or suspension.

(4) In completing the affidavit, the respondent should not omit any passages. To the extent that the respondent is unable to swear to any of the required statements set forth in the form affidavit, the respondent must, for each such statement, alternatively explain all facts and circumstances relevant to why the respondent is unable to swear to the statement.

(5) The affidavit shall be filed with the Court along with an affidavit reflecting service thereof upon the Chief Attorney of the appropriate Committee.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

_____

AFFIDAVIT OF COMPLIANCE FOR DISBARRED OR SUSPENDED ATTORNEYS

_____

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I submit this affidavit pursuant to section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. The telephone numbers at which I can be contacted are:
Home _____
Work _____
Mobile _____.

6. The email address at which I can be contacted is _____.

7. All communications may be addressed to me at the office of my attorney, [name], at [address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address: _____.

8. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

9. By order of this Court entered [date], I was [suspended for ____ years **-or-** months **-or-** disbarred] from the practice of law. My use of the term "discipline" hereinafter refers to the sanction imposed by this Court in the foregoing order. A copy of the order imposing discipline is attached as exhibit ___ hereto.

10. Since the entry of the order of discipline, I have complied with the order of discipline in all respects. I have also complied with Judiciary Law §§ 478, 479, 484 and 486.

11. I have sent written notice of my [suspension **- or -** disbarment] to each client and any other party, as required by section 1240.15 (b) of the Uniform Rules for Attorney Disciplinary Matters.

12. I have delivered to all clients or third parties, or to a successor attorney designated by such clients or third parties, all money and property in my possession (including legal files), as required by section 1240.15 (c) of the Uniform Rules for Attorney Disciplinary Matters.

13. I have discontinued all attorney advertising, as required by section 1240.15 (d) of the Uniform Rules for Attorney Disciplinary Matters.

14. I have forfeited any secure pass issued to me by the Office of Court Administration, as required by section 1240.15 (e) of the Uniform Rules for Attorney Disciplinary Matters.

15. I have not and will not share in any fee for legal services rendered by another attorney during the period of my [suspension **- or -** disbarment], as precluded by section 1240.15 (g) of the Uniform Rules for Attorney Disciplinary Matters. For all cases in which I may have a claim for compensation earned for work performed prior to my [suspension **- or -** disbarment], I [have filed **-or-** intend to file] a motion in the appropriate forum for an order fixing my fees for such work.

16. I have made and will keep records of my compliance with this rule and the attached order of discipline, and will make such records available in any subsequent proceeding instituted by or against me.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

_____
Notary Public

Appendix C

APPENDIX C

Application for Reinstatement to the Bar
After Disbarment or Suspension for More Than Six Months

INSTRUCTIONS

An application pursuant to section 1240.16 (a) and (b) of these Rules for reinstatement to the bar after disbarment or suspension from practice for more than six months shall comply with the following requirements:

(1) The application shall be made in the form of a motion.

(2) The moving papers shall bear the caption and the docket number, if any, of the proceeding resulting in the respondent's disbarment or suspension.

(3) The motion shall be made on notice to the Committee that was the petitioner in the proceeding leading to the respondent's disbarment or suspension and to the Lawyers' Fund for Client Protection.

(4) The motion shall be made, noticed, and filed in accordance with the rules of practice of the Court. Payment of the fee required by CPLR 8022 (b) shall accompany the filing of the motion papers, unless the movant is exempt from payment thereof pursuant to CPLR 1102.

(5) The motion shall be supported by the affidavit of the respondent, subscribed and sworn to before a notary public or other person authorized to administer an oath.

(6) The supporting affidavit shall be worded and numbered as set forth below.

(7) In completing the supporting affidavit, the respondent should not omit any passages.

(8) The application may be supplemented by the affidavits or affirmations of counsel and character witnesses, and with additional appropriate exhibits.

(9) Place the moving papers in the following order:

a. The notice of motion;
b. The respondent's form affidavit;
c. The exhibits supporting that form affidavit;
d. Any additional supporting affidavits or affirmations and exhibits thereto; and
e. Affidavits reflecting service of the moving papers upon the Chief Attorney of the appropriate Committee and the Lawyers' Fund for Client Protection.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

_____

AFFIDAVIT IN SUPPORT OF APPLICATION FOR REINSTATEMENT TO THE BAR AFTER DISBARMENT OR SUSPENSION FOR MORE THAN SIX MONTHS

_____

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.16 (a) and (b) of the Uniform Rules for Attorney Disciplinary Matters, for reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. The telephone numbers at which I can be contacted are:
Home _____
Work _____
Mobile _____.

6. The email address at which I can be contacted is _____.

7. All communications may be addressed to me at the office of my attorney, [name], at

[address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address:

_____.

8. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

9. By order of this Court entered [date], I was [suspended for ____ years **-or-** months **-or-** disbarred] from the practice of law. My use of the term "discipline" hereinafter refers to the sanction imposed by this Court in the foregoing order. A copy of the order imposing discipline is attached as exhibit ___ hereto.

10. Other than the location specified in paragraph 4 hereof, I have resided at the following addresses since the entry of the order of discipline: [in chronological order state the approximate dates of residence, street, town or city, state, and zip code].

- OR -

I attest that I have resided continually at the location specified in paragraph 4 hereof since the entry of the order of discipline.

11. The discipline imposed upon me was predicated upon, or arose out of, my misappropriation or misuse of the real or personal property of others, or the failure to return legal fees received but unearned by me. I have made full restitution to the owners of the property or the clients in question, and if any part of a loss occasioned by my conduct was the subject of an award by the Lawyers' Fund for Client Protection pursuant to Part 7200 of this Title, I have made full restitution to the Fund, except as follows:
[A statement listing each property, its dollar value, the name of the true owner, and the extent to which I have made or have yet to make restitution is attached as exhibit ____ hereto.]

- OR -

I attest that the discipline imposed upon me was not predicated upon, and did not arise out of, charges that I willfully misappropriated or misapplied money or property in the practice of law.

12. On the date the order of discipline was entered, the following matters, which were not the basis of this Court's order, were pending against me before any attorney grievance committee in the State of New York: [state the nature of the complaint, the disciplinary authority before which it was pending, and the disposition thereof].

- OR -

I attest that, on the date the order of discipline was entered, no additional matters were pending against me before any attorney grievance committee in the State of New York

13. I have also been admitted to practice in the following courts or jurisdictions:

_____.

[Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit by all such courts or jurisdictions in which I am currently admitted to practice, except

those in which I have not been reinstated as set forth in paragraph 14 hereof, are attached as exhibit ___ hereto.]

- OR -

I attest that I have not been admitted to practice in any other courts or jurisdictions.

14. From the date of my admission to the New York State Bar until the present, I have also been the subject of professional discipline in this or any other court or jurisdiction: [state the court or jurisdiction, the date, the nature of the discipline imposed, whether such discipline was public or private, and whether or not you have been reinstated to practice and are now in good standing in such court or jurisdiction].
[A copy of each order or judgment imposing such discipline is attached as exhibit ____ hereto. A copy of each order or judgment reinstating me to practice is attached as exhibit ____ hereto.]

- OR -

I attest that, with the exception of the discipline imposed by this Court from which I now seek reinstatement, from the date of my admission to the New York State Bar until the present I have not been the subject of professional discipline in this or any other court or jurisdiction.

15. Since the entry of the order of discipline, I have complied with the terms of the order in all respects and have not (1) engaged in the practice of law in any form in the State of New York, either as principal or agent, or a clerk or employee of another, (2) accepted any new retainer or otherwise agreed to represent any legal client in New York , or (3) solicited or procured, either directly or indirectly, legal business for any attorney in New York.

- OR -

Since the entry of the order of discipline, I have engaged in the practice of law in the State of New York in the following manner: [in chronological order, state the nature, date and duration of any legal work performed in New York since the effective date of discipline, including any appearances before any court or tribunal as an attorney for another, and the preparation of any legal instrument or document.]

16. Since the entry of the order of discipline, I have engaged in the practice of law in the following other courts or jurisdictions and in the following manner:

- OR -

I attest that, since the entry of the order of discipline, I have not engaged in the practice of law in any other courts or jurisdictions.

17. Since the entry of the order of discipline, I have engaged in the following employment or have been engaged in the following businesses: [in chronological order, state the dates so engaged, the name and address of the employer or business and the nature of each employment or business].
[A letter from each such employer, attesting to my employment history, is attached as exhibit ____ hereto, except _____, the absence of which is explained as follows:]

18. Since the entry of the order of discipline, I have taken the following affirmative steps to comply with the order imposing discipline and with section 1240.15 of the Uniform Rules for Attorney Disciplinary Matters:

19. Within 30 days of entry of the order imposing discipline, I delivered all money and property in my possession to all clients or third-parties who were entitled thereto in compliance with section 1240.15 (c) of the Uniform Rules for Attorney Disciplinary Matters.
[Copies of all accountings provided to the recipients of money or property delivered from me are attached as exhibit ___ hereto. Copies of correspondence or statements from [name and address of bank] reflecting the closure of my attorney escrow and/or IOLA accounts on [date] are attached as exhibit ___ hereto.]

- OR -

I failed to fully comply with section 1240.15 (c) of the Uniform Rules for Attorney Disciplinary Matters in the following respect and for the following reasons:

20. I was compensated on a quantum meruit basis for services rendered prior to the effective date of the discipline pursuant to section 1240.15 (g) of the Uniform Rules for Attorney Disciplinary Matters in the amount of [dollar amount] on [date].
[A copy of the court order or judgment determining the amount and manner of the aforementioned compensation is attached as exhibit ___ hereto.]

- OR -

I have not been compensated on a quantum meruit basis for services rendered prior to the effective date of the discipline pursuant to section 1240.15 (g) of the Uniform Rules for Attorney Disciplinary Matters

21. Pursuant to section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters, I filed an affidavit of compliance on [date].
[A copy of that affidavit of compliance is attached as exhibit ___ hereto.]

- OR -

I failed to file an affidavit of compliance as required by section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters for the following reason(s):

22. Since the entry of the order of discipline, I or a corporation or an entity of which I am or was a principal, have or has been involved in the following lawsuits, either as a party, witness, or counsel to a party, to the extent indicated: [state the title of the suit, the court in which it is or was pending, the index number, the nature of the suit, and the capacity (plaintiff, defendant, counsel, etc.) in which the respondent is or was involved].

- OR -

I attest that, since the entry of the order of discipline, neither I nor a corporation or an entity of which I am or was a principal, have or has been involved in any lawsuits as a party, witness or counsel to a party.

23. There presently exist(s) the following unsatisfied judgment(s) against me and/or any corporation or entity of which I am or was a principal: [state the name and address of the judgment creditor, the court which rendered the judgment, the date and amount of the judgment, the nature of the claim on which it was based, and the amount thereof remaining unpaid].

- OR -

I attest that there are no unsatisfied judgments presently existing against me and/or any corporation or entity of which I am or was a principal.

24. Other than the judgments set forth in paragraph 23 hereof, I have incurred the following debts with a balance over $500 that are presently overdue by at least 60 days: [state the name and address of each creditor, the nature of the debt, the original amount of the indebtedness and date incurred, the due date, and the balance due].

- OR -

I attest to having no debts with a balance over $500 that are presently overdue by at least 60 days.

25. Since the entry of the order of discipline, I have defaulted in the performance or discharge of an obligation or duty imposed upon me by the following courts, and/or governmental or administrative agencies: [state the nature of the obligation or duty, the court or agency by which it was imposed, the date performance was due, and the reason for the default].

- OR -

I attest that, since the entry of the order of discipline, I have not defaulted in the performance or discharge of an obligation or duty imposed upon me by any court, and/or governmental or administrative agency.

26. I or any firm, corporation, or business entity in which I have or had an ownership interest filed a petition in bankruptcy on [date] to [court].
[Copies of any bankruptcy petitions, schedules, and or discharge orders are attached as exhibit ___ hereto.]

- OR -

I attest that neither I nor any firm, corporation, or business entity in which I have or had an ownership interest has filed a petition in bankruptcy in any court.

27. Since the entry of the order of discipline, I have filed all required federal, state, and local income tax returns when due or have received an extension to file the same, except as follows: [Copies of all such returns are attached as exhibit ___ hereto, and such returns have been redacted in a manner consistent with Uniform Rules for Supreme Court and County Court (22 NYCRR) § 202.5 (e) (1) (i).]

28. Since the entry of the order of discipline, I have applied for the following licenses that required proof of good character: [state the nature of the license, the name of the licensing authority, the date of the application, and the result thereof].

- OR -

I attest that, since the entry of the order of discipline, I have not applied for any licenses that required proof of good character.

29. Since my admission to the New York State Bar, I have had the following licenses suspended or revoked: [state the nature of the license, the name of the licensing authority, the date and reason for the action, and whether the license was revoked or suspended].

- OR -

I attest that, since my admission to the New York State Bar, I have not had any licenses suspended or revoked.

30. Since the entry of the order of discipline, I have been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to the following felonies, misdemeanors,

violations, and/or traffic infractions: [state the court, the offense charged, and date and nature of disposition].
[Certificates of conviction pertaining to the above are attached as exhibit ___ hereto.]

- OR -

I attest that, since the entry of the order of discipline, I have not been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to any felonies, misdemeanors, violations, and/or traffic infractions.

31. Since my admission to the Bar, I have been the subject of the following governmental investigation(s): [state the name of the investigating agency and the nature and date of the investigation].

- OR -

I attest that, since my admission to the Bar, I have not been the subject of any governmental investigations.

32. Since the entry of the order of discipline, I have suffered from or have been treated for the following condition or impairment which in any way impairs or limits my ability to practice law: [state the date or dates of each instance, including, but not limited to any mental, emotional, psychiatric, nervous or behavioral disorder or condition, or any alcohol, drug or other substance abuse condition or impairment or gambling addiction, and the date(s) of treatment, if any].

- OR -

I attest that, since the entry of the order of discipline, I have not suffered from or been treated for any condition or impairment which in any way impairs or limits my ability to practice law.

33. Within the 30 days preceding the execution of this affidavit, I have read the Rules of Professional Conduct (22 NYCRR Part 1200.0). If reinstated to the practice of law, I will conform my conduct to those rules.

34. Since the entry of the order of discipline, I have complied with the requirements of section 1240.16 (b) of the Uniform Rules for Attorney Disciplinary Matters by attaining a passing score on the Multistate Professional Responsibility Examination (MPRE).
[Proof of passage of the MPRE is attached as exhibit ___ hereto.]

35. Since the entry of the order of discipline, I have completed ____ credit hours of continuing legal education in the following programs and other educational classes, in order to remain current with developments in the law:
[Certificates attesting to my completion of the aforementioned programs or classes are attached as exhibit ___ hereto.]

- OR -

Since the entry of the order of discipline, I have not completed any credit hours of continuing legal education.

36. Other than the passage of time and the absence of additional acts of misconduct, the following facts establish that I possess the requisite character and general fitness to be reinstated as an attorney and counselor-at-law:

37. The following facts, not heretofore disclosed to this Court, are relevant to this application

and might tend to influence the Court to look less favorably upon reinstating me to the practice of law:

38. I understand that the Court and the Committee may take such investigative steps as are deemed appropriate to evaluate my character and fitness for reinstatement to the Bar. I will fully cooperate with any request for additional information and make myself available to answer questions under oath or affirmation, as required.

WHEREFORE, I request that the Court grant this application for my reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

_____
Notary Public

Appendix D

APPENDIX D

Application for Reinstatement to the Bar
After Suspension for Six Months or Less

INSTRUCTIONS

An application pursuant to section 1240.16 (d) of these Rules for reinstatement to the bar after suspension from practice for six months or less shall comply with the following requirements:

(1) The application shall be made in the form of a motion.

(2) The moving papers shall bear the caption and the docket number, if any, of the proceeding resulting in the respondent's suspension.

(3) The motion shall be made on notice to the Committee that was the petitioner in the proceeding leading to the respondent's suspension and to the Lawyers' Fund for Client Protection.

(4) The motion shall be made, noticed, and filed in accordance with the rules of practice of the Court. Payment of the fee required by CPLR 8022 (b) shall accompany the filing of the motion papers, unless the movant is exempt from payment thereof pursuant to CPLR 1102.

(5) The motion shall be supported by the affidavit of the respondent, subscribed and sworn to before a notary public or other person authorized to administer an oath.

(6) The supporting affidavit shall be worded and numbered as set forth below.

(7) In completing the supporting affidavit, the respondent should not omit inapplicable passages.

(8) The application may be supplemented by the affidavits or affirmations of counsel and character witnesses, and with additional appropriate exhibits.

(9) Place the moving papers in the following order:

a. The notice of motion;
b. The respondent's form affidavit;
c. The exhibits supporting that form affidavit;
d. Any additional supporting affidavits or affirmations and exhibits thereto; and
e. Affidavits reflecting service of the moving papers upon the Chief Attorney of the appropriate Committee and the Lawyers' Fund for Client Protection.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

_____

AFFIDAVIT IN SUPPORT OF APPLICATION FOR REINSTATEMENT TO THE BAR AFTER SUSPENSION FOR SIX MONTHS OR LESS

_____

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.16 (d) of the Uniform Rules for Attorney Disciplinary Matters, for reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. The telephone numbers at which I can be contacted are:
Home _____
Work _____
Mobile _____.

6. The email address at which I can be contacted is _____.

7. All communications may be addressed to me at the office of my attorney, [name], at [address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address: _____.

8. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

9. By order of this Court entered [date], I was suspended for ____ months from the practice of law. A copy of the order imposing the suspension is attached as exhibit ___ hereto.

10. Since the entry of the order of suspension, I have also been the subject of professional discipline in the following other courts or jurisdictions: [state the court or jurisdiction, the date, the nature of the discipline imposed, whether such discipline was public or private, and whether or not you have been reinstated to practice and are now in good standing in such court or jurisdiction].
[A copy of each order or judgment imposing such discipline is attached as exhibit ____ hereto. A copy of each order or judgment reinstating me to practice is attached as exhibit ____ hereto.]

- OR -

I attest that, since the entry of the order of suspension, I have not been the subject of professional discipline in this or any other court or jurisdiction.

11. Since the entry of the order of suspension, I have engaged in the following employment or have been engaged in the following businesses: [in chronological order, state the dates so engaged, the name and address of the employer or business and the nature of each employment or business].

12. I have fully complied with the requirements of the order of suspension, including paying any required fees and costs, and I am in compliance with section 1240.15 of the Uniform Rules for Attorney Disciplinary Matters.

13. Pursuant to section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters, I filed an affidavit of compliance on [date].
[A copy of that affidavit of compliance is attached as exhibit ___ hereto.]

- OR -

[I failed to file an affidavit of compliance as required by section 1240.15 (f) of the Uniform Rules for Attorney Disciplinary Matters for the following reason(s):]

14. Since the entry of the order of suspension, I have been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to the following felonies, misdemeanors, violations, and/or traffic infractions: [state the court, the offense charged, and date and nature of disposition].
[Certificates of conviction pertaining to the above are attached as exhibit ___ hereto.]

- OR -

I attest that, since the entry of the order of suspension, I have not been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to any felonies, misdemeanors, violations, and/or traffic infractions.

15. The following facts, not heretofore disclosed to this Court, are relevant to this application and might tend to influence the Court to look less favorably upon reinstating me to the practice of law:

16. I understand that the Court and the Committee may take such investigative steps as are deemed appropriate to evaluate my character and fitness for reinstatement to the Bar. I will fully cooperate with any request for additional information and make myself available to answer questions under oath or affirmation, as required.

WHEREFORE, I request that the Court grant this application for my reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

_____
Notary Public

Appendix E

APPENDIX E

Affidavit in Support of Application to Resign
For Non-Disciplinary Reasons

INSTRUCTIONS

An application pursuant to section 1240.22 (a) of these Rules to resign as an attorney and counselor-at-law for non-disciplinary reasons shall comply with the following requirements:

(1) The application shall be submitted in affidavit form, subscribed and sworn to before a notary public or other person authorized to administer an oath, and shall be worded and numbered as set forth below.

(2) In completing the affidavit, the respondent should not omit inapplicable passages.

(3) Place the moving papers in the following order:

a. The attorney's form affidavit;

b. The exhibits supporting that form affidavit; and

c. Affidavits reflecting service of the application upon the Chief Attorney of the appropriate Committee and the Lawyers' Fund for Client Protection.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

In the Matter of the Application of
[Attorney's Name],

AFFIDAVIT IN SUPPORT OF APPLICATION TO RESIGN FOR NON-DISCIPLINARY REASONS

for an order removing the attorney's name from the roll of attorneys and stating the non-disciplinary nature of the resignation.

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.22 (a) of the Uniform Rules for Attorney Disciplinary Matters, to resign for non-disciplinary reasons as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. All communications may be addressed to me at the office of my attorney, [name], at [address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address:
_____.

6. I was admitted to the New York State Bar on [date] by the _____ Judicial Department, and my attorney registration number is _____.

7. I have also been admitted to practice in the following courts or jurisdictions: _____.

- OR -

I attest that I have not been admitted to practice in any other courts or jurisdictions.

8. I have been the subject of professional discipline in the following other courts or jurisdictions: [state the court or jurisdiction, the date, the nature of the discipline imposed, whether such discipline was public or private, and whether or not you have been reinstated to practice and are now in good standing in such court or jurisdiction].
[A copy of each order or judgment imposing such discipline is attached as exhibit ____ hereto. A copy of each order or judgment reinstating me to practice is attached as exhibit ____ hereto.]

- OR -

I attest that I have not been the subject of professional discipline in this or any other court or jurisdiction.

9. I am currently the subject of an attorney disciplinary complaint or proceeding in the following courts or jurisdictions: [state the nature of the complaint or proceeding, the disciplinary authority before which it is pending, and the status thereof].

- OR -

I attest that I am not currently the subject of an attorney disciplinary complaint in this or any other court or jurisdiction.

10. Since the date of my admission to the New York State Bar, I have been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to the following felonies, misdemeanors, violations, and/or traffic infractions: [state the court, the offense charged, and date and nature of disposition].
[Certificates of conviction pertaining to the above are attached as exhibit ___ hereto.]

- OR -

I attest that, since the date of my admission to the New York State Bar, I have not been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to any felonies, misdemeanors, violations, and/or traffic infractions.

11. I am current in my attorney registration and in payment of attorney registration fees pursuant to Rules of the Chief Administrator of the Courts (22 NYCRR) § 118.1 [or, if not current, state the length of any delinquency and the amount of arrears].

12. The specific reasons for this application to resign from the Bar of the State of New York are as follows: _____.

WHEREFORE, I request that the Court accept my application to resign as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

_____
Notary Public

Appendix F

APPENDIX F

Affidavit in Support of Application for Reinstatement
to the Bar After Non-Disciplinary Resignation

INSTRUCTIONS

An affidavit submitted in support of an application pursuant to section 1240.22 (b) of these Rules for reinstatement to the bar after a non-disciplinary resignation shall comply with the following requirements:

(1) The affidavit shall bear the caption and the docket number, if any, of the prior order granting the attorney leave to resign from the bar and removing the attorney's name from the roll of attorneys.

(2) The motion shall be submitted on notice to the Committee in the judicial district in which the attorney last maintained an office for the practice of law, or if none, to the Committee in the judicial district in which the attorney resided when admitted to practice.

(3) The affidavit shall be subscribed and sworn to, and shall be worded and numbered as set forth below.

(4) In completing the affidavit, the attorney should not omit inapplicable passages.

(5) The application may be supplemented by the affidavits or affirmations of counsel and character witnesses, and with additional appropriate exhibits.

(6) Place the application papers in the following order:

a. The affidavit;
b. The exhibits supporting that form affidavit;
c. Any additional supporting affidavits or affirmations and exhibits thereto; and
d. An affidavit reflecting service upon the Chief Attorney of the appropriate Committee.

FORM OF AFFIDAVIT

Supreme Court of the State of New York
Appellate Division:_____ Judicial Department

_____

AFFIDAVIT IN SUPPORT OF APPLICATION FOR REINSTATEMENT TO THE BAR AFTER NON-DISCIPLINARY RESIGNATION

_____

State of _____)
)ss.:
County of _____)

_____, being duly sworn, deposes and says that:

1. I hereby apply, pursuant to section 1240.22 (b) of the Uniform Rules for Attorney Disciplinary Matters, for reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

2. My full name is _____. The name under which I was admitted to the practice of law is _____. My name was changed on the Roll of Attorneys and Counselors-at-Law to _____ by reason of (marriage, divorce or annulment, or a court order legally changing the respondent's name). I have also been known by the following names: _____.
[Copies of all court orders changing my name are attached as exhibit ___ hereto.]

3. I was born on [date] in [city, state, country].

4. I currently reside at [street, town or city, state, and zip code].

5. The telephone numbers at which I can be contacted are:
Home _____
Work _____
Mobile _____.

6. The email address at which I can be contacted is _____.

7. All communications may be addressed to me at the office of my attorney, [name], at

[address], and I hereby authorize my attorney to accept and acknowledge receipt of any and all legal documents or other notices on my behalf.

- OR -

All communications may be addressed to me personally at the following address: _____.

8. I was admitted to the New York State Bar on [date] by the _____ Judicial Department and my attorney registration number is _____.

9. By order of this Court entered [date], my voluntary resignation from the Bar of this State was accepted by the Court and my name was removed from the roll of attorneys. A copy of said order is attached as exhibit ___ hereto.

10. I seek reinstatement to the New York State Bar for the following reasons:

11. I have also been admitted to practice in the following courts or jurisdictions: _____.

[Certificates of Good Standing, issued within the 30 days preceding the execution of this affidavit by all such courts or jurisdictions in which I am currently admitted to practice, except those in which I have not been reinstated as set forth in paragraph 12 hereof, are attached as exhibit ___ hereto.]

- OR -

I attest that I have not been admitted to practice in any other courts or jurisdictions.

12. Since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have been the subject of complaints of professional misconduct or of professional discipline in the following other courts or jurisdictions: [state the court or jurisdiction, the date, the nature of the complaint or the discipline imposed, and whether or not you are now in good standing in such court or jurisdiction].

- OR -

I attest that, since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have not been the subject of complaints of professional misconduct or of professional discipline in this or any other court or jurisdiction.

13. Since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to the following felonies, misdemeanors, violations, and/or traffic infractions: [state the court, the offense charged, and date and nature of disposition].

[Certificates of conviction pertaining to the above are attached as exhibit ___ hereto.]

- OR -

I attest that, since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have not been arrested, charged with, indicted, convicted, tried, and/or entered a plea of guilty to any felonies, misdemeanors, violations, and/or traffic infractions.

14. Since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have suffered from or have been treated for the following condition or impairment which in any way impairs or limits my ability to practice law: [state the date or dates of each instance, including, but not limited to any mental, emotional, psychiatric, nervous or behavioral disorder or condition, or any alcohol, drug or other substance abuse condition or impairment or gambling addiction, and the date(s) of treatment, if any].

- OR -

I attest that, since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have not suffered from or been treated for any condition or impairment which in any way impairs or limits my ability to practice law.

15. Within the 30 days preceding the execution of this affidavit, I have read the Rules of Professional Conduct (22 NYCRR 1200.0). If reinstated to the practice of law, I will conform my conduct to those rules.

16. Since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have completed ____ credit hours of continuing legal education in the following programs and other educational classes, in order to remain current with developments in the law:
[Certificates attesting to my completion of the aforementioned programs or classes are attached as exhibit ___ hereto.]

- OR -

Since the entry of the order accepting my resignation and removing my name from the roll of attorneys, I have not completed any credit hours of continuing legal education.

17. I understand that the Court and the Committee may take such investigative steps as are deemed appropriate to evaluate my character and fitness for reinstatement to the Bar. I will fully cooperate with any request for additional information and make myself available to answer questions under oath or affirmation, as required.

WHEREFORE, I request that the Court grant this application for my reinstatement as an attorney and counselor-at-law licensed to practice in the State of New York.

Dated: [city or town, state]

_____ ____, 20___

_____

Subscribed to and sworn to before me
this _____day of _____, 20___

Notary Public

EXHIBIT B

JOINT ORDER OF THE APPELLATE DIVISION

The Departments of the Appellate Division of the Supreme Court, pursuant to the authority vested in them, do hereby enact, effective October 1, 2016, Part 1240 of Title 22 of the Official Compilations of Codes, Rules and Regulations of the State of New York, entitled "Rules for Attorney Disciplinary Matters," together with uniform form appendices, as set forth in Exhibit A hereto.

Hon. Peter Tom
Presiding Justice
First Judicial Department

Dated: August 18, 2016

Hon. Karen K. Peters
Presiding Justice
Third Judicial Department

Dated: August 18, 2016

Hon. Randall T. Eng
Presiding Justice
Second Judicial Department

Dated: August 18, 2016

Hon. Gerald J. Whalen
Presiding Justice
Fourth Judicial Department

Dated: August 18, 2016