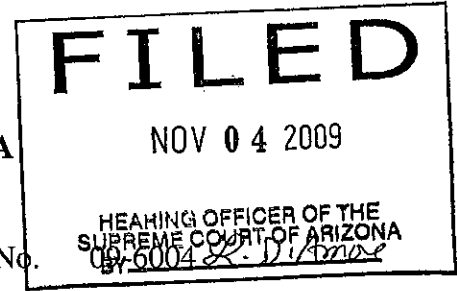


**BEFORE A HEARING OFFICER
OF THE SUPREME COURT OF ARIZONA**



IN THE MATTER OF AN APPLICATION FOR)
REINSTATEMENT OF A SUSPENDED MEMBER)
OF THE STATE BAR OF ARIZONA,)
)
GEOFFREY N. FIEGER,)
Bar No. 006227)
)
APPLICANT.)

No.

**HEARING OFFICER'S
REPORT**

PROCEDURAL HISTORY

1. Applicant, Geoffrey Fieger, filed his second Application for Reinstatement on June 8, 2009. The matter was assigned to the undersigned on June 10, 2009. After preliminary matters were resolved, a hearing was held on the Application on October 1, 2009. Present at the hearing were the Applicant, his attorney Mark Harrison, Bar Counsel Roberta Tepper, and the undersigned.

FINDINGS OF FACT

2. Mr. Fieger was admitted to practice law in Arizona in 1980 after taking and passing the Arizona Bar Exam.¹ Mr. Fieger was also admitted to the Michigan Bar in 1980 and later to the Florida Bar. Although admitted as a member of the Arizona Bar, Mr. Fieger did not reside in or regularly practice law in Arizona at any time prior to 2002. Mr. Fieger nonetheless remained an "active" member of the Arizona Bar until 1993. Sometime after Mr. Fieger became a member of the Arizona Bar, the Arizona Supreme Court adopted Mandatory Continuing Legal

¹ Unless otherwise set forth herein, the facts cited are from a Joint Proposed Findings of Facts and Conclusions of Law jointly filed by Bar Counsel and Respondent's counsel after the hearing in this matter.

Education (“MCLE”) requirements for all active members of the Bar. Mr. Fieger did not complete these MCLE requirements and, consequently, Mr. Fieger was administratively suspended on May 13, 1993, for failure to complete MCLE credits.

3. Although Mr. Fieger did not immediately seek reinstatement following his administrative suspension, in 1996 he inquired of the Arizona Bar as to the steps necessary to cure his administrative suspension.
4. The State Bar informed Mr. Fieger by letter dated June 28, 1996, that if he wished to be reinstated, he would have to submit a letter to the State Bar requesting reinstatement and enclose proof of completion of the requisite MCLE credits and pay a \$100 reinstatement fee.
5. The 1996 letter from the State Bar did not specify a time limit within which Mr. Fieger was required to fulfill these conditions. Mr. Fieger did not immediately seek reinstatement in 1996 because he believed, based on the June 28, 1996, letter from the State Bar, that he could seek reinstatement at any time thereafter, Transcript of Hearing “T/H” 9:22-25.
6. On January 8, 2004, Mr. Fieger submitted his first Application for Reinstatement to the State Bar. On January 21, 2004, the State Bar sent a letter to Mr. Fieger returning all of the materials he had submitted in support of his Application for Reinstatement and informed him that due to the length of time he had been suspended, the State Bar believed he would be required to retake the Arizona Bar Exam before he could be reinstated to the Arizona Bar.

7. Mr. Fieger had no idea that the Rules had changed after the State Bar's 1996 letter or the consequences of not staying current on his MCLE, T/H 11:7-12.
8. Mr. Fieger submitted the present Application for Reinstatement on June 8, 2009. Through his Application, Mr. Fieger seeks reinstatement and a waiver of the provision of Rule 64(c) requiring him to retake the Arizona Bar Exam. The State Bar supports Mr. Fieger's reinstatement, and does not oppose Mr. Fieger's request for a waiver of the provisions of Rule 64(c), T/H 25:12-14.
9. Mr. Fieger has been a resident of Bloomfield Hills, Michigan throughout the rehabilitation period, has been licensed to practice law in the state of Michigan since 1980, is a member in good standing of the Michigan State Bar, T/H 12:19-23, and has been continuously employed as a trial attorney with the law firm of Fieger, Fieger, Kenney, Johnson & Giroux ("Fieger Law") since 1980.
10. Mr. Fieger is not obligated to complete continuing legal education credits by the Michigan State Bar.
11. Mr. Fieger is required to complete continuing legal education credits in order to maintain his license in good standing in the state of Florida.
12. Mr. Fieger has fully satisfied the continuing legal education requirements of the Florida State Bar.
13. Although not required to complete continuing legal education credits in Michigan, Mr. Fieger has participated in and delivered numerous speeches, presentations and lectures during the Rehabilitation Period both in Michigan and elsewhere, covering a wide variety of topics related to the practice of law.

14. Mr. Fieger has submitted a thorough and complete Application for Reinstatement and all documentation necessary to satisfy his obligation under Rule 65.
15. Mr. Fieger has not incurred any unpaid financial indebtedness during the term of his administrative suspension.
16. Mr. Fieger has paid the filing fee and investigation fee in connection with his Application for Reinstatement, and Mr. Fieger has no outstanding obligations to the State Bar or the Client Protection Fund.
17. Due to the nature of his practice, Mr. Fieger has personally been a party to several civil actions during the term of his administrative suspension, most of which have been summarily dismissed.
18. Mr. Fieger has also been subject to professional discipline during the term of his administrative suspension. However, after a review of the Applicant's application as well as the testimony given at the hearing in this matter, the undersigned Hearing Officer concludes that none of these matters resulted in any discipline impacting Mr. Fieger's license or ability to practice law and should not preclude his reinstatement, T/H 13:22-17:18.
19. The Hearing Officer further finds that the professional discipline disclosed by Mr. Fieger does not call into question Mr. Fieger's fitness and/or competency to practice law.
20. Mr. Fieger has substantial experience in the practice of law. For the past 30 years, as a licensed member of the Michigan Bar, Mr. Fieger has conducted an active practice in Michigan and other states, in both civil and criminal trials.

21. Mr. Fieger has also tried to a jury more than one hundred cases, and has obtained at least 98 multimillion dollar jury verdicts and negotiated settlements over the course of his career.
22. Mr. Fieger has been named as one of the best trial lawyers in America by the American Trial Lawyers Association, and in 2008 Mr. Fieger was awarded the prestigious Clarence Darrow Award, conferred to recognize excellence in trial practice by the American Trial Lawyers Association.

CONCLUSIONS OF LAW

23. While Mr. Fieger was administratively suspended from the practice of law in Arizona in 1993, the undersigned Hearing Officer finds that that suspension was for failure to complete Arizona's requirement of Mandatory Continuing Legal Education, not as a result of any misconduct.
24. Since Mr. Fieger's administrative suspension resulted only from his failure to comply with MCLE requirements, the undersigned Hearing Officer finds that the evidence of Mr. Fieger's completion of the MCLE requirements of the State Bar of Florida, and his additional, extensive participation as a presenter in seminars and lectures in the state of Michigan and throughout the United States during the term of his suspension, demonstrates by clear and convincing evidence that Mr. Fieger has been "rehabilitated".
25. The undersigned Hearing Officer further finds that, based on Mr. Fieger's Application and his testimony at the reinstatement hearing, Mr. Fieger understands and appreciates the importance and significance of complying fully

with the rules of the states in which he is a member of the Bar, T/H 25:25-26:8, and with the *pro hac vice* rules governing his temporary admission in states in which he is not licensed to practice law.

26. Mr. Fieger is a highly regarded, competent and successful Michigan attorney with a national practice and nearly 30 years of continuous experience in the practice of law. Mr. Fieger appears to have a complete and thorough understanding of the practice of law and is both competent and fit to practice law in the state of Arizona.
27. The undersigned Hearing Officer finds that the evidence clearly and convincingly establishes that Mr. Fieger's knowledge, competence, trustworthiness and experience in the practice of law justify his reinstatement immediately without being required to retake the Bar Exam in Arizona. It is recommended that based on the evidence presented to the undersigned, the requirements of Rule 64(c) should be waived for the following additional reasons:
 - a) The Arizona Supreme Court has recently issued an Order establishing reciprocity rights for lawyers who have passed the Bar Exam in another jurisdiction that also grants reciprocity rights to Arizona members, see Amended Order amending Rule 38, Rules of the Supreme Court, filed September 16, 2008. Beginning January 1, 2010, revised Rule 38(h) will allow nonmembers who are members in good standing of another State Bar to apply for special admission by motion without having to pass the Arizona Bar Exam. Pursuant to Rule 5 of the Michigan Rules of the Board of Law Examiners, Michigan is a jurisdiction that provides

reciprocal admission by motion without examination to members of other State Bars. Mr. Fieger is a member in good standing of the State Bar of Michigan. Thus, beginning on January 1, 2010, if Mr. Fieger had never previously taken and passed the Arizona Bar Exam, and had not subsequently received an administrative suspension, he would clearly qualify for admission by motion under Rule 38(h) of the Arizona Rules of the Supreme Court without being required to take the Arizona Bar Exam.

- b) Pursuant to Rule 32(c)(4), an inactive member of the State Bar of Arizona may become an active member without retaking the Bar Exam without regard to how long that member had remained inactive. Rule 32(c)(4) does not impose any requirement designed to test the legal skill or knowledge of an inactive member prior to reinstatement despite the fact that an inactive member may not have practiced law for a substantial period of time. In light of this fact, it would be inequitable to require Mr. Fieger, who has continued to practice law throughout the United States during the term of his administrative suspension in Arizona, to retake the Bar Exam in order to prove his competency.

- 28. There is some prior case history which supports Mr. Fieger's request that he not be required to retake the Bar Exam. In *In re Richard Scott*, SB-03-0019-R (2003), a Hearing Officer recommended reinstatement contingent upon the Applicant passing the State Bar Examination. The Hearing Officer did not believe he had the authority to waive the exam requirement. The Disciplinary Commission

recommended that the examination requirement be waived based upon the stipulation that the party was competent to practice law. The Disciplinary Commission stated that requiring the applicant to take the written State Bar Exam would be punitive and unnecessary for the protection of the public. The Supreme Court granted reinstatement without requiring the Applicant to retake the Bar Exam.

29. In *In re Trester*, SB-07-0019-R (2007), an applicant for readmission had been summarily suspended for non-payment of dues nearly 15 years earlier. During that period, the applicant had maintained an active legal practice in the state of Illinois. The Hearing Officer recommended that the applicant be reinstated and the requirement that the applicant retake the Bar Exam be waived. The Disciplinary Commission agreed and adopted the Hearing Officer's recommendation, and the Supreme Court issued an Order reinstating Ms. Trester and waiving the Bar Exam requirement.

STATE BAR RECOMMENDATION

30. Based on the evidence submitted by Mr. Fieger in his verified Application for Reinstatement, and Mr. Fieger's testimony at the reinstatement hearing, the State Bar, pursuant to Rule 65(b)(1)(D), recommends that Mr. Fieger be reinstated as a member in good standing of the State Bar of Arizona. The State Bar does not oppose Mr. Fieger's request that the Bar Exam requirement of Rule 64(c) be waived.

RECOMMENDATION

31. This Hearing Officer had an opportunity to not only review the very substantial Application for Readmission submitted by Mr. Fieger, but also examine him concerning the facts of this case. The conclusion of this Hearing Officer is that Mr. Fieger now has a much better awareness of his responsibilities in states that he has been admitted to the Bar and where he may not regularly practice. Additionally, there is no question but that the Applicant is an outstanding and qualified attorney, and no question about his qualifications. Clearly, Mr. Fieger is fit and competent to practice law within the state of Arizona.
32. Given the unique circumstances of this case, especially that Mr. Fieger did seek and obtain information from the Bar back in 1996 (although that information later became inaccurate), as well as the fact that Mr. Fieger has continued to maintain his Continuing Legal Education requirements in the state of Florida during the period of his suspension and maintained an active and successful practice of law in the state of Michigan, this Hearing Officer recommends that Mr. Fieger be reinstated to the practice of law in the state of Arizona, and that he not be required to retake the Arizona Bar Exam.

DATED this 4th day of November, 2009.

H. Jeffrey Coker / CPA
H. Jeffrey Coker, Hearing Officer

Original filed with the Disciplinary Clerk
this 4th day of November, 2009.

Copy of the foregoing mailed
this 5 day of November, 2009, to:

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