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Reinstatement to the Bar

In a recent case, Judge Glenn Harrell, speaking for the Court of Appeals, explicitly noted that mitigating factors in a disciplinary case, insufficient to overcome the sanction of disbarment in a case involving wilful dishonesty for personal gain, may be relevant to the determination of an attorney's fitness to return to the Bar after disbarment. *Att'y Grievance Comm'n v. Palmer*, 417 Md. 185, 215, 9 A.3d 37, 46 (2010). Unlike some other states, Maryland permits readmission of disbarred attorneys and the Court, in *Palmer*, appears to invite a review of facts associated with the life of the attorney before the sanction as part of the process of readmission.

One of the more important functions of Bar Counsel's office, but one that gets relatively little attention from the Bar or public, stems from the requirement, set forth in Maryland Rule 16-781 (f), that responses be filed to Petitions for Reinstatement of those lawyers who have been disbarred or suspended. It is up to Bar Counsel to answer the petition, recommend a disposition and present reasons for supporting or opposing the petition.

Bar Counsel has supported and opposed reinstatements and the reasons for each position varies with the circumstances. We look to the criteria for reinstatement set forth in Rule 16-781 (g). Those criteria include the nature and circumstances of the petitioner's original misconduct, her subsequent conduct and reformation, current character, and her present qualifications and competence to practice law. A list of eight specific criteria is included in that rule. A failure to candidly address each of these criteria probably will result in Bar Counsel's office opposing reinstatement.

There are two basic aspects to the reinstatement regime in Maryland: the verified petition and the requirement to provide information to Bar Counsel. Years ago, before the adoption of the rule, petitions for reinstatement, which had to be fully investigated, were given low priority by our office. Current and pending complaints were deemed more urgent than the investigation of disbarred or suspended lawyers' fitness to return. The adoption of the reinstatement rule, in 2001, reduced our office's investigative burden, allowed us to research quickly and generally permitted a response to the petition for reinstatement within the thirty day timeframe set forth in the rule. This is because the petitioner now must supply a large amount of specific detailed information and documents to Bar Counsel at the time the petition is filed. That data, beyond the elementary contact and employment facts, include comprehensive financial information, the identity and address of all creditors, tax returns for three years preceding the effective date of discipline and each year thereafter, and comprehensive information about all civil and criminal cases pending during the period of discipline. The petitioner is also given the opportunity to provide any information that she believes is relevant to determining whether she possesses the character and fitness necessary for reinstatement. Often, such information comes in the form of letters of endorsement from the petitioner's employers

and colleagues attesting to the petitioner's engagement in the community and her charitable and civic endeavors.

I often field calls from those who wish to be reinstated or from their counsel. I refer them to the rule and let them know that the burden is on the petitioner to demonstrate her fitness to return to practice. Unless, I believe that too little time has elapsed since the imposition of discipline, I try not to discourage those who wish to be reinstated. I am, of course, able to refer to petitioners whose undertakings fell short, but I also refer to successful petitions that can be models to emulate. Our experience, with one or two notable exceptions, has been that reinstated lawyers are a credit to the legal community. The Court of Appeals recognizes that people can be given second chances. If the Court orders reinstatement, it is because the petitioner has fulfilled all the requirements of the verified petition (set forth in Rule 16-781 (a)) and because it is convinced that the petitioner is no threat to the profession or public and can again contribute to the life of the law.