



# The State Bar of California

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## **OPEN SESSION**

## **AGENDA ITEM**

**4.7 NOVEMBER 2024**

## **BOARD OF TRUSTEES**

**DATE:** November 14, 2024

**TO:** Members, Board of Trustees

**FROM:** Aracely Montoya-Chico, Chief Financial Officer  
Suzanne Grandt, Attorney, Office of General Counsel

**SUBJECT:** New State Bar Rule 3.1000 and Proposed Amendments to California Rules of Court, Rule 9.23 Relating to the Implementation of an Offer and Compromise Program: Return from Public Comment and Request for Adoption of Rule 3.1000; and Approval and Submission of Rule 9.23 to the California Supreme Court

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## **EXECUTIVE SUMMARY**

At its [September 19, 2024, meeting](#), the Board of Trustees voted to circulate for public comment two rules related to the implementation of the Offer and Compromise Program. These rules return to the Board after a 30-day public comment period. This agenda item presents State Bar Rule 3.1000 for adoption and requests that the Board approve and direct staff to submit amendments to California Rules of Court, rule 9.23 to the Supreme Court for adoption.

## **RECOMMENDED ACTION**

It is recommended that the Board of Trustees approve and adopt State Bar Rule 3.1000 as necessary for the implementation of an Offer and Compromise Program (see Attachment A for proposed language).

It is further recommended that Board of Trustees approve amendments to California Rules of Court, rule 9.23 regarding the compromise of money judgments as part of the Offer and Compromise Program (see Attachments B and C for proposed language) and direct staff to submit the proposed amendments to the California Supreme Court for adoption.

## **DISCUSSION**

### **PROPOSED AMENDMENTS**

At its September board meeting, the Board approved the establishment of a one-time program in 2025 to increase debt collection efforts, referred to as an Offer and Compromise Program, following the adoption of Rule 3.1000 of the Rules of the State Bar of California. In connection with this approval, the Board approved circulation of Rule 3.1000 for a 30-day public comment period. This Rulesets forth authority for licensees to seek reductions of debt outside of State Bar Court and leaves the criteria for participation in the program, as well as logistics of implementation, for guidelines to be authorized by the executive director.

The Board further approved circulating proposed amendments to California Rule of Court, rule 9.23 for a 30-day public comment period. The proposed amendments remove the provision of this rule stating that motions for compromise of judgments for discipline costs and monetary sanctions must be made in State Bar Court. This will allow licensees whose debt has been entered as a money judgment the opportunity to reduce the judgment as part of the Offer and Compromise Program.

### **PUBLIC COMMENT**

During the public comment period, the State Bar received six comments on the proposed rules: four agreed with the proposed rules, one disagreed with the proposed rules and one agreed if modified (but did not provide any explanation as to what that modification would be). (See Attachment D.) The comments that agreed with the proposed rules noted that the Offer and Compromise Program was a “great idea” and long overdue and would provide the opportunity for attorneys to be rehabilitated. The one comment disagreeing with the rules stated that the benefit to the public would not justify the estimated cost of the Offer and Compromise Program and that this was one more step “in the State Bar's excessively expensive foray into creating its own parallel court system.”

After reviewing the public comments received, staff determined that no further amendments are necessary and submits the proposed rules for approval as described herein.

### **PREVIOUS ACTION**

- [6.3 Discussion of Offer and Compromise Collection Program Update \(July 18, 2024\)](#)
- [6.1 Approval of Offer and Compromise Program, Related Contractual Expenditures and Delegations; Proposed New State Bar Rule and Proposed Amendments to California Rules of Court \(Rule 9.23\): Request to Circulate for Public Comment \(September 19, 2024\)](#)

### **FISCAL/PERSONNEL IMPACT**

At its September 2024 meeting, the Board approved delegation of authority to and authorization for the executive director and the chair of the Board to enter into contract or

contracts with appropriate vendor(s) for a platform and other services to manage the Offer and Compromise Program in an amount not to exceed \$750,000.

## **AMENDMENTS TO RULES**

Title 3, Division 5, Chapter 5, Rule 3.1000

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

Title 9, Division 2, Chapter 3, Rule 9.23

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

Goal 1. Protect the Public by Strengthening the Attorney Discipline System

- a. 2. Secure additional funding for the attorney discipline system.

Goal 4. Protect the Public by Engaging Partners

- d. 1. Collaborate with the legislature and other stakeholders to increase public protection and support the State Bar's mission.

## **RESOLUTIONS**

**Should the Board of Trustees concur, it is:**

**RESOLVED**, that the Board of Trustees approves and adopts new State Bar Rule 3.1000 relating to the implementation of an Offer and Compromise Program; and it is

**FURTHER RESOLVED**, that the Board of Trustees approves proposed amendments to California Rules of Court, rule 9.23 and directs staff to submit the proposed amendments to California Rules of Court, rule 9.23 to the Supreme Court of California for review and adoption.

## **ATTACHMENTS LIST**

- A.** Proposed Rule 3.1000 of the Rules of the State Bar of California
- B.** Proposed Rule 9.23 of the California Rules of Court (Clean Version)
- C.** Proposed Rule 9.23 of the California Rules of Court (Redline Version)
- D.** Public Comment Chart