

Reinstatement after resignation

by

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Over the past several years, the number of lawyers who have resigned their Minnesota law licenses has increased dramatically. The number of resignations over the last ten years has gone from 16 to 80. Indeed, the total number of resignations from 2001 through 2005 was less than in 2010 alone.

Year	Resignations
2001	16
2002	19
2003	18
2004	10
2005	8
2006	43
2007	58
2008	51
2009	38
2010	80

The explanation may be simple: In the past few years, the annual lawyer registration fee has increased significantly. In 2002, the fee for a practicing attorney with more than three years' experience was \$200. In 2003, the fee went to \$218. Between 2003 and 2009 the fee varied between \$218 and \$229. In 2009, the fee went to \$317. Now the fee is \$329. It is understandable that some people not actively using the Minnesota law license have decided that they no longer want to pay the annual registration fee.

Separate and apart from resignation, some lawyers simply do not pay the fee. Their licenses are thereby automatically suspended for nonpayment of that fee. Rule 2H, Rules of the Supreme Court on Lawyer Registration. A lawyer who wishes to reinstate a fee-suspended license must pay the delinquent fee, plus a \$75 penalty. Rule 2I, Rules of the Supreme Court on Lawyer Registration.

Some lawyers who do not want to pay the full fee, but who do not resign or want their license to become fee-suspended, pay a reduced fee to have an inactive license. This

allows a lawyer to maintain a license in good standing, albeit on inactive status. The lawyer may not practice on such a license. Rule 2C, Rules of the Supreme Court on Lawyer Registration. For these lawyers, the annual fee currently is \$190. Rule 2C, Rules of the Supreme Court on Lawyer Registration.

As noted, however, rather than allow their license to become fee-suspended or pay a substantial sum for an inactive license, some lawyers have chosen to resign the license altogether. Resignation of a law license should not be taken lightly. Resignation is viewed as presumptively permanent, a desire to no longer have a Minnesota law license. A lawyer considering whether to resign should fully think that decision through. Getting the license back involves a substantial fee and a thorough process. The license is a privilege. It is not one to be acquired, or discarded, lightly.

In the past several months, a number of persons who have resigned have petitioned for reinstatement. The reinstatement process is governed by Rule 18, Rules on Lawyers Professional Responsibility ("Rule 18"). The lawyer must serve a petition for reinstatement on the Office of Lawyers Professional Responsibility, and then file the petition with the Supreme Court. The lawyer must also pay to the OLPR a fee equal to the fee charged by the Board of Law Examiners for applicants for the bar examination. This fee is currently \$500. Rule 12(B), Rules for Admission to the Bar.

After the OLPR receives the petition for reinstatement and fee, the OLPR conducts a character and fitness investigation. This process is the same as when a suspended or disbarred lawyer seeks reinstatement. The process is designed to determine whether the petitioner has the fitness and competence to return to practice in Minnesota. Presumably, a lawyer who has not been disbarred or suspended and has been continuously practicing (on another jurisdiction's license) ought not encounter substantial obstacles. After the investigation is completed, the OLPR then prepares a report and recommendation which is forwarded to a panel of the Lawyers Professional Responsibility Board. Rule 18 provides for a hearing, after which the panel prepares its recommendation for the Supreme Court. This process can take a few months, or longer, depending upon factors such as the petitioner's cooperation and the number and complexity of the issues involved.

In short, the reinstatement process is not short. It can be time and energy consuming. Lawyers considering whether to resign their Minnesota law license should carefully consider these facts when deciding how to proceed.