

RESOLUTION 01-03-2008

DIGEST

State Bar Records: Option Not to Publish Retired Judges' Addresses

Amends State Bar of California Rule 2.2 for retired inactive judges to withhold their addresses, and all members to withhold their e-mail addresses, from the State Bar website.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends State Bar of California Rule 2.2 to allow retired inactive judges to withhold their addresses, and all members to withhold their e-mail addresses, from the State Bar website. This resolution should be approved in principle because it gives members the option to withhold from the State Bar website certain sensitive information.

The State Bar currently publishes all member addresses on its website. For members who use their office address as their address of record, this rarely presents a problem. However, if a member does not have a business address, and does not wish to have his or her home address published, the only option is to purchase a post office box. Although this may make sense for active members of the State Bar, no apparent need exists for the public to have access to addresses of inactive members, including retired judges who may have legitimate security concerns about having their addresses made posted on a website.

This resolution would additionally allow all members to elect not to have their e-mail addresses made public. The Bar currently allows members to leave blank the space provided for e-mail addresses. This resolution would clarify that providing an e-mail address is optional. So long as other contact information of the active member is published (such as a mailing address), then the member should not feel compelled to have his/her email address also published.

This resolution deals only with what is published on the State Bar website. It does not limit the information which must be provided to the State Bar, and does not contradict the provisions of Business and Professions Code section 6002.1.

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that the State Bar Board of Governors amend Rules of the State Bar of California, Rule 2.2 to read as follows:

- 1 Rule 2.2
- 2 A member record contains public information, including the following:
- 3 (A) last name, first name, and any middle names;

- 4 (B) State Bar member number;
- 5 (C) address and telephone number, except that, such information relating to a retired judge
- 6 on inactive status shall be withheld from disclosure on the State Bar website upon written
- 7 request of such member;
- 8 (D) e-mail address, except that disclosure of such shall not be made on the State Bar
- 9 website with respect to a member who objects to the State Bar, in writing, as to such
- 10 inclusion;
- 11 (E) date of admission in California;
- 12 (F) places and dates of admission in other jurisdictions before admission in California;
- 13 (G) membership status;
- 14 (H) date of any transfer from one membership status to another;
- 15 (I) date and period of any discipline; and
- 16 (J) any other information as directed by the Supreme Court or otherwise required by law.

(Proposed new language underlined; language to be deleted stricken.)

PROPONENT: Los Angeles County Bar Association

STATEMENT OF REASONS

Existing Law: Provides, under Business & Professions Code §6002.1, that the State Bar’s “official membership records” include addresses and telephone numbers of members. Such information is posted on the State Bar’s website. Addresses and telephone numbers of sitting judges are not included because they are not “members” while serving on courts of record. Art. VI, Sec. 9 of the state Constitution provides: “Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.” However, once a judge leaves office, he or she becomes a “member,” absent a resignation from the State Bar, and an address must be reported. E-mail addresses which members provide to the State Bar are not explicitly exempted from public disclosure on the website although, as a matter of present policy, requests to withhold the information are honored.

This Resolution: Would spare retired judges who are on inactive status from the expense of renting a Post Office box just to avoid having their home addresses disclosed by the State Bar on the Internet. The same security considerations that preclude the listing of judges’ home addresses on voters’ rolls are here applicable. The fact that a judge has left office does not remove dangers of retribution, especially by sentenced criminals, who indeed might not be at liberty until after the judge has left office. Precluding the public posting of e-mail addresses supplied to the State Bar, where a member so requested, would result in State Bar continued access to the members via e-mail while avoiding a public presentation of the address, to be plucked by spammers.

The Problem: Some retired judges go to the trouble and expense of getting post office boxes to avoid their home addresses being listed on the State Bar website though their need for security

remains the same as when they were on the bench owing to continued resentment from persons they have sentenced or litigants against whom they have ruled. All State Bar members face the prospect of being spammed and should have the option not to have their e-mail addresses exposed on the State Bar website.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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COUNTERARGUMENT

THE STATE BAR BOARD OF GOVERNORS

This resolution proposes to make two changes to the State Bar's rules.

Under the first proposed change, the address (including a Post Office box) and phone number of an inactive retired judge would be withheld from disclosure on the State Bar website upon request. This would not be permissible under Business and Professions Code section 6002.1. The State Bar, in consultation with the Administrative Office of the Courts, is currently working on an administrative strategy that would safeguard the home address of an inactive retired judge, obviate the need to obtain a Post Office box, and be permissible under Business and Professions Code section 6002.1.

Under the second proposed change, the e-mail address of any member would not be disclosed on the State Bar website if the member objects. This change is not needed. As the resolution notes, requests to withhold that information are currently honored (although the resolution seeks to make the rule explicit).