

Scott S. Brinkmeyer



A New Beginning

Experience teaches slowly, and at the cost of mistakes.

—J. A. Froude

It's always a pleasure to be the bearer of good news, and I am especially pleased to announce that, on June 1, the Michigan Supreme Court issued an order approving an Emeritus Membership status for both active and inactive members who are at least 70 years old or who have been members of the Bar for at least 30 years. (See order set forth on page 67.) This pronouncement is the culmination of a dialogue initiated with the Supreme Court by State Bar leadership beginning last fall. As a result of our discussions about the impact of the Court's July 2003 order amending State Bar rules on dues, which eliminated the dues exemption for members age 70 and older in favor of a partial dues exemption for those with 50 years of membership, we were encouraged to submit a proposal that would allow for the reinstatement of a large segment of our senior lawyers who resigned from membership in the wake of these changes.

Once we received the Court's July order and noted the variances from the Representative Assembly's proposal,¹ especially the changes in the dues structure for senior lawyers, we anticipated that there could be a strong reaction. The outcry was immediate and compelling. Inactive and senior lawyers

from across the state and outside of Michigan were especially unhappy with the changes that imposed dues where none had existed before. Particularly moving was the lament from so many senior lawyers who have retired and merely wish to remain members in good standing so as to enjoy a continuing affiliation with our profession, but who have financial limitations affecting their ability to pay for that membership.

The State Bar staff immediately began analyzing the data accumulated from returned dues statements and notices of resignations. Coupled with information derived from a separate survey conducted by the State Bar Senior Lawyers Section among age 70-and-over resignees, the results of the data were enlightening.

We found that approximately 1,000 active and inactive lawyers resigned from membership in 2003. (Prior to 2003, resignation from membership was not an option.) Of those resignations, over 400 were from members age 70 or older. Almost 600 were less than 70 years old. Notably, almost 4,000 active and inactive members were suspended for nonpayment of dues for fiscal year 2004.² Twenty percent of the suspensions (799) were members over 70, more than half of whom had been members for less than 50 years. These numbers alone are not necessarily surprising nor instructive, but the results of the Senior Lawyer Section survey were helpful in understanding the motivation for the major-

ity of senior resignations. Of the 290 surveys mailed in early December 2003, a total of 250 responses were received by late January, an amazing response rate of over 86 percent. The survey contained the following questions and responses:

Question	Yes	No
1. Are you a member of the Senior Lawyer Section of the State Bar?	12	224
2. Was your resignation in any way related to the recent increase in membership dues?	170	64
3. Was your resignation in any way related to the elimination by the Supreme Court of the age 70 dues exemption?	190	49
4. Did you resign because of your intent to completely retire from the practice of law?	108	75
5. Was your resignation dictated by a career change?	5	232
6. Was your resignation dictated by an intent to move from the State of Michigan?	19	219

Clearly, the vast majority of senior resignations were directly related to the increase in dues and the elimination of the long standing exemption for senior lawyers. A substantial number of lawyers resigned because they intended to retire anyway, but the fact

On June 1, the Michigan Supreme Court issued an order approving an Emeritus Membership status for both active and inactive members who are at least 70 years old or who have been members of the Bar for at least 30 years.

The views expressed in the President's Page, as well as other expressions of opinions published in the *Bar Journal* from time to time, do not necessarily state or reflect the official position of the State Bar of Michigan, nor does their publication constitute an endorsement of the views expressed. They are the opinions of the authors and are intended not to end discussion, but to stimulate thought about significant issues affecting the legal profession, the making of laws, and the adjudication of disputes.

remains that they could have remained as members had there been available an Emeritus Membership class. The resignations due to career changes or plans to leave Michigan were minimal. These responses were consistent with the objections the Bar had received from senior lawyers.

With the creation of the Emeritus Membership, the Supreme Court has taken into account what the previous dues changes did not: the need to provide a cost-free way for members to retain their connection with the State Bar in retirement. Not only will this re-institute the dues exemption for those previously exempt lawyers who are 70 or older and do not practice law any longer, but it will also permit younger retirees the same benefits, provided they have been members of the Bar for at least 30 years. Theoretically, this status can now be enjoyed by retired lawyers as early as their mid-fifties.

I appreciate that the creation of an Emeritus Membership does not dispel the complaint from those senior lawyers who previously enjoyed exempt status and who desire to, or must, continue to practice law. They will remain subject to paying the full amount of the dues until they reach 50 years of membership, after which they now must continue to pay disciplinary dues. It does, however, help the majority of senior lawyers who were previously designated as inactive members should they wish to change their membership to Emeritus.³ We do not anticipate that the Supreme Court will reconsider the imposition of the responsibility to pay dues upon members who continue to practice law.

Last fall I assured the membership that we would continue to explore issues concerning senior lawyers with the Supreme Court, and to consider possible options for membership.⁴ The establishment of an Emeritus Membership does not alter that commitment. There remain a number of issues to be considered, among which are the possible ways in which both our association and the public may derive the utmost benefit from the experience of our senior lawyers and maximizing the benefits of membership for everyone. For example, it has recently been suggested that Emeritus status lawyers might continue to serve the public through performance of certain types of pro bono legal work in the same

way that law students and recent law graduates are granted permission to engage in this type of service pursuant to Michigan Court Rule 8.120(A). Considering the dire need for pro bono legal services for the poor in Michigan,⁵ this could constitute a valuable opportunity to take advantage of the abilities and legal experience of senior lawyers, who might nonetheless retain Emeritus Membership. As we continue to evaluate the possibilities, I am confident that we will be able to create positive opportunities for our most experienced members.

In the meantime, all of those lawyers who now will qualify for Emeritus Membership are automatically reinstated as members in good standing of the State Bar.⁶ To all of those qualifying lawyers who resigned or were suspended for nonpayment, I can only say: *Welcome Back! We're glad to have you.* ◆

FOOTNOTES

1. These were addressed in my article "What Price Privilege?" published in the November 2003 issue of the *Michigan Bar Journal*, at page 12.
2. 3,162 of the 3,961 suspended members were less than 70 years old, and 2,838 of those were designated as "formerly inactive."
3. One caveat should be noted. A member who elects Emeritus status cannot return to the practice of law without retaking the Bar examination. Senior members who are unsure about whether their retirement will be permanent should opt for Inactive Membership, from which they can return to active status within three years without having to retake the Bar exam.
4. See article cited in footnote 1 above.
5. Statistics derived from the last census and accumulated by the State Bar's Access to Justice program show that there is only one lawyer available for every 7,000 Michigan residents existing under the poverty line.
6. Under the new rules, resignees must notify the secretary of the State Bar in the event that they do not wish to be reinstated. Rule 3(F).