

§ 1240.10 Resignation While Investigation or Proceeding is Pending

- (a) A respondent may apply to resign by submitting to a Court an application in the form in Appendix A to these Rules, with proof of service on the Committee, setting forth the specific nature of the charges or the allegations under investigation and attesting that:
 - (1) the proposed resignation is rendered voluntarily, without coercion or duress, and with full awareness of the consequences, and that the Court's approval of the application shall result in the entry of an order disbaring the respondent; and
 - (2) the respondent cannot successfully defend against the charges or allegations of misconduct.

- (b) When the investigation or proceeding includes allegations that the respondent has willfully misappropriated or misapplied money or property in the practice of law, the respondent in the application shall:
 - (1) identify the person or persons whose money or property was willfully misappropriated or misapplied;
 - (2) specify the value of such money or property; and
 - (3) consent to the entry of an order requiring the respondent to make monetary restitution pursuant to Judiciary Law §90(6-a).

- (c) Upon receipt of an application for resignation, and after affording the Committee an opportunity to respond, the Court may accept the resignation and remove the respondent from office by order of disbarment pursuant to Judiciary Law §90(2).