

State of New York
Supreme Court, Appellate Division
Third Judicial Department

Decided and Entered: March 23, 2017

D-41-17

In the Matter of DIANA JACOBS LEE,
an Attorney.

MEMORANDUM AND ORDER
ON MOTION

(Attorney Registration No. 2811891)

Calendar Date: March 13, 2017

Before: Garry, J.P., Egan Jr., Rose, Devine and Aarons, JJ.

Diana Jacobs Lee, Columbia, Maryland, pro se.

Monica A. Duffy, Attorney Grievance Committee for the Third
Judicial Department, Albany, for Attorney Grievance Committee for
the Third Judicial Department.

Per Curiam.

Diana Jacobs Lee was admitted to practice by this Court in 1997 and lists a business address in Annapolis Junction, Maryland with the Office of Court Administration. By undated application filed with this Court on June 24, 2016, Lee now seeks leave to resign from the New York bar for nondisciplinary reasons (see Uniform Rules for Attorney Disciplinary Matters [22 NYCRR] § 1240.22 [a]). By correspondence from its Chief Attorney, the Attorney Grievance Committee for the Third Judicial Department (hereinafter AGC) opposes Lee's application due to its improper form.

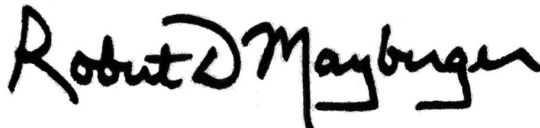
At the time that Lee applied to resign, this Court required that such an application be made by sworn affidavit, a requirement that has been continued in the now-applicable Uniform Rules for Attorney Disciplinary Matters and the companion Rules of this Court (see Uniform Rules for Attorney Disciplinary

Matters [22 NYCRR] § 1240.22 [a] [1]; Rules of App Div, 3d Dept [22 NYCRR] § 806.22 [a]). Lee's application here is not in affidavit form, much less in the specific form now required under the Uniform Rules for Attorney Disciplinary Matters. Moreover, the statements set forth by Lee give no indication that they were made under circumstances "calculated to awaken the conscience and impress the mind of [Lee] in accordance with [her] religious or ethical beliefs" (CPLR 2309 [b]; see Collins v AA Truck Renting Corp., 209 AD2d 363 [1994]). In addition to being unsworn and not executed before a notary, her statements give no assurance that they were made in contemplation of their legal significance or Lee's obligation to tell the truth (compare Matter of Sinnis, ___ AD3d ___, 2017 NY Slip Op 01758 [2017]; Matter of Cochran, ___ AD3d ___, 2017 NY Slip Op 01754 [2017]; Matter of Suplee, 146 AD3d 1224, 1227 [2017]). Under the circumstances presented, we cannot excuse the defective form of Lee's application and, accordingly, such application must be denied.

Garry, J.P., Egan Jr., Rose, Devine and Aarons, JJ.,
concur.

ORDERED that Diana Jacobs Lee's application for permission to resign is denied.

ENTER:

A handwritten signature in black ink that reads "Robert D. Mayberger". The signature is written in a cursive, slightly slanted style.

Robert D. Mayberger
Clerk of the Court