Supreme Court of California
350 McALLISTER STREET
SAN FRANCISCO, CA 94102-4797

TANI G. CANTIL-SAKAUYE
CHIEF JUSTICE OF CALIFORNIA

(415) 865-7060

September 8, 2016

David J. Pasternak, President
Elizabeth Rindskopf Parker, Executive Director
State Bar of California
180 Howard Street
San Francisco, CA 94105

SENT VIA EMAIL AND U.S.P.S.

Re: S237081 – In re ATTORNEY DISCIPLINE SYSTEM

Dear Mr. Pasternak and Ms. Parker:

It has long been established that the Supreme Court of California possesses the inherent constitutional power to regulate the practice of law, which includes the power to admit and to discipline attorneys. Equally settled is the principle that, in the absence of annual dues legislation, the Supreme Court has the inherent power as well as the responsibility to impose an interim regulatory fee upon attorneys for the purpose of supporting an adequate, functioning attorney discipline system that protects clients and the public. (*In re Attorney Discipline System* (1998) 19 Cal.4th 582, 607.) As you are aware, the Legislature recently adjourned without passing a bill authorizing the State Bar of California to collect annual bar dues in 2017. By this letter, the Supreme Court hereby directs the State Bar to submit a request to the court for an interim Special Regulatory Assessment to fund the Bar's discipline system until such time as legislation is enacted that provides for its funding.

The State Bar's request should specify the amount of assessment necessary to fund its discipline system and should generally identify the functions, services, and programs supporting that system. Inasmuch as the State Bar Act and the California Rules of Court currently authorize the Bar to set and collect fees relating to the Bar's admissions system (e.g., Bus. & Prof. Code, § 6063; Cal. Rules of Court, rules 9.40, 9.42, 9,43, 9.44, 9.45, 9.46), the court expects the Bar to continue funding its admissions-related functions and

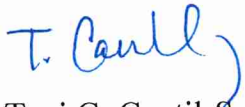
services with such fees and does not anticipate ordering special assessment funding for these core functions.

In addition to the above, the Supreme Court would like to convey the following. First, the court understands that the State Bar is in the process of implementing the workforce plan and other recommendations as mandated in last year's fee bill, and expects the Bar to implement such reforms to the fullest extent feasible by the December 31, 2016 statutory deadline. (Bus. & Prof. Code, § 6140.16.) Second, the court is aware of Bar management's ongoing review of the Bar's operations in order to prioritize mission critical functions and to locate resources that may be redirected toward the discharge of its attorney discipline functions and statutorily mandated obligations.

Finally, the court notes Assembly Bill No. 2878 and Senate Bill No. 846 contained certain public protection and governance reforms that required no enabling legislation and enjoyed the mutual support of myself and the Senate and Assembly Judiciary Committees, including reforms seeking to ensure the adequacy and operational efficiency of the Client Security Fund, to enhance the Bar's ability to more effectively process discipline and unlawful practice of law complaints, and to provide for an executive committee with all appointing authorities represented. Despite the failure of these legislative bills to garner passage, the court supports the Bar's adoption of such reforms to the extent possible through amending the Board's policies or seeking a rule change if necessary. The court also strongly encourages Bar leadership to adopt other good government and public protection reforms, including requesting the Attorney General to appoint a qualified individual for a defined term to monitor and report on the Bar's progress in reforming its discipline system; and formulating a policy, to be presented to the Supreme Court for approval, that the Bar must follow in identifying, analyzing, and bringing to the court any proposed Board action that implicates antitrust concerns.

The State Bar is directed to submit its request for an interim Special Regulatory Assessment to the Supreme Court no later than September 30, 2016.

Sincerely,



Tani G. Cantil-Sakauye

cc: Hon. Jerry Brown, Governor of California
Hon. Kevin DeLeon, Senate President Pro Tempore
Hon. Anthony Rendon, Speaker of the Assembly
Hon. Hannah-Beth Jackson, Chair, Senate Committee on Judiciary
Hon. Mark Stone, Chair, Assembly Committee on Judiciary