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**State Bar Court of California  
Hearing Department  
San Francisco  
DISBARMENT**

<b>Counsel For The State Bar</b>  <b>Laura Huggins</b> <b>Deputy Trial Counsel</b> <b>180 Howard Street</b> <b>San Francisco, CA 94105</b> <b>(415) 538-2537</b>  <b>Bar # 294148</b>	<b>Case Number(s):</b> <b>15-C-13442-PEM</b>	<b>For Court use only</b>  <b>PUBLIC MATTER</b>  <b>FILED</b> <b>JUN 26 2017</b>  STATE BAR COURT CLERK'S OFFICE SAN FRANCISCO
<b>In Pro Per Respondent</b>  <b>William Leo Smith</b> <b>8412 Kroeger Ct.</b> <b>Fair Oaks, CA 95628</b> <b>(916) 704-7791</b>  <b>Bar # 137805</b>	<b>Submitted to: Assigned Judge</b>  <b>STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT</b>  <b>DISBARMENT</b>  <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
<b>In the Matter of:</b> <b>WILLIAM LEO SMITH</b>  <b>Bar # 137805</b>  <b>A Member of the State Bar of California (Respondent)</b>		

**Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.**

**A. Parties' Acknowledgments:**

- (1) Respondent is a member of the State Bar of California, admitted **December 7, 1988**.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of (10) pages, not including the order.
- (4) A statement of acts or omissions acknowledged by respondent as cause or causes for discipline is included under "Facts."



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- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law."
- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☒ Costs to be awarded to the State Bar.
- ☐ Costs are waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs".
- ☐ Costs are entirely waived.
- (9) ORDER OF INACTIVE ENROLLMENT:  
The parties are aware that if this stipulation is approved, the judge will issue an order of inactive enrollment under Business and Professions Code section 6007, subdivision (c)(4), and Rules of Procedure of the State Bar, rule 5.111(D)(1).

**B. Aggravating Circumstances [Standards for Attorney Sanctions for Professional Misconduct, standards 1.2(h) & 1.5]. Facts supporting aggravating circumstances are required.**

- (1) ☐ **Prior record of discipline**
- (a) ☐ State Bar Court case # of prior case
- (b) ☐ Date prior discipline effective
- (c) ☐ Rules of Professional Conduct/ State Bar Act violations:
- (d) ☐ Degree of prior discipline
- (e) ☐ If respondent has two or more incidents of prior discipline, use space provided below:
- (2) ☐ **Intentional/Bad Faith/Dishonesty:** Respondent's misconduct was dishonest, intentional, or surrounded by, or followed by bad faith.
- (3) ☐ **Misrepresentation:** Respondent's misconduct was surrounded by, or followed by misrepresentation.
- (4) ☐ **Concealment:** Respondent's misconduct was surrounded by, or followed by concealment.
- (5) ☐ **Overreaching:** Respondent's misconduct was surrounded by, or followed by overreaching.
- (6) ☐ **Uncharged Violations:** Respondent's conduct involves uncharged violations of the Business and Professions Code or the Rules of Professional Conduct.

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- (7) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (8) ☐ **Harm:** Respondent's misconduct harmed significantly a client, the public, or the administration of justice.
- (9) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.
- (10) ☐ **Lack of Candor/Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct, or to the State Bar during disciplinary investigations or proceedings.
- (11) ☐ **Multiple Acts:** Respondent's current misconduct evidences multiple acts of wrongdoing.
- (12) ☐ **Pattern:** Respondent's current misconduct demonstrates a pattern of misconduct.
- (13) ☐ **Restitution:** Respondent failed to make restitution.
- (14) ☐ **Vulnerable Victim:** The victim(s) of Respondent's misconduct was/were highly vulnerable.
- (15) ☒ **No aggravating circumstances** are involved.

**Additional aggravating circumstances:**

**C. Mitigating Circumstances [see standards 1.2(i) & 1.6]. Facts supporting mitigating circumstances are required.**

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not likely to recur.
- (2) ☐ **No Harm:** Respondent did not harm the client, the public, or the administration of justice.
- (3) ☐ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct or to the State Bar during disciplinary investigations and proceedings.
- (4) ☐ **Remorse:** Respondent promptly took objective steps demonstrating spontaneous remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct.
- (5) ☐ **Restitution:** Respondent paid \$ \_\_\_\_\_ on \_\_\_\_\_ in restitution to \_\_\_\_\_ without the threat or force of disciplinary, civil or criminal proceedings.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted with a good faith belief that was honestly held and objectively reasonable.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct respondent suffered extreme emotional difficulties or physical or mental disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the

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product of any illegal conduct by the member, such as illegal drug or substance abuse, and the difficulties or disabilities no longer pose a risk that Respondent will commit misconduct.

- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's extraordinarily good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.
- (12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by subsequent rehabilitation.
- (13) ☐ **No mitigating circumstances** are involved.

**Additional mitigating circumstances: No Prior Record of Discipline - See Attachment to Stipulation, at page 7.  
Pretrial Stipulation - See Attachment to Stipulation, at page 8.**

**D. Discipline:**        **Disbarment.**

**E. Additional Requirements:**

- (1) **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule 9.20, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (2) ☐ **Restitution:** Respondent must make restitution to            in the amount of \$            plus 10 percent interest per year from            . If the Client Security Fund has reimbursed            for all or any portion of the principal amount, respondent must pay restitution to CSF of the amount paid plus applicable interest and costs in accordance with Business and Professions Code section 6140.5. Respondent must pay the above restitution and furnish satisfactory proof of payment to the State Bar's Office of Probation in Los Angeles no later than            days from the effective date of the Supreme Court order in this case.
- (3) ☐ **Other:**

**ATTACHMENT TO**  
**STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF:                      WILLIAM LEO SMITH

CASE NUMBER:                          15-C-13442-PEM

**FACTS AND CONCLUSIONS OF LAW.**

Respondent admits that the following facts are true and that the facts and circumstances surrounding the felony offense for which he was convicted involved moral turpitude.

**Case No. 15-C-13442 (Conviction Proceedings)**

**PROCEDURAL BACKGROUND IN CONVICTION PROCEEDING:**

1. This is a proceeding pursuant to sections 6101 and 6102 of the Business and Professions Code and rule 9.10 of the California Rules of Court.

2. On August 4, 2015, the Sacramento County District Attorney filed a criminal complaint in the matter, *People v. William Leo Smith*, case no. 15F03348, charging respondent with two counts. The first count alleged a felony violation of Penal Code section 314(1) [indecent exposure with a prior]. The second count alleged a misdemeanor violation of Penal Code section 290.018(a) [failure to register as a sex offender].

3. On October 5, 2015, the court entered respondent's plea of no contest to count one – indecent exposure, a felony, in violation of Penal Code Section 314(1), and count two – failure to register as a sex offender, a misdemeanor, in violation of Penal Code section 290.018(a). Based thereon, the court found respondent guilty of those counts.

4. On November 13, 2015, the court suspended imposition of sentence on count one and placed respondent on formal felony probation for a period of 5 years. Respondent was ordered to serve 240 days in county jail, 30 days of which were to be served consecutively in custody and the remainder were to be completed through the work release program. On count two, the court sentenced respondent to 30 days in county jail to run concurrently with count one.

5. On September 1, 2016, the Review Department issued an order referring the matter to the Hearing Department for a hearing and decision recommending the discipline to be imposed in the event that the Hearing Department finds that the facts and circumstances surrounding the offenses for which respondent was convicted involved moral turpitude or other misconduct warranting discipline.

**FACTS:**

6. On April 22, 2003, the Calaveras County District Attorney filed a criminal complaint in the matter, *People v. William Leo Smith*, case no. C9894, charging respondent with one count for a violation of Penal Code section 314(1) [indecent exposure], a misdemeanor. Underlying this criminal complaint and respondent's subsequent plea of no contest are the following facts: On the evening of March 24,

2003, between 6:00 p.m. – 6:30 p.m., respondent knowingly and willfully used a window of his law office to expose and fondle his penis in view of a neighboring home. The victim – one of respondent's neighbors – was in her living room when respondent purposely exposed himself in the direction of the victim's living room window. This incident was recorded by the victim as respondent had exposed himself to the victim on prior occasions and the victim had set up a recorder in case of future incidents.

7. On January 13, 2004, the court entered respondent's plea of no contest to a violation of Penal Code section 314(1) [indecent exposure], a misdemeanor, and based thereon, the court found respondent guilty of that count. On that date, the court suspended the imposition of sentence and placed respondent on formal probation for a period of thirty-six months. The court ordered that respondent serve one day in county jail. The court also ordered that respondent, among other things, register as a sex offender pursuant to Penal Code section 290. On January 22, 2007, the court issued an order vacating the plea and dismissing the action pursuant to Penal Code section 1203.4(a). The dismissal did not relieve respondent of his obligation to comply with the sex offender registration requirements under Penal Code section 290.

8. Underlying respondent's October 5, 2015, convictions in the matter *People v. William Leo Smith*, Sacramento County Superior Court case no. 15F03348, are the following facts: Respondent has been diagnosed with a sexual addiction. During the period of May 2008 – June 2015, respondent received treatment for his sexual addiction by attending psychotherapy approximately every 2 to 3 weeks. In February of 2015, respondent relapsed and could no longer live in his family residence. On February 17, 2015, respondent moved out of his home and into a nearby apartment building. Respondent's new apartment was located approximately one-tenth of a mile away from an adjacent school and grass playing field. Respondent lined the lower portions of his apartment windows with tinfoil to obstruct visibility into his apartment. On the morning of June 2, 2015, at approximately 8:15 a.m., respondent used an open, and thus unobstructed, window in his apartment to knowingly and willfully expose his penis in view of his apartment building's rear parking lot. The victim, an adult female who had recently parked her vehicle, was standing in the parking lot at the time of the incident. From this location, the victim saw respondent touch and manipulate his exposed penis. Respondent's window did not overlook the school grounds, but his apartment was within two minutes' walking distance of the school. On the day of the incident, respondent was also in violation of his sex offender registration requirements as he had not registered his change of address with local law enforcement.

#### CONCLUSIONS OF LAW:

9. The facts and circumstances surrounding respondent's October 5, 2015, felony conviction for violating Penal Code section 314(1) involved moral turpitude.

10. The facts and circumstances surrounding respondent's October 5, 2015, misdemeanor conviction for violating Penal Code section 290.018(a) did not involve moral turpitude but did involve other misconduct warranting discipline.

#### ADDITIONAL FACTS RE MITIGATING CIRCUMSTANCES.

**No Prior Discipline:** Prior to respondent's misdemeanor conviction in 2004, respondent practiced law for over 14 years with no history of State Bar discipline. Respondent's 2004 conviction did not result in the imposition of State Bar discipline, and the conviction was later vacated by the superior court in 2007. Between 2004 and 2015, respondent practiced law for over ten years with no record of State Bar discipline. In total – and notwithstanding respondent's misdemeanor conviction in 2004 and subsequent

felony conviction in 2015 – respondent practiced law for approximately 24 years without discipline. (See *In the Matter of Riordan* (Review Dept. 2007) 5 Cal. State Bar. Ct. Rptr. 41 [attorney's many years in practice with no prior discipline considered mitigating even when misconduct at issue was serious]; *Friedman v. State Bar* (1990) 50 Cal.3d 235, 242 [20 years in the practice of law without discipline is afforded significant weight in mitigation].)

**Pretrial Stipulation:** By entering into this stipulation, respondent has acknowledged misconduct and is entitled to mitigation for recognition of wrongdoing and saving the State Bar significant resources and time. (*Silva-Vidor v. State Bar* (1989) 49 Cal.3d 1071, 1079 [where mitigative credit was given for entering into a stipulation as to facts and culpability]; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511, 521 [where the attorney's stipulation to facts and culpability was held to be a mitigating circumstance].)

### **AUTHORITIES SUPPORTING DISCIPLINE.**

The Standards for Attorney Sanctions for Professional Misconduct “set forth a means for determining the appropriate disciplinary sanction in a particular case and to ensure consistency across cases dealing with similar misconduct and surrounding circumstances.” (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.1. All further references to standards are to this source.) The standards help fulfill the primary purposes of discipline, which include: protection of the public, the courts and the legal profession; maintenance of the highest professional standards; and preservation of public confidence in the legal profession. (See std. 1.1; *In re Morse* (1995) 11 Cal.4th 184, 205.)

Although not binding, the standards are entitled to “great weight” and should be followed “whenever possible” in determining level of discipline. (*In re Silverton* (2005) 36 Cal.4th 81, 92, quoting *In re Brown* (1995) 12 Cal.4th 205, 220 and *In re Young* (1989) 49 Cal.3d 257, 267, fn. 11.) Adherence to the standards in the great majority of cases serves the valuable purpose of eliminating disparity and assuring consistency, that is, the imposition of similar attorney discipline for instances of similar attorney misconduct. (*In re Naney* (1990) 51 Cal.3d 186, 190.) If a recommendation is at the high end or low end of a standard, an explanation must be given as to how the recommendation was reached. (Std. 1.1.) “Any disciplinary recommendation that deviates from the Standards must include clear reasons for the departure.” (Std. 1.1; *Blair v. State Bar* (1989) 49 Cal.3d 762, 776, fn. 5.)

In determining whether to impose a sanction greater or less than that specified in a given standard, in addition to the factors set forth in the specific standard, consideration is to be given to the primary purposes of discipline; the balancing of all aggravating and mitigating circumstances; the type of misconduct at issue; whether the client, public, legal system or profession was harmed; and the respondent's willingness and ability to conform to ethical responsibilities in the future. (Stds. 1.7(b) and (c).)

In this matter, respondent admits to committing two acts of professional misconduct. Standard 1.7(a) requires that where a respondent “commits two or more acts of misconduct and the Standards specify different sanctions for each act, the most severe sanction must be imposed.”

The most severe sanction applicable to respondent's misconduct is found in standard 2.15(b), which provides that disbarment is the presumed sanction for final conviction of a felony in which the facts and circumstances surrounding the offense involve moral turpitude, unless the most compelling mitigating circumstances clearly predominate, in which case an actual suspension of at least two years is appropriate.



Here, respondent stipulated that his felony conviction for indecent exposure involved moral turpitude. The facts and circumstances surrounding respondent's felony conviction were serious and they demonstrated a lack of regard for others, including children that attended a nearby school. There are no factors in aggravation but respondent received mitigative credit for practicing law for many years with no prior record of discipline. Respondent also received mitigation for entering into a pre-trial stipulation, which showed a recognition of wrongdoing and saved State Bar time and resources. However, respondent's mitigation is not sufficiently compelling to warrant a deviation from the presumed sanction of disbarment. Because respondent gravely breached societal norms, disbarment is necessary to protect the public, the courts, and the legal profession, to maintain the highest professional standards, and to preserve public confidence in the legal profession.

Disbarment is also consistent with case law involving felony convictions where the underlying conduct violates the private and social duties that an individual owes others and society in general.

In *In re Lesansky* (2001) 25 Cal.4th 11, the Supreme Court held that an attorney may be summarily disbarred upon a felony conviction of Penal Code sections 664 and 288 [attempted lewd act on a child where defendant was at least 10 years older than the child], because such an offense necessarily involves moral turpitude. There, Lesansky practiced law for approximately thirteen years prior to his felony conviction for attempting to commit a lewd act on a "child of 14 or 15 years." (*Id.* at p. 13.) The Supreme Court stated:

Petitioner's attempt to commit a lewd or lascivious act on a child who was 14 or 15 years old and at least 10 years younger than [petitioner] was such a serious breach of the duties of respect and care that all adults owe to all children, and it showed such a flagrant disrespect for the law and for societal norms, that continuation of petitioner's State Bar membership would be likely to undermine public confidence in and respect for the legal profession.

(*Id.* at p. 17.) (See also *In re Boyd* (1957) 48 Cal.2d 69 [indecent exposure and lewd acts in public involved moral turpitude justifying a three-year actual suspension where such conduct constitutes an act of baseness, vileness, or depravity in the private and social duties which a man owes to his fellow men or society in general].)

#### **COSTS OF DISCIPLINARY PROCEEDINGS.**

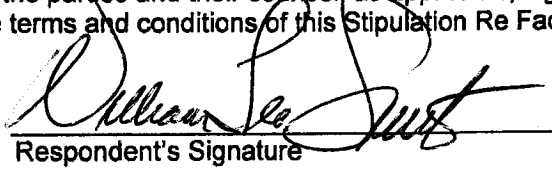
Respondent acknowledges that the Office of Chief Trial Counsel has informed respondent that as of June 8, 2017, the discipline costs in this matter are \$2,629. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings.

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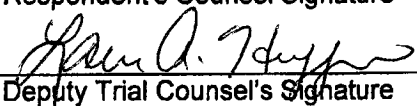
In the Matter of: WILLIAM LEO SMITH	Case number(s): 15-C-13442-PEM
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### SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Facts, Conclusions of Law, and Disposition.

<u>6/12/2017</u>	<u></u>	<u>William Leo Smith</u>
Date	Respondent's Signature	Print Name

		<u>N/A</u>
Date	Respondent's Counsel Signature	Print Name

<u>6/15/17</u>	<u></u>	<u>Laura Huggins</u>
Date	Deputy Trial Counsel's Signature	Print Name

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In the Matter of: <b>WILLIAM LEO SMITH</b>	Case Number(s): <b>15-C-13442-PEM</b>
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### DISBARMENT ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public, IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☒ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies or further modifies the approved stipulation. (See rule 5.58(E) & (F), Rules of Procedure.) **The effective date of this disposition is the effective date of the Supreme Court order herein, normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

Respondent William Leo Smith is ordered transferred to involuntary inactive status pursuant to Business and Professions Code section 6007, subdivision (c)(4). Respondent's inactive enrollment will be effective three (3) calendar days after this order is served by mail and will terminate upon the effective date of the Supreme Court's order imposing discipline herein, or as provided for by rule 5.111(D)(2) of the Rules of Procedure of the State Bar of California, or as otherwise ordered by the Supreme Court pursuant to its plenary jurisdiction.

Date

June 26, 2017

Pat E. McElroy

**PAT E. MCELROY**  
Judge of the State Bar Court

## CERTIFICATE OF SERVICE

[Rules Proc. of State Bar; Rule 5.27(B); Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of San Francisco, on June 26, 2017, I deposited a true copy of the following document(s):


STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND  
ORDER APPROVING; ORDER OF INVOLUNTARY INACTIVE ENROLLMENT

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at San Francisco, California, addressed as follows:
- WILLIAM L. SMITH  
8412 KROEGER CT  
FAIR OAKS, CA 95628
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Laura Huggins, Enforcement, San Francisco

I hereby certify that the foregoing is true and correct. Executed in San Francisco, California, on June 26, 2017.

  
George Hue  
Case Administrator  
State Bar Court