Mr Chairman and members, Dean Parker and Guests

Most of you are aware of my history with the State Bar.

I arrived here a little over five years ago having been appointed by Senate Rules as a non- attorney public member. My first meeting was the one at which Senator Dunn was officially hired as the new CEO of the Bar and there appeared to be a sense that a new day was dawning; that the seemingly endless cycle of disruption, dissension, crisis and scandal at the Bar might finally be coming to an end.

Regrettably that most certainly did not turn out to be the case.

At first, I could not understand the rancorous relationship between some of the public and professional members of the Board of Trustees.

But it soon became clear to me that public members had become frustrated with an organization that appeared to be more focused on trade association type issues than its regulatory responsibilities and they were tired of being gaveled down and out voted every time they tried to make recommendations for change.

I was reluctant to join the increasingly strident voices of the marginalized public members because I thought it might be more productive to try to listen, learn and develop relationships within. I spent the first year watching the process, asking questions of members and staff and trying to get my arms around a system in which public protection had somehow been placed in the hands of a body primarily composed of attorneys elected by attorneys. It seemed strangely inappropriate to me and as I checked around, I found that no other profession in California was permitted to regulate itself and in a manner inextricably intertwined with its professional trade association.

When the first Task Force on Governance in the Public Interest was convened, I was asked to join as a public member and when I raised questions that would have been expected of a public member I was told that that this unique approach to regulation was justified because the State bar was a quasi -judicial agency and therefore different than all other professions. Meeting after meeting I watched as the attorney majority dismissed my observations and suggestions until finally it

became clear that the Task Force was only interested in stonewalling the legislature and protecting the status quo. As is now widely known, I finally determined that the only way to be heard was to file a minority report to the legislature. My intention then was to recommend that the regulatory functions be formally separated from the trade association activities that so preoccupied the Board. But it did not seem to me that the legislature was ready at the time to make that step already taken by a number of other states, so I confined my report to a list of recommended changes in governance designed to reduce the number of members, especially elected members and certain other changes far short of what I really thought was needed. To my amazement, the President of the Board at the time, William Hebert was convinced the process was on the wrong track and insisted on signing on my minority report.

The rest is history. While many legislators agreed that the best approach would be to ultimately separate the functions of the Bar, the will of the body ultimately was to take about two thirds of my recommendations and place them into SB 163 and watch to see if those changes had an appreciable effect on the behavior of the Board of this important institution.

But, Mr Chairman and members, those reforms while necessary and overdue, turned out to be woefully insufficient and the Bar has continued to sink more deeply into a quagmire of discord, internecine politics, and suits and counter suits wasting millions of members dues dollars on attempts at personal vindication and face-saving maneuvers while becoming increasingly distracted from their primary obligation to protect the public from the unbelievably bad behavior of some of its members.

Practically every day, members of the Bar and other stake holders pick up their various journals to read not only the lurid tales of attorneys gone astray but the latest drama in the life of their Bar to which they are required to pay some of the highest dues in the nation.

This Board meets less frequently than any regulatory body in the State and when it does; its agendas are almost exclusively devoted to trade association activity. Regulation and discipline are lucky to get an hour and a half of meeting time,

often at the end of long day when it is the only issue between the Board and cocktails and dinner. The time most members of this Board attend to regulation and discipline is miniscule compared to the time spent in closed sessions dealing with law suits and personnel intrigue.

Over the years I have been here, I have seen attorney members plotting and planning their moves to become President of the Bar as if that were some career capper. The time devoted to this colorful practice is disgraceful. And every time a new President is elected he or she is bound to announce some new initiative that is to be their signature leadership objective. Those have ranged over the years from autism to civic education to access to justice, but never to a regulation or discipline related objective. They just don't seem to get that they have been elected to head a regulatory body so they distract their colleagues and staff from the only reason they exist.

I am no longer willing to simply write another minority report and tinker around the edges of this grossly dysfunctional organization. And I certainly am not going to stand by while yet another attorney dominated Task Force publishes a white washed report designed to assure a legislature and Chief Justice that all is well when everyone can tell that is not the case.

I have come to the conclusion after over five years of service on behalf of the People and the people's Senate, that there is simply no justification for this profession to continue regulating itself. There is no justification for attorneys electing their own friends to a regulatory body. There is no justification for being distracted from regulatory responsibilities by the fascination with running a trade association.

There is no reason why your profession's trade association should be burdened by provisions of Bagley Keene and no reason for your sections to have to carry the increased burden of costly overhead of the regulatory side of the organization.

Why is it that California's judges have a regulatory body separate from its trade association but that can't work for attorneys all trying desperately to be judges?

Why is that doctors asked to have their trade association liberated from their regulatory body so they could advocate for or against policies affecting their profession, while you remain constrained by court cases that would not apply if you were not unified?

Other large states like New York, Michigan, Pennsylvania and Illinois have separated their functions successfully and have thriving trade associations with voluntary dues that are often less than they were paying before. If it can work there, it can and should work here.

While this Task Force can continue to summon outside expertise and be a resource to inform change, I no longer have confidence that it is capable of recommending what is really needed.

And so, in the coming weeks, several current and former board members will submit to the Chief of the Supreme Court and the Chairs of the Senate and Assembly Judiciary Committees, a proposal calling for legislation to require the State bar to prepare a plan for separating its regulatory and trade association functions on a time-line to be completed by January of 2019.

Our plan will be prescriptive in terms of what functions must be placed under a regulatory body and which will remain with the trade association. And it will be directive in terms of the composition of the new agency to ensure sufficient public participation. But unlike other professional regulatory bodies in California that are governed by the State Department of Consumer Affairs, we will propose to keep the regulatory functions of the legal profession firmly under continuing supervision of the State Supreme Court .

The Bar's duty under this proposed legislation will be to provide its own plan for the division of resources, assets, staff and programs to the end that a regulatory body entitled the "California Legal Services Regulatory Board" will emerge concurrently with a newly configured nonprofit corporation which may retain both the name and the historic seal of the State bar of California.

We emphasize in our proposal that no jobs are to be lost in this process.

We do not seek to answer all questions in our skeletal proposal or to be glib about the potential complexities that may arise in transition. That is why we have chosen that this separation be effected collaboratively with the Bar, the Chief and the leaders of the two oversight committees of the Legislature.

In our judgment, separation of functions is inevitable. As other states cascade in this direction it is only a matter of time until the California Bar's cyclical drama and dysfunction result in a similar path. It seems to us you have a choice to continue to fight such an outcome and risk a more traumatic top- down solution or take this opportunity to be a partner in developing an elegant win-win for the public and the profession.

We have distributed the outline of our proposal and will be happy to answer questions.

Thank you.