

Settlement Agreement

This Settlement Agreement (“Agreement”) encompasses the full and complete agreement between Petitioner Los Angeles Times Communications LLC (“Times”) and Respondent State Bar of California (“State Bar”). This Agreement is made as of the date of the last signature. The Times and State Bar are sometimes referred to herein as a “Party” or collectively as the “Parties.”

Recitals

- A. On February 11, 2021, Times reporter Matt Hamilton requested that the State Bar’s Chief Trial Counsel and/or Chair of the Bar waive confidentiality under Business and Professions Code section 6086.1(b)(2) in order to release all complaints about Thomas V. Girardi (“Girardi”) as well as a listing of all disciplinary investigations conducted into Girardi between the date of his admission to the bar and the date the request is fulfilled. The State Bar denied the request on or about February 17, 2021. On May 6, 2021, Times general counsel Jeff Glasser sent a letter to Sean SeLegue, the then Chair of the State Bar, requesting a waiver of confidentiality of the prior State Bar investigations into Girardi. The Chair denied the request on or about May 13, 2021.
- B. On June 17, 2021, the Times filed an original Petition challenging the denial of its February 11, 2021 and May 6, 2021 requests in the Supreme Court of California (“Petition”), entitled *Los Angeles Times v. State Bar of California*, Case number S269401 (“Action”). The Petition seeks an order compelling disclosure about attorney discipline information concerning Girardi.
- C. Since the Times filed its Petition and in response to the California Supreme Court’s issuance of an Order to Show Cause (“OSC”) on September 1, 2021, the parties have filed multiple briefs on the issues raised in the Petition and the OSC.
- D. On October 7, 2022, the State Bar advised the Supreme Court that it had re-evaluated the scope of its discretion with respect to closed cases, and intended to release some public information about past disciplinary complaints against Girardi.
- E. On November 3, 2022, the State Bar published information about past disciplinary complaints against Girardi.
- F. On March 10, 2023, the State Bar published a redacted version of a report by attorney Alyse Lazar (the “Lazar Report”), a redacted version of a report by the law firm Halpern May (the “May Report”), and corresponding explanatory material.
- G. The Parties desire to enter into this Settlement Agreement as a full and final settlement and release of the Times’s requests for records encompassed by the Petition and subsequent briefing in *Los Angeles Times v. State Bar of California*, Case number S269401, including any attorneys’ fees and costs incurred in or connected with the Action.

ACCORDINGLY, in view of the foregoing Recitals, and in consideration of the mutual obligations and releases set forth below, the Parties agree as follows:

1. **Definitions.** The terms defined in the introductory paragraph to the Agreement and the Recitals are incorporated by reference and shall have the same meaning as used in this Agreement. In addition, as used in this Agreement, the following definitions apply:
 - 1.1 **“Requests”** means and refers to the following three requests: (a) Times reporter Matt Hamilton’s February 11, 2021 written request that the Chief Trial Counsel and/or Chair waive confidentiality under Business and Professions Code section 6086.1(b)(2) and release information about the State Bar’s prior investigations of Girardi, including those that did not result in formal charges; (b) the Times’s May 6, 2021 written request that the Chair waive confidentiality under Business and Professions Code section 6086.1(b)(2) and release information about the State Bar’s prior investigations of Girardi, including those that did not result in formal charges; and (c) Subsection 3 of the written request made by Times reporter Matt Hamilton on June 11, 2021 that the State Bar provide a final copy of the report that would subsequently be known as the Lazar Report.
 - 1.2 **“Briefing”** means and refers to the following briefs filed in connection with The Times’ Petition in the Action; (a) the State Bar’s preliminary opposition filed July 8, 2021; (b) the Times’s return filed July 19, 2021; (c) the State Bar’s Return filed October 1, 2021; (d) the Times’s Traverse filed October 18, 2021; (e) the further briefing filed by the Times on October 11, 2022, November 10, 2022, and March 30, 2023; and (f) the further briefing filed by the State Bar on October 7, 2022, November 17, 2022, March 23, 2023, and April 6, 2023.
2. **Payment of Attorneys’ Fees and Costs.** The State Bar will pay the Times One Hundred Thirty-Eight Thousand Dollars (\$138,000) in attorneys’ fees and costs. These amounts are being paid in compromise of the Times’s claim for fees under Code of Civil Procedure section 1021.5. Payment shall be made within 30 calendar days of the full execution of this Agreement. Payment shall be made by wire or ACH transfer pursuant to instructions to be provided by the Times.
3. **Applicability of Section 6086.1(b)(2).** Consistent with the brief it filed with the California Supreme Court on October 7, 2022, the State Bar stipulates that, as currently drafted, the discretion provided by Business and Professions Code section 6086.1(b)(2) to waive confidentiality extends to closed cases and not just to pending investigations.
4. **Initiation of Rulemaking.** The State Bar agrees to initiate a public rule-making process pursuant to State Bar Rule 1.10 concerning the applicability of Business and Professions Code section 6086.1(b)(2) to closed cases and to propose a rule consistent with the stipulation made in section 3. The State Bar’s rule making is a public process, the result of which the State Bar cannot contract away or agree to in advance. Nothing in this provision shall be interpreted as requiring the State Bar’s Board of Trustees to adopt, or not adopt, any formal rule.

5. **Names of Two Employees Identified in the May Report.** The May Report refers to two former State Bar employees as OCTC Attorney 1 and OCTC Attorney 2. The names of these individuals have not been made public due to the State Bar's analysis of those individuals' privacy rights. The State Bar will attempt to contact these two individuals within two weeks of the date of the full execution of this Agreement, ask them for permission to release their names publicly and identify that they are the person referred to as OCTC Attorney 1 or OCTC Attorney 2, and request a response within 30 days. When the 30-day response period has elapsed, the State Bar shall notify The Times about the former employees' responses. If the State Bar receives permission from either individual within 30 days of making the request, the State Bar will update its public disclosure to identify that individual as OCTC Attorney 1 or OCTC Attorney 2.
6. **Dismissal of the Petition.** Within three business days of the full execution of this Agreement, the Times and the State Bar shall inform the California Supreme Court that this case is fully resolved and shall ask the Court to dismiss the Petition with prejudice. The Parties understand that the Court may not approve that request and that the Court may nonetheless require oral argument and/or issue an Opinion. This Agreement is not contingent on the Court dismissing the Petition.
7. **Each Side to Bear Its Own Fees and Costs.** Except as provided by section 2 herein, each side will bear its own fees and costs in this Action. That shall include all fees and costs incurred to date, including the negotiation, preparation, execution of this Agreement, and any future fees and costs in connection with performance of this Agreement or in connection with any activity required by the California Supreme Court in connection with the Action (including, if ordered, oral argument notwithstanding this Agreement).
8. **The Times Will Not Seek Unredacted Lazar Report.** The Times, on behalf of itself and all employees or other agents acting on its behalf, will not seek the unredacted Lazar Report from the State Bar or Alyse Lazar through a California Public Records Act request or through any other procedure or process. This Agreement shall be admissible as a complete bar to any request prohibited by this section. The prohibition of this section is based on the current state of the law and does not affect the Times's rights in the event Section 6086.1 is materially revised by the Legislature or through a new interpretation of Section 6086.1 by a future precedential decision of a California Court of Appeal or the California Supreme Court.
9. **Release Relating to Requests for Records Encompassed by Petition, and Subsequent Briefing.** The Parties intend that this Agreement shall be a complete resolution of all requests for records encompassed by the Petition and subsequent Briefing in the Action. The Parties release each other, and each of their employees, agents or successors, whether current or former, including but not limited to the members of the State Bar Board of Trustees and the State Bar's Chief Trial Counsel, with respect to all claims relating to the Requests and Petition and subsequent Briefing. In the event of a future request, through the California Public Records Act or otherwise, by the Times for information or records that the State Bar contends was resolved, in whole or in part, by this Agreement, the State Bar shall have the right to raise this Agreement as a defense and/or a bar to the request, and the Times reserves its right to contend that the new request is not encompassed by this release.

10. **No Admissions.** Other than as provided in section 3 hereto, nothing in this Agreement is intended to be, or shall be construed as, an admission or concession with respect to any issue raised by either of the Parties in connection with the Requests or the Petition and subsequent Briefing.
11. **Entire Agreement.** The Parties represent, warrant, and agree that no promise or agreement not expressed herein has been made to them, that this Agreement contains the entire agreement between the Parties, that this Agreement supersedes any and all prior agreements or understandings between the Parties, and that the terms of this Agreement are contractual and not a mere recital. In executing this Agreement, no party is relying on any statement or representation made by the other party, or the other party's agents, servants or attorneys concerning the subject matter, basis or effect of this Agreement other than as set forth herein. Each Party is relying solely on its own judgment and knowledge in connection with this Agreement.
12. **Successors and Assigns.** This Settlement shall inure to the benefit of and shall be binding on the affiliates, successors, assigns, representatives, and beneficiaries of the Parties and each of them.
13. **Construction.** This Agreement shall be construed according to its plain meaning. All Parties participated in the drafting of this Agreement; thus the rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be employed in interpreting this Agreement.
14. **Modification.** This Agreement may not be modified except by a written agreement signed by all Parties hereto which expressly states that it modifies this Agreement. No other written statements, representations, or agreements and no oral statements, representations, or agreements will be effective to modify this Agreement.
15. **Counterparts.** This Agreement may be executed in counterparts, each of which will be deemed to be an original but which together will constitute one and the same instrument.
16. **Electronic Signatures.** This Agreement may be signed by the parties using a digitized image of a signature, DocuSign, or any similar electronic signature, all of which will be treated in the same manner as an ink signature on a physical copy of this Agreement.
17. **Authority to Sign.** Each Party represents, warrants, and agrees that the person who signs this Agreement on that Party's behalf is authorized to do so and so bind the Party to this Agreement.

[signatures on following page]

Dated: June 6, 2023

Los Angeles Times Communications LLC



By Jeff Glasser

Its General Counsel

Dated: June __, 2023

State Bar of California

By Leah Wilson

Its Executive Director

Approved as to form:

Davis Wright Tremaine LLP

Attorneys for Los Angeles Times Communications LLC

Wagstaffe, von Loewenfeldt, Busch & Radwick LLP

Michael von Loewenfeldt
Attorneys for the State Bar of California

Dated: June __, 2023

Los Angeles Times Communications LLC

By _____

Its _____

Dated: June __, 2023

State Bar of California

By Leah Wilson

Its Executive Director

Approved as to form:

Davis Wright Tremaine LLP

 6/7/23
Attorneys for Los Angeles Times Communications LLC

Wagstaffe, von Loewenfeldt, Busch & Radwick LLP

Michael von Loewenfeldt
Attorneys for the State Bar of California

Dated: June __, 2023

Los Angeles Times Communications LLC

By _____

Its _____

Dated: June¹² __, 2023

State Bar of California

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Leah Wilson
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By Leah Wilson

Its Executive Director

Approved as to form:

Davis Wright Tremaine LLP

Attorneys for Los Angeles Times Communications LLC

Wagstaffe, von Loewenfeldt, Busch & Radwick LLP

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