

STATE BAR OF CALIFORNIA

TASK FORCE ON ADMISSIONS REGULATION REFORM: PHASE II FINAL REPORT

September 25, 2014

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This Phase II Final Report completes a twenty-eight month process by the State Bar of California Task Force on Admissions Regulation Reform (“TFARR”) in which TFARR examined whether a program of training requirements focusing on competency and professionalism for new lawyers should be adopted in California.

TFARR’s work took place in two phases. In Phase I, TFARR concluded that, as increasing numbers of new lawyers graduate from law school and transition into the practice of law without access to mentoring and other modes of informal practice-based training that, in previous eras, were more readily available, three new admissions requirements should be adopted:

- (a) Pre-admission Competency Training:** New applicants for admission must certify the following: (a) at any time in law school, he or she has taken at least fifteen units of practice-based, experiential course designed to develop law practice competency, and (b) in lieu of some or all of the fifteen units of practice-based, experiential course work, a candidate for admission may opt to participate in a Bar-approved externship, clerkship or apprenticeship at any time during or following completion of law school.
- (b) 50-Hour Pro Bono or Reduced-Fee Legal Services Requirement:** Prior to admission or by the end of one year following admission, each new admittee must devote at least 50 hours of legal services to pro bono or modest means clients. Credit towards these hours will be available for “in-the-field,” supervised experience while in law school. This new requirement, which borrows from and largely tracks a recently adopted rule in New York, is designed to generate opportunities for real world experience with clients, and to inculcate as a core professional value readiness to provide service to those who cannot afford or have limited means to afford representation.
- (c) Enhanced Post-Admission Competency Training:** New admittees will be required to take ten additional hours of mandatory continuing legal education (“MCLE”) courses specifically focused on law practice competency training, over and above the required MCLE hours for all active members of the Bar. Credit toward this enhanced MCLE requirement, the Phase I Report recommended, will be available for participation in Bar-approved mentoring programs.

These proposed recommendations and the rationale for advancing them are set forth in detail in TFARR’s June 24, 2013 Phase I Final Report. The State Bar Board of Trustees (the “Board”) unanimously adopted the TFARR’s Phase I Final Report on October 12, 2013.

Over the course of the last ten months, Phase II of TFARR’s work has focused on developing rules for the implementation of its Phase I recommendations. TFARR II’s work began in December 2013 and has taken place in a series of eight public meetings. As in Phase I of

TFARR's work, each meeting was publicly noticed, all agendas for discussion were posted in advance, and public comment was invited.

To develop implementing recommendations, TFARR II organized itself into three working groups,¹ each dedicated to drafting proposed revisions and additions to applicable portions of the State Bar Act and the State Bar Rules. The working groups followed the same open meeting protocol that TFARR followed, sitting as a whole. Each working group meeting was open to the public.

The TFARR Phase II working groups presented their proposals in finished form to the TFARR members at TFARR's July 28, 2014 meeting. Following plenary discussion of these working group proposals, and adoption of several modifications designed to ensure that the working group proposals were consistent with each other, TFARR members voted in favor of a full set of implementing rules at TFARR's September 16, 2014 meeting. The vote was unanimous.

The TFARR Phase I Final Report dated June 24, 2013 remains the best source for understanding the foundational rationale behind the three-pronged program that TFARR has developed and is recommending for adoption by the Board, but at this stage of the process, after an additional ten months of work in Phase II, a few supplemental comments are appropriate.

First, TFARR's recommendations have been exhaustively vetted and examined by all potentially affected stakeholder constituencies and by all members of the public who wished to comment. Consistent with its efforts to solicit comments and engage with interested parties throughout both phases of its work, in mid-August 2014 TFARR circulated a set of draft rules to a list of interested stakeholders who have consistently shown interest in TFARR's work, and proactively solicited their comments. As a result, when TFARR's proposed final implementing rules are placed before the Board, the rules will have gone through two notice-and-comment cycles, one informal – where comments were affirmatively solicited from parties known to have interest and relevant knowledge – and one formal, geared to the public at large, according to the mandatory protocol for adoption of any proposed new or revised rules by the Board. TFARR followed the same, two-step notice and comment protocol at the end of its Phase I work.

Second, the membership of TFARR, in both phases, covers a broad cross section of professional viewpoints. In all, 55 lawyers, judges and lay members of the public served on TFARR at different points in Phases I and II.² Included in the TFARR membership were law school deans and professors from ABA-accredited law schools, California-accredited law schools, and unaccredited law schools; lawyers from small firm and solo practices, large firms, plaintiff-side and defense-side practice specialties, and the pro bono legal services sector; representatives from many county and specialty bar associations; young lawyers as well as lawyers who have

¹ The members of the three working groups, and the Chairs of each one, are listed in an Addendum to this Report.

² Brief biographical profiles of all TFARR members for Phase II are set forth in the Addendum. Brief biographical profiles of all members of TFARR for Phase I are set forth in an Addendum to the TFARR Phase I Final Report.

practiced for many decades; lawyers from litigation and trial practice and from various kinds of transactional practice, from the private sector and the public sector, and from corporate legal departments; judges, both trial and appellate, from within the judicial branch and from the executive branch (i.e. administrative agency judges); and, not least, non-lawyer public members. In addition to this wide range of viewpoints from inside and outside the legal profession, the ethnic and gender diversity of TFARR fairly reflects the increased demographic diversity within the profession as it has evolved over the last two decades. While perspectives inevitably vary widely within a group as diverse as TFARR on many things affecting the legal profession, we found a remarkable degree of consensus about the need for better practice-readiness training for new lawyers, the need for action, and the appropriateness of the specific measures recommended here.

Third, during Phase II, TFARR paid close attention to whether 15 units of experiential education is an appropriate and feasible benchmark for its proposed pre-admission competency training requirement, and the related issue of whether creating such a training requirement might drive up tuition, as some commentators in Phase I claimed it would. The Phase I Final Report flagged this issue as one that was worthy of further study upon examination of available data. Thus, early in its Phase II process, at its February 2014 meeting, TFARR heard a presentation from Professor Robert Kuehn of Washington University School of Law based on some empirical research that Professor Kuehn has done recently.³ Focusing on data submitted in 2012 from the 21 ABA-accredited law schools in California, Professor Kuehn analyzed tuition, curricular, and enrollment data, and concluded that (i) “requiring more practice-based coursework, and even a clinical experience, is not related to the tuition students are charged,” and (ii) these schools “can provide 15-credits of practice-based coursework, including a clinical experience, without raising tuition, and in many cases without even adding additional courses or faculty.”⁴ Professor Kuehn updated his analysis in September 2014 to include data submitted by all 212 ABA accredited schools across the United States and submitted a letter to TFARR reporting the same conclusions for ABA-accredited schools nationwide, not just in California.⁵

According to the conventional wisdom, experiential education is more expensive to offer than traditional doctrinal coursework, and by adopting rules that might require schools to offer more of it, our recommendations would place added financial pressure on law schools at a time when they, and their students, cannot tolerate any further increases in costs. There may be some validity to this point of view, depending on the approach a particular law school takes to its course offerings. But on the whole, the available data we considered does not support the idea that our recommendations will bring crushing financial burdens on anyone. Especially given the care we took to avoid a “one-size-fits-all” approach, to give maximum flexibility to law schools,

³ Prof. Robert R. Kuehn, “Pricing Experiential Legal Education,” February 3, 2014. Professor Kuehn’s PowerPoint slides from this presentation are part of the TFARR Phase II record.

⁴ Letter from Prof. Robert R. Kuehn to Teri Greenman, TFARR Executive Staff (September 15, 2014), p. 2.

⁵ *Id.*

and to avoid imposing anything that might be misunderstood in the academy as a set of top-down regulatory prescriptions, we are confident that our recommendations can be adopted without creating undue cost burdens. The expected cost to the Bar itself, projected to be approximately \$464,000 per year, primarily in the added staff resources that will be needed to monitor compliance, approximates less than 1% of the Bar's annual budget. While that is certainly a significant item, and it could affect other budget priorities, and require some tradeoffs, we believe it is justified given the profession-wide importance of the reforms we recommend. If, for law schools, the cost impact of our recommendations is comparable in magnitude as a percentage of their annual budgets, we think the added costs are justified there as well, and most importantly, we see no evidence that there will be a "pass-through" effect driving up tuition to students.

Fourth, we wish to highlight some areas in which our proposed Phase II implementing rules clarify and in some respects depart from our Phase I recommendations. To begin with, for our recommendation (a) (pre-admission competency training), in Phase I we recommended that the alternative of taking a "Bar-approved" externship, clerkship or apprenticeship could be taken "in lieu of some or all" of the 15-unit law school benchmark for experiential coursework. In our proposed implementing rules, we eliminated entirely the condition that this alternative be "Bar-approved" (in recognition that law schools already have excellent systems for vetting and approving these outside experiential programs) and we limited the apprenticeship track to no more than 6 units. Next, for our recommendation (b) (the 50-hour pro bono/reduced-fee legal services requirement), in Phase I we have clarified that pro bono service prior to admission may count under some circumstances for "dual credit," that is, both toward the 15 experiential units required by recommendation (a) and the 50-hours of service required by recommendation (b). Finally, for our recommendation (c) (enhanced MCLE), in Phase I we anticipated building in a Bar-approved mentoring program option. After extensive evaluation and comparison with other States, we decided against developing rules for a mentoring option. We dropped the idea because of the difficulty of implementing mentoring on a state-wide basis on the scale that would be needed here. We continue to support the concept of mentoring, very strongly, and we see it is a crucial component of practice-readiness training, but we think that, to be effective, mentoring programs should be developed on a much smaller scale than would be necessary here if mentoring were going to be a meaningful option for the large number of admittees that become members of the State Bar each year (now averaging 7,000, and rising). Aside from these three areas, close observers may detect many other differences between the program outlined in our Phase I Final Report and our Phase II proposed implementing rules, but some differences are in nature of any project whose goal is to take the architecture of a broad structure to working reality, which of course was the nature of our task in Phase II.

From this point forward, we anticipate submitting our recommendations to the Board. After that -- assuming recommendations are adopted -- the Board will determine where to go from there. Our recommendation is to submit the entire package of proposed TFARR recommendations to the California Supreme Court, since the Court has plenary authority over admissions and all other matters concerning the regulation of the legal profession in California. And then, after that, only after the Supreme Court has had the opportunity to address these matters -- again, assuming our recommendations are ultimately approved -- we cannot predict how long it might be before

all elements of the three-pronged program we recommend become effective. But as we stated in our Phase I Final Report, we reiterate that we believe there should be a gradual phase-in period so that all affected stakeholders have time to familiarize themselves with any changes that must be made. To help those who have not been following closely the development and evolution of the rules we are here proposing, we have drafted a set of “Frequently Asked Questions” that the staff of the State Bar can post and update as necessary in order to explain how the new rules will work in practice.

Based on the foregoing, and on the entire record of each of the public meetings that we have held and that our working groups have held during the Phase II portion of our work, we now submit to the Board this Phase II Final Report. Included as Attachment A are our proposed implementing rules for recommendation (a) (pre-admission competency training), Attachment B, our proposed implementing rules for recommendation (b) (50-hour pro bono/reduced-fee legal services requirement), and Attachment C, our proposed implementing rules for recommendation (c) (enhanced MCLE).

Finally, to close the work of TFARR, I wish to acknowledge the contributions of some particularly important supporters of the TFARR process. First, I salute the three State Bar Presidents who have served since my term as President of the State Bar in 2011-2012, when TFARR was launched. Patrick Kelly, who served as State Bar President in 2012-2013, Luis Rodriguez, who served as State Bar President in 2013-2014, and Craig Holden, who has just begun his term as State Bar President for 2014-2015, have all given complete, unflagging support to this project. The continuity of active support for TFARR’s work among a generation of State Bar Presidents is important, in and of itself, in my view. Second, I thank each TFARR member for all of the time they devoted to this project. I am particularly grateful to the Phase II Working Group Chairs, Professor Shauna Marshall, Hernán Vera, and Richard Frankel, for their highly focused and productive leadership. Third, on behalf of the entire TFARR membership in both Phase I and Phase II, I wish to extend thanks and express deep gratitude to Senator Joseph Dunn (Ret.), the State Bar Chief Executive Officer, to Teri Greenman, the lead staff liaison to TFARR, and to the many other members of the State Bar staff who supported this effort. Without the dedicated support of the State Bar’s able staff, the work of TFARR would not have been possible. A list of the Bar staff members who supported us, and the key roles they played in the TFARR process, is included in the Addendum.

Jon B. Streeter, TFARR Chair

ADDENDUM

Biographical Information
State Bar of California
Task Force on Admissions Regulation Reform
Phase II

Jon B. Streeter (Chairman)

Mr. Streeter is the Immediate Past President of the State Bar of California and a partner with Keker & Van Nest LLP, a litigation firm in San Francisco. He specializes in complex commercial cases with an emphasis on intellectual property matters. Mr. Streeter chairs the pro bono committee at Keker & Van Nest and has long maintained an active pro bono docket of his own, generally in cases involving racial justice and civil rights issues. Prior to his State Bar Presidency, Mr. Streeter served as Vice Chairman of the California State Senate Commission on the Fair Administration of Justice, a commission that was tasked with studying the problem of wrongful convictions in California. In addition, Mr. Streeter was President of the Northern California Chapter of the Association of Business Trial Lawyers (2005); President of the Bar Association of San Francisco (BASF) (2004); Chair of the Northern District of California Lawyer Representatives to the Ninth Circuit Court of Appeals (1998-99); and President of the Edward McFetridge Chapter of the American Inns of Court. Mr. Streeter is a member of the Executive Committee of the Open Courts Coalition.

Current Board of Trustees Members

David Pasternak

Pasternak & Pasternak, A Law Corporation

Last year, Mr. Pasternak became the California Supreme Court's first appointee to the State Bar's Board of Trustees. He is a past president of the Los Angeles County Bar Association (1997), a former chair of its Litigation Section, a former President of its Barristers Section, and Chair of its Senior Lawyers Division. He has chaired many committees for the American Bar Association, Los Angeles County Bar Association, and Beverly Hills Bar Association. He has also served on a number of California Judicial Council and Los Angeles Superior Court committees, including some bench/bar committees that revised the Los Angeles Superior Court rules. He has served a three year term as a member of the California Judicial Council, was an attorney delegate to the 9th Circuit Judicial Conference, and President of the Chancery Club.

Glenda Corcoran

Senate Rules Appointment

Sacramento attorney Glenda Corcoran was appointed by the State Senate to the California State Bar Board of Trustees. Prior to her appointment, Ms. Corcoran spent more than a decade working in the California State Assembly, concentrating on legislative efforts dealing with public safety, election law and local government policy. During that time, specific projects included ensuring safe waiting areas for children during contentious parental court hearings, California voting laws, grand jury procedures and defining evidence admissibility. Ms. Corcoran volunteers with the Voluntary Legal Services Program, providing free legal help to low-income clients and also serves on the board of directors for the St. John's Shelter Program for Women and Children and the Sacramento Gay and Lesbian Center.

Past Board of Trustees Member

Patrick M. Kelly (District 7)

Partner

Wilson Elser et al LLP

Mr. Kelly, former President of the State Bar of California, is a regional managing partner with Wilson Elser in Los Angeles. He is a veteran trial lawyer who focuses his practice on advising and representing insurance carriers in coverage matters and defending individuals and companies in high-stakes professional liability and commercial cases. His practice also encompasses insurance bad faith, insurance coverage, product liability, premises liability, employment litigation, ski resort liability and railroad liability matters. He has particular experience with class actions involving directors and officers (D&O) liability, product liability, employment and consumer fraud claims. Mr. Kelly has served as president of the Los Angeles County Bar Association and he also was appointed by the Governor of California to serve as one of 11 members of the Commission on Judicial Performance.

Mr. Kelly was recently appointed as the only lawyer member to the Commission on the Future of the Courts.

Judicial Representation

Hon. Steven A. Brick (former Task Force member)

The Honorable Steven A. Brick is a judge of the Superior Court of California in and for Alameda County. He has served in a complex civil trial department since August 2008. He previously served in a civil direct calendar department and for three years in a civil law and motion department. He is currently a member of the Civil Advisory Committee of the Judicial Council of California and chairs its Subcommittee on Case Management and Complex Litigation. He previously served as a member and co-chair of the Council's Access and Fairness Advisory Committee.

Hon. Karen V. Clopton

The Honorable Karen V. Clopton is the first African American appointed Chief Administrative Law Judge for the California Public Utilities Commission (CPUC) and manages the Administrative Law Judge (ALJ) Division, comprised of more than 100 employees, including 40 judges. In recognition of her work at the CPUC and throughout her more than 25 year career, the American Bar Association awarded Judge Clopton the 2010 Mary C. Lawton Award for Outstanding Government Service.

Modest Means

Luz E. Herrera

*Assistant Dean for Clinical Education, Experiential Learning, and Public Service
UCLA School of Law*

Before arriving at UCLA School of Law, Assistant Dean Herrera was a Senior Clinical Fellow with Harvard Law School's clinical program. She was a visiting professor at Chapman Law School, where she taught courses in Corporations and Wills & Trusts, as well as a seminar on Access to Justice. In 2008, Herrera was appointed Associate Professor at Thomas Jefferson School of Law, where she taught Access to Civil Justice, Community Economic Development, Professional Responsibility, and Wills and Trusts. At Thomas Jefferson, Herrera developed a transactional clinical program called the Small Business Law Center (SBLC), and helped found The Center for Solo Practitioners, a business incubator program to help graduates understand how to establish and operate their own law firms to serve underserved populations. Herrera was also a Visiting Clinical Professor at the University of California, Irvine School of Law for 2013-14. There, Herrera supervised students in the Consumer Protection Clinic and the Community Economic Development Clinic, as well as managed special projects for the California Monitor - a program of the Office of the California Attorney General providing oversight of the National Mortgage Settlement implementation.

Pro Bono Coordinators

Southern California

Scot H. Fishman

*Director, Pro Bono Activities
Manatt, Phelps & Phillips*

Scot Fishman is the Director of Pro Bono Activities for Manatt, Phelps & Phillips, LLP.

After litigating for several years at a large commercial law firm in New York City, Mr. Fishman began directing law firm pro bono efforts in 2006, when he was tasked with creating, implementing and directing his previous firm's pro bono program. As a result, in just his first year, the average pro bono hours for the firm's U.S. lawyers increased by more than 60%, while participation rose by nearly 70%, signifying the largest jump in pro bono activity that year among the top 200 grossing law firms based in New York City. In 2009, The Legal Aid Society in New York City honored Mr. Fishman with its Pro Bono Publico Award for Outstanding Pro Bono Counsel.

At Manatt, Mr. Fishman's success has continued. Under his direction, Manatt's professionals have taken on a full range of direct legal services cases, large impact litigation and advocacy projects, as well as matters for a wide range of nonprofit organizations and small businesses. Manatt's pro bono contribution immediately increased by more than 30%, leading the firm to be honored for its pro bono efforts -- in just his first couple years -- by the State Bar of California, Lawyers Alliance for New York, Public Law Center, Los Angeles Center for Law & Justice, Alliance for Children's Rights, and Inner City Law Center.

Mr. Fishman's law firm experience is complemented by his past work as an adjunct lecturer at the University of Virginia Law School, as well as his experience as an educator in D.C. Public Schools through Teach For America.

Hernán D. Vera*President & CEO**Public Counsel Law Center*

Mr. Vera is the President & Chief Executive Officer of Public Counsel, where he was selected after a nationwide search as the first Latino head of the 40-year-old civil rights organization. He is a graduate of UCLA School of Law, and received his B.A., with Distinction, from Stanford University in 1991. Prior to joining Public Counsel, Mr. Vera spent many years as a litigator at O'Melveny & Myers LLP in Los Angeles.

Mr. Vera is widely respected in the legal and broader public interest community for his work on access to justice and consumer issues. In 2009, President Obama nominated him to the Board of Directors of the State Justice Institute, a federally-chartered entity that provides grants to state court systems to increase access to justice. The United States Senate confirmed his nomination on June 22, 2010.

In 2013, the California Supreme Court named Mr. Vera as one of 19 attorney representatives on the California State Bar Board of Trustees, which works to protect the public and expand access to justice for Californians.

He also currently serves as one of twelve Lawyer Representatives of the Ninth Circuit Judicial Conference.

Pro Bono Coordinators*Northern California***Renee Glover Chantler***Pro Bono Counsel**DLA Piper*

Renée Glover Chantler is Pro Bono Counsel for DLA Piper LLP (US). She coordinates and oversees the firm's pro bono programs in the firm's offices in East Palo Alto (Silicon Valley), San Francisco, Sacramento and Los Angeles. She directs a number of pro bono initiatives undertaken by the firm in partnership with legal services nonprofits and the firm's commercial clients; mentors and assists billing attorneys in their handling of substantive and procedural issues in pro bono projects; and maintains a pro bono caseload emphasizing real estate title and equity fraud against distressed homeowners and assistance to immigrant victims of crime.

Previously, Renee's legal practice emphasized business litigation, unfair competition, real estate, insurance and public law litigation. She has demonstrated a steadfast commitment to providing and expanding pro bono services and culture throughout her 23 year legal career. To that end, she has also spent significant time working with and training law students, while an adjunct clinical professor at Stanford Law School and through teaching at several Mexico City law schools as part of the firm's partnership with Mexico Appleseed that seeks to strengthen and expand pro bono culture in Mexico.

Mairi McKeever

*Director/Managing Attorney, Pro Bono Legal Programs, Justice & Diversity Center (JDC)
Bar Association of San Francisco (BASF)*

Ms. McKeever has worked within the legal services community since 1994. She joined the Justice & Diversity Center (JDC) of The Bar Association of San Francisco in 2003 as an attorney overseeing the Homeless Advocacy Project's SSI for Children project. She then moved on to become the Supervising Attorney of the Landlord/Tenant and Consumer Projects. In her current position as the Director of JDC's Pro Bono Legal Services Program, Mairi manages seven pro bono projects which serve over 6500 clients each year. She has conducted trainings for pro bono attorneys and direct services providers on federal disability benefits advocacy and housing law. Mairi has also presented at several ABA/NLADA Equal Justice Conferences. In May 2013 she presented on JDC's Right to Civil Counsel Project which focuses on the provision of pro bono legal services in cases involving basic human needs. She has also presented on developing and maintaining JDC's innovative pro bono programs including the Federal Pro Bono Project and limited scope representation in housing cases. Before arriving at JDC, Mairi led the benefits counseling program at a San Francisco AIDS organization, representing low income people living with HIV/AIDS in their claims for federal disability benefits (SSI) and health coverage.

Mairi earned her undergraduate degree from the University of Colorado at Boulder, and her J.D. from UC Hastings College of the Law.

Law School Pro Bono Administrator**Laura Dym Cohen**

*Associate Clinical Professor of Law and Director of the Street Law Clinic and Community Outreach
Southwestern Law School*

As Director of the Street Law Clinic and Community Outreach, Professor Cohen brings her extensive experience helping abused and neglected foster children and their families at the Los Angeles County Children's Court to the classroom. Professor Cohen received national recognition when she was named 2007 Street Law Educator of the Year. She also has twice been honored with an Excellence in Teaching Award from Southwestern. As Director of Community Outreach, she also coordinates the law school's Public Service Program and is the faculty advisor to student public interest groups including Teen Court.

Professor Cohen works with and often trains pro bono attorneys for various nonprofit opportunities and law-related education programs. She has served as co-chair of the Juvenile Courts Task Force of the Los Angeles County Bar Association and as a member of the California State Bar Council on Access and Fairness. She currently serves on California Foster Youth Education Task Force and is a mediator for the Consortium for Children regarding permanency planning mediations for dependency matters.

Law School Clinician

Charles D. Weisselberg

*Associate Dean, J.D. Curriculum and Teaching; Shannon Cecil Turner Professor of Law; Director, Sho Sato Program in Japanese and U.S. Law
Berkeley Law*

Associate Dean Weisselberg joined the Boalt faculty in 1998 where he served as the founding director of the Center for Clinical Education, Boalt's in-house clinical program, which he developed and administered from 1998 to 2006. Professor Weisselberg teaches criminal procedure, criminal law, and related courses.

After graduating from law school, Weisselberg practiced with a private law firm, taught in the clinical program at the University of Chicago Law School, and served as a trial attorney with Federal Defenders of San Diego, Inc. He taught at the University of Southern California Law School for 11 years, where he litigated post-conviction, civil rights, and immigration cases with his students and colleagues before numerous federal and state courts.

Professor Weisselberg's research focuses primarily on criminal procedure, immigration detention, and clinical legal education. He is active in legal education groups, bar associations, and criminal justice organizations. He is a past chair of the Association of American Law School's Section on Clinical Legal Education and has lectured at professional gatherings in the United States and abroad on topics ranging from graduate professional legal education to police interrogation. Weisselberg regularly works with pro bono counsel in trial and appellate cases.

Academic Representation

Deanell R. Tacha (former Task Force member)

*Dean, Professor of Law
Pepperdine University School of Law*

Dean Tacha is Duane and Kelly Roberts Dean of the School of Law and professor of law at Pepperdine University School of Law. Previously, she was a Circuit Judge, U.S. Court of Appeals for the Tenth Circuit, and she served as Chief Judge from January 2001 through 2007. Dean Tacha also served as a member of the Judicial Conference of the United States and was named in 2006 by U.S. Supreme Court Chief Justice John Roberts to the Conference's Executive Committee. Previously, Chief Justice Rehnquist appointed her to serve two terms as Chair of the Conference's Committee on the Judicial Branch which oversees the federal judiciary's relationship with Congress and the executive branch. As a spokesperson for enhanced ethics, professionalism, and civility in the legal profession, Dean Tacha has been active in the American Inns of Court movement. She helped found the Judge Hugh Means American Inn of Court in Lawrence, served on the national Board of Trustees of the American Inns of Court, and was its national president from 2004-2008.

Shauna I. Marshall (former Task Force member)

Emerita Professor of Law

University of California Hastings College of the Law

Shauna Marshall joined the Hastings faculty in 1994 as a Clinical Law Professor. Prior to joining the faculty, she spent 15 years working on behalf of the public interest. She began her career as a trial attorney for the US Department of Justice, Antitrust Division. Five years later, she joined Equal Rights Advocates as a staff attorney working on impact cases, policy initiatives and mobilizing campaigns on behalf of low income women and women of color. She then spent four years in the Stanford and East Palo Alto community, lecturing in the areas of civil rights and community law practice at Stanford Law School and directing the East Palo Alto Community Law Project. She served as Hastings Associate Academic Dean from 2000 – 2002 and Academic Dean from 2005 – 2013. She stepped down as Academic Dean in 2013 and joined the emeritus faculty in 2014. Professor Marshall writes in the area of community law practice and social justice.

Lisa A. Kloppenberg

Dean and Professor of Law

Santa Clara Law

Dean Kloppenberg is a well-known expert in constitutional law and Appropriate Dispute Resolution. She is the co-author of a popular text teaching law students to be effective advocates in negotiation and mediation. Previous to being appointed Dean in 2013, Kloppenberg served as Dean and Professor of Law at the University of Dayton (2001-2011) where she received national recognition for championing curricular reform and creating the first accelerated five-semester law degree in the nation. She also diversified the faculty, emphasized student services and fostered a renewed student commitment to service.

Kloppenberg received her law degree from the University of Southern California Law Center where she was editor-in-chief of the law review. After graduation, Kloppenberg clerked for Judge Dorothy Wright Nelson of the 9th U.S. Circuit Court of Appeals. She then became an attorney with Kaye, Scholer, Fierman, Hays & Handler in Washington, D.C. where she was involved with litigation, arbitration, and mediation of a variety of domestic and international disputes.

Dean Kloppenberg has been active with numerous academic and professional organizations including the American Bar Association Section of Legal Education and Admission to the Bar, as a member of the Standards Review Committee and the Law School Admission Council as a member of the Finance and Legal Affairs Committee.

In 2014, Dean Kloppenberg was appointed to serve on the Association of American Law Schools (AALS) Dean's Forum Steering Committee.

Greg Brandes

*Professor of Law and Executive Director
Concord Law School
Kaplan University*

Professor Brandes joined Concord in 1999 after nearly 15 years in corporate and solo practice and a successful career in business. He has over 20 years' experience preparing law students and prospective law students for the bar exam and other admission and licensing examinations. He has lectured extensively, in CLE and other forums, on negotiation, management, and leadership skills and contract, business, privacy, and employment law. Among other written works, he published *Straight Talk on Workplace Law*, a commonsense guide to human resources compliance and risk management for small businesses.

Professor Brandes was named Outstanding First-Year Professor in 2003, receiving the 2003 Dean's Award for Excellence in Teaching. He was also recognized by the graduating class of 2003 with its Outstanding Faculty Award, and by a Law School Service Award in 2004. He served as dean of the Law School from fall 2011 through spring 2014. Professor Brandes continues his service to Concord as executive director, focusing on Bar and regulatory matters. In addition to his State Bar membership, Professor Brandes is admitted to practice before the Supreme Court of the United States.

Mitchel L. Winick

*Dean
Monterey College of Law*

Winick became dean of Monterey College of Law, a California state-accredited nonprofit law school, in 2005 and President in 2010. His prior career in academe centered on Texas, where he was a lecturer (1996-99) and then assistant dean (1999-2003) at Texas Tech University School of Law. He previously taught law at the University of Houston, University of New Mexico, Southern Methodist University and Texas Wesleyan University. A 1976 liberal arts graduate of the University of the Pacific, Winick earned a J.D. from the University of Houston Law Center in 1978. He served as an Assistant Attorney General of Texas and as interim executive director of the Texas Center for Legal Ethics and Professionalism. In the Monterey community, Winick is currently president of the non-profit ACTION Council and Girl's Inc. of Monterey County and is on the education advisory councils for Leadership Monterey Peninsula, the Panetta Institute of Public Policy and the Monterey County Business Council.

Corporate Representation

Erika Frank

*Vice President, Legal Affairs, and General Counsel
California Chamber of Commerce*

Ms. Frank was named vice president of legal affairs in 2009. She joined the CalChamber in April 2004 as a policy advocate and began serving as general counsel shortly thereafter, leveraging her 10 years of combined legal, governmental and legislative experience.

Before assuming full-time general counsel responsibilities in late 2005, Frank also lobbied the legislative and executive branches on taxation, civil litigation and lawsuit abuse issues.

Frank leads CalChamber's Legal Affairs Department, which participates in court cases having a broad impact on California's economy and business climate—including workers' compensation reform, labor and employment, taxation, litigation reform and commercial free speech.

As CalChamber's subject matter expert on California and federal employment law, she oversees and contributes to CalChamber's labor law and human resources compliance publications; co-produces and presents webinars and seminars; and heads the Labor Law Helpline.

Committee of Bar Examiners

Richard A. Frankel (former Task Force member)

Frankel Goldware Ferber LLP

Mr. Frankel, former State Bar Board of Trustees member, serves on the State Bar's Committee of Bar Examiners. His practice is devoted to general business and employment matters and his clients include manufacturers, retailers, internet companies, professional associations (e.g., physicians, accountants, attorneys, etc.), non-profit organizations, independent contractors and public and private employees. Mr. Frankel was a member of the Board of Directors of the Contra Costa County Bar Association for 10 years, serving as President during 2002. He serves as a mediator for the Contra Costa County Superior Court.

Patricia P. White (former Task Force member)

Littler Mendelson et al

Ms. White is a former member of the State Bar Board of Trustees and is currently serving on the Committee of Bar Examiners. A shareholder with Littler in San Jose, she advises employers about human resources issues, training supervisors and preparing personnel policies, and representing management in employment discrimination proceedings before the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing. She also handles issues involving The Americans with Disabilities Act, The Meyers-Milias-Brown Act, The Educational Employment Relations Act and The Higher Education Employer-Employee Relations Act. Ms. White has represented clients in labor relations, such as permanent teacher dismissals, certificated and classified layoffs and dismissal of other public employees and administrators. She has experience with collective bargaining negotiations, Public Employment Relations Board proceedings, arbitration and mediation, administrative mandamus hearings and other administrative proceedings.

California Young Lawyers Association (CYLA)-Nominated

Ireneo A. Reus III

The Law Offices of Ireneo A Reus III

Mr. Reus has served as outside corporate counsel to clients in various industries, such as financial services, commercial and residential real estate, health care, and media. Prior to establishing his own law firm, Mr. Reus worked for a national public finance law firm, a civil litigation firm, and the General Counsel's office of the Metropolitan Water District of Southern California.

Mr. Reus earned his Juris Doctorate degree from the UCLA School of Law, where he was a member of the UCLA Moot Court Honors Program and served as Senior Articles Editor for the UCLA Journal of Law Technology. Mr. Reus also earned dual Bachelor of Arts degrees in Economics and Political Science, summa cum laude, from Whittier College, where he competed for the Rhodes Scholarship and Truman Scholarship.

Mr. Reus has been actively involved with national and local bar associations, such as the American Bar Association (ABA) and the National Asian Pacific American Bar Association (NAPABA). The ABA recently awarded Mr. Reus with a Young Lawyers Division Scholarship and appointed him as a Liaison to the ABA's Standing Committee on Technology and Information Systems. Mr. Reus was also selected to participate in NAPABA's inaugural mentoring program and was listed in NAPABA's Directory of Asian Pacific American owned law firms.

Mr. Reus has been a member of the Judge William J. Rea-American Board of Trial Advocates (ABOTA) American Inns of Court, the Los Angeles County Bar Association's Litigation Section's Inn of Court, and the Los Angeles Area Chamber of Commerce. He also serves on the Board of Governors of the Philippine American Bar Association and the Whittier College Alumni Association's Board of Directors.

Megan Knize

Kawahito Shraga & Westrick LLP

Ms. Knize's practice focuses primarily on employment and consumer class actions as well as complex litigation. She joined the firm following private practice with a large law firm in San Francisco and three year-long judicial clerkships, including with state and federal trial court judges in Southern California. As a law clerk for the Honorable Judge Carolyn B. Kuhl, of the Los Angeles Superior Court, Complex Litigation Division, Ms. Knize drafted bench memoranda and orders for a variety of complicated, high-stakes cases. She also spent a year clerking for the Honorable James V. Selna, of the Central District of California, where she drafted orders in cases ranging from employment disputes to multi-district consumer class actions. Most recently, Ms. Knize served as Court Counsel to the Supreme Court of the Republic of Palau, an island-nation in the Western Pacific Ocean, where she drafted opinions and orders and advised the Court's Justices on a range of trial court and appellate disputes. She has also provided legal services for California Rural Legal Assistance, the San Francisco Diversity & Justice Center, and the European Roma Rights Centre in Budapest, Hungary. During law school, Ms. Knize served for three years on the Board of Directors of the King Hall Legal Foundation, a non-profit organization dedicated to increasing equal access of underserved populations to the legal system. She was also the Editor in Chief of the UC Davis Law Review and of The Stanford Daily, the daily newspaper of Stanford University.

Bar Associations

Hon. Richard J. Burdge, Jr.

The Honorable Richard J. Burdge, Jr. was the owner of the Burdge Law Firm PC until his appointment by Governor Jerry Brown to the Superior Court of Los Angeles County in 2014. Prior to his appointment, Judge Burdge was a partner at Howrey LLP from 2000 to 2011, at Dewey Ballantine LLP from 1986 to 2000 and at Lillick and McHose LLP in 1986.

Judge Burdge was president of the Los Angeles County Bar Association from 2012 to 2013. He earned a Juris Doctor degree from the University of California, Los Angeles School of Law and a Bachelor of Science degree from Yale University.

David M. Balabanian

Partner

Bingham McCutchen LLP

Mr. Balabanian is a litigator with more than 40 years of experience handling, high-stakes commercial litigation, including securities, energy, and antitrust cases and takeover battles. He has also served as an expert on matters of professional responsibility.

Mr. Balabanian was president of the Bar Association of San Francisco; chairman of the California Conference of Delegates; lawyer delegate to the Ninth Circuit Judicial Conference; trustee of the Practising Law Institute; and a member of the Harvard Law School Visiting Committee.

He has taught more than 150 continuing legal education courses and has written extensively on topics relating to law practice, particularly management of large, complex cases. He was a member of the commission that wrote the California Judicial Council's Deskbook on the Management of Complex Civil Litigation.

Mr. Balabanian is admitted to practice in California, New York and the District of Columbia as well as before the U.S. Supreme Court and many federal District and Circuit Courts.

Marcella O. McLaughlin

District Attorney

San Diego District Attorney's Office

Ms. McLaughlin is the Immediate Past President of the San Diego County Bar Association, the first Latina to lead the local bar association. She has worked as a prosecutor in the District Attorney's Office for seven years.

Chair's Prerogative

Robert Weisberg

Edwin E. Huddleson, Jr. Professor of Law

Faculty Co-Director, Stanford Criminal Justice Center

Stanford Law School

Professor Weisberg works primarily in the field of criminal justice, writing and teaching in the areas of criminal law, criminal procedure, white collar crime, and sentencing policy. He also founded and now serves as faculty co-director of the Stanford Criminal Justice Center (SCJC), which promotes and coordinates research and public policy programs on criminal law and the criminal justice system, including institutional examination of the police and correctional systems. Professor Weisberg was a consulting attorney for the NAACP Legal Defense Fund and the California Appellate Project, where he worked on death penalty litigation in the state and federal courts. In addition, he served as a law clerk to Justice Potter Stewart of the U.S. Supreme Court and Judge J. Skelly Wright of the U.S. Court of Appeals for the District of Columbia Circuit. In 1979, Professor Weisberg received his JD from Stanford Law School, where he served as President of the Stanford Law Review. Professor Weisberg is a two-time winner of the law school's John Bingham Hurlbut Award for Excellence in Teaching.

He is one of the nation's leading scholars on the intersection of law and literature and co-author of the highly praised book *Literary Criticisms of Law*.

Robert A. Shives, Jr. (former Task Force member)

Senior Director & Associate General Counsel

Fujitsu America, Inc.

Mr. Shives provides support for business and legal affairs (including international and domestic transactions as well as litigation management) of North American affiliates of Japan's Fujitsu Limited. He also serves as Vice President & General Counsel of US Holding Company for certain EU and Caribbean subsidiaries and is Managing Director of certain Caribbean, UK, EU and Latin American subsidiaries. His duties include oversight of multi-jurisdictional reporting, compliance, and governance. Mr. Shives manages in-house and outside legal personnel in connection with corporate and commercial transactions as well as litigation, including patent infringement cases, other intellectual property disputes, commercial lawsuits and employment, pension, tax, product liability, and class action cases in the US, Canada, and throughout the EU. He is Immediate Past President & Board member, Association of Corporate Counsel - San Francisco Bay Area Chapter.

Ex Officio/Non-Voting Member (TFARR)

Erwin Chemerinsky

*Dean of the School of Law
University of California Irvine*

Dean Chemerinsky is the founding Dean and Distinguished Professor of Law, and Raymond Pryke Professor of First Amendment Law, at the University of California, Irvine School of Law, with a joint appointment in Political Science.

Previously, he taught at Duke Law School for four years, during which he won the Duke University Scholar-Teacher of the Year Award in 2006. Before that, he taught for 21 years at the University of Southern California School of Law. Dean Chemerinsky has also taught at UCLA School of Law and DePaul University College of Law.

His areas of expertise are constitutional law, federal practice, civil rights and civil liberties, and appellate litigation. He is the author of eight books, most recently *The Case Against the Supreme Court*, to be published by Viking in September 2014, and more than 200 articles in top law reviews. He frequently argues cases before the nation's highest courts, including the United States Supreme Court, and also serves as a commentator on legal issues for national and local media. He writes a weekly column for the Orange County Register, monthly columns for the ABA Journal and the Daily Journal, and frequent op-eds in newspapers across the country.

Frank Wu

*Chancellor and Dean, William B. Lockhart Professor of Law
UC Hastings College of the Law*

Prior to coming to UC Hastings, Chancellor Wu was a member of the faculty at Howard University, the nation's leading historically black college/university, for a decade. He also served as Dean of Wayne State University Law School in his hometown of Detroit, and he has been a visiting professor at George Washington University, University of Maryland, University of Michigan; an adjunct professor at Columbia University; and a teaching fellow at Stanford University. He taught at the Peking University School of Transnational Law in its inaugural year.

He is dedicated to civic engagement and volunteer service. He was appointed by the federal Department of Education to its National Advisory Committee on Institutional Quality and Integrity (NACIQI), which advises the administration on higher education accreditation, and by the Defense Department to the Military Leadership Diversity Commission, which submitted to Congress the report *From Representation to Inclusion*. He served on the Board of the Leadership Conference on Civil Rights Education Fund from 2004 to 2010. Chancellor Wu is an elected member of the American Law Institute and a Fellow of the American Bar Foundation.

Prior to his academic career, he held a clerkship with the late U.S. District Judge Frank J. Battisti in Cleveland and practiced law with the firm of Morrison & Foerster in San Francisco – while there, he devoted a quarter of his time to pro bono work on behalf of indigent clients.

Ex Officio/Non-Voting Members (Working Group A)

Eileen A. Scallen

*Associate Dean for Curriculum and Academic Affairs
Adjunct Professor of Law*

Associate Dean Scallen received her M.A. from the University of Minnesota, Twin Cities and her J.D. magna cum laude from the University of Minnesota Law School, where she was Editor-in-Chief of the Minnesota Law Review and a member of the Order of the Coif. Following law school, she clerked for the Honorable A. Wallace Tashima of the U.S. District Court in the Central District of California, and then became an associate with Latham & Watkins.

Associate Dean Scallen began her academic career at the University of California, Hastings College of Law. She received an “Outstanding Faculty Member Award” in 1992, and served as Associate Academic Dean from 1996-98. In 2000, Scallen joined the faculty at William Mitchell College of Law as Professor of Law. She did extensive pro bono work for national, state, and local LGBT organizations in addition to expanding her research and teaching interests.

Her current research interests include rethinking theories of evidentiary privilege, and developing new theories of influence in small group and team settings. She is the primary author of California Evidence Courtroom Manual (with Glen Weissenberger) (published annually by LexisNexis), and Working Together in Law: Teamwork and Small Group Skills for Legal Professionals (with Sophie M. Sparrow and Clifford S. Zimmerman) (Carolina Academic Press, forthcoming 2013). She has most recently taught Evidence, Civil Procedure, and Advocacy. She has also taught Cross-Cultural Negotiations and Dispute Resolution Theories of Legal Argumentation & Persuasion, Team Leadership for Lawyers, and Estates and Trusts.

Michele Benedetto Neitz

*Director of Externship Programs
Professor of Law
Golden Gate University School of Law*

Professor Michele Benedetto Neitz teaches courses in Business Associations, Professional Responsibility and Poverty Law. Her research interests and areas of specialization include Judicial Ethics, Poverty Law, Professional Responsibility, Public Interest Law and Youth Law.

She received her JD from New York University and served as Judicial Clerk for the Hon. Napoleon A. Jones Jr., US District Court. She designed and coordinated the Youth Outreach Project at the Legal Aid Society of San Diego as part of Equal Justice Works Fellowship and was an associate at Morrison & Foerster, LLP, in San Diego.

Ex Officio/Non-Voting Members (Working Group C)

Perry Segal

Charon Law, SP

Mr. Segal has more than 20 years of national and international enterprise-wide data technology experience and has worked as a liaison between Technology & Legal professionals (IC/OC) and Third-Parties.

He is the author of the ABA-award-winning eDiscovery blawg, “e-Discovery Insights” and has written on eDiscovery matters for California Lawyer magazine, among others. He creates and presents certified Continuing Legal Education (CLE) training seminars for the State Bar of California and Los Angeles County Bar among others as well as to non-lawyers and IT personnel. Mr. Segal is a disaster-Recovery, Retention & eDiscovery specialist and has created eDiscovery departments for Fortune 500 companies from personnel, procedures, custom software applications, data lab design & evidence chain-of-custody. He is an expert on Legal Hold and Litigation Readiness & Response Programs (LR/RP).

Mr. Segal is Co-Chair of the Council of California State Bar Sections and Special Advisor & Past Chair of the State Bar of California Law Practice Management & Technology Section Executive Committee.

Kay Rubin

Director of Programs

Continuing Education of the Bar (CEB)

Prior to becoming Director of Programs at Continuing Education of the Bar, Ms. Rubin was a program attorney and publications attorney. She was Senior Counsel at Reed Smith LLP, VP & Senior Counsel at Wells Fargo and an Associate Attorney at Cooley LLP.

She received a BS in International Economics & Finance from Georgetown University and her JD from the University of California, Berkeley.

Acknowledgement

A special thank you to the following State Bar staff liaisons that were instrumental in assisting the Task Force with accomplishing its mission:

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