

Board of Governors Agenda Item November 700

Attachment III

PUBLIC COMMENTS IN SUPPORT

Correspondence regarding proposed “Find A Lawyer” Function to State Bar’s Website

No.	Date Received	Name, Title and Affiliation of Correspondent	Comments	Staff Comments
1.	9-15-2008	John Cosmides, Principal Barustors, Certified LRS	<p>“This is a great idea whose time has come.”</p> <p>“I’d like to see “Business & Corporate” as a category in the list of practice areas in the left nav, because many consumers have questions about starting or building a business.”</p> <p>“And, I’d like to see the references to Lawyer Referral Services more prominently displayed so that they catch the eye more quickly. It’s the State Bar’s interest to feed as many of these FAL visitors to an LRS because of the annual registration revenues they’d generate for the State Bar. Those who don’t need the LRS are no worse for the wear.”</p>	Also has design suggestions.
2.	9/17/08	Alice O’Sullivan, Chair California Board of Legal Specialization	<p>“This letter is in further support of the State Bar’s “Find A Lawyer” updated on-line attorney search proposal...This proposal for the State Bar’s website appears to be a streamlined method by which consumers searching for an attorney to handle a legal matter could locate a certified legal specialist... I have reviewed the proposed response to the concerns expressed by the local bar Lawyer Referral Services program and believe that it seems to be responsive to the needs of the public in locating legal services.”</p>	
3.	9/18/08	Officers of the Council of State Bar Sections	<p>“To date, the feedback from the Sections has generally been positive. ...Various Sections have raised concerns relative to the ultimate design and implementation of the project (for example, the potential liability of the State Bar for information posted by lawyers and the utility/efficacy of a search services that produces “random” results), as well as the ramifications the project may have (for example, the effect on local bar associations.) ... With appropriate protections, this project has potential to provide a valuable member benefit for State Bar members, as well as for the public.”</p>	Qualified support.

4.	11/4/08	Christele Demuro, President California Young Lawyers Association	<p>“The California Young Lawyers’ Association (CYLA) generally supports the Find A Lawyer project (FAL) proposed by the Board of Governor.</p> <p>“Contrary to some concerns expressed by the Executives of California Lawyer Associations and other commenters, CYLA does not view FAL as a substitute for or competitor to formal Lawyer Referral Service (LRS) programs. Rather, the FAL concept appears to complement existing basic attorney information on the State Bar website that can benefit young attorneys who seek to build their legal profiles. FAL would also complement existing LRS programs by providing access to information about lawyers to whom the public may be referred via LRS programs... CYLA, however, submits that posting and viewing information on FAL should be available free of charge...charging fees to post information, except perhaps a nominal fee to cover administrative costs, would unfairly disadvantage lawyers, including young lawyers, who cannot afford this service...Charging fees to post this information would appear to place the FAL program closer to prohibited advertising activities and the State Bar should not compete with these services...”</p>	Supports project in concept, but objects to being charged fees, other than nominal administrative costs.
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From: cosmides@barustors.com
Sent: Monday, September 15, 2008 7:34 PM
To: Low, Rodney
Subject: RE: CA[LRS]: Update on the Find A Lawyer Initiative at The State Bar of California: Draft FAL Mock Screen Shots for Board Consideration

Hi Rodney,

This is a great idea whose time has come.

I'd like to see "Business & Corporate" as a category in the list of practice areas in the left nav, because many consumers have questions about starting or building a business.

And, I'd like to see the references to Lawyer Referral Services more prominently displayed so that they catch the eye more quickly. It's in the State Bar's interest to feed as many of these FAL visitors to an LRS because of the annual registration revenues they'd generate for the State Bar. Those who don't need the LRS are no worse for the wear.

Thanks.

John Cosmides

BARUSTORS

707-319-3937

----- Original Message ----- On 9/15/2008 10:44 PM Low, Rodney wrote:

(This memorandum is intended to be read concurrently with the draft PowerPoint "Find a Lawyer" series of screen shots. In order to avoid being rejected as spam, we have loaded the PowerPoint on to a staging site at the following URL. To view the Find a Lawyer [Draft] Screen Shots, go to: <http://calbar.org/FALdraft/>)

Dear Lawyer Referral Services:

As you may know, the State Bar of California is developing an enhanced attorney search and member profile feature for its website, initially referred to as "Find a Lawyer (FAL)." (We are currently calling this new feature "Find a Lawyer [FAL]," the name used in most other states, but the name will likely change. We use FAL in this communication simply because we have not arrived at a new name.)

We believe that this service will add value for our membership and most importantly, improve access to and availability of information for the public. Like the ABA, the state bars of Illinois,

Arizona, Oklahoma and Texas have implemented similar enhancements and report favorable acceptance from their members and the public. Additionally, we've added enhancements to promote California's network of Lawyer Referral Services and encourage more consumer usage of LRS services.

When we briefed various LRS representatives about this project during the Pathways to Justice Conference in June, the LRS representatives expressed concern that this could potentially compete with the Certified LRS's. However, they said that, if the project were to be implemented, they wanted the LRS's to be prominently featured on the website as the primary option for consumers to locate a lawyer.

We have also received feedback from ECLA expressing similar concerns regarding the potential harm to LRS's and whether, given the State Bar's regulatory and consumer protection functions, it is appropriate for the State Bar to offer an FAL service.

Our Office of General Counsel has carefully reviewed the issues raised by ECLA and concluded that there is no conflict of interest between the State Bar's regulatory role and its proposed FAL. While the State Bar's primary purpose is to assist the California Supreme Court in admissions, discipline and regulation of the legal profession, the State Bar is also expressly authorized to engage in activities that "may advance the professional interests of the members of the State Bar" and "concern the relations of the bar with the public." Cal. Bus. & Prof. Code, § 6031, subd. (a). Absent a statute or court rule prohibiting such activities, the FAL creates no general conflict with existing regulatory functions of the State Bar.

Nor will, as some suggest, the State Bar's proposed FAL "compete," with the LRS's. FAL is not a lawyer referral service. It is an online attorney directory similar to an electronic Yellow Pages rather than a lawyer referral service. FAL will not resemble a lawyer referral service as it will not screen or evaluate consumer inquiries nor will it refer consumers to attorneys that it feels are appropriate based on the legal nature of issues presented. Moreover, the State Bar will not split fees with the FAL member subscribers as is the practice between certified lawyer referral services and their attorney members.

Finally, some have argued that the bar's real motivation in proposing FAL is to raise non-dues revenue. Even if revenue generation were the **only** reason for FAL, the State Bar is also expressly authorized by statute to raise such revenues. Bus. & Prof. Code § 6001, subd. (g) states that "it is recognized that the State Bar has authority to raise revenue in addition to that provided for in Section 6140 and other statutory provisions. The State Bar is empowered to raise that additional revenue by any lawful means, including, but not limited to, the creation of foundations or not-for-profit corporations."

In response to the concerns expressed by ECLA and the LRS's, the Board of Governors appointed a "Find a Lawyer" Task Force that includes members of the Board of Governors and ECLA President, Stuart Forsyth (LACBA). At the initial meeting, State Bar staff advised the Task Force that the planned launch of FAL would also include a strategy try to re-invigorate the LRS message and to re-introduce consumers to the advantages of using the LRS network. The State Bar also agreed to make modifications to feature the LRS's prominently and to distinguish clearly between the attorney's official state bar record and any additional information provided by the attorney (which was viewed as similar to attorney advertising).

The appointed BOG Task Force met again on September 10 and viewed the planned changes in the attached slide show. Some additional changes were suggested during this meeting and State Bar staff is currently implementing many of those suggestions. However, in order to solicit your opinion in time to share them with the Board of Governors, we are attaching them now without edit, but with an explanation as to how FAL will look when presented to the Board of Governors at their September 24th meeting.

The State Bar Board of Governors will meet on Wednesday, September 24, 2008, at 3:00 p.m., in Monterey prior to the Annual Meeting, to consider the recommendations of the Find a Lawyer Task Force. We are inviting the LRS community to view the prototype screens, to comment on the current status, and to attend the Board meeting, if desired.

To view the Find a Lawyer [Draft] Screen Shots, go to <http://calbar.org/FALdraft/>

I. Explanation of Mock Screen Shots - Attachment

Page 1 - Cover Sheet

As you will note, the term "Find a Lawyer" is bracketed and is subject to further discussion regarding an appropriate name for this project. By using the name "Find A Lawyer," the State Bar does not want to create the misleading impression that it is a lawyer referral service that matches consumers with attorneys. On the other hand, "Find A Lawyer" has become common parlance --- much like the words "Kleenex," and "Xerox" are synonymous with their generic twins "facial tissue" and "photocopy." Most state bars that have this online feature call it "Find A Lawyer." Consumers, unaware of the State Bar site, are also likely to use the "Find A Lawyer" nomenclature when using Internet search engines such as Google. Go to any Internet search engine and use the words "Find A Lawyer" as search criteria to confirm this -- the names of proprietary online legal directories such as LegalMatch, FindLaw, Avvo, and LawyerFinder typically come up when this search criteria is used.

Page 2 - "Public Web Site" - (Information Clearinghouse) -

This is the Home Page for the Information Clearinghouse. As suggested during the Task Force meeting, the words "your trusted source" in the upper right corner will be deleted.

- **Left Menu:** offers a full range of consumer information on various legal issues
- **Right side:** Current issues of interest to consumers-text will change as new issues arise.
- **Middle Section:** the attorney search feature. CLICK ON "**Need help?**" to go to the next slide (Page 6)

Page 3 - "Public Web Site (Information Clearinghouse) - On the home page, when you click on "Legal Information" you reach this page. Click on the various icons and information about that legal topic will appear.

Page 4 - "Public Web Site - (Information Clearinghouse)

Using Family Law as an example, when you click on Family Law topic icon, you reach this screen showing various family law resources.

Page 5 - "Public Web Site - (Information Clearinghouse) FAQ's

This is the FAQ portion of the Information Clearinghouse

Page 6 - "Public Web Site - Home Page for the attorney search function. -

Based on discussion during the Task Force meetings, the configuration of the boxes on this page are now top to bottom, instead of left to right. The first box allows searching by attorney name or bar number. The middle box is the LRS option and the advanced attorney search

feature is at the bottom. Note that the LRS option states: *"For personal assistance, contact a certified lawyer referral services. This is the most reliable way to find the right lawyer for you. Available in most counties, such services screen and match attorneys with clients. To participate, lawyers must carry insurance and meet certain standards."*

When the consumer clicks on "Click here to find out how" near the top of the page a video will appear with a person explaining the advantages of using an LRS. The person will provide the message in English and Spanish.

The latest version of the script to this video is as follows:

"Need a lawyer? We can help. You can use the State Bar's attorney search service to locate an attorney by name, bar number, legal issue or legal specialty. But the best way to find the right lawyer is to contact a State Bar-certified Lawyer Referral Service. Available in most counties, these services screen and match lawyers with clients. And lawyers who participate must meet certain standards. To locate a service, go to the middle box, enter your county, and click "Next"." End of Video.

This will open up the LRS browser, allowing the user to select the county and view all the certified LRS's authorized that operate in that county. We are considering adding the talking video to the margins in the LRS browser to further repeat the advantages of using an LRS. We are also considering making the video message available to LRS's for use on their websites or in PSA's.

It has been suggested that we randomize the listing of the Certified LRS's in each county and this is being considered.

Locating an Attorney (Page 6 continued)

Top Box: Attorney Name/Bar number: If the person knows the attorney name or bar number, that information can be entered in the first box. This approach is similar to finding a lawyer on the current State Bar Attorney Search site.

Middle Box: LRS locator by county

Last Box: Advanced Attorney Search

Should a consumer not know the attorney name or chooses not to contact an LRS, the third box on Page 6 is the new "Find a Lawyer" function. To use this option, the consumer must agree to a detailed disclaimer. Once a user enters the zip code and selects a "Legal Issue" in the pull down menu, the user will be taken to **Page 9 - Public Website - Search Results Web Page**.

It was proposed and accepted that a fourth "**Legal Specialist Search**" box will be added to the Find A Lawyer options on this page. This function currently exists at http://members.calbar.ca.gov/search/lis_search.aspx.

Page 7 - this provides information re the "virtual spokesperson" feature mentioned above.

Page 8 - Public Web Site - Consumer Terms of Use: The Consumer must agree to these terms before proceeding with the Advanced Search feature.

Page 9: Public Web Site - Search Results Web Page: Attorneys that fit the search parameters entered by the consumer will be listed in random order on the search page, along with a Google map of their office location. The page will list six attorneys at a time. If the list is unsatisfactory, the user can click "Next" for the next six randomized attorneys fitting the search parameters. However, before the next list appears, the message on **Page 10** will appear. This screen will ask if the user is having a difficult time finding a lawyer through this method and reminds the user of the availability of the LRS option, then links back to the "Need a Lawyer?" page to select the LRS box.

Page 11 - Sample result of Attorney Search - Official State Bar Record, including discipline. The State Bar seal will be added to this screen to reinforce that the information that appears is from the Official State Bar Record. .

Page 12 - Sample result of Advanced Attorney Search -Details with Additional Attorney-Provided Information. This information is provided by the attorney, obtained from the Data Capture in the "My State Bar Account Prototype" pages, **Pages 15 - 17**.

As recommended by the Board Task Force, the information on this slide will be clearly distinguished from the official State Bar Information both visually and with the disclaimers

appearing on the page. (Note: **Page 13** is the cover sheet for the Data Capture pages 15-17)

Page 14: Attorney Terms of Use. The attorney must agree to this before s/he can complete and submit an additional profile. The Task Force agreed that the Terms of Use should include reference to the possibility of disciplinary action against any attorney who intentionally provides misleading or incorrect information for the profile. Additionally, when the attorney clicks the "submit" button to upload information, a dialogue box will appear -- again cautioning the attorney to clearly review the information for accuracy and that the submission of false and misleading information can result in discipline.

II. Name

The Task Force is aware that ECLA and LRS's have expressed concerns about the use of the term "Find a Lawyer" and is considering alternate names for the site. If you have suggestions for the naming of the site, please forward the proposed name(s) to Rodney.low@calbar.ca.gov.

III. Cost/Revenue

The FAL project coincides with an overall redesign of the State Bar's website, as well as a transition to an online vehicle for communication with attorney members and for generating an attorney database that will allow the State Bar to better meet the needs of its members. Online communication with members will reduce, and in some cases, eliminate the need for mass mailings to members and will generate substantial cost savings. For these reasons, the State Bar does not at this time plan to charge lawyers a subscription fee to participate in FAL, although a subscription fee may be added later.

IV. Increased Support for Lawyer Referral Services

The State Bar Office of Legal Services, Access & Fairness Programs has initiated an enhanced support program for the Certified Lawyer Referral Services, with improved compliance review, technical assistance in marketing and organizational development, as well as ideas for member recruitment. This effort includes offering the streaming video mentioned above to insert on the LRS webpage, providing a more robust consumer education clearinghouse that can help reduce the number of misdirected calls, and coordination with the Administrative Office of the Courts' website, for better direction to the State Bar's LRS browser,

among other efforts.

Deadline for Comments: Provide your comments, suggestions, and feedback to Rodney Low at Rodney.low@calbar.ca.gov **by Friday, September 19, 2008, noon**, so the Board of Governors can compile them for consideration.

Remember, to view the FAL draft Screen Shots, go to <http://calbar.org/FALdraft/>

Rodney Low, *Program Developer*
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CALIFORNIA BOARD OF LEGAL SPECIALIZATION
OF THE STATE BAR OF CALIFORNIA



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July 29, 2008

Richard A. Frankel, Esq.
Frankel & Goldware, LLP
6111 Bollinger Canyon Road, Suite 475
San Ramon, CA 94583

Re: "Find A Lawyer" Project

Dear Mr. Frankel:

On Friday, July 25, 2008, at the Board of Legal Specialization (BLS) meeting, Gary Clarke, the State Bar's Chief Information Officer, made a presentation on the proposed "Find A Lawyer" project. The presentation was well received. We believe that the proposed "Find A Lawyer" project would be an important resource for California's consumers.

Since the 1970's one of the purposes of the legal specialization program has been to identify for the public attorneys who have demonstrated their experience and proficiency in specific areas of law. Currently, the public can locate certified legal specialists by clicking on "Legal Specialist Search" as well as using local Lawyer Referral Services where certified legal specialists serve on various subject matter panels throughout the State. This proposal for the State Bar's website appears to be a streamlined method that consumers searching for an attorney to handle a legal matter could use to locate a certified legal specialist and appreciate the value of retaining a certified specialist.

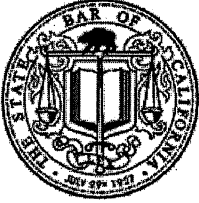
I understand that there is to be a meeting with the local bar associations on Friday, August 1, 2008 to discuss the "Find A Lawyer" project and their concerns about the project. Because the Board of Legal Specialization has an interest in this project I ask, on its behalf, to be given an opportunity for input. We would like to share our perspectives and to write to you to let you know that should you wish the BLS to assist you with your review and consideration of this project we would be happy to do so.

Yours truly,

A handwritten signature in cursive that reads "Alice O'Sullivan".

Alice O'Sullivan, Chair
California Board of Legal Specialization

cc: Judy Johnson, Executive Director



COUNCIL OF STATE BAR SECTIONS

THE STATE BAR OF CALIFORNIA

DATE: September 18, 2008
TO: Dick Frankel, Chair, "Find a Lawyer" Task Force
FROM: Officers of the Council of State Bar Sections
SUBJECT: "Find A Lawyer" Project

The "Find a Lawyer" project was demonstrated at the Council of State Bar Sections meeting on August 11, by Gary Clarke, the State Bar's Chief Information Officer. It was explained that the project, as detailed in Gary's PowerPoint presentation, is clearly a concept/work-in-process and that the Board of Governors has not yet made a formal decision to pursue the project.

The Board members present at the meeting asked the Council to assist the Board in making its decision by reaching out to the Sections to determine whether there was consensus among the Sections relative to the project. The PowerPoint presentation was made available to Council members to enable them to explain the project to, and thus be able to obtain meaningful input from, their respective Executive Committees.

To date, the feedback from the Sections has generally been positive. That having been said, various Sections have raised concerns relative to the ultimate design and implementation of the project (for example, the potential liability of the State Bar for information posted by lawyers and the utility/efficacy of a search service that produces "random" results), as well as the ramifications the project may have (for example, the effect on local bar associations). As a result, any consensus view among the Sections as to whether it makes sense to move forward is subject to these issues being appropriately addressed in order to ensure the success of the project.

While the project will be an agenda item for the Council at its meeting in Monterey on September 25th, this letter is being sent to you now, as we understand the Board of Governors is looking for input from the Sections *in advance* of that meeting.

The Sections would like to work with the Board as it continues to consider this project. With appropriate protections, this project has potential to provide a valuable member benefit for State Bar members, as well as for the public. Please let us know how we can be of assistance.

cc: Judy Johnson, Executive Director
Pam Wilson, Director, Section Education & Meeting Services

H/Council/find a lawyer/ltr to Dick Frankel-9-18-final

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THE STATE BAR OF CALIFORNIA

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November 4, 2008

Ms. Judy Johnson
Executive Director
The State Bar of California
180 Howard Street, Floor 10
San Francisco, CA 94015

Dear Ms. Johnson:

The California Young Lawyers' Association (CYLA) generally supports the Find a Lawyer project (FAL) proposed by the Board of Governors and offers the following comments.

Contrary to some concerns expressed by the Executives of California Lawyer Associations and other commenters, CYLA does not view FAL as a substitute for or competitor to formal Lawyer Referral Service (LRS) programs. Rather, the FAL concept appears to complement existing basic attorney information on the State Bar website that can benefit young attorneys who seek to build their legal profiles. FAL would also complement existing LRS programs by providing access to information about lawyers to whom the public may be referred via LRS programs. Not only would FAL allow young lawyers to establish a more detailed profile with the State Bar (allowing the State Bar to gather additional information about its members), but FAL would allow young lawyers to make such a profile available to the public. Such benefits are symbiotic as well, allowing the public to learn information about young lawyers – including areas of practice and experience – that may not be available elsewhere.

CYLA, however, submits that posting and viewing Information on FAL should be available free of charge. Some State Bar information on FAL indicates FAL could operate as a non-dues revenue generator for the State Bar. CYLA is unaware of how revenue could or would be generated from FAL, but objects to charging fees to State Bar members to post information or charging fees to attorneys or members of the public to view the information for the following reasons. First, charging fees to post information, except perhaps a nominal fee to cover

administrative costs, would unfairly disadvantage lawyers, including young lawyers, who cannot afford this service. If only lawyers who pay a posting fee are able to receive what will be perceived by the public as a State Bar endorsement or recognition by posting information on FAL, lawyers who do not pay for this recognition may be placed at an economic disadvantage by their own State Bar. Second, fee-based information listing services such as Martindale Hubble already exist for this purpose. Charging fees to post this information would appear to place the FAL program closer to prohibited advertising activities and the State Bar should not compete with these services; rather the State Bar should allow its members to post this information without cost. Finally, charging fees to view the information posted would defeat any informational purpose of the FAL project. Because one purpose of FAL is to provide information "for consumers searching for information about California lawyers and other legal resources," charging the public or other lawyers to view this information would be counterproductive to this purpose.

Very truly yours,

A handwritten signature in cursive script that reads "C. Demuro". The signature is written in dark ink and is positioned above the typed name.

Christele Demuro, Esq.
President, California Young Lawyers Association

cc: The State Bar of California
"Find A Lawyer" Task Force Members