

Board of Governors Agenda Item November 700, Attachment IV.

PUBLIC COMMENTS IN OPPOSITION

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.	6-9-08	Michele Morley, San Fernando Valley Bar Association LRS	Feels design needs to feature benefits of LRS’s more prominently.	
2.	7-1-2008	Jane Nosbisch, Staff Counsel American Bar Association LRIS Committee	“At our recent ABA LRIS Committee meeting we received a preliminary report on the development of a possible online State Bar of California membership directory. I was asked by the ABA LRIS Committee to seek more information on the current status of the matter and any implementation plans or proposals. As you would expect, this issue is of great concern to the LRIS programs in California, which constitute about thirty percent of the public service LRIS programs operating in this country.”	Request for further information.
3.	7-8-2008	Stuart A. Forsyth, President Executives of California Lawyers’ Associations	<p>“We respectfully request that: The “Find a Lawyer” project not be implemented until our concerns have been addressed and we be notified of the time and place of any meeting at which the project will be discussed”</p> <p>“We still have the following serious concerns about potential harm to the public, the State Bar certified lawyer referral services, the local bars that run lawyer referral services [and] the public service programs that are supported by lawyer referral services”</p> <p>“Abandonment of the State Bar’s traditional role of protecting the public by failing to incorporate into the “Find a Lawyer” web site those public protection measures that the Sate Bar requires lawyer referral services to provide”</p> <p>“Conflicts of interest: Between the State Bar’s role as a regulator of lawyer referral services and a de-facto competitor of such services if this project goes forward in its current form; Between the State Bar’s duty to protect the public by effectively regulating lawyers and its desire to promote individual attorneys by marketing them via “Find a Lawyer” and perhaps raise money from them; Between the State Bar’s duty to discipline miscreant lawyers and its desire to provide a member benefit to all attorneys by advertising them to potential clients”</p>	

4.	7-24-2008	Marc L. Sallus, President Beverly Hills Bar Association	<p>“...only voluntary bar associations in California have provided Lawyer Referral and Information Services (LRIS) to the public, as authorized and regulated by the State Bar. Such proposal therefore raises a number of serious concerns regarding the propriety of the State Bar competing with, while at the same time regulating, voluntary bar associations in the area of lawyer referral services”</p> <p>“We believe such a project should be abandoned”</p> <p>“This letter is to inform the Legislature, and all interested parties, of the Beverly Hills Bar Association’s position”</p>	
5.	8-26-2008	Thomas E. Kuhnle, President Santa Clara County Bar Association	<p>“...allowing attorneys to furnish information about their practices that would be invited by the State Bar and accessed through the Find a Lawyer project would create a conflict of interest within the State Bar. One of the primary and perhaps most significant roles of the State Bar is public protection, which it fulfills by, among other activities, attorney regulation and regulation of lawyer referral services. The State Bar’s sponsorship of a program that would provide unregulated attorney advertisements to the public would necessarily conflict with the State Bar’s role in regulating attorneys.”</p> <p>“...Find a Lawyer will unfairly compete with the State Bar certified lawyer referral services, including those supported by local bar associations.”</p> <p>“If the Find A Lawyer project is launched with attorney advertising, members of the public could hire lawyers through a lawyer referral service abiding by restrictive (yet sensible) requirements for certification, or through advertisements posted on the unregulated State Bar Find a Lawyer service. Find a Lawyer could very well put the regulated lawyer referral services out of business by the State Bar’s own unregulated advertisements.”</p> <p>“The SCCBA therefore supports enhancing the ability of the public to access lawyer referral services and to search for the names of California attorneys, but it strongly opposes allowing those attorneys to place advertisements on the State Bar website accessible to the public by location and/or practice area.”</p>	

6.	9-9-2008	Catherine Castaldi, 2008 President Orange County Bar Association	<p>“The State Bar’s regulation of lawyer referral services provides a critical public benefit. In Orange County, our Lawyer Referral and Information Service (“LRIS”) ensures that members of the public receive referrals to attorneys who maintain malpractice insurance, meet educational and experiential requirements for practice in the referral area, and are accountable to their clients. Our LRIS also serves as a screening mechanism for clients who qualify for pro bono or discounted legal services. In short, the local bar association referral services provide a substantial benefit for the public in our communities.”</p> <p>“In addition to the direct public benefit provided by these services, the revenue from these non-profit operations is granted to worthy local community pro bono programs, such as the Public Law Center (the “PLC”), Orange County’s pro bono law firm. The PLC is committed to providing access to justice for low income residents.”</p> <p>“...the State Bar of California, as the principal regulator of the practice of law, should not also be a commercial vehicle for lawyer advertising. This project may damage the public confidence in the legal system and the State Bar of California.”</p>	
7.	9-15-08	Deborah Kemper, Executive Director San Mateo County Bar Association	<p>“Why can't we change this language to read as follows:</p> <p>The latest version of the script to this video is as follows: <i>"Need a lawyer? We can help. 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". But you can use the State Bar's attorney search service to locate an attorney by name, bar number, legal issue or legal specialty. End of Video."</i></p>	

8.	9-17-2008	Thomas E. Kuhnle, President Santa Clara County Bar Association	<p>“The conflict of interest inherent in this project is the primary reason the SCCBA strongly opposes including “enhanced attorney profiles” as part of the service.”</p> <p>“While a State Bar web site with contact information and disciplinary histories can benefit the public, allowing attorneys to provide “enhanced” profiles (which amount to advertising) presents substantial risks. Those risks are generated by two sets of conflicts of interest. First, allowing attorneys to advertise on a web site designed, hosted and endorsed by the State Bar would directly conflict with the State Bar’s mandate to regulate attorneys. One of the primary and perhaps most significant roles of the State Bar is public protection, which it fulfills by, among other activities, attorney regulation and regulation of lawyer referral services. The State Bar’s sponsorship of a program that would provide unregulated attorney advertisements to the public would necessarily conflict with the State Bar’s role in regulating attorneys.”</p> <p>“Second, allowing attorneys to advertise on the State Bar website poses a direct conflict of interest between the State Bar’s regulation of Lawyer Referral Service (“LRS”) entities (which LRS entities pay for) and, in turn, its proposed facilitation of unregulated advertisements that would take business away from LRS entities.”</p> <p>“...taking business away from LRS entities will adversely affect local bar associations’ bottom lines. Thus, local bar associations will have less to spend on programs that support the courts, the State Bar through local fee arbitration programs and other public service programs, which local bars are required to do as part of their mission and state bar LRS certification.”</p> <p>“To ameliorate the State Bar’s inherent conflict of interest and its ability to unfairly compete against LRS entities, we understand the Task Force is considering “layering” the search pages of the website so that the initial page provides information about the services provided by LRS entities including language that encourages the public to use them. The Task Force also recommends having a strong disclaimer that would warn the public about the accuracy of the attorney advertisements cannot be guaranteed...Such mixed messages do not serve the public interest. Indeed, this is the essence of the conflict of interest.”</p>	
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9.	9-17-08	Stuart Forsyth, President ECLA	<p>“While a number of improvements have been made, the September 10th redesign still contains a critical flaw, and further changes are recommended.”</p> <p>“Given the importance of this project and the significance of the concerns related to LRS entities and legal services programs throughout the State, ECLA respectfully requests that the Board of Governors postpone taking any action on the proposal until ECLA’s concerns and specific recommendations have been considered and addressed in a design finalized by the Task Force.”</p> <p>“at the first Task Force meeting on August 1st, the Task Force resolved to:</p> <ol style="list-style-type: none"> 1. Emphasize the benefits of State Bar certified lawyer referral services and the protections and benefits that they afford the public by referring first to LRS; 2. Provide information about lawyers that the State Bar maintains for regulatory purposes; and 3. Only then provide unverified information that an attorney has furnished (advertisements). <p>The September 10th redesign still retains all three options...This fails to implement one of the Task force’s major directions, which was at its heart that the LRS option have a higher priority and more visibility than the search option.”</p>	<p>See Staff Report, 10-16-08 Attachment V.1.</p> <p>There is no legal conflict of interest, FAL is not a lawyer referral service, there is no prohibition against posting unverified attorney information. Balance of recommendations from ECLA re design will be taken into consideration as project moves forward.</p>
10.	Not dated	Matthew P. Guasco, President Board of Directors Ventura County Bar Association	<p>“The Ventura County Bar Association strongly supports all reasonable measures promoting the protection of clients and the practices of lawyers.”</p> <p>“In light of the potential impact of the Find a Lawyer program on existing State Bar Certified LRS programs and the clients they serve, VCBA urges the State Bar to refrain from implementing such a program unless and until a meaningful and adequate period for receipt and thoughtful consideration of public comment occurs.”</p> <p>“VCBA expresses its strong opposition to the current Find a Lawyer proposal unless and until such a process occurs.”</p>	

11.	10-15-2008	Julia R. Wilson, Executive Director Public Interest Clearinghouse and Legal Aid Association of California	<p>“PIC is a statewide back-up center on access to justice issues for the IOLTA-funded community. PIC administers the statewide legal referral and information website, LawHelpCA.org, which for many years has served as the trusted source for referrals to legal services organizations, court-based self-help programs, public interest nonprofits, and State Bar approved Lawyer Referral Services. LawHelpCA.org serves the general public in California, but its focus is ensuring that low-income Californians are able to access legitimate and high-quality free legal services, thereby fulfilling an important public protection role.”</p> <p>“PIC therefore requests that the Consumer Clearinghouse/Attorney Search website ensure that low-income residents, who are eligible for legal assistance through the legal services and public interest or pro bono delivery systems, are prompted quickly and repeatedly to use LawHelpCA.org, rather than the Attorney Search system.”</p> <p>“...PIC requests clear placement of links to and information about LawHelpCA.org throughout the Attorney Search website and that the Attorney Search home page include detailed information about the range of options for consumers, including LawHelpCA.org and local LRS’s.”</p> <p>“The Legal Aid Association of California is a non-profit organization founded in 1982 for the purpose of ensuring the effective delivery of legal services to low-income people throughout California.”</p> <p>“...the Project has potential, if not handled properly, to significantly reduce the public’s use of the Lawyer Referral Services (“LRS’s”), which would reduce the income that LRS’s receive. Many legal services programs obtain substantial funding from LRS’s.”</p> <p>“...in many areas, the local LRS is actually part of the legal services delivery system in several ways.”</p> <p>“...some LRS’s are actually run by IOLTA-funded programs. These LRS’s often train their panel attorneys and ensure that they have adequate qualifications and expertise. Many LRS’s require their panel attorneys to take a certain number of pro bono and low-cost, sliding-scale cases per year.”</p> <p>“...LAAC requests that the Task Force bear in mind the role that LRS’s play in the delivery system of legal services to the state’s most vulnerable residents when considering the Project’s components and website.”</p>	<p>Many concerns raised relate to design issues and information placement. After the project is approved by BOG to move forward, the State Bar will address these questions.</p>
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12.	10-16-2008	Tiela Chalmers, Executive Director The Bar Association of San Francisco VLSP	<p>“The proposed “Find a Lawyer” site on the State Bar’s web page, unfortunately, would undermine the State Bar’s excellent work in areas of services to the community, consumer protection, and diversity in the profession.”</p> <p>“...compromise approach: that the State Bar launch the site with a searchable list of attorneys only for the counties where there are no LRS’s, and those where there are no LRS’s that the State Bar deems effective.”</p> <p>“LAAC requests that the Task Force bear in mind the role that LRS’s play in the delivery system of legal services to the state’s most vulnerable residents when considering the Project’s components and website. It is vital that the LRS’s receive dominant displays on all possible website pages, including but not limited to the home page and all searches.”</p>	
13.	10-20-2008	James Donato, President The Bar Association of San Francisco	<p>“I write on behalf of The Bar Association of San Francisco (BASF) to express our ongoing serious concerns regarding the State Bar’s proposed Find-a-Lawyer Web site. BASF shares the very grave concerns already conveyed to you – that this Web site as designed holds significant potential to harm the public, endanger access to justice programs, and gut support for efforts to diversify the legal profession in our state.”</p> <p>“...we continue to believe that, even with the disclosures and disclaimers now present on the proposed site, referring the public to unscreened attorneys who have no requirement to carry professional liability insurance would remove a crucial consumer safeguard.”</p> <p>“We also urge – in the strongest possible terms – that you and your colleagues on the Board of Governors reconsider the implementation of the proposed Web site and fully address and resolve the other serious concerns expressed by local bar associations, State Bar certified lawyer referral services, and legal services and pro bono organizations across our state.”</p>	

14.	10-31-2008	Leslie Alexander, Staff Attorney and Program Manager LAAC	<p>“I am writing on behalf of the Legal Aid Association of California (LAAC) and its legal services member organizations to express some comments and concerns regarding the State Bar of California’s Consumer Clearinghouse and Attorney Search project and website, and to request that LAAC be included in ongoing discussions regarding the website design.”</p> <p>“First, the Project has the potential, if not handled properly, to significantly reduce the public’s use of the Lawyer Referral Services (“LRS’s”), which would reduce the income that LRS’s receive. Many legal services programs obtain substantial funding from LRS’s...To the extent that LRS’s are hurt financially by the Project, it could have the effect of reducing the available funding for legal services.”</p> <p>“...in many areas, the local LRS is actually part of the legal delivery system in several ways...for certain types of cases where legal services programs cannot provide services, the LRS guarantees low-income clients a 30-minute appointment with an attorney for a very low cost, allowing them to obtain critical information and advice about the merits of their case.”</p> <p>“...some LRS’s are actually run by IOLTA-funded programs...Many LRS’s require their panel attorneys to take a certain number of pro bono and low-cost, sliding-scale cases per year.”</p> <p>“Because of these concerns, LAAC requests that the Board of Governors bear in mind the role that LRS’s play in the delivery of legal services to the states most vulnerable residents when considering the Project’s components and website. It is vital that the LRS’s receive dominant displays on all possible website pages, including but not limited to the home page and all searches.”</p>	
15.	10-31-08	Siobhan Waldron, Program Coordinator LawHelpCalifornia.org	<p>“LawHelpCA.org serves the general public in California, but its focus is ensuring that low-income Californians are able to access legitimate and high-quality free legal services, thereby fulfilling an important public protection role.”</p> <p>“PIC therefore requests that the Consumer Clearinghouse/Attorney Search website ensure that low-income residents, who are eligible for legal assistance through the legal services and public interest or pro bono delivery systems, are prompted quickly and repeatedly to use LawHelpCA.org, rather than the Attorney Search system. ...PIC requests clear placement of links to and information about LawHelpCA.org throughout the Attorney Search website and that the Attorney Search home page include detailed information about the range options for consumers, including LawHelpCA.org and local Lawyer Referral Services.</p>	Staff will work with PIC regarding design considerations and redirecting consumers in need of free or low-cost legal services.

16.	11-12-08	Ellen Miller, Executive Director San Diego County Bar Association	<p>“please find two technical suggestions regarding the State Bar of California’s Public Website/Find a Lawyer proposal dated September 24, 2008:</p> <p>1. Public Web Site - Home Page I would suggest that the forth search box titled “Search for a lawyer by type of legal issue (Enter your zip code)” be moved from the public site home page to a sub page, or the second level of display. I think people will look for a fast/quick option from this home page and searching by zip code is a fast/quick option.”</p> <p>2. Our experience is that “screening” is a sophisticated term for the public. Given this, I would suggest that the language be slightly modified to describe what "screening" really means. For example, instead of:</p> <p>“Available in most counties, these services screen and match lawyers with clients. And lawyers who participate must meet certain standards”, you may want to consider:</p> <p>"Available in most counties, these services establish requirements for the attorneys who participate in the lawyer referral service to ensure quality. They also carefully listen to the facts of the case and link you to an attorney who would be best suited to meet your needs”</p>	
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From: Michele Morley [morley@sfvba.org]

Sent: Monday, June 09, 2008 10:43 AM

To: Low, Rodney

Cc: 'Rosie Soto'

Rodney:

Thank you for hosting the meeting and lunch on Friday. It is always useful and informative to have a chance for the various program staff to meet and greet. I agree with many of the comments made about the Need a Lawyer website proposal. I am old enough and experienced enough to know that this program will be implemented and that our task is just to make it as good as possible. I know that State Bar staff know all of the advantages to the public in finding an attorney through a referral service and the LRIS programs are putting our trust in you to advocate our positions. I am confident that you have been doing so and will continue to do so. I also know that the LRIS programs while supported by the State Bar are somewhat of a lower priority in ranking to other State Bar member and public services.

My comments:

1. Negotiate a prominent placement on the State Bar homepage of the LRIS programs.
2. You define specialization in the draft, but do not define what certification means. This should be included
3. What can be done to make the LRIS dropdown more prominent should be done. Attorneys obtained through LRIS programs are screened and their performances are tracked. Even an excellent attorney who appears in the listing through the "local attorney" dropdown cannot make this claim. The LRIS system was developed by the State Bar to best serve the public. We have done this for many decades and are continuing to work hard to provide the service to the public. We are a time tested public service that ranks consideration.
4. Under the heading, "Where Can I go for more assistance" where it says, "Participating attorneys must," add the words "State Bar certified" in front of attorneys; so it reads, "Participating State Bar certified attorneys."

If it is ok, I plan to take this draft to the June 20th meeting of the ABA Standing Committee on LRIS for their comments. If they have further suggestions, I will forward those to you.

Also, the SFVBA would really like to have some award given to Don Breer and we would contribute to such an award. Let me know.

Michele C. Morley, Esquire*

Consultant

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AMERICAN BAR ASSOCIATION

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2007-2008
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July 1, 2008

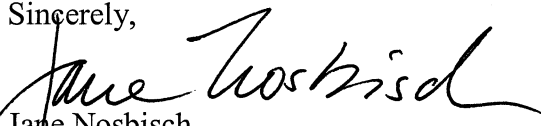
Judy Johnson
Executive Director
State Bar of California
180 Howard Street
San Francisco, CA 94105

Dear Judy:

At our recent ABA LRIS Committee meeting we received a preliminary report on the development of a possible online State Bar of California membership directory. I was asked by the ABA LRIS Committee to seek more information on the current status of this matter and any implementation plans or proposals. As you would expect, this issue is of great concern to the LRIS programs in California, which constitute about thirty percent of the public service LRIS programs operating in this country.

I look forward to hearing from you at your convenience.

Sincerely,



Jane Nosbisch
Staff Counsel, ABA LRIS Committee

Cc: Ron Abernethy
Sheldon Warren

Executives of California Lawyers' Associations

"Supporting California Legal Associations to Improve the Legal Profession and the Administration of Justice"

July 8, 2008

Ms. Carol Madeja
Director, Bar Relations Outreach
The State Bar of California
1149 S. Hill Street
Floor 7
Los Angeles, CA 90015-2212

Re: Proposed State Bar "Find a Lawyer" Web site

Dear Carol:

This letter is written on behalf of Executives of California Lawyers' Associations (ECLA), which is the professional membership organization of executive directors of California bar associations.

Its purpose is to codify our serious concerns about the "Find a Lawyer" project, request that it not be implemented until our concerns have been addressed and further request that we have an opportunity to be present at any Board meeting at which the project is discussed.

Background

As you know, most in our organization first learned of the existence of the "Find a Lawyer" project at our annual retreat meeting in Santa Barbara on May 16-17, 2008, although a few of our members attended a District 3 lunch meeting on April 16, 2008 where the project was discussed. At our retreat, we were told that it was an initiative to provide non-dues revenue for the State Bar.

The project also was discussed with representatives of several of California's lawyer referral services at a meeting in Los Angeles on June 6, 2008. At that time they were told that it was not a revenue initiative, but rather an initiative to provide information to the public.

Naturally, we were confused and concerned about these different articulations of the purpose of the project.

Soon after first learning about the project, I called Judy Johnson to request a meeting to clarify and discuss it, which she kindly agreed to and arranged on July 7, 2008. At the time of my call, Judy indicated that significant IT funds already had been spent in developing the software for the "Find a Lawyer" Web site, and that a complex and comprehensive roll-out to both lawyers and the public was being planned for the period from the end of summer through the end of the year.

Yesterday's Meeting

Thanks to you and other State Bar representatives for meeting in person with us yesterday to discuss the "Find a Lawyer" proposal and its impact on lawyer referral services and county bar associations. We very much appreciate the opportunity to explore these issues with you.

The meeting was very helpful in clarifying the purpose and nature of the project.

But it stopped short of any resolution or even any assurance that our concerns would be addressed.

The fact that 12 executive directors took the time, trouble and expense to meet with you—10 of them in person in San Francisco—indicates the seriousness with which we view the concerns that we expressed. While we genuinely appreciate being heard, we seek impact, not an audience.

Summary of Our Requests

We respectfully request that:

1. The “Find a Lawyer” project not be implemented until our concerns have been addressed, and
2. We be notified of the time and place of any meeting at which the project will be discussed with the Board or a Board Committee so we can make arrangements to be present and participate, if at all possible.

Summary of Our Concerns

While yesterday’s meeting was helpful in clarifying exactly what the project is, we still have the following serious concerns about it:

- Potential harm to:
 - The public
 - The State Bar certified lawyer referral services
 - The local bars that run lawyer referral services
 - The public service programs that are supported by lawyer referral services
- Abandonment of the State Bar’s long-standing position that it “cannot give you legal advice or refer you to an attorney.”—State Bar Web site
- Abandonment of the State Bar’s traditional role of protecting the public by failing to incorporate into the “Find a Lawyer” Web site those public protection measures that the State Bar requires lawyer referral services to provide
- Conflicts of interest:
 - Between the State Bar’s role as a regulator of lawyer referral services and a de-facto competitor of such services if this project goes forward in its current form
 - Between the State Bar’s duty to protect the public by effectively regulating lawyers and its desire to promote individual attorneys by marketing them via “Find a Lawyer” and perhaps raise money from them as well

Stuart Forsyth
President
Los Angeles County
Bar Association

Maria Elousu
President Elect
Santa Barbara County
Bar Association

Robynn Gaspar
Treasurer
Marin County
Bar Association

Deborah Kemper
Secretary/Membership
San Mateo County
Bar Association

Ann Wassam
Immediate Past President
Alameda County
Bar Association

- Between the State Bar's duty to discipline miscreant lawyers and its desire to provide a member benefit to all attorneys by advertising them to potential clients
 - That the lawyer referral services and the local bars that operate them, both of which may well be seriously impacted by this project, were informed of it only after significant work (including IT development) had been put into it
 - That the State Bar may not have realized and thought through all of the consequences of the project
 - What all of this means for the future of the mutual support and cooperation that the State Bar and the local bars traditionally have enjoyed

The State Bar's Historical Fostering of and Rationale for Certified LRS Programs

As you know, many of California's bar associations created and now operate lawyer referral and information services at the request of the State Bar. The State Bar regulates them and collects fees for doing so.

In 1946, the State Bar approached The Bar Association of San Francisco, and presumably other county bar associations, requesting that they establish lawyer referral programs, particularly to serve returning veterans. The first LRS in California was established by the Los Angeles County Bar Association in 1937.

In 1955, as the concept took root and more programs began operating, the State Bar's Board of Governors established a Committee on Legal Aid and Lawyer Referral Service. This committee developed guidelines and operating procedures for LRS programs, which were adopted by the Board of Governors and approved by the California Supreme Court in 1956. The standards emphasized the State Bar's commitment to promote the lawyer referral system and to uphold the public service purpose of lawyer referral services. (This from a memo dated November 5, 1986 to the State Bar's Board Committee on Legal Services from Office of Legal Services staff.)

Ever since, the State Bar has continued to provide support to LRS programs. The Minimum Standards, then voluntary, were regularly modified and strengthened, with public service and consumer protection as paramount concerns. During the early 1980's, State Bar staff provided direct assistance to local bars in the areas of program development, marketing, and compliance with the Minimum Standards. At least as early as the 1970s, the State Bar's Committee on Lawyer Referral Services presented an annual workshop for LRS program directors and others. These continued until the late 1990s. The State Bar's Program Development staff continues to provide some assistance to lawyer referral programs, such as maintaining a listserv and providing summaries of ABA LRIS workshops to programs around the state. In 2005, the "Statement of Chargeable and Nonchargeable Expenses for the Year Ended December 31, 2005 and Independent Auditors' Report" described the efforts of State Bar staff to enhance the delivery of civil legal services to the public as "...working with legal services providers and bar associations to provide a variety of public service programs, including: pro bono legal services programs, lawyer referral services, pro per clinics, community based resolution centers and programs to improve access to the courts."

The State Bar has also collaborated with the legislative branch to strengthen lawyer referral programs. In 1986, the State Bar, through its Standing Committee on Lawyer Referral Services, proposed legislation to require all lawyer referral services to operate in conformity with the Minimum Standards. In 1987,

<i>Stuart Forsyth</i>	<i>Maria Elousu</i>	<i>Robynn Gaspar</i>	<i>Deborah Kemper</i>	<i>Ann Wassam</i>
President	President Elect	Treasurer	Secretary/Membership	Immediate Past President
Los Angeles County Bar Association	Santa Barbara County Bar Association	Marin County Bar Association	San Mateo County Bar Association	Alameda County Bar Association

Business and Professions Code Section 6155 was passed without opposition by the legislature and signed into law. The State Bar then established mandatory minimum standards for LRS programs. The existing standards were revised and strengthened by the Standing Committee on Lawyer Referral Services and approved by the Supreme Court in 1989.

The State Bar undertook to enforce the Minimum Standards, holding a meeting in Los Angeles on November, 1990, which included the drafters of the legislation, representatives of various law enforcement agencies, and the Standing Committee on Lawyer Referral Service. At this meeting, representatives of the State Bar outlined a five-point enforcement plan, including the goal of seeking stronger and/or corrective legislation. In response to problems with the enforcement of the original legislation, Business and Professions Code Section 6155 was amended in 1992 to strengthen the consumer protection intent of the original bill.

Once State Bar certification was mandated, the Minimum Standards were upgraded several times. The most recent version became effective January 1, 1997, entitled Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services Including Minimum Standards for a Lawyer Referral Service in California. Rule 3 defines the policy of the State Bar regarding Lawyer Referral Services as follows:

- 3.1 It is the policy of the State Bar of California that every community be served by one or more certified Lawyer Referral Service. Where the size of the community or the number of lawyers serving it make the establishment of a separate Lawyer Referral Service impractical, the State Bar encourages the establishment of a regional Lawyer Referral Service embracing two or more such communities, subject to Rule 8.2 which requires separate certification for each county in which a Lawyer Referral Service operates.
- 3.2 It is also the policy of the State Bar of California that activities in violation of these Rules, the Business & Professions Code, or other authorities pertaining to Lawyer Referral Services, be curtailed.

Through its certification program, the State Bar collects annual fees from lawyer referral programs of up to \$5,000 for non-profit programs and \$10,000 for for-profit services.

Potential Harm to the Public

State Bar LRS Certification was established in large part to ensure consumer protection – that’s why the State Bar requires, among other things, experience panels, malpractice insurance, panel rotation, and a mechanism to remove panelists for unacceptable behavior. Certified LRS programs pay a fee to the State Bar for their certification. LRS programs must abide by rules of the State Bar and are regulated by the State Bar. County LRS programs provide a necessary community service. Such LRS programs serve many clients – for example, LACBA alone receives and handles more than 110,000 calls each year. Local LRS programs provide qualified employees to assure proper referrals are made to qualified attorneys who possess malpractice insurance and who are in good standing with state and local bar.

As we understand it, The “Find-A-Lawyer” Web site appears to offer none of these protections and seems in conflict with a basic tenet of the State Bar’s philosophy vis-à-vis public protection:

- An alphabetical online directory may be the best way for the State Bar to enable the public to find out whether an attorney is admitted to practice in California. Arranging or dividing such a listing by self-designated area of practice, however, would be misleading and would remove an

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important consumer safeguard because it would give the public the false impression that the State Bar has conducted a vetting or qualification process.

- An online searchable database also would eliminate the critical link provided by trained legal referral staff: a means for directing consumers to appropriate legal resources. An online subject area checklist cannot replace trained referral specialists. The legal system is complex, and consumers often mischaracterize or misunderstand their area of need.
- Publishing an online listing by self-designated area of law, which rotates names of participating attorneys by some as yet to be determined mechanism, also can undermine the standards and procedures that lawyer referral services have established, such as requiring and confirming that lawyers being referred have professional liability insurance.
- A directory alone would not be equipped to measure client satisfaction. Such feedback is a core feature of a Lawyer Referral Service.

The State Bar proposal also could have other very serious consequences for the public:

- State Bar Certified LRSs are required to use “excess” LRS income to support pro bono or other community service activities, including fee arbitration programs. These “excess” funds allow sponsoring bar associations to provide such services when they might not otherwise be in a position to do so. If county bars discontinue offering fee arbitration services, the State Bar will have to dramatically expand its own staff and expend more resources to handle the resulting caseload.
- County LRSs, such as the BASF LRS, also provide an important client screening function for their pro bono legal services programs. In addition, LRSs use “excess” income to help to support in part pro bono legal services programs; and county bar association efforts to help diversify the legal profession are also often supported by LRS revenue. Any negative financial impact on county LRSs resulting from the State Bar “Find a Lawyer” proposal could have serious consequences for both access to justice and diversity efforts.

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In addition, currently the State Bar encourages clients to use the certified lawyer referral programs, by inserting this language on its site:

“The State Bar cannot give you legal advice or refer you to an attorney. If you need to hire an attorney to handle your case or want to consult an attorney on a potential case, a certified lawyer referral service can put you in touch with a lawyer who can handle your problem. If your particular problem can be resolved without a lawyer, the referral service will tell you how to get the help you need.



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1. Diminished attorney participation, referral requests, and revenues and higher costs
 - Attorneys pay for membership in LRS programs in order to receive cases and promotion. In most cases, they also pay forwarding fees. Because bar association brand recognition is a primary reason the public trusts and contacts an LRS, attorneys will be less likely to join a referral panel if their names are listed on an online database with the same or similar brand advantage. This decreased membership would result in direct financial harm to certified LRSs.
 - Efforts that enable attorneys to advertise or promote themselves on the State Bar's Web site would likely diminish the number of referral requests and, therefore, revenues to local programs. Attorneys also frequently send clients to a lawyer referral service when the clients' problems are not within the attorneys' area of practice. Access to an online database that is searchable by practice area may result in attorneys providing clients with a few names from that source rather than suggesting that clients call the LRS.
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Diminished attorney participation, referral requests, and revenues -- along with increased marketing and communications costs -- necessarily will severely reduce the size of -- or eliminate -- some county LRSs.

2. Diminished ability to support other public service programs of the sponsoring bar associations (See Potential Harm to the Public section, above)
3. Diminished reputation of lawyer referral programs.

The LRS community has worked hard for many years, with the direct support of the State Bar and sanctioned by the California Supreme Court and the Legislature, to ensure that important public protection mechanisms are in place in all certified referral services. Consequently, the credibility of LRS programs and bar associations in the community is high. A few bad apples in the proposed State Bar system, which appears not to have any of these important safeguards, will tarnish the hard-earned reputation of programs that are in compliance with the State Bar's own mandates, further diminishing the likelihood of the public relying on lawyer referral services.

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Request to Delay Implementation in Order to Address Concerns

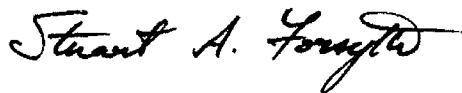
The State Bar has a long and proud tradition of protecting the public and facilitating access to legal services by fostering the creation and success of California's lawyer referral services. Today, that tradition is in jeopardy.

We believe inadequate consideration has been given to the serious negative impacts that the "Find a Lawyer" project is likely to have on certified lawyer referral services and the bar associations that run them. Properly crafted, the "Find a Lawyer" project could serve the public and support the existing network of lawyer referral services, rather than destroy them.

We respectfully request that you pause and take time to meaningfully address our concerns. The end result will be better for all concerned, including the State Bar and the public it serves.

Thank you in advance for your kind consideration of this request.

Sincerely yours,



Stuart A. Forsyth
President
Executives of California Lawyers' Associations

Writer's direct contact information:

sforsyth@lacba.org

213-896-6424

c/o Los Angeles County Bar Association
261 S. Figueroa St., Suite 300
Los Angeles, CA 90012

cc: Richard Frankel
Patricia White
Judy Johnson
LRS Programs
ECLA Members

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July 24, 2008

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Lawrence E. Irell *

*Deceased

Mr. Dave Jones
State Assembly Judiciary Committee
State Capitol-P.O. Box 942849
Sacramento, CA 94249-0009

Dear Chairman Jones:

The Board of Governors of the Beverly Hills Bar Association has requested that the attached letter, from Executives of California Lawyers Association (ECLA) to the State Bar of California dated July 8, 2008, be forwarded to you for your information. The Beverly Hills Bar Association is in support of this letter.

Specifically, the ECLA letter responds to a proposal by the State Bar of California to launch a "Find a Lawyer" project. It appears to be a proposal to create a Lawyer Referral and Information Service. This is highly unusual for a State Regulatory Organization to do.

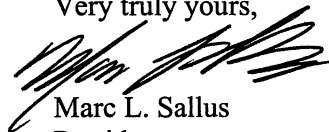
Traditionally, only voluntary bar associations in California have provided Lawyer Referral and Information Services (LRIS) to the public, as authorized and regulated by the State Bar. Such proposal therefore raises a number of serious concerns regarding the propriety of the State Bar competing with, while at the same time regulating, voluntary bar associations in the area of lawyer referral services.

Following a meeting between representatives of ECLA and the State Bar on July 7, 2008, and the submission of the attached letter, the State Bar responded on July 11, 2008 informing ECLA that a task force had been appointed to review and address the issues raised by ECLA and that, pending completion of such review, the rollout of the "Find a Lawyer" project would be delayed. **We believe such a project should be abandoned.**

This letter is to inform the Legislature, and all interested parties, of the Beverly Hills Bar Association's position.

Thank you for your attention to this matter.

Very truly yours,



Marc L. Sallus
President

MLS:jbb

Enclosure

Cc: Ex Comm

ECLA (via email)

Stuart Forsyth, E.D., LA County Bar Assn.

CA State Bar Board of Governors

Judy Johnson, CEO, CA State Bar

Ms. Carol Madeja

P.O. Box 7277 • 300 S. Beverly Drive, Suite 201, Beverly Hills, CA 90212

phone: 310.601.2422 • fax: 310.601.2423 • www.bhba.org

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July 24, 2008

Letter to State and Senate Judiciary Committees re BHBA support of ECLA position on the State Bar
"Find a Lawyer" Project

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Executives of California Lawyers' Associations

"Supporting California Legal Associations to Improve the Legal Profession and the Administration of Justice"

July 8, 2008

Ms. Carol Madeja
Director, Bar Relations Outreach
The State Bar of California
1149 S. Hill Street
Floor 7
Los Angeles, CA 90015-2212

Re: Proposed State Bar "Find a Lawyer" Web site

Dear Carol:

This letter is written on behalf of Executives of California Lawyers' Associations (ECLA), which is the professional membership organization of executive directors of California bar associations.

Its purpose is to codify our serious concerns about the "Find a Lawyer" project, request that it not be implemented until our concerns have been addressed and further request that we have an opportunity to be present at any Board meeting at which the project is discussed.

Background

As you know, most in our organization first learned of the existence of the "Find a Lawyer" project at our annual retreat meeting in Santa Barbara on May 16-17, 2008, although a few of our members attended a District 3 lunch meeting on April 16, 2008 where the project was discussed. At our retreat, we were told that it was an initiative to provide non-dues revenue for the State Bar.

The project also was discussed with representatives of several of California's lawyer referral services at a meeting in Los Angeles on June 6, 2008. At that time they were told that it was not a revenue initiative, but rather an initiative to provide information to the public.

Naturally, we were confused and concerned about these different articulations of the purpose of the project.

Soon after first learning about the project, I called Judy Johnson to request a meeting to clarify and discuss it, which she kindly agreed to and arranged on July 7, 2008. At the time of my call, Judy indicated that significant IT funds already had been spent in developing the software for the "Find a Lawyer" Web site, and that a complex and comprehensive roll-out to both lawyers and the public was being planned for the period from the end of summer through the end of the year.

Yesterday's Meeting

Thanks to you and other State Bar representatives for meeting in person with us yesterday to discuss the "Find a Lawyer" proposal and its impact on lawyer referral services and county bar associations. We very much appreciate the opportunity to explore these issues with you.

The meeting was very helpful in clarifying the purpose and nature of the project.

But it stopped short of any resolution or even any assurance that our concerns would be addressed.

The fact that 12 executive directors took the time, trouble and expense to meet with you—10 of them in person in San Francisco—indicates the seriousness with which we view the concerns that we expressed. While we genuinely appreciate being heard, we seek impact, not an audience.

Summary of Our Requests

We respectfully request that:

1. The “Find a Lawyer” project not be implemented until our concerns have been addressed, and
2. We be notified of the time and place of any meeting at which the project will be discussed with the Board or a Board Committee so we can make arrangements to be present and participate, if at all possible.

Summary of Our Concerns

While yesterday’s meeting was helpful in clarifying exactly what the project is, we still have the following serious concerns about it:

- Potential harm to:
 - The public
 - The State Bar certified lawyer referral services
 - The local bars that run lawyer referral services
 - The public service programs that are supported by lawyer referral services
- Abandonment of the State Bar’s long-standing position that it “cannot give you legal advice or refer you to an attorney.”—State Bar Web site
- Abandonment of the State Bar’s traditional role of protecting the public by failing to incorporate into the “Find a Lawyer” Web site those public protection measures that the State Bar requires lawyer referral services to provide
- Conflicts of interest:
 - Between the State Bar’s role as a regulator of lawyer referral services and a de-facto competitor of such services if this project goes forward in its current form
 - Between the State Bar’s duty to protect the public by effectively regulating lawyers and its desire to promote individual attorneys by marketing them via “Find a Lawyer” and perhaps raise money from them as well

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- Between the State Bar's duty to discipline miscreant lawyers and its desire to provide a member benefit to all attorneys by advertising them to potential clients
- That the lawyer referral services and the local bars that operate them, both of which may well be seriously impacted by this project, were informed of it only after significant work (including IT development) had been put into it
- That the State Bar may not have realized and thought through all of the consequences of the project
- What all of this means for the future of the mutual support and cooperation that the State Bar and the local bars traditionally have enjoyed

The State Bar's Historical Fostering of and Rationale for Certified LRS Programs

As you know, many of California's bar associations created and now operate lawyer referral and information services at the request of the State Bar. The State Bar regulates them and collects fees for doing so.

In 1946, the State Bar approached The Bar Association of San Francisco, and presumably other county bar associations, requesting that they establish lawyer referral programs, particularly to serve returning veterans. The first LRS in California was established by the Los Angeles County Bar Association in 1937.

In 1955, as the concept took root and more programs began operating, the State Bar's Board of Governors established a Committee on Legal Aid and Lawyer Referral Service. This committee developed guidelines and operating procedures for LRS programs, which were adopted by the Board of Governors and approved by the California Supreme Court in 1956. The standards emphasized the State Bar's commitment to promote the lawyer referral system and to uphold the public service purpose of lawyer referral services. (This from a memo dated November 5, 1986 to the State Bar's Board Committee on Legal Services from Office of Legal Services staff.)

Ever since, the State Bar has continued to provide support to LRS programs. The Minimum Standards, then voluntary, were regularly modified and strengthened, with public service and consumer protection as paramount concerns. During the early 1980's, State Bar staff provided direct assistance to local bars in the areas of program development, marketing, and compliance with the Minimum Standards. At least as early as the 1970s, the State Bar's Committee on Lawyer Referral Services presented an annual workshop for LRS program directors and others. These continued until the late 1990s. The State Bar's Program Development staff continues to provide some assistance to lawyer referral programs, such as maintaining a listserv and providing summaries of ABA LRIS workshops to programs around the state. In 2005, the "Statement of Chargeable and Nonchargeable Expenses for the Year Ended December 31, 2005 and Independent Auditors' Report" described the efforts of State Bar staff to enhance the delivery of civil legal services to the public as "...working with legal services providers and bar associations to provide a variety of public service programs, including: pro bono legal services programs, lawyer referral services, pro per clinics, community based resolution centers and programs to improve access to the courts."

The State Bar has also collaborated with the legislative branch to strengthen lawyer referral programs. In 1986, the State Bar, through its Standing Committee on Lawyer Referral Services, proposed legislation to require all lawyer referral services to operate in conformity with the Minimum Standards. In 1987,

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Business and Professions Code Section 6155 was passed without opposition by the legislature and signed into law. The State Bar then established mandatory minimum standards for LRS programs. The existing standards were revised and strengthened by the Standing Committee on Lawyer Referral Services and approved by the Supreme Court in 1989.

The State Bar undertook to enforce the Minimum Standards, holding a meeting in Los Angeles on November, 1990, which included the drafters of the legislation, representatives of various law enforcement agencies, and the Standing Committee on Lawyer Referral Service. At this meeting, representatives of the State Bar outlined a five-point enforcement plan, including the goal of seeking stronger and/or corrective legislation. In response to problems with the enforcement of the original legislation, Business and Professions Code Section 6155 was amended in 1992 to strengthen the consumer protection intent of the original bill.

Once State Bar certification was mandated, the Minimum Standards were upgraded several times. The most recent version became effective January 1, 1997, entitled Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services Including Minimum Standards for a Lawyer Referral Service in California. Rule 3 defines the policy of the State Bar regarding Lawyer Referral Services as follows:

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Bar Association

Request to Delay Implementation in Order to Address Concerns

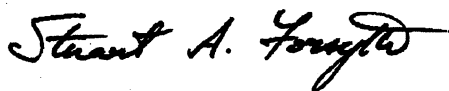
The State Bar has a long and proud tradition of protecting the public and facilitating access to legal services by fostering the creation and success of California's lawyer referral services. Today, that tradition is in jeopardy.

We believe inadequate consideration has been given to the serious negative impacts that the "Find a Lawyer" project is likely to have on certified lawyer referral services and the bar associations that run them. Properly crafted, the "Find a Lawyer" project could serve the public and support the existing network of lawyer referral services, rather than destroy them.

We respectfully request that you pause and take time to meaningfully address our concerns. The end result will be better for all concerned, including the State Bar and the public it serves.

Thank you in advance for your kind consideration of this request.

Sincerely yours,



Stuart A. Forsyth
President
Executives of California Lawyers' Associations

Writer's direct contact information:

sforsyth@lacba.org

213-896-6424

c/o Los Angeles County Bar Association
261 S. Figueroa St., Suite 300
Los Angeles, CA 90012

cc: Richard Frankel
Patricia White
Judy Johnson
LRS Programs
ECLA Members

Stuart Forsyth
President
Los Angeles County
Bar Association

Maria Elousu
President Elect
Santa Barbara County
Bar Association

Robynn Gaspar
Treasurer
Marin County
Bar Association

Deborah Kemper
Secretary/Membership
San Mateo County
Bar Association

Ann Wassam
Immediate Past President
Alameda County
Bar Association

James Penrod
Chair, Find A Lawyer Task Force
The State Bar of California
Board of Governors

August 26, 2008

Dear Mr. Penrod,

As the President of the Santa Clara County Bar Association (SCCBA), I thank you for chairing the State Bar Board of Governors' Task Force that is focusing on the scope and implementation of the "Find a Lawyer" project. We understand your Task Force is considering a recommendation to include information attorneys would voluntarily furnish that would be available to the public, searchable by location and/or practice area, through the Find a Lawyer project. For the reasons set forth below, the SCCBA strongly opposes this recommendation.

First, allowing attorneys to furnish information about their practices that would be invited by the State Bar and accessed through the Find a Lawyer project would create a conflict of interest within the State Bar. One of the primary and perhaps most significant roles of the State Bar is public protection, which it fulfills by, among other activities, attorney regulation and regulation of lawyer referral services. The State Bar's sponsorship of a program that would provide unregulated attorney advertisements to the public would necessarily conflict with the State Bar's role in regulating attorneys. In the starkest terms, the State Bar could very well facilitate and sponsor conduct by attorneys that could be disciplined by the State Bar for that very same conduct. The inherent conflict of interest will be heightened further if attorneys pay the State Bar for enhancements to their profiles. In that case, attorneys would be paying the State Bar for activities that could be sanctioned by the State Bar.

Second, Find a Lawyer will unfairly compete with State Bar certified lawyer referral services, including those supported by local bar associations. As you know, a bar association cannot sponsor a lawyer referral service without the State Bar certification. This certification was driven by the State Bar's mission to ensure lawyers serving the public would meet minimum qualifications in providing services in particular practice areas and by its desire that such lawyers have liability insurance. If the Find a Lawyer project is launched with attorney advertising, members of the public could hire lawyers through a lawyer referral service abiding by restrictive (yet sensible) requirements for certification, or through advertisements posted on the unregulated State Bar Find a Lawyer service. Find a Lawyer could very well put the regulated lawyer referral services out of business by the State Bar's own unregulated advertisements.

To ameliorate the State Bar's inherent conflict of interest and its ability to unfairly compete against bar association lawyer referral services, we understand the Task Force is considering "layering" the search pages of the website so that the initial page provides information about lawyer referral services, including language that encourages the public to use lawyer referral services, and at the same time disclaims the accuracy of the attorney advertisements. The SCCBA opposes this proposal, as it would only underscore the problems that would be caused by the Find a Lawyer project. The "layering" approach really says to the public: "The State Bar encourages you, the consumer, to use a lawyer referral service because they are regulated and are required to provide attorneys who meet certain minimum qualifications and who carry liability insurance. Nevertheless, if you click here, the State Bar will provide information about attorneys that it does not guarantee is

accurate, and you will be able to contact attorneys who do not necessarily meet acceptable minimum qualifications or carry liability insurance."

The solution to the problems that would be created by the Find a Lawyer project would be to eliminate its advertising component. We wholeheartedly support the State Bar doing more to encourage the public to use lawyer referral services and providing to the public basic information about each licensed attorney, including disciplinary actions, that is searchable by location and practice area. Those activities are consistent with the State Bar's regulatory role. The problems crop up when attorneys are allowed to provide additional information that may be inaccurate and may result in the public being deceived, even though it has the endorsement of the State Bar.

The SCCBA therefore supports enhancing the ability of the public to access lawyer referral services and to search for the names of California attorneys, but it strongly opposes allowing those attorneys to place advertisements on the State Bar website accessible to the public by location and/or practice area.

Very truly yours,
Thomas E. Kuhnle
President, Santa Clara County Bar Association

cc Task Force members
ECLA List Serv
Judy Johnson, State Bar of California
Pat Lee, State Bar of California
Rodney Low, State Bar of California



**ORANGE COUNTY
BAR ASSOCIATION**

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September 9, 2008

James Penrod, Esq.
Chair, Find A Lawyer Task Force
The State Bar of California
Board of Governors

RE: Proposed State Bar "Find a Lawyer" Web Site

Dear Mr. Penrod,

As the President of the Orange County Bar Association, I appreciate your chairmanship of the State Bar Board of Governors' Task Force regarding the "Find a Lawyer" project. I am writing to convey OCBA's joinder in the views expressed by the Executives of California Lawyers' Association's July 8, 2008 letter to Ms. Carol Madeja. In short, the OCBA emphatically opposes the Find A Lawyer project.

It is our understanding that the Find A Lawyer project will promote attorney direct advertising to the public through the State Bar of California website. We are concerned with the impact that this proposed project will have on the public, State Bar Certified Lawyer Referral Services, and the public benefit legal service providers that receive much needed support from the revenues generated by such lawyer referral services.

The State Bar's regulation of lawyer referral services provides a critical public benefit. In Orange County, our Lawyer Referral and Information Service ("LRIS") ensures that members of the public receive referrals to attorneys who maintain malpractice insurance, meet educational and experiential requirements for practice in the referral area, and are accountable to their clients. Our LRIS also serves as a screening mechanism for clients who qualify for pro bono or discounted legal services. In short, the local bar association referral services provide a substantial benefit for the public in our communities.

In addition to the direct public benefit provided by these services, the revenue from these non-profit operations is granted to worthy local community pro bono programs, such as the Public Law Center (the "PLC"), Orange County's pro bono law firm. The PLC is committed to providing access to justice for low income residents.

Local bar association's non-profit lawyer referral services are already competing with commercial services and the yellow pages. They should not also have to compete with the State Bar of California, the body that regulates these services.

OCBA Letter Re Find A Lawyer Website

September 9, 2008

Page 2

Finally, the State Bar of California, as the principal regulator of the practice of law, should not also be a commercial vehicle for lawyer advertising. This project may damage public confidence in the legal system and the State Bar of California.

The OCBA respectfully requests that the Task Force delay any decision or implementation regarding the Find A Lawyer Project until public hearings can be held in both Northern California and Southern California to address the impact that the proposed program will have on the public and local bar associations. Thank you for considering the Orange County Bar Association's views on this project.

Very truly yours,

ORANGE COUNTY BAR ASSOCIATION

A handwritten signature in cursive script that reads "Cathrine Castaldi".

Cathrine Castaldi
2008 President

cc Task Force members
ECLA List Serv
Judy Johnson, State Bar of California
Pat Lee, State Bar of California
Rodney Low, State Bar of California
Carol Madeja, State Bar of California

From: Madeja, Carol

Sent: Monday, September 15, 2008 5:21 PM

To: Low, Rodney

Subject: FW: ECLA FW: CA[LRS]: Update on the Find A Lawyer Initiative at The State Bar of California: Draft FAL Mock Screen Shots for Board Consideration
And the beat goes on.

From: webzeal@web-zealot.com on behalf of Deborah Kemper

Sent: Mon 9/15/2008 4:47 PM

To: ecla@web-zealot.com

Subject: RE: ECLA FW: CA[LRS]: Update on the Find A Lawyer Initiative at The State Bar of California: Draft FAL Mock Screen Shots for Board Consideration

Why can't we change this language to read as follows:

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

"Need a lawyer? We can help. 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". But you can use the State Bar's attorney search service to locate an attorney by name, bar number, legal issue or legal specialty.End of Video.

From: webzeal@web-zealot.com [mailto:webzeal@web-zealot.com] **On Behalf Of** Stuart A. Forsyth

Sent: Monday, September 15, 2008 3:46 PM

To: ECLA listserv

Subject: ECLA FW: CA[LRS]: Update on the Find A Lawyer Initiative at The State Bar of California: Draft FAL Mock Screen Shots for Board Consideration

FYI. This was just sent by the State Bar to its LRS listserv.

--

Stuart A. Forsyth

Executive Director

Los Angeles County Bar Association

261 South Figueroa Street, Suite 300

Los Angeles, CA 90012

Direct (213) 896-6424

Fax (213) 613-1315

<file:///V:/2008/Find%20a%20Lawyer/>

www.lacba.org

----- Forwarded Message

From: Rodney Low <<file:///V:/2008/Find%20a%20Lawyer/>>

Reply-To: Rodney Low <<file:///V:/2008/Find%20a%20Lawyer/>>

Date: Mon, 15 Sep 2008 15:44:29 -0700

To: Lawyer Referral Services <<file:///V:/2008/Find%20a%20Lawyer/>>

Cc: Judy Johnson <<file:///V:/2008/Find%20a%20Lawyer/>>, "Hart, Matthew"

<<file:///V:/2008/Find%20a%20Lawyer/>>, "Beitiks, Kathleen"

<<file:///V:/2008/Find%20a%20Lawyer/>>

Subject: CA[LRS]: Update on the Find A Lawyer Initiative at The State Bar of California: Draft FAL Mock Screen Shots for Board Consideration

(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/lsearch.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 <file:///V:/2008/Find%20a%20Lawyer/>.

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.

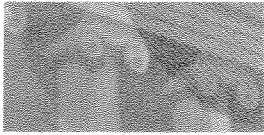
Deadline for Comments: Provide your comments, suggestions, and feedback to Rodney Low at <file:///V:/2008/Find%20a%20Lawyer/> **by Friday, September 19, 2008, noon**, so the Board of Governors can compile them for consideration.

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

Rodney Low, *Program Developer*
The State Bar of California
180 Howard Street,
San Francisco, CA 94105
Tele:415/538-2219
Fax:415/538-2552
Email: file:///V:/2008/Find%20a%20Lawyer/

You are currently subscribed to lrs as: file:///V:/2008/Find%20a%20Lawyer/.
To unsubscribe send a blank email to file:///V:/2008/Find%20a%20Lawyer/

----- End of Forwarded Message



September 17, 2008

Board of Governor Members
State Bar of California

Re: Proposed "Find a Lawyer" Project

Dear Governor,

As the President of the Santa Clara County Bar Association (SCCBA), I thank you for the opportunity to address the Board of Governors both in writing and, hopefully, at your meeting on September 24, 2008, regarding the "Find a Lawyer" project. While I communicated much of this to the special Task Force established to review issues related to the project, I do not believe that the conflict of interest concerns were adequately addressed. The conflict of interest inherent in this project is the primary reason the SCCBA strongly opposes including "enhanced attorney profiles" as part of the service.

The SCCBA supports and applauds the State Bar for developing a public information web site. Such a site can be an effective and needed vehicle to provide legal consumers with important legal information, including how to find and hire a qualified attorney and to obtain essential information about attorneys, such as their most recent contact information and disciplinary history. In meeting these public interest objectives, the public web site provides the State Bar an excellent opportunity to promote and feature State Bar certified lawyer referral services. Lawyer referral services are regulated by the State Bar and must pay the State Bar a percentage of the lawyer referral service gross income each year for the privilege of being certified. We strongly recommend that the development and implementation of the public web site be done in such a manner that it supports and advances the very public services the State Bar regulates, especially non-profit lawyer referral services as sponsored by local bar associations.

While a State Bar web site with contact information and disciplinary histories can benefit the public, allowing attorneys to provide "enhanced" profiles (which amount to advertising) presents substantial risks. Those risks are generated by two sets of conflicts of interest. First, allowing attorneys to advertise on a web site designed, hosted and endorsed by the State Bar would directly conflict with the State Bar's mandate to regulate attorneys. One of the primary and perhaps most significant roles of the State Bar is public protection, which it fulfills by, among other activities, attorney regulation and regulation of lawyer referral services. The State Bar's sponsorship of a program that would provide unregulated attorney advertisements to the public would necessarily conflict with the State Bar's role in regulating attorneys. In the starkest terms, the State Bar could very well facilitate and sponsor conduct by attorneys that could be disciplined by the State Bar for that very same conduct. The inherent conflict of interest would be heightened further if attorneys pay the State Bar for the advertising enhancements to their profiles. In that case, attorneys would be paying the State Bar for activities that could be sanctioned by the State Bar.

Second, allowing attorneys to advertise on the State Bar website poses a direct conflict of interest between the State Bar's regulation of Lawyer Referral Service ("LRS") entities (which LRS entities pay for) and, in turn, its proposed facilitation of unregulated advertisements that would take

accurate, and you will be able to contact attorneys who do not necessarily meet acceptable minimum qualifications or carry liability insurance."

The solution to the problems that would be created by the Find a Lawyer project would be to eliminate its advertising component. We wholeheartedly support the State Bar doing more to encourage the public to use lawyer referral services and providing to the public basic information about each licensed attorney, including disciplinary actions, that is searchable by location and practice area. Those activities are consistent with the State Bar's regulatory role. The problems crop up when attorneys are allowed to provide additional information that may be inaccurate and may result in the public being deceived, even though it has the endorsement of the State Bar.

The SCCBA therefore supports enhancing the ability of the public to access lawyer referral services and to search for the names of California attorneys, but it strongly opposes allowing those attorneys to place advertisements on the State Bar website accessible to the public by location and/or practice area.

Very truly yours,
Thomas E. Kuhnle
President, Santa Clara County Bar Association

cc Task Force members
ECLA List Serv
Judy Johnson, State Bar of California
Pat Lee, State Bar of California
Rodney Low, State Bar of California

Executives of California Lawyers' Associations

"Supporting California Legal Associations to Improve the Legal Profession and the Administration of Justice"

Date: September 17, 2008
To: Members of the State Bar "Find a Lawyer" Task Force
Fr: Stuart A. Forsyth, President, Executives of California Lawyers' Associations
Re: **Requested Comments on September 10th Redesign**

Ladies and Gentlemen:

This memorandum is written on behalf of Executives of California Lawyers' Associations (ECLA), which is the professional membership organization of executive directors of California bar associations.

As you know, at the second Task Force meeting in San Francisco on September 10, 2008, the staff presented a major redesign of the proposed website. None of us really had an opportunity during this short meeting to absorb and reflect on all of the changes that had been made.

You asked me to seek ECLA's comments on the redesign, and the purpose of this letter is to respond to that request and convey ECLA's:

- Continuing concerns about the implementation,
- Specific recommendations for resolving them, and
- Request that this project not be presented to the Board of Governors for approval (even in concept) at its meeting in Monterey next Wednesday, September 24th, because it is not yet ready for Board action.

Summary of ECLA's Recommendations

While a number of improvements have been made, the September 10th redesign still contains a critical flaw, and further changes are recommended.

ECLA commends and wholeheartedly supports the State Bar in developing a separate website to serve as an information clearinghouse for the public. Such a website presents a tremendous opportunity for the State Bar to achieve a number of its public protection objectives, not the least of which is to provide information about how to find and hire a qualified attorney.

However, ECLA does not believe that the September 10th website redesign addresses or resolves the most significant of ECLA's concerns: highlighting and making available to the public information about State Bar certified lawyer referral services (LRS entities) before directing the public to attorney enhanced profiles (attorney advertising).

<i>Stuart Forsyth</i> President Los Angeles County Bar Association	<i>Maria Elousu</i> President Elect Santa Barbara County Bar Association	<i>Robynn Gaspar</i> Treasurer Marin County Bar Association	<i>Deborah Kemper</i> Secretary/Membership San Mateo County Bar Association	<i>Ann Wassam</i> Immediate Past President Alameda County Bar Association
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Given the importance of this project and the significance of the concerns related to LRS entities and legal services programs throughout the State, **ECLA respectfully requests that the Board of Governors postpone taking any action on the proposal until ECLA's concerns and specific recommendations have been considered and addressed in a design finalized by the Task Force.**

ECLA's Specific Concerns

As you may recall, at the first Task Force meeting on August 1st, the Task Force resolved to:

1. Emphasize the benefits of State Bar certified lawyer referral services and the protections and benefits that they afford the public by referring first to LRS;
2. Provide information about lawyers that the State Bar maintains for regulatory purposes; and
3. Only then provide unverified information that an attorney has furnished (advertisements).

The September 10th redesign still retains all three options (search for a lawyer by name, contact a certified LRS and search for a lawyer by type of legal issue) on the same page (page 6 of the September 10th draft). This fails to implement one of the Task Force's major directions, which was at its heart that the LRS option have a higher priority and more visibility than the search option.

The September 10th redesign doesn't emphasize LRS, nor direct the public to an LRS first. The public is immediately and without distinction between the three options directed to the Zip Code and legal issue search, which does not contain the public protections embodied in LRS.

ECLA's Specific Design Recommendations

1. The "Find a Lawyer" button on the home page (page 2 of the September 10th design) should link to an LRS home page, which should explain the advantages of LRS and allow selection of a California county to display the LRS programs therein in random or rotating order.
2. A new button, entitled "Check the Status of a Lawyer" should be added to the home page (page 2 of the September 10th design), which should link to the current mechanism for checking on the status of a California lawyer by name or State Bar number.
3. The search for a random list of six lawyers by Zip Code, practice area, or other criteria should be an option that is reached only after display of the LRS programs in a county (#1 above). This should use a term other than "Find a Lawyer," such as "Directory" or "Search."
4. Page 6 of the September 10th redesign should be eliminated.

5. Throughout the website, the term “State Bar certified lawyer referral service” should be used instead of just “lawyer referral service” or “certified lawyer referral service.”
6. The LRS menu category should be visible on all secondary pages of the web site, on the horizontal navigation menu, the left side navigation menu or some other clearly visible position of the web pages.
7. All information re LRS should be presented in short, bulleted sentences or phrases that are easily understood and readable by the public.
8. The disclaimer on the page of information furnished by the attorney (page 12 of the September 10th design) should be more strongly worded and displayed in bolder and larger font. Wording should be used similar to that crafted for the terms of use of the search function (page 8 of the September 10th design), specifically that “the State Bar cannot guarantee the truthfulness or accuracy of this information.” There is room for such a larger, clearer disclaimer beneath the map.
9. The terms of use that the public must agree to before using the search function (page 8 of the September 10th design) are lengthy and hard to read. Because many people simply agree to terms of use without actually reading them, this page should be separated into two: (1) a disclaimer page with larger, bolder and clearer disclaimers that the information in the profile is not prepared by, reviewed by, or verified by the State Bar and the State Bar cannot guarantee its truthfulness or accuracy, and (2) a terms of use page that includes acknowledgement of awareness of the disclaimers.
10. While there has been an expressed desire by the State Bar to provide further support for certified lawyer referral services, the nature and details of that support should be fleshed out. Perhaps some of it should appear on the this new public information website.

ECLA Assistance

ECLA would be pleased to assist the State Bar staff in redesigning the website along these lines, which would address these concerns and comport with the Task Force’s direction of August 1st.

Board Action Would Be Premature

ECLA very much appreciates creation of this Task Force and the State Bar’s commitment that “[t]he Task Force recommendations will be shared and discussed with ECLA before any final action.” Letter to ECLA President, Stuart A. Forsyth, from Judy Johnson, dated July 11, 2008.

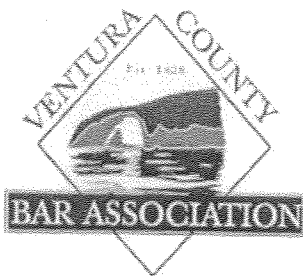
Thus, we do not understand the need for Board action at this time. The design has not been finalized; and if it has, the Task Force has not reviewed and discussed it. In this case, the design and implementation details are critical.

It is important that this project be done right. In order to do so, adequate time must be spent and feedback must be sought and considered to ensure that all relevant concerns have been addressed.

Conclusion

Care must be taken in designing this new public information website to ensure that the State Bar's long-standing support for the California lawyer referral services, which it certifies and which embody significant protections and benefits for the public, are not eroded.

Thank you for the opportunity to share these comments and recommendations. ECLA looks forward to working with the Task Force and the staff to implement them.



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Ms. Carol Madeja
Director, Bar Relations Outreach
The State Bar of California
1149 S. Hill Street
Floor 7
Los Angeles, CA 90015-2212

Re: Proposed State Bar "Find a Lawyer" Web Site

Dear Mr. Bleich, Ms. Madeja, and Assembly Member Jones:

The Board of Directors of the Ventura County Bar Association ("VCBA") has asked that I write to you to express VCBA's joinder in the views expressed by the Executives of California Lawyers' Associations ("ECLA") in their July 8, 2008, letter to Ms. Madeja, a copy of which is attached hereto. Additionally, the VCBA joins in the views expressed by the Beverly Hills Bar Association ("BHBA") in its letter to Assembly Member Jones on July 24, 2008, a copy of which is attached hereto.

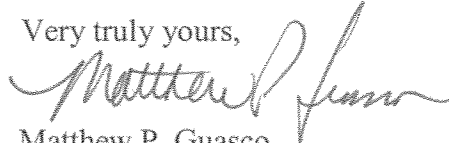
The Ventura County Bar Association strongly supports all reasonable measures promoting the protection of clients and the practices of lawyers. Connecting clients with lawyers is a good thing which the State Bar Certified Lawyer Referral Services, including that operated by VCBA, have been doing for the public for a long time. The proposal currently being explored is certain to have fiscal impacts upon State Bar Certified LRS programs throughout the State, including that operated by VCBA. At least as importantly, the current proposal has none of the client safeguards which attend certification of LRS programs, including screening and qualifications of lawyers.

In light of the potential impact of the Find a Lawyer program on existing State Bar Certified LRS programs and the clients they serve, VCBA urges the State Bar to refrain from implementing such a program unless and until a meaningful and adequate

period for receipt and thoughtful consideration of public comment occurs. VCBA concurs with both ECLA and BHBA that such a process has not yet occurred concerning this proposal. VCBA expresses its strong opposition to the current Find a Lawyer proposal unless and until such a process occurs. Sound process makes for sound policy.

Thank you for considering VCBA's views on this topic. If you would like to discuss this matter further, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew P. Guasco". The signature is fluid and cursive, with a large initial "M" and a long, sweeping tail.

Matthew P. Guasco
President, Board of Directors

cc. Board of Directors, VCBA
Steve Henderson, Executive Director, VCBA
M. Carmen Ramirez, District Six Representative



October 15, 2008

State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Re: PIC and LAAC Comments on Consumer Clearinghouse and Attorney Search Site

Dear Consumer Clearinghouse/Attorney Search Website Task Force:

I am writing on behalf of the Public Interest Clearinghouse and the Legal Aid Association of California and its legal services member organizations to express some comments and concerns regarding the State Bar of California's Consumer Clearinghouse and Attorney Search project and website.

The Public Interest Clearinghouse (PIC) is a statewide back-up center on access to justice issues for the IOLTA-funded community. PIC administers the statewide legal referral and information website, LawHelpCA.org, which for many years has served as the trusted source for referrals to legal services organizations, court-based self-help programs, public interest nonprofits, and State Bar approved Lawyer Referral Services. LawHelpCA.org assists over 200,000 unique users each year, with its comprehensive referral database and hundreds of legal information resources in multiple languages. The State Bar of California has been a vital partner in the development of LawHelpCA.org and remains a strong supporter, including most recently the joint efforts to develop and launch the new website, www.ForeclosureInfoCA.org. PIC deeply appreciates this essential support and collaborative relationship with the State Bar.

LawHelpCA.org serves the general public in California, but its focus is ensuring that low-income Californians are able to access legitimate and high-quality free legal services, thereby fulfilling an important public protection role. This role has become particularly important due to the growing number of scam artists that use the name "legal aid" or "legal services" and then charge low-income residents for services that are never delivered. PIC therefore requests that the Consumer Clearinghouse/Attorney Search website ensure that low-income residents, who are eligible for legal assistance through the legal services and public interest or pro bono delivery systems, are prompted quickly and repeatedly to use LawHelpCA.org, rather than the Attorney Search system. Therefore, PIC requests clear placement of links to and information about LawHelpCA.org throughout the Attorney Search website and that the Attorney Search home page include detailed information about the range of options for consumers, including LawHelpCA.org and local LRS's. PIC staff would very much appreciate the opportunity to participate in and serve as a resource to State Bar staff in the Attorney Search website design process to ensure that eligible clients are not improperly routed away from free or low-cost legal aid.

The Legal Aid Association of California (LAAC) is a non-profit organization founded in 1982 for the purpose of ensuring the effective delivery of legal services to low-income people throughout California. LAAC is the statewide membership organization for legal services programs. Our 2008 membership represents over 80 legal services nonprofits, as well as many individual attorneys working at such programs.

Our members provide high-quality legal services to our state's most vulnerable populations. These services to low-income and other underrepresented individuals form an essential safety net in California and often ensure that the programs' clients have access to life's basic necessities, such as food, safe and

*Public Interest Clearinghouse and Legal Aid Association of California
47 Kearny Street, Suite 705, San Francisco, CA 94108
Phone: 415-834-0100 Fax: 415-834-0202*

affordable housing, freedom from violence, health care, employment, economic self-sufficiency, and access to the legal system.

LAAC has heard from a number of IOLTA-funded member organizations that they have significant concerns about the Consumer Clearinghouse and Attorney Search Project ("the Project"). First, the Project has the potential, if not handled properly, to significantly reduce the public's use of the Lawyer Referral Services ("LRS's"), which would reduce the income that LRS's receive. Many legal services programs obtain substantial funding from LRS's. In fact, for several legal services programs, LRS funding far exceeds their IOLTA grants. To the extent that the LRS's are hurt financially by the Project, it could have the effect of reducing the available funding for legal services.

Moreover, in many areas, the local LRS is actually part of the legal services delivery system in several ways. For example, when low-income clients call an LRS, the LRS will often refer them to a legal services program. This helps protect low-income clients from being taken advantage of by attorneys who would charge them when they are entitled to free legal services. Also, in some areas of the state, for certain types of cases where legal services programs cannot provide services, the LRS guarantees low-income clients a 30-minute appointment with an attorney for a very low cost where they can obtain critical information and advice about the merits of their case.

Further, some LRS's are actually run by IOLTA-funded programs. These LRS's often train their panel attorneys and ensure that they have adequate qualifications and expertise. Many LRS's require their panel attorneys to take a certain number of pro bono and low-cost, sliding-scale cases per year. This provides a huge incentive for private attorneys to take such cases because they want the paying-client referrals they derive from being on the LRS panel. The Project could make it more difficult for legal services programs to recruit and retain panel attorneys because they could obtain paying-client referrals from the website without committing to taking pro bono and sliding-scale cases.

Because of these concerns, LAAC requests that the Task Force bear in mind the role that LRS's play in the delivery of legal services to the state's most vulnerable residents when considering the Project's components and website. It is vital that the LRS's receive dominant displays on all possible website pages, including but not limited to the home page and all searches.

Thank you in advance for the opportunity for LAAC and PIC staff to attend the next Task Force meeting on October 22, 2008. I would welcome the opportunity to answer any questions or provide any additional information that would be helpful.

Sincerely yours,



Julia R. Wilson
Executive Director



THE BAR ASSOCIATION OF
SAN FRANCISCO
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October 16, 2008

Board of Governors
State Bar of California
1149 S. Hill Street, Flr. 7
Los Angeles, CA 90015

Dear Members of the Board of Governors:

I am writing to offer my thoughts and concerns regarding the proposed “Find a Lawyer” program of the State Bar of California. I am writing in my capacity as Executive Director of the Volunteer Legal Services Program of the Bar Association of San Francisco – the largest pro bono legal services provider in San Francisco. I also sit on the State Bar’s Standing Committee for the Delivery of Legal Services, and am a board member of the national organization that facilitates internet support for lawyers doing pro bono work: ProBono.net.

At the outset I would like to recognize the State Bar’s strong leadership in the areas of access to justice for the low-income communities of California, as well as to increasing diversity in the profession. This work is nationally recognized, and we are the envy of many other states in the country when we go to conferences and talk about the legal services community’s partnership with our State Bar. I very much appreciate the commitment that the State Bar has to these issues, and the many ways in which it has made that commitment a concrete reality.

The proposed “Find a Lawyer” site on the State Bar’s web page, unfortunately, would undermine the State Bar’s excellent work in the areas of services to the community, consumer protection, and diversity in the profession. I hope you will consider this issue carefully for proceeding, as I believe there are many unintended consequences of what I’m sure is a well-meaning idea.

I would like to propose a compromise approach: that the State Bar launch the site with a searchable list of attorneys only for the counties where there are no LRS’s, and those where there are no LRS’s that the State Bar deems effective. In that way, the State Bar can determine the effects, and effectiveness, of this idea, help out the counties with no meaningful referral resources, and not jeopardize the State Bar’s partners, legal services to the poor, and efforts to diversify the profession.

Would the proposed site hurt LRS's, or help them?

Some have suggested that the "Find a Lawyer" site will actually help LRS's, by driving referrals to them. I agree that if the State Bar had a site that referred everyone only to the effective LRS's in that county, that more people would call the local LRS's. I appreciate the efforts that have been made to include referrals to, and recommendation of, LRS's on the site. But our experience suggests that when you offer people a chance to just look up a lawyer right then and there, it will be attractive. Indeed, this is the principle upon which this "Find a Lawyer" website is based. This is particularly true given that this site is sponsored by the State Bar – a recognized, credible agency that regulates attorneys and protects consumers. People will understandably expect (no matter what disclaimers are included) that a referral from the State Bar website will be reliable and reflect the State Bar's protective role for consumers.

Does the proposed site undermine the State Bar's credibility and role?

Let me address the issue of consumer protection. VLSP runs twice monthly drop-in clinics. I see first-hand each month that people often do not know what area of law their legal problem falls within. Part of the role of our clinic, and LRS's every day, is to help consumers figure that out and get speedily to the right lawyer. A website like the one proposed cannot help a consumer determine whether their issue involves probate, family law or contract, and presents the likelihood that consumers will waste valuable time and money going to see lawyers who cannot help them – in some cases missing statutes of limitation or filing deadlines while doing so.

I have heard some people argue that this is simply an issue of consumer choice: that the website will alert consumers that a better alternative would be a local LRS, and that it should be up to consumers to choose. This approach, however, ignores the crucial role that the State Bar itself plays in our highly regulated profession. We do not, in fact, have a caveat emptor approach to legal services. Lawyers must be licensed, are publically disciplined for misdeeds, and solicitation and advertising are very limited. Our fee agreements with our clients, too, are regulated. The public looks to the State Bar to ensure that certain standards are met. Consumers already have a choice – it's the yellow pages.

The State Bar itself regulates LRS's, ensuring that consumers have the protection of knowing that they are being referred to an insured attorney, one who is in good standing with the State Bar, and one that has experience in a particular area of the law. To now have the State Bar offer an alternative to those agencies, that itself contains none of the consumer protections that the State Bar requires of LRS's, is frightening, and undermines the State Bar's own articulated goals of:

To assure that the public is protected and served by attorneys and other legal services providers that meet the highest standards of competence and ethics

To assure that all people have access to high quality legal services, regardless of financial or other circumstances

To assure that the mission of the State Bar is fulfilled through effective and supportive relationships with all stakeholders.

Support for Low-income communities and diversity efforts:

LRS's are restricted in what they can do with surplus funds by the Rules and Regulations of the State Bar of California Pertaining to Lawyer Referral Services, including Minimum Standards for an LRS in California. Such funds may only be directed "to fund programmatic public services activities of the Service or its sponsoring entity including the delivery of pro bono legal services." Section 17.2. In fact, LRS's throughout the state donate, almost exclusively to legal services for the poor and to efforts to diversify the profession. Here at the Bar Association of San Francisco, for example, this year the LRS has funded those programs at a rate of \$175,000. If the revenues of the LRS were to be reduced significantly, this funding would disappear.

LRS's also screen cases for legal services programs which serve the indigent population. Some LRS's like ours, have an articulated screening and referral protocols for sending low-income clients to agencies that provide free services. Others simply refer appropriate calls to local legal services providers. LRS's are well-known in their communities, and their outreach is our outreach to our client base. Without that screening and referral, many agencies will not be able to help as many people, thereby creating an unintended barrier to necessary services. An LRS can afford to spend time doing that screening because it generates the financial resources to staff this activity. An unhealthy LRS will not be able to continue this valuable service, nor could the State Bar's site fill that gap. The quality of appropriate referrals made by an LRS is high because of this screening piece.

LRS's serve consumers holistically by referring them to governmental and social service agencies, not just legal services providers. A careful analysis of each person's situation allows them to make concrete referrals. Again, this role is jeopardized if the funding flow to LRS's is impaired.

Thank you so much for your attention. We in the legal services community very much value our partnership with the State Bar, in the arenas of expanding diversity in our profession, in providing access to justice for low-income communities, and in offering the the assurance of protection for consumers of legal services in California. We look forward to continuing our work together in these areas.

Very truly yours,

A handwritten signature in black ink that reads "Tiela Chalmers". The signature is written in a cursive, flowing style.

Tiela Chalmers
Executive Director



THE BAR ASSOCIATION OF
SAN FRANCISCO

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Daniel Burkhardt

October 20, 2008

Members of the State Bar of California
Find-a-Lawyer Task Force

180 Howard Street
10th Floor
San Francisco, CA 94105

Re: Proposed Find-a-Lawyer Web site

Dear Members of the Find-a-Lawyer Task Force:

I write on behalf of The Bar Association of San Francisco (BASF) to express our ongoing serious concerns regarding the State Bar's proposed Find-a-Lawyer Web site. BASF shares the very grave concerns already conveyed to you -- that this Web site as designed holds significant potential to harm the public, endanger access to justice programs, and gut support for efforts to diversify the legal profession in our state.

In particular, we continue to believe that, even with the disclosures and disclaimers now present on the proposed site, referring the public to unscreened attorneys who have no requirement to carry professional liability insurance would remove a crucial consumer safeguard.

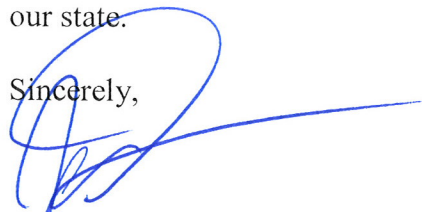
In fact, at our board meeting last week, one of our directors, a partner at a major San Francisco law firm with long and deep experience in consumer law, disclaimers and disclosures expressed alarm that the State Bar would put itself at such very serious and substantial legal and financial jeopardy. There is little question in his mind that the State Bar would be held to have a virtual quasi-fiduciary relationship to the public and would be held to a very high standard for its ads and programs. In his view, the very operation of this site by the State Bar could carry with it implied warranties that all lawyers listed in the program were minimally "safe" to use. This "safety factor" would likely include the carrying of basic malpractice insurance, plus qualification to provide service at some minimal level above and beyond just being State Bar admitted. The State Bar's brand simply is so powerful that lending its brand to the proposed referral effort would establish an enormous claim of basic safety and efficacy that would overwhelm any effort by the State Bar to contradict that assertion in a disclaimer.



THE BAR ASSOCIATION OF
SAN FRANCISCO

BASF asks that you explore, address, and respond to the concern we identify here. We also urge – in the strongest possible terms – that you and your colleagues on the Board of Governors reconsider the implementation of the proposed Web site and fully address and resolve the other serious concerns expressed by local bar associations, State Bar-certified lawyer referral services, and legal services and pro bono organizations across our state.

Sincerely,



James Donato
President

cc: Governors of the State Bar
Judy Johnson
Executives of California Lawyers' Association Members
Lawyer Referral Programs

"The Unified Voice of Legal Services"



October 31, 2008

State Bar of California
Board of Governors
180 Howard Street
San Francisco, CA 94105-163

Re: LAAC Comments on Consumer Clearinghouse and Attorney Search Site

Dear Board of Governors:

I am writing on behalf of the Legal Aid Association of California (LAAC) and its legal services member organizations to express some comments and concerns regarding the State Bar of California's Consumer Clearinghouse and Attorney Search project and website, and to request that LAAC be included in ongoing discussions regarding the website design.

LAAC is a non-profit organization founded in 1982 for the purpose of ensuring the effective delivery of legal services to low-income people throughout California. LAAC is the statewide membership organization for legal services programs. Our 2008 membership represents over 80 legal services nonprofits, as well as many individual attorneys working at such programs.

Our members provide high-quality legal services to our state's most vulnerable populations. These services to low-income and other underrepresented individuals form an essential safety net in California and often ensure that the programs' clients have access to life's basic necessities, such as food, safe and affordable housing, freedom from violence, health care, employment, economic self-sufficiency, and access to the legal system.

LAAC has heard from a number of IOLTA-funded member organizations that they have significant concerns about the Consumer Clearinghouse and Attorney Search Project ("the Project"). First, the Project has the potential, if not handled properly, to significantly reduce the public's use of the Lawyer Referral Services ("LRS's"), which would reduce the income that LRS's receive. Many legal services programs obtain substantial funding from LRS's. In fact, for several legal services programs, LRS funding far exceeds their IOLTA grants. To the extent that the LRS's are hurt financially

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www.CALegalAdvocates.org

by the Project, it could have the effect of reducing the available funding for legal services.

Moreover, in many areas, the local LRS is actually part of the legal services delivery system in several ways. For example, when low-income clients call an LRS, the LRS will often refer them to a legal services program. This helps protect low-income clients from being taken advantage of by attorneys who would charge them when they are entitled to free legal services. Also, in some areas of the state, for certain types of cases where legal services programs cannot provide services, the LRS guarantees low-income clients a 30-minute appointment with an attorney for a very low cost, allowing them to obtain critical information and advice about the merits of their case.

Further, some LRS's are actually run by IOLTA-funded programs. These LRS's often train their panel attorneys and ensure that they have adequate qualifications and expertise. Many LRS's require their panel attorneys to take a certain number of pro bono and low-cost, sliding-scale cases per year. This provides a huge incentive for private attorneys to take such cases because they want the paying-client referrals they derive from being on the LRS panel. The Project could make it more difficult for legal services programs to recruit and retain panel attorneys because they could obtain paying-client referrals from the website without committing to taking pro bono and sliding-scale cases.

Because of these concerns, LAAC requests that the Board of Governors bear in mind the role that LRS's play in the delivery of legal services to the state's most vulnerable residents when considering the Project's components and website. It is vital that the LRS's receive dominant displays on all possible website pages, including but not limited to the home page and all searches.

Thank you for allowing LAAC the opportunity to attend the Task Force meeting on October 22, 2008, as well as your meeting on November 20 and 21, 2008. It is our understanding that if the Project is approved at that meeting, there will be further discussion regarding many specific elements of the website design before it is launched. LAAC requests the opportunity to participate in the ongoing discussions of the design aspects on behalf of legal services programs.

I would welcome the opportunity to answer any questions or provide any additional information that would be helpful.

Sincerely yours,

Leslie Alexander
Staff Attorney & Program Manager

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Julia R. Wilson
Executive Director

October 31, 2008

State Bar of California
180 Howard Street
San Francisco, CA 94105-1639

Re: PIC Comments on Consumer Clearinghouse and Attorney Search Site

Dear State Bar of California Board of Governors,

I am writing on behalf of the Public Interest Clearinghouse to express some comments and concerns about the Consumer Clearinghouse and Attorney Search project and website.

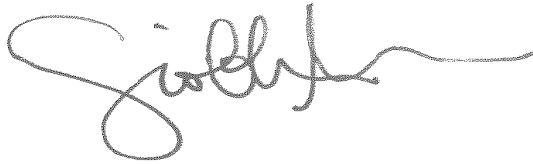
The Public Interest Clearinghouse (PIC) is a statewide support center on access to justice issues for the IOLTA-funded community. PIC administers the statewide legal referral and information website, LawHelpCA.org, which for many years has served as the trusted source for referrals to legal services organizations, court-based self-help programs, public interest nonprofits, and State Bar certified Lawyer Referral Services. LawHelpCA.org assists over 200,000 unique users each year, with its comprehensive referral database and thousands of legal information resources in multiple languages. The State Bar of California has been a vital partner in the development of LawHelpCA.org and remains a strong supporter, including most recently the joint efforts to develop and launch the new website, www.ForeclosureInfoCA.org. PIC deeply appreciates this essential support and collaborative relationship with the State Bar.

LawHelpCA.org serves the general public in California, but its focus is ensuring that low-income Californians are able to access legitimate and high-quality free legal services, thereby fulfilling an important public protection role. This role has become particularly important due to the growing number of scam artists that use the name “legal aid” or “legal services” and then charge low-income residents for services that are never delivered. PIC therefore requests that the Consumer Clearinghouse/Attorney Search website ensure that low-income residents, who are eligible for legal assistance through the legal services and public interest or pro bono delivery systems, are prompted quickly and repeatedly to use LawHelpCA.org, rather than the Attorney Search system. Accordingly, PIC requests clear placement of links to and information about LawHelpCA.org throughout the Attorney Search website and that the Attorney Search home page include detailed information about the range of options for consumers, including LawHelpCA.org and local Lawyer Referral Services.

PIC staff greatly appreciates the willingness expressed by the State Bar of California Find a Lawyer Task Force during their October 22, 2008 meeting to have links to LawhelpCA.org on the website and also allow PIC staff to be involved in the design process.

PIC thanks State Bar staff and the Task Force for the discussions so far, and that PIC welcomes the opportunity to remain involved in the website discussions and design process.

Sincerely,

A handwritten signature in black ink, appearing to read "Siobhan", with a long horizontal flourish extending to the right.

Siobhan Waldron
LawHelpCA.org Program Coordinator

From: Ellen Miller [ellen@sdcbba.org]
Sent: Tuesday, November 11, 2008 12:07 PM
To: Low, Rodney
Cc: Madeja, Carol; sj kalian; Michelle Chavez
Subject: Technical Comments re: Public Website/Find a Lawyer proposal (9/24/08)
Dear Rodney,

As a follow up from our discussion, below please find two technical suggestions regarding the State Bar of California's Public Website/Find a Lawyer proposal dated September 24, 2008:

1. Public Web Site - Home Page (see page 7, attached).

I would suggest that the forth search box titled "Search for a lawyer by type of legal issue (Enter your zip code)" be moved from the public site home page to a sub page, or the second level of display. I think people will look for a fast/quick option from this home page and searching by zip code is a fast/quick option.

Ideally, you are trying to point people to the first three search options:

- Option 1 "Search for a lawyer by name"
- Option 2 "For personal assistance, contact a certified lawyer referral service" and
- Option 3 "Search for a certified legal specialist"

If those three options are not helpful to the user, you are providing a second tier or level of search option:

Option 4 "Search for a lawyer by type of legal issue/Enter your zip code". Given this, I would suggest that it moved to second level pages. In fact, it could appear on the sub page that includes search results from the first three search options referenced above.

2. Public Web Site – LRS Video Spokesperson (see attached page 8).

Our experience is that "screening" is a sophisticated term for the public. Given this, I would suggest that the language be slightly modified to describe what "screening" really means. For example, instead of:

"Available in most counties, these services screen and match lawyers with clients. And lawyers who participate must meet certain standards", you may want to consider:

"Available in most counties, these services establish requirements for the attorneys who participate in the lawyer referral service to ensure quality. They also carefully listen to the facts of the case and link you to an attorney who would be best suited to meet your needs"

Please feel free to contact me directly if you have any questions. Thanks, Ellen

