

AGENDA ITEM

MAY 701
Find A Lawyer
(Revised 5/11/09)

DATE: May 11, 2009
TO: Members of the Board of Governors
FROM: Paul Kramer, Member, Find a Lawyer Task Force
SUBJECT: "Find A Lawyer" - Proposed Adoption of Program Recommendations
(Revised)¹

EXECUTIVE SUMMARY

At its November, 2008 meeting, the Board of Governors referred the Find a Lawyer proposal back to its task force for further discussion and refinement. Those discussions occurred but agreement was not reached on all issues. The matter returns to the Board for decision.

Task force members did agree 1) that member profiles can display a photograph, the member's address shown on a map, a link to the member's web site, and languages spoken by the member, 2) to allow advanced searches of the member database by Certified Legal Specialty and languages spoken, and 3) if members are allowed to self-designate areas of practice, they may opt out of searches of that data.

Agreement was not reached about the following issues however the Board members of the task force recommend 1) allowing a search of the member database by name or bar number directly from the home page, 2) ~~allowing advanced searches of the member database by Section membership~~, and 3) allowing advanced searches of the member database by self-designated practice area. On the question of whether to force visitors to make a search for an lawyer referral service (LRS) before they may make an advanced search of the member database, some of the Board members favor a "2-pane" approach which does require that a LRS search before conducting an advance search. Other Board members favor a "3-pane" approach which adds a link to the advanced search to the page that presents the LRS search.

¹ Changes from the original agenda item, dated May 4, are shown in underline and ~~strikeout~~ format.

BACKGROUND

At its November, 2008, meeting, the Board of Governors considered a proposal to modify the attorney search functions on the Bar's web site. Elements of the proposal included allowing the addition of data to the member records database such as self-designated practice areas, languages spoken, member photos and the member's web site address and allowing searching of the records by section membership, certified legal specialty, languages and practice areas. Prior to the Board's November consideration, concerns expressed by representatives of local bars and lawyer referral services about the proposal as it was under development by staff led to the creation of a task force, chaired by Governor Frankel. That task force was unable to come to a consensus and thus the matter came to the Board without a recommendation. The Board, after hearing extensive comment and debate, appointed an expanded task force to attempt again to resolve the points of difference. Members of the expanded task force are:

Board members: Holly Fujie, Howard Miller, George Davis, Jim Aguirre, Micha Liberty, Paul Kramer, Jeannine English

Local bar members: Stuart Forsyth (Los Angeles County Bar), Tom Kuhnle (Santa Clara County Bar), Dan Burkhardt (Bar Association of San Francisco)

The task force met several times and, after a healthy exchange of views, was unable to reach a consensus recommendation on all of the elements of the proposal. As further discussion at the task force level will not resolve the remaining differences, we return the matter to the Board for decision.

The issues are summarized below. As there was no consensus recommendation from the task force, this memorandum is written from the perspective of the Board of Governor members on the task force and conveys our recommendations. While we, [in this memo, "we" means the Board members of the task force and opinions we express may not be shared by the local bar members] describe the positions of the local bar/LRS members as we understand them, we have encouraged them to report their thoughts in a separate memo.

We will first describe the points of agreement between the Board member and local bar/LRS contingents on the task force, followed by the remaining points of disagreement. During the Board meeting, we will show mock up pages to illustrate the features.² Selected pages are attached and referred to below as "slides."³

² Traditionally the Board has not micro-managed the design or features of the Bar's web site. Due to the controversy over this project, we are asked to decide fundamental design issues such as whether a feature should be provided. While the final design may not precisely follow the illustrative mock up pages, we expect that the spirit of our discussions and decisions will be honored.

POINTS OF AGREEMENT

The task force did reach a tentative agreement that Bar member profiles (Slide 19) can include these additional elements:

- a photograph,
- the member's address shown on a map,
- a link to the member's web site (with a cautionary intermediate note that the user is leaving the Bar's web site for parts unknown), and
- languages spoken by the member.
- Certified specialty and languages spoken would be searchable via the advanced search screen. (Slide 17) If searching by practice area is allowed, members should be able to supply the information but opt out of having it be searchable.

POINTS OF DISAGREEMENT

- Requiring a search for a LRS or legal aid provider before the member records data can be searched.
- Allowing member record searches by section membership, and
- Allowing searches by self-designated practice area and displaying practice areas on the member's profile screen.

The Bar's web site currently allows a visitor to navigate directly from the home page to a screen in which an attorney's name or bar number can be entered and a list of matching names obtained. Clicking on one of the matching names brings up a "profile" listing, showing the member's mailing address, telephone and facsimile numbers, email address, colleges attended, section membership and disciplinary information. The visitor can click a link from the name/number page to go to an advanced search screen allowing searching by first, middle and last name, city, county, zip code, and bar district. Links on the home and various search pages exist for LRS but it is only after clicking one of those links is any statement of the reasons why one might use a LRS found. Consumers are given no encouragement to consider using a LRS.

Local bars believe that consumers are best served in finding a lawyer by a Lawyer Referral Service, which interviews them to learn the nature of their legal problem and then refers them to a local attorney possessing the appropriate practice area experience

³ Slide numbers are found in the lower right corner of each page. They do not begin at number 1 because they are excerpted from the set of slides that I am preparing for projection at the meeting.

or to some other source if they do not need a lawyer's assistance in order to address their problem. They are concerned that adding search features such as Section membership and practice areas to the State Bar's database would allow potential clients to bypass the LRS. Revenue from the LRS program is used to fund the LRS program and other local bar programs, including legal aid programs. Approximately 5,100 attorneys belong to a LRS panel (this compares to 164,365 active State Bar members as of April 29).

Board members of the task force agree that making consumers more aware of the benefits of consulting an LRS is appropriate, but that an appropriate balance between that goal and providing convenient search mechanisms for our members and the public who do not wish to use an LRS must be struck.

REQUIRING A SEARCH FOR A LRS OR LEGAL AID PROVIDER BEFORE THE MEMBER RECORDS DATA CAN BE SEARCHED.

To achieve their goal of maximizing consumer use of LRS, local bars propose that all attorney searches be directed to a screen which describes the reasons that the benefits of using a LRS. Only after viewing a screen of search results, would a search of the member records be allowed.

Board members of the task force believe that at least the simple search by name or bar number must be possible without first searching for an LRS. This is one of the most popular functions on the web site, used by attorneys, judges and the public to quickly look up an attorney, whether to get a phone number or check his status. Burying this simple function behind a LRS search would inconvenience members and the public and likely result in a significant volume of complaints.

To address this, we propose that the simple name/number search remain, as it is now, a direct link from the home page. (Slide 13) Searchers lacking a name or bar number would be directed to a "consumer" search page. Pop up text balloons will help visitors sort between the two search choices on the home page. (Slide 12) The consumer search page would offer a choice between searching for a LRS by County or navigating to LawHelpCalifornia.org to find a legal aid service.⁴ (Slide 14) We call this the "2-pane" approach. After making an LRS search, the option of navigating to the advanced search screen is offered (on the bottom of the search results page). (Slide 15) This approach assures that the public is exposed to and exercises either the LRS or legal aid search options before they can attempt to make their own search of the database.

⁴ Formerly, the proposed search system included a search for legal aid providers by county, similar to that proposed for LRS. The Public Interest Clearinghouse and Legal Aid Association of California requested that we direct legal aid searches to their LawHelpCalifornia.org web site. Their letters are included in the agenda materials. We already link to that page, though not as the only source of legal aid referrals. Staff has not objection.

The 2-pane approach still forces a LRS search before an advanced search of the database can be made, inconveniencing bar members, judges and members of the public who do not want to use an LRS or do not qualify for legal aid. Some of the Board members prefer to add a third pane holding both the name/number search and a link to the advanced search. (Slide 16) This “3-pane” approach continues to promote LRS and legal aid (they occupy the top portion of the page) but offers the advanced search (Slide 17) in a more convenient way. Those of us who favor the 3-pane approach feel it strikes a better balance between promotion of LRS and legal aid services to the public and convenience for our members and the courts.

ALLOWING MEMBER RECORD SEARCHES BY SECTION MEMBERSHIP.

Local bars assert that Section membership in and of itself offers no indication of an attorney’s competence to handle a legal matter. The Board members find some value in that data, however, as joining a Section does indicate a member’s interest in the practice area and will expose the member to educational materials such as Section journals. Staff also informs us that Section members are statistically less likely to be subject to discipline. We already display section membership on the profile pages; allowing searches by section would be an additional benefit of Section membership.

Following submission of our original recommendations, the officers of the Council of State Bar Sections submitted comments on the proposals. Among those comments is a request that the member database not be made searchable by Section membership; display of Section memberships on the member’s profile pages should continue, however. They are concerned that unauthorized entities might use the search function to contact Section members for commercial or other purposes. We honor the Sections’ request by withdrawing our recommendation that the member database be searchable by Section membership.

ALLOWING SEARCHES BY SELF-DESIGNATED PRACTICE AREA AND DISPLAYING PRACTICE AREAS ON THE MEMBER’S PROFILE SCREEN.

Similarly, local bars are concerned that allowing members to self-designate practice areas without the vetting that LRS apply to their panel members, offers no assurance to the public of the lawyer’s competence.

Board members believe allowing self-designation of practice areas is an important member benefit that should be offered. The proposed member profile display places this information, along with languages spoken and the member’s web site address, under a warning that “the information below was provided by the bar member and has not been verified by the State Bar.” If desired, links to information about how to choose an attorney could be included on the display, the search screen, or both.

ADDITIONAL MATERIALS.

We've avoided repeating much of the information that was provided for our November meeting; it is available in the agenda packet. In addition, we expect the local bar members of the task force will provide their own memo, as will has the Council of State Bar Sections.

RULE AMENDMENTS: "None"

BOARD BOOK/ ADMINISTRATIVE MANUAL IMPACT: "None"

RECOMMENDATION

The Board members on the task force recommend that the Board of Governors approve in concept the enhanced attorney search features as described above, that is:

1. Add a photograph, the member's address shown on a map, a link to the member's web site, and languages spoken by the member to the member profile information;
2. Allow advanced searches of the member database by Certified Legal Specialty and languages spoken in addition to the existing criteria;
3. Allow a search of the member database by name or bar number directly from the home page;
4. Adopt either the 2-pane or 3-pane approach for searches where the visitor does not know the name or bar number;
5. ~~Allow searches of the member database by Section membership;~~ and
6. Allow members to designate their areas of practice, allow searches of the member database by practice area, and allow members to opt-out of searches of their practice area data.

RESOLUTION:

If the members of the Board of Governors concur with the recommendations, it is appropriate for the Board to adopt the following resolutions. The four separate resolutions set forth below, if considered and voted upon individually, will help organize the Board's deliberations. As a matter of process for decision making, these four resolutions can be divided into two parts. Resolutions A and B deal only with changing the current member profile and permitting the same search of that profile only by known name and known number as can be done now. We recommend these two resolutions

be dealt with first. The added search functions that have been so much a focus of the discussions can then be dealt with separately in Resolutions C and D.:

Should the Board agree with the above recommendation, the following resolutions would be appropriate:

A. RESOLVED, that the Board approves the implementation of an enhanced attorney member profile design which includes the following information on member profile displays on the State Bar's website:

1. Official regulatory information that is already displayed on the member profile— Name, Bar #, Address, Telephone numbers, email address, undergraduate and law schools, Certified Legal Specialization(s), Section membership(s)
2. Self-designated areas of practice
3. Languages spoken
4. A link to the attorney's website, if any, with an interrupt page indicating that the user is leaving the State Bar's website
5. Attorney photograph
6. Attorney's address displayed on a map.

B. RESOLVED, that the user may directly conduct a search by name or bar number, but not using any other criteria, from a link on the home page and other pages.

C. [2-pane alternative] RESOLVED, that users who do not wish to search by name or bar number be directed to a screen which offers a choice of searching for Legal Referral Services by county or linking to LawHelpCalifornia.org to find a legal aid provider. The search results screen will display an optional link to an advanced search screen to search the member records.

-or-

C. [3-pane alternative] RESOLVED, that users who do not wish to search by name or bar number be directed to a screen which offers a choice of searching for Legal Referral Services by county, linking to LawHelpCalifornia.org to find a legal aid provider, conducting a search by name or bar number or linking to an advanced search screen to search the member records.

D. RESOLVED, that the advanced search referred to above shall allow searching of the member records by the elements currently available (Name, firm name, city, state, county, bar district, Certified Legal Specialization) and the following new elements:

1. ~~Section membership~~
2. Self-designated areas of practice
3. Languages spoken

Members may elect that their areas of practice, though displayed on their member profile, not be searchable using the advanced search.