

**GOVERNANCE IN THE PUBLIC INTEREST TASK FORCE  
WRITTEN RESPONSES TO REQUEST FOR INFORMATION**

Number	Name & Contact Information	Response to Request for Information	
1	Stanley Shimotsu, Acting Chief Deputy Public Defender Los Angeles County Public Defenders (213) 974-0318 <a href="mailto:sshimotsu@pubdef.lacounty.gov">sshimotsu@pubdef.lacounty.gov</a>	Email	
2	Rochelle Gelt 7108 Kilty Avenue West Hills, CA 91307 <a href="mailto:rochellegelt@yahoo.com">rochellegelt@yahoo.com</a>	Email	
3	Henry Coopersmith SBN: 43966 <a href="mailto:HJCLaw@aol.com">HJCLaw@aol.com</a>	Email	
4	Robert Suhajda SBN: 220009 <a href="mailto:Robert90701@aol.com">Robert90701@aol.com</a>	Email	
5	Dr. Jonathan H. Levy, PhD SBN: 158032 Hilton Head Island, South Carolina	Email	
6	Frederick J. Northrop, Esq. SBN: 142614 Last & Faoro 520 South El Camino Real, Suite 430 San Mateo, CA 94402 (650) 696-8367 <a href="mailto:fnorthrop@mac.com">fnorthrop@mac.com</a>	Email	
7	Priya Sanger, President The Bar Association of San Francisco 301 Battery Street, Third Floor San Francisco, CA 94111 (415) 982-1600 <a href="http://www.sfbar.org">www.sfbar.org</a>	Letter	
8	Dan F. Link, Esq. President San Diego County Bar Association 1333 Seventh Avenue San Diego, CA 92101 (619) 321-4111	Letter	
9	Tiela Chalmers, Chair Standing Committee on the Delivery of Legal Services Office of Legal Services 180 Howard Street San Francisco, CA 94105	Letter	
10	Julia R. Wilson, Executive Director Legal Aid Association of California 433 California Street, Suite 815 San Francisco, CA 94108 (415) 834-0100	Email	
11	Maria Galvan, Public	Email	
12	Hon. Ronald Robie, Chair Commission on Access to Justice, State Bar of California 180 Howard Street San Francisco, CA 94105 (415) 538-2251	Email	

13	John C. Hueston, President Orange County Bar Association P.O. Box 6130 Newport Beach, CA 92658 (949) 440-6700	Email	
14	Robin Peluso robinapeluso@gmail.com	Email	

**Anderson, Amy**

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**From:** Stanley Shimotsu [sshimotsu@pubdef.lacounty.gov]  
**Sent:** Monday, January 10, 2011 4:37 PM  
**To:** Anderson, Amy  
**Cc:** 'Ronald L. Brown'  
**Subject:** State Bar of California Governance in the Public Interest Task Force

To:  
Amy Anderson  
Office of the General Counsel  
180 Howard St.  
San Francisco, CA 94105

Dear Ms. Anderson:

Thank you for the opportunity to provide the Los Angeles County Public Defender's insight into the issues presented by the Governance in the Public Interest Task Force.

We do not believe that the inquiry into the structural underpinnings of the Board of Governors is critical at this point in time to the Legislature's desire to receive recommendations to enhance the protection of the public. We can easily answer questions 2 through 7 by telling you that the current structure and selection/election process is adequate and does not need to be changed.

Question 8 is more relevant. The Bar needs to do a much better job of opening itself to public scrutiny. The Bar's operation and decision-making process is still rather opaque. Most lawyers feel that they are not really a part of the Bar (other than as mandated by law), and their interests are not considered by the Bar.

The Bar has the ability and means to open itself to its members and the general public. The public is better served, and better protected, when the Bar is fully transparent, communicates its decision-making processes, and invites input from the "lawyer on the street" as well as the "person on the street." We urge the task force to consider transparency as an important issue to be investigated and addressed as part of the report to the Legislature.

Consequently a question arises as to whether the public is protected through a change in the governance structure; therefore how one defines "public protection" is essential. Defining what is meant by "public protection" is important because political ideology may color a person's viewpoint. For example, there are those who maintain a philosophical opposition to class-action lawsuits. This philosophy would lead to the

argument that the public needs to be “protected” from those types of lawsuits and the lawyers who prosecute them. To avoid this type of ideologically-based discussion, “protection” should be objectively quantified to the extent practicable.

The Bar has done admirable work in many areas, including mandatory continuing legal education, substance abuse programs, evaluation of judicial candidates, and diversity initiatives. On the other hand, there is always concern about the Bar’s discipline system. A fair and transparent discipline system is critical to the protection of the public. Even though the attorney discipline system needs serious improvement, we believe that it is the Bar that must undertake to improve the discipline system (with appropriate input from interested persons) and that attorney discipline must remain with the Bar. The discipline system must be strictly non-partisan, based upon quantifiable standards of attorney performance. Although the Bar does have a political component, the Bar has maintained the discipline system as solidly non-partisan. This must continue and the Bar is in the best position to maintain the integrity of the discipline system.

The average lawyer wants nothing to do with the Bar beyond paying the mandatory dues and doing the mandatory CLE. The average lawyer fears the Bar’s discipline system, not because they are bad lawyers or are misbehaving, but because it is widely perceived as being arbitrary and tending to go after the wrong people. The perception is that the bar targets the little guy who cannot afford the cost of mounting a full defense.

In criminal law, a perception is that the Bar rarely disciplines errant prosecutors. The October, 2010, study “Preventable Error: A Report on Prosecutorial Misconduct in California 1997-2009” plainly states that although protection of the public is one of the primary purposes of the disciplinary system, the Bar “has not been achieving these purposes in the case of prosecutorial misconduct.” The study reports that the Bar rarely publicly disciplines prosecutorial misconduct and that “the facts of disciplinary failure are undeniable.”

This is not to say that prosecutorial misconduct is rampant – in fact it is not. The vast majority of prosecutors, like the vast majority of attorneys in general, are competent, ethical, honorable professionals doing their very best. But prosecutorial misconduct does exist and, when it occurs, results in unfair prosecutions, unlawful convictions, and the loss of freedom.

The discipline process needs to be re-examined with the understanding that it may have to be changed. The discipline process has been perceived as being unfair in many respects. Bar prosecutors are seen as going after low-level offenders while not being as aggressive toward big-firm lawyers and public prosecutors. Attorneys are perceived as being disciplined for matters having little or no connection to the practice of law or for matters which need correction, not discipline. The fact that lawyers have to pay for their own prosecutions causes some (if not many) to accept discipline simply because they cannot afford to pay for their trial – this does not achieve justice and is unseemly. In addition, the punishment imposed is often seen as arbitrary, lacking proportionality to the offense.

We are hopeful that the task force will broaden its inquiry and consider the matters discussed in this letter. Once again, thank you for the opportunity to provide this insight.

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Stanley Shimotsu  
Acting Chief Deputy Public Defender  
Executive Office  
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FAX: (213) 625 5031  
EMAIL: SShimotsu@pubdef.lacounty.gov

## Anderson, Amy

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**From:** Rochelle Gelt [rochellegelt@yahoo.com]  
**Sent:** Thursday, December 16, 2010 9:47 AM  
**To:** Anderson, Amy  
**Subject:** Cal Bar Task Force Recommendations

Dear Amy,

I first want to thank you all, for understanding that input for a reconstruction of the California Bar Association panel is needed drastically. Litigants who feel attorneys violated their oaths, committed perjury, and acted in a manner that is unethical, have little to no confidence in the current handling of complaints by the Bar. I do not mean to disrespect the current Bar Members, or the Board in any way, it's just that I feel business as usual will continue to lead us down the path, that far too many are complaining about now. More so, maybe the current handling of the complaints have desensitized the board, so the infractions, seem less and less actionable. That just creates more corruption.

As a forefront to my recommendations I would just like to tell a brief story about my own history with the Bar. This was a Family Law case. I sent in complaints against our appointed minors counsel, opposing counsel and the two Commissioners who heard our case.

Our minors counsel committed perjury, used threats to get me to sign a stipulation under duress by telling me if I did not sign, she would recommend the court give custody to the father, she spoke to one of the commissioners over the phone and without a hearing (no witnesses) where she admitted to this conversation on transcript in the other Commissioners courtroom. (there was more)

Opposing counsel committed perjury, had a conflict of interest in that his minor son was a classmate of our child. He attempted on several occasions to approach our child, once with a cell phone in hand, which appeared to our child to be an attempt to put the father and the child on the phone together. (All on transcript) There was more as well.

These were unfounded, or unsubstantiated by the bar as some kind of violation. My complaint was even misread, and misquoted, so the response made no sense to me. I wondered if anyone actually even read the complaint. The last complaint I sent, was during email communications with minors counsel, of which I had more proof to send of unethical behavior, but when I sent the second half, it was "untimely" and I was told to file with the appeals board. Why should litigants have to go to such lengths, educate themselves of the laws, that these attorneys should know as their career? Seriously skewed system.

However now, I now suffer from major panic and anxiety attacks, and depression. Thousands of litigants who have suffered as a direct result of attorney abuse, and legal abuse, suffer this. WHY?

My recommendations are as follows.

- 1) All complaints filed against attorneys should be visible to the public, via their Cal Bar web page. Currently the Bar only shows actions filed, not the number of complaints. That is not truthful reporting, and is more misleading in searching attorney history's. The number is important, and needs to be reported.
- 2) There should be some kind of action taken against attorneys, who within a year, have five or more complaints filed. Perhaps a suspension or place them under probation for 60 days. If the complaints all have the same tone, more than likely, these attorneys have been guilty of misrepresenting cases or acting against the oath.
- 3) Current, sitting Judges should not be sitting on the Cal Bar panel. There is a clear conflict of interest, as some attorneys could be appearing before them, or involved in special groups, that the Judges are also a party to. (AFCC, CRC, Etc.) The panel should not have current attorneys either, as they may favor friends who come up in a complaint.
- 4) Richard J. Fine should be the president. His knowledge of the law, the fact that he is not affiliated any longer with the Bar, and his constant commitment to Truth and Justice would ensure an Unbiased, and proper running of the Panel. (Now I know there will be much resistance about this recommendation, but bias aside, Dr. Richard I. Fine would not have allowed the current confidence level in the Bar, to have become what it has.) He is your man, like it or not.
- 5) Litigants, citizens, and retirees, should be a part of the panel. Just as in a Jury, the President of the Bar, can explain the

laws, (or have a pre-printed, approved form) what is a violation and what to look for in the complaints. Then like a jury, a vote is taken for guilty or not.

6) Law students (who have not passed the bar), college students, or students studying criminal justice, psychology, etc., also who have not graduated should also take part on the panel. They could be given school credits, in lieu of payments for their work.

No one, currently involved in the Judicial System, a current member of Cal Bar, nor anyone appointed by the Governor should be on this panel. Bring it back to the power of the people. This current choosing of the panel isn't working, and thus, could be the main reason you are looking for suggestions now.

7) A panel of 15, including the president, should be sufficient and diverse enough to ensure a clear, unbiased, investigating team.

8) Complaints should be viewed and resolved within 60-90 days. The current continuances in court dates are running about that time, if not more, so if a violation is found, these attorneys could be taken off these cases, and replaced, which in turn might help the courts who are over worked, and overwhelmed. I believe attorneys like to drag out cases for profit. This, might stop that.

9) A transcriptionist or reporter, may be helpful in logging the meetings, to ensure true, accurate accounts, and conversations in the complaint processes. (Or video documentations of all meetings.)

Those are my thoughts on the revamping of the Cal Bar panel. I hope they are helpful and spark new life into a stale, dark system, that has perhaps aided corrupt attorneys to continue to abuse their power in our Judicial System.

Thank you all so much,  
Sincerely,

Rochelle Gelt  
7108 Kilty Ave  
West Hills, CA 91307

**Anderson, Amy**

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**From:** HJCLaw@aol.com  
**Sent:** Thursday, December 30, 2010 1:58 PM  
**To:** Anderson, Amy  
**Subject:** commentts on state bar

It seems like I pay a lot of money and receive less back in benefit that I pay in. Henry Coopersmith

**Anderson, Amy**

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**From:** Robert90701@aol.com  
**Sent:** Monday, December 20, 2010 5:10 PM  
**To:** Anderson, Amy  
**Subject:** Re: State Bar Governance Council

Thank you for the acknowledgment.

In a message dated 12/20/2010 2:54:38 P.M. Pacific Standard Time, [Amy.Anderson@calbar.ca.gov](mailto:Amy.Anderson@calbar.ca.gov) writes:

Thank you for your response to the Governance in the Public Interest Task Force. Your comments will be distributed to the Governance Task Force.

Regards,

Amy Anderson

AMY C. ANDERSON, ADMINISTRATIVE ASSISTANT TO STARR BABCOCK & CATHY TORNEY

|STATE BAR OF CALIFORNIA |OFFICE OF GENERAL COUNSEL|

PHONE: 415-538-2539 | EMAIL: [AMY.ANDERSON@CALBAR.CA.GOV](mailto:AMY.ANDERSON@CALBAR.CA.GOV)

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**From:** [Robert90701@aol.com](mailto:Robert90701@aol.com) [<mailto:Robert90701@aol.com>]  
**Sent:** Friday, December 17, 2010 4:04 PM  
**To:** Anderson, Amy  
**Subject:** State Bar Governance Council

Dear Ms. Anderson:

Fill a lawsuit on behalf of the members of the State Bar  
to prevent Legal Zoom from practicing law.

Sincerely yours,

Robert Suhajda, 220009

## **Anderson, Amy**

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**From:** Dr. Jonathan Levy [jonlevy@hargray.com]  
**Sent:** Friday, December 17, 2010 3:56 PM  
**To:** Anderson, Amy  
**Subject:** State Bar Governance comment

The State Bar disenfranchises its second largest constituency, members residing outside California who make up nearly 20% of the the total members. As the practice of law is becoming increasingly multijurisdictional, non California resident members should be given a seat on the board.

Dr. Jonathan H Levy, PhD  
Member No 158032  
Hilton Head Island, South Carolina

## **Anderson, Amy**

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**From:** Frederick Northrop [fnorthrop@mac.com]  
**Sent:** Tuesday, January 04, 2011 7:08 AM  
**To:** Anderson, Amy  
**Subject:** State Bar Governance Model

The suggestion that attorneys are over-represented on the Board can be seen in two ways. In comparison to other regulatory boards, I have to agree that the Bar is somewhat more responsive to attorney concerns. The problem is that other boards are a perverse simulation of justice. I fear that bending to political expediency will accelerate the Bar's move in this direction.

I suppose my complaint about the injustice of administrative procedure deserves some explanation. I have represented people in licensing cases. The typical complaint in these cases is a long-winded diatribe. Many of the asserted facts are never proved in court, yet the trier is presented with and expected to read it in detail. The contractor/doctor/whatever simply answers that s/he wants a hearing. The licensee is not expected to and is discouraged from presenting anything like an answer. Accordingly, the procedure is more like criminal practice and, like criminal practice, the trier of fact is frequently a veteran of the very agency who is prosecuting the licensee.

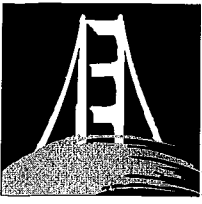
I have frequently-enough found that evidence in the case has been destroyed by the time the accusation is filed and that the board or agency has not given the licensee notice. The result here is that I am faced with an expert without a chance to have my own expert review the underlying evidence. The situation is worse in some professions. I have known doctors to be "convicted" without being allowed to even hear the complaining witnesses testimony or to cross-examine that witness.

The injustice continues as the agency frequently treats the decision as merely advisory and puts a suspension or cancellation into immediate effect while the licensee is forced to attempt to get through a writ or appeal without a livelihood. It is small wonder that licensees often take pitiful offers and smaller wonder that I advise them to do so, if they can keep their license.

Individuals being denied the opportunity to pursue their profession deserve real due process. Quite frankly, I think if political representation is increased, local bars should withdraw and the State Bar change its name.

**Frederick J. Northrop, Esq.**  
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THE BAR ASSOCIATION OF  
SAN FRANCISCO

January 21, 2011

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William N. Hebert  
President  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Re: Request for Information from the State Bar of California Governance in the  
Public Interest Task Force

Dear Mr. Hebert:

The Bar Association of San Francisco (BASF) would like to thank the State Bar of California (State Bar) for the opportunity to provide our perspective on the important issue of State Bar governance, especially in the context of public protection. BASF serves as a statewide and national model for its programs that serve the public by providing access to affordable, qualified and insured attorneys for representation in civil, criminal and juvenile law matters. We therefore welcome this opportunity to lend our experience and perspectives on public protection and offer recommendations to better ensure that the State Bar's governance structure itself places public protection as its highest priority. We do not offer recommendations on all the questions that follow; we responded only to those for which we believed we had meaningful input. We recommend that the Governance in the Public Interest Task Force (Task Force) look to the governance structures of like professional organizations, and the American Bar Association, and consult with consumer protection experts in the field, to develop and enforce identifiable measures designed to protect the public through governance structure, as well as rules specifically designed to protect the public in meaningful and effective ways beyond the State Bar's current model of governance and/or rules.

**1. What do you understand "protection of the public" to mean in the context of governance of the State Bar?**

Public protection requires the creation and effective enforcement of a governance structure and regulations, including the Rules of Professional Conduct, designed to ensure the protection of the public through the receipt of ethical, competent, and professional legal representation each time a member of the public consults or retains an attorney for legal services. While such efforts to protect



the public should include broad considerations regarding the qualifications of those who comprise the Board of Governors and staff the State Bar, specific examples of public protection should include the effective regulation of online search engines which are functioning as lawyer referral equivalents and, in light of evolving forms of legal services, the means by which such services are provided. The State Bar should also effectively regulate against deceptively advertised services.

**2. Who should serve on the board that governs the State Bar?**

- a. Given the complexity of legal issues surrounding the rules of professional responsibility, professional conduct, and discipline, the Board of Governors should continue with a majority of attorney members – independent of what the total number of members is if changed from 22. We recommend that attorney members comprise a two-thirds majority.
- b. State Bar governance will benefit from diverse perspectives that include not only smaller populations but minority or underrepresented attorneys. We recommend outreach to organizations representative of this attorney base.
- c. The Board of Governors should continue to include public members, but with affirmative qualifications required, such as experience with or background in consumer protection issues.

**3. How should each of these individuals be selected? By whom and by what criteria?**

In an effort to help ensure that the Board of Governors reflects diverse perspectives and that attorney membership is representative of diverse areas of practice, we recommend that half the lawyer members be elected by State Bar district to achieve geographic representation and half the lawyer members be appointed by the State Supreme Court.

For Supreme Court appointments, we recommend that the appointment process be publicized, and that any lawyer seeking appointment shall submit an application to serve, accompanied by up to three (3) recommendations. We believe that limiting the number of recommendations will help to level the playing field among practitioners who are interested in serving and that the application process will help to ensure that appointed members bring to the State Bar public protection perspectives.



We recommend implementing the same appointment process by the State Supreme Court for non-lawyer members, with the same requirements: an application and up to three (3) recommendations. We believe that approach will help to achieve the goal of diverse public membership and introduce a means by which to measure candidates' qualifications and views regarding public protection.

Our recommendations for the qualifications of the members, lawyer and non-lawyer, follow under question 4.

**4. What qualifications should be required for each member of the board?**

Both appointed lawyer and non-lawyer members should possess identifiable qualifications beyond a simple interest to serve. Collectively, we recommend appointments that ensure diverse viewpoints and practice area backgrounds. With respect to lawyer members, we recommend selection with an emphasis on individuals whose experience and practice areas demonstrates their interest in and qualifications for protecting consumers. We also urge that one consideration in the appointment of lawyer members be a candidate's experience with, and demonstrated commitment to, the free legal representation of low-income and disadvantaged individuals and communities. Similarly, public members should also be diverse and include those who possess a demonstrated background in consumer advocacy, consumer protection, or advocacy for or reform of laws to protect the public. Such non-lawyer individuals could be found through community based organizations that focus on issues such as consumer fraud, protection or advocacy.

Guidelines should be adopted to limit potential conflicts of interest for both lawyer and non-lawyer members.

**5. What size should the board be?**

The ratio of elected and appointed lawyer and non-lawyer members is more important than any particular board size. Similarly, the diversity and qualifications of members are more important than any particular board size. As already stated in response to question 2, we believe that, given the complexity of legal issues surrounding the rules of professional responsibility, professional conduct, and discipline, the board should continue with a majority of attorney members and that attorney members should comprise two-thirds of the board. Based upon our recommendation that half of the lawyer members be elected and half be



appointed by the State Supreme Court and that all non-lawyer members also be appointed by the Supreme Court, the ratio of elected lawyer members, appointed lawyer members, and appointed non-lawyer members would be one-third for each group.

In establishing a board size, we recommend that the Task Force compare the State Bar board to the boards of like organizations and that the Task Force seek input from experts who can recommend the size appropriate to achieve the goals of the Task Force.

**6. How long should the terms of the members (and that of the president) be?**

The term limit of three (3) years for members seems appropriate. However, while this term limit applies to both the lawyer and non-lawyer public members, public members are allowed to serve a consecutive term, or multiple consecutive terms, if re-appointed, while the lawyers are prohibited from doing so. Both lawyer and public members should be prohibited from serving consecutive terms, but should be allowed to serve another term at a later time, once a specified waiting period has been completed.

We recommend that the term of the presidency remain at one year.

**7. How should the president and other officers be selected?**

We recommend that the selection process for State Bar president be the same as it currently exists, assuming that the manner in which Board members are elected and appointed is adopted under the recommendations set forth above.

**8. What changes or other governance models may enable the board to better serve the interest of public protection?**

First and most importantly, we encourage governance that takes as its touchstone the protection of the public at large and the public as clients. We are convinced that in protecting the public, the profession will, in fact, best protect itself.

Second, to better serve the interest of public protection through its governance, the Board of Governors should continue its efforts to bring the California Rules of Professional Responsibility into accordance with the ABA Model Rules.



THE BAR ASSOCIATION OF  
SAN FRANCISCO

Finally, as noted previously, we recommend that the State Bar engage a consultant to recommend governance structures that would be effective in achieving the goal of public protection. We also believe that it is essential for the State Bar to consult like professional organizations, as well as experts on consumer protection.

Sincerely,

A handwritten signature in cursive script that reads "Priya S. Sanger".

Priya Sanger  
President



# SAN DIEGO COUNTY BAR ASSOCIATION

January 26, 2011

Ms. Amy Anderson  
Office of the General Counsel  
180 Howard Street  
San Francisco, CA 94105  
[amy.anderson@calbar.ca.gov](mailto:amy.anderson@calbar.ca.gov)

Dear Ms. Anderson:

The San Diego County Bar Association ("SDCBA") has elected to comment on the Request for Information from The State Bar of California Governance in the Public Interest Task Force, created by AB 2764. As the SDCBA understands it, the State Bar is particularly interested in and invites interested parties to "share your thoughts on the State Bar's current governance model and on ways it could be improved with a view to enhancing public protection."

The SDCBA understands the current governance model of the State Bar and has reviewed the materials provided by the State Bar in connection with its Request for Comment, as well as the materials that are included in AB 2764. In addition, the SDCBA has a history of having Board members involved at various levels of the State Bar in the last few decades, including at the Board level. The SDCBA and its Board members, past and present, either are or have become familiar with the struggles that have occurred among and between the Executive Branch, the Legislative Branch, and the Judicial Branch over the role of "enhancing public protection" by the State Bar and its members.

The SDCBA's view is that persons, who claim that attorneys are entirely "self-regulated," and thus somehow share sole responsibility for enhancing public protection for their clients or prospective clients, are incorrect. Attorneys are officers of the Court and, under a separation of powers analysis, should be and are governed by rules and regulations promulgated by the Supreme Court of the State of California, funded in a sense by the Legislature which holds the ultimate "purse strings" in the form of the State Bar's annual dues bill. The Court already does regulate the conduct of attorneys by promulgating the Rules of Professional Conduct, which is only recommended to the Court by the State Bar Board. Furthermore, such Rules are supplemented and supported by additional legislation (such as Bus. & Prof. Code Section 6068(e)) passed by the Legislature. As a further "check" on the separation of powers, the Executive Branch has the ability to appoint four members (and the Legislature, two) of the State Bar Board who do not have to be attorneys, and thus usually carry with them an important "non-attorney" point of view that assists in facilitating discussion and adoption of rules and procedures by the Board.

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As for the placement of attorneys on the Board of the State Bar, 15 are elected by active lawyers from nine geographic districts of one or more counties. This democratic and historical means of attorney representation on the Board has served the Bar well for decades and we do not see how a change to this structure would "enhance public protection," even though the SDCBA is not the largest of the districts in the state. One of the members of the Board is selected from lawyers age 36 or younger (or in practice less than five years) by the CYLA and this ensures that our newest lawyers (quickly comprising our greatest growth area) receive appropriate participation on the Board. (This is comparable to the SDCBA, where we have a "New Lawyers President" that serves on our Board). Changing this requirement would also seem irrelevant to "enhancing public protection."

With these fundamental structures in place, we believe the empirical evidence reflects the State Bar's commitment to the protection of the public. Indeed, the proffered justifications for change actually demonstrate that the State Bar acted to discipline lawyers involved in improper loan modification schemes and supported similar legislative efforts. Accordingly, the San Diego County Bar Association is not persuaded that the proposed changes, however well-meaning, will enhance the protection of the public.

Sincerely,



Dan F. Link, Esq.

President

San Diego County Bar Association

Cc:

SDCBA Board of Directors

Ellen Miller-Sharp , Executive Director



# THE STATE BAR OF CALIFORNIA

180 Howard Street, San Francisco, California 94105

OFFICE OF LEGAL SERVICES  
Standing Committee on the Delivery of Legal Services  
Chair, Tiela Chalmers, San Francisco

Telephone (415) 538-2267 Fax (415) 538-2552

January 28, 2011

William Hebert, Chair  
Governance in the Public Interest Task Force  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Dear Mr. Hebert,

The State Bar's Standing Committee on the Delivery of Legal Services (SCDLS) would like to offer these comments in response to the Request for Information from the Governance in the Public Interest Task Force.

1. On the question of the meaning of "public protection," we echo the sentiments of the Legal Aid Foundation of Los Angeles. Certainly admissions and discipline are key elements of public protection, but we also believe that efforts to expand access to justice, and to protect low and moderate income Californians from being denied access to the courts and to justice, are critical to the "public protection" function. In addition, the State Bar's certification of Lawyer Referral Services ensures that the public receives quality referrals to attorneys who have been verified by the LRS as having experience in subject matter areas and malpractice coverage.
2. On the question of the method of selection of members of the Board of Governors, we strongly support a system in which a significant portion of the members of the Board are appointed by the Supreme Court. This methodology would greatly increase the chances for attorneys working in the public interest, or with Californians of moderate income, to have a meaningful presence on the Board. We specifically recommend that there be one or more "seats" designated for public interest lawyers. We also urge that one consideration in the appointment of all lawyer members be a candidate's experience with, and demonstrated commitment to, the free legal representation of low-income and disadvantaged individuals and communities. Similarly, we suggest that public members be required to show a demonstrated commitment to working on behalf of their communities.
3. We do not express an opinion on specific proposals regarding the length of terms and term limits. However, we do believe generally that continuity is a valuable and important quality in such an important governing body. The option of a renewable second term for members and the president would be very helpful given the significant amount of time spent by the organization to bring new members up to speed on ongoing issues. We are mindful that attorneys from certain practice settings or particular geographic areas may not be in a position to commit to a second term.

4. Finally, an approach that allows an incoming president to have more notice of his or her impending appointment, and an opportunity to be trained and mentored, would be beneficial to all stakeholders.

Thank you for the opportunity to provide these comments. If you have any questions, please do not hesitate to contact me at 415-782-9000, ext. 8117 or at [tchalmers@sfbar.org](mailto:tchalmers@sfbar.org).

**Disclaimer**

**This position is only that of the State Bar of California's Standing Committee on the Delivery of Legal Services. This position has not been adopted by the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.**

Best regards,

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

Tiela Chalmers, Chair  
Standing Committee on the Delivery of Legal Services

**From:** [jwilson@one-justice.org](mailto:jwilson@one-justice.org) on behalf of [Julia Wilson](#)  
**To:** [Anderson, Amy](#)  
**Cc:** [Salena Copeland](#)  
**Subject:** LAAC: comments on the Governance in the Public Interest Task Force  
**Date:** Tuesday, February 01, 2011 4:26:56 PM  
**Attachments:** [State Bar Governance Task Force LAAC comment ltr\\_020211\\_JRW.doc](#)

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Hello Ms. Anderson -

Please find attached the written comments from the Legal Aid Association of California (LAAC) on the Governance in the Public Interest Task Force.

Many thanks,  
Julia

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[\\*\\*The Public Interest Clearinghouse is changing its name to OneJustice on March 1, 2011\\*\\*](#)

Julia R. Wilson  
Executive Director  
OneJustice and LAAC  
433 California Street, Suite 815  
San Francisco, CA 94104  
415-834-0100  
**New email!** [jwilson@one-justice.org](mailto:jwilson@one-justice.org)

Executive Assistant: Thieu Do  
415-834-0100 x 320  
**New email!** [tdo@one-justice.org](mailto:tdo@one-justice.org)

*“The Unified Voice of Legal Services”*



February 1, 2011

William Hebert, Chair  
Governance in the Public Interest Task Force  
The State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Dear Mr. Hebert,

I am writing on behalf of the Legal Aid Association of California (LAAC) and our member organizations to offer these comments in response to the Request for Information from the Governance in the Public Interest Task Force.

Founded in 1984, the Legal Aid Association of California (LAAC) is a non-profit organization created for the purpose of ensuring the effective delivery of legal services to low-income and underserved people and families throughout California. LAAC is the statewide membership organization for the almost 100 non-profit legal services organizations that receive IOLTA funding in California. 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 commends the Governance Task Force the extremely important work you have undertaken. LAAC also commends the State Bar of California for its important work on access to justice issues, which LAAC feels is a central component of public protection. In particular, we congratulate the California Commission on Access to Justice and the State Bar's Standing Committee on the Delivery of Legal Services (SCDLS) for the many accomplishments both of those entities have achieved in ensuring public protection by expanding access to the legal system.

- On the question of the meaning of “public protection,” we concur with the comments made by our member organization, the Legal Aid Foundation of Los Angeles, and echoed by the Standing Committee on the Delivery of Legal Services and California Commission on Access to Justice. While of course

admissions and discipline are key elements of public protection, LAAC and our member organizations strongly believe that efforts to expand access to justice, and to protect low and moderate income Californians from being denied access to the courts and to justice, are critical to the “public protection” function. Increasing access to justice is an important way to promote public protection and improve trust and confidence in the judicial system. Through the Commission on Access to Justice, SCDLS, and the staff that support those entities, the low and moderate income members of the public are much better able to have their rights protected. The Legal Services Trust Fund Commission and its staff assure that services provided to the poor are of the highest quality. The diversity efforts of the bar work to expand the availability of lawyers in minority and other underserved communities. The State Bar’s certification of Lawyer Referral Services ensures that the public receives quality referrals to attorneys who have been verified by the LRS as having experience in subject matter areas and malpractice coverage. All of these functions are extremely important in protecting the public, and should be a high priority for the State Bar in whatever governance system is created.

- LAAC agrees with the Commission on Access to Justice’s comment that if a change is going to be made in the system of determining who participates in Bar leadership, such as a change from elections to appointments, the Task Force should seize this opportunity to establish criteria that provide for continuity and diversity of membership and representation, increase accountability, and expand support for access to justice. Like the Access Commission, LAAC has concerns that very few legal aid attorneys or public defenders have served on the Board of Governors. While most members of the Board of Governors are strongly supportive of legal services and access to justice, it is most helpful to have the actual involvement of experienced legal services attorneys and public defenders on the Board. As a result, LAAC agrees with SCDLS that there would be significant value in designated one or more “seats” designated for attorneys from the nonprofit and public sectors. We concur with SCDLS recommendations that if a change is going to be made from elections to appointments, that any appointments process should take into account a leadership candidate's experience with, and demonstrated [commitment](#) to, the free legal representation of low-income and disadvantaged individuals and communities, and for public members it should take into account consideration of a demonstrated commitment to working on behalf of their communities.
- While LAAC does not have an opinion on specific proposals regarding the length of terms and term limits, like SCDLS and the Commission on Access to Justice, we agree that there is a value added by ensuring some continuity in such an important governing body. One way that such continuity might be achieved is the option of a renewable second term for members and the president. We also

agree with SCDLS that an approach that allows an incoming president to have more notice of his or her impending appointment, and an opportunity to be trained and mentored, would be beneficial to all stakeholders.

Thank you in advance for your kind consideration of these comments. We would be happy to provide any additional information or answer any questions. Please feel free to contact me at 415-834-0100 x 306.

Sincerely,

A handwritten signature in black ink that reads "Julia R. Wilson". The signature is written in a cursive style with a long horizontal flourish at the end.

Julia R. Wilson  
Executive Director

**From:** [german galvan](#)  
**To:** [Anderson, Amy](#)  
**Subject:** Request for Information from the State Bar of CA Governance in the Public Interest Task Force  
**Date:** Tuesday, February 01, 2011 1:56:32 AM

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To Ms. Amy Anderson, Office of the General Counsel State Bar of CA

Re: Request for Information from the State Bar of CA Governance in the Public Interest Task Force

Hello. What public protection means to me as a citizen is that lawyers ethically serve the best interest of their client in being profession in following all rules and regulations set up by their profession namely the CA State Bar in its rules, models, and standards. They should be accountable for following the U.S. Constitution. Their clients should be given respect, and effort put in serving their client by making written motions, ect. as evidence in providing service to their clients.

My recommendations are: To have a Constitution Bill of Rights posted were it can be seen in the attorneys office. Rules of Conduct, and where to make a complaint, and a phone number where to recover monetary damages, and their right to receive copies and read their file at any time.

Also, monitoring of the continued violations on a list for each attorney as to how many occurrence or extreme level of violations of the code of conduct should be reviewed to offer training, counsel, and warning of potential sanctions.

Also, to better serve the publics' interest I would suggest all unethical violations that harm, neglect, mislead, barratry, jeopardize, retaliate, fraud, and cause collateral damage to their client be automatically brought to the Supreme court for a hearing on any ethical violations of the clients trust. For extreme violations there has to be a penalty of jail time and a sanction on their license with fines. Also, in offices where there are groups of attorneys who all participate in these type of violations should have their businesses closed.

No attorney should serve on the board of governance unless amends are made and past violations have been corrected.

I would like to suggest that immunity for district attorneys be re-evaluated. The district attorney's county office should not be given absolute power. This power should be balanced with the well intention of prosecuting meritorious cases.

Thank you for this opportunity,

Maria Galvan

**From:** [Zupanovich, Chris](#)  
**To:** [Anderson, Amy](#)  
**Cc:** [Flynn, Mary Lavery](#)  
**Date:** Monday, January 31, 2011 11:35:10 AM  
**Attachments:** [Comment Letter - SBC Governance in the Public Interest 01-28-11.doc](#)  
[Access Commission Overview of Accomplishments 1997-2010 FINAL.doc](#)  
[Appointing Entities & Members - AJC 2011.doc](#)

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Amy,

Attached is a comment letter submitted by the Commission on Access to Justice to the Task Force on Governance in the Public Interest. Additional attachments are the Commission's list of accomplishments and the list of appointing entities.

Chris Zupanovich, Project Coordinator  
Office of Legal Services  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105-1639  
(415) 538-2534 FAX: (415) 538-2524  
[chris.zupanovich@calbar.ca.gov](mailto:chris.zupanovich@calbar.ca.gov)

# CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

c/o State Bar of California - 180 Howard Street - San Francisco, CA 94105 - (415) 538-2251- (415) 538-2524/fax

HON. RONALD ROBIE  
Chair  
*Court of Appeal, Third Appellate District  
Sacramento*

KENNETH W. BABCOCK  
Vice Chair  
*Public Law Center  
Santa Ana*

RAMON ALVAREZ  
*Alvarez Lincoln/Mercury  
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*Contra Costa County Superior Court  
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*California State Automobile Association  
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ERIKA FRANK  
*California Chamber of Commerce  
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*U.S. District Court, Central District of California  
Santa Ana*

HON. JAMES E. HERMAN  
*Superior Court of Santa Barbara County  
Santa Maria*

MARY E. KELLY  
*California Unemployment Insurance Appeals Board  
Los Angeles*

MICHELLE MANZO  
*McDermott, Will & Emery LLP  
Los Angeles*

SYLVIA MARTIN-JAMES  
*Retired, Riverside Unified School District  
Riverside*

HON. DOUGLAS P. MILLER  
*Court of Appeal, Fourth Appellate District  
Riverside*

ANNE MARIE MURPHY  
*Cotchett, Pitre & McCarthy  
Burlingame*

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*Superior Court of Orange County  
Westminster*

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EDWIN K. PRATHER  
*Law Offices of Edwin Prather  
San Francisco*

PAUL TEPPER  
*Western Center on Law & Poverty  
Los Angeles*

EDWARD THOMAS UNTERMAN  
*Rustic Canyon Partners  
Santa Monica*

ERIC WAYNE WRIGHT  
*Santa Clara University School of Law  
Santa Clara*

MARY LAVERY FLYNN  
*Director, Legal Services Outreach  
State Bar of California  
San Francisco*

January 28, 2011

Office of the General Counsel  
State Bar of California  
Attention: Ms. Amy Anderson  
180 Howard Street  
San Francisco, CA 94105

**Subject: Comments from the California Commission on Access to Justice to the State Bar's Governance in the Public Interest Task Force**

Dear Members of the Task Force:

I am submitting these comments on behalf of the California Commission on Access to Justice, which was established by the State Bar in 1997 to pursue fundamental, long-term solutions to the lack of access to civil justice for persons of limited means. In establishing the Commission, the Bar reached out to other key statewide entities and elected officials to join with the Bar to make Commission appointments. The Commission now enjoys participation by members named by the Governor, the Attorney General, the Chief Justice, the Legislature, and business, religious, and civic groups. [The list of appointing entities is attached, along with an overview of the accomplishments of the Access to Justice Commission.]

## **Background information on the Access to Justice Commission**

As is reflected in the attached list of accomplishments, the Access to Justice Commission has succeeded in improving access in many ways:

- The **Equal Access Fund** was established through collaborative efforts involving the Commission, the State Bar, and the Judicial Council, and has resulted in nearly \$150 million in grants to legal services programs;
- **Self-help centers** now exist in every county in the state, partly as a result of joint efforts between the Commission, the State Bar, and the Judicial Council;
- **Limited scope representation** has helped ensure that millions of low-income individuals receive assistance from lawyers; dozens of training events have been offered, valuable practice manuals have been developed, and formal rules and court forms have been adopted, ensuring the expanded availability of this type of representation; often, the choice for a person of limited means is either limited scope assistance, or no legal help at all, and limited scope also offers tremendous opportunities for attorney seeking to expand their law practice;
- A **statewide legal services website**, LawHelpCalifornia, connects the public and volunteer lawyers with the 100 legal aid programs across the state; it was established by the Public Interest Clearinghouse in partnership with the Commission;

- There has been increased attention to the need for **improved language access in our judicial system** as a result of the work of the Commission, including publication of a report focusing attention on the barriers experienced by those of limited English proficiency and the ensuing work implementing the report's recommendations;
- The 2010 report, *Improving Civil Justice in Rural California*, is helping focus attention on the unacceptable barriers to access in rural areas;
- During 2011, **civil representation pilot projects** will be launched, partly as a result of the work of the Commission's Right to Counsel Committee, in collaboration with the Judicial Council, the Governor, the Legislature, and the Legal Aid Association of California.

None of these successful efforts would have been possible without the support of the State Bar. The State Bar leadership has been a key player supporting this work, and we hope to continue that effective partnership for many years to come.

\* \* \* \* \*

### **Comments for the Governance Task Force**

We commend the members of the Governance Task Force for taking on this significant challenge, because the issues you are grappling with are extremely important for the State Bar and for the administration of justice. We submit the following comments for your consideration, and also stand ready to respond to any questions or requests you might have.

- **Public protection is a fundamental goal of the State Bar and increasing access to justice is an important way to promote public protection and improve trust and confidence in the judicial system.**
  - The mission of the State Bar is "to preserve and improve our justice system in order to assure a free and just society under the law", and Goal 3 specifically provides: "To assure that all people have access to high-quality legal services regardless of financial or other circumstances."
  - The work of the Access to Justice Commission and the other activities of the Bar's Office of Legal Services promote "a free and just society" in a variety of ways:
    - working to ensure that families facing foreclosure have access to due process and legal assistance, where necessary;
    - funding legal services programs to ensure that low-income Californians get the legal help they need to protect their rights and avoid injustice, including parents facing loss of custody of their children, veterans seeking needed benefits, and grandparents establishing guardianships so that their grandchildren can receive proper education and health care;
    - certifying lawyer referral services to ensure a well-functioning system of referrals serving members of the public;
    - offering disaster legal assistance materials and coordination to address the needs of local legal services programs at times of crisis; and
    - increasing access to the judicial system through expanded self-help centers, language assistance, pro bono, and other means.

- While the Task Force considers its recommendations, it should have in mind the importance of all the Bar's activities that support and expand access to justice, in addition to the needs of the admissions and discipline units. Recommendations should address how various structures might enhance support for the critical and fundamental access to justice goal.
- **If a change is going to be made in the system of determining who participates in Bar leadership, such as a change from elections to appointments, the Task Force should seize this opportunity to establish criteria that provide for continuity and diversity of membership and representation, increase accountability, and expand support for access to justice.**
  - **The Task Force should recommend that the term for the State Bar President provide for continuity, which could be accomplished by including the possibility of serving a second one-year term. In addition, a President-elect should be identified with adequate notice so that the incoming President can be the most effective leader during his or her term.**
    - There is clear value in establishing a longer term for president and/or setting up a system where the president-elect has more time to plan for his or her term, and such a system would be a significant improvement. This concept has been considered many times over the years, but has not fit easily within the bar's election procedures.
    - We recommend that changes in this leadership system maintain some flexibility, so as not to discourage some from participation. Not all lawyers can commit to a two-year presidential term, for instance, but the possibility of two one-year terms might be a much more effective way to attract good candidates.
  - **If it is determined that the lawyer members of the Board of Governors should be appointed rather than elected, the Task Force should consider recommending that clear criteria are established to ensure diversity of types of practice, and commitment to the fundamental goal of access to justice.**
    - While the leadership of the Bar has been extraordinarily supportive of access to justice issues in the past, the current system does not allow for the establishment of criteria to ensure that board members are committed to access goals, nor is there a way to ensure that the board is representative of the legal profession. The Access Commission is particularly concerned that very few legal aid attorneys or public defenders ever serve on the Board of Governors. While most members of the Board of Governors are strongly supportive of legal services and access to justice, it is most helpful to have the actual involvement of experienced legal services attorneys and public defenders on the Board.

- If appointments are instituted, then clear criteria could be established to help ensure balance in terms of types of practice, race, ethnicity, and gender, as well as ensure at least some involvement by public interest attorneys.
  - Continuity and accountability are also extremely important, and the current election system allowing one three-year term, does not have the flexibility to ensure ongoing involvement on the Board of strong leaders who have developed a deep understanding of the Bar. Allowing a second term of office would improve continuity of knowledge and experience, and would also improve accountability. Because board members never stand for re-election or re-appointment, there is little accountability built into the current system.
- **The Task Force should recommend retaining the current structure of the State Bar as an integrated bar.**
    - Supporting legal services programs, increasing access to justice, and improving the administration of justice are all high-priority goals of the Bar that require a strong institution. We believe that the current structure of the integrated State Bar provides a much better vehicle to achieve these goals than might be true for a revised structure that separates out key bar functions.

Thank you for this opportunity to comment. Please let us know if there is any additional information or input that we can provide.

Respectfully submitted,



Hon. Ronald B. Robie  
Chair

cc: Members of the Access to Justice Commission

Enclosures:

- Overview of Accomplishments of the Access to Justice Commission
- List of Appointing Entities

# CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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c/o State Bar of California - 180 Howard Street - San Francisco, CA 94105 - (415) 538-2251- (415) 538-2524/fax

HON. RONALD ROBIE  
Chair  
*Court of Appeal, Third Appellate District  
Sacramento*

KENNETH W. BABCOCK  
Vice Chair  
*Public Law Center  
Santa Ana*

MARY LAVERY FLYNN  
Interim Director, Office of Legal Services  
*State Bar of California  
San Francisco*

## California Commission on Access to Justice Overview of Accomplishments 1997-2010

The California Commission on Access to Justice was established in 1997 to pursue long-term fundamental improvements in our civil justice system so that it is truly accessible for all, regardless of income or geographical location.

Members of the Commission are appointed by the Governor, Attorney General, Speaker of the Assembly, President Pro Tem of the Senate, Judicial Council, California Judges Association, the State Bar, and other professional and civic groups. In the thirteen years since its inception the Commission's accomplishments are numerous:

- **Equal Access Fund.** Worked with the Judicial Council to establish the \$10 million Equal Access Fund in 1999, and helped implement supplemental filing fee funds in 2005. Since its inception, over \$146 million has been granted to legal services programs across the state. Also assisted in drafting and developing information for the Judicial Council's Report to the Legislature on the Equal Access Fund submitted in March 2005;
- **Task Force on Self-Represented Litigants.** Worked closely with the Judicial Council to expand self-help centers, and has been an active supporter of the Judicial Council's Task Force on Self-Represented Litigants;
- **Aranda Award.** Established the Benjamin Aranda III Access to Justice Award, which annually honors a California judge in recognition of his or her efforts to improve access to our judicial system; the award is given in the name of the Judicial Council, California Judges Association, and the State Bar;
- **Limited Scope Representation ("Unbundling").** Conducted innovative studies to expand the availability of Limited Scope Representation, particularly in the area of Family Law; developed risk management materials designed to help advocates provide limited scope services competently and ethically; provided significant assistance to the Judicial Council in crafting new court rules and court forms; and offered over 50 training events on the subject;
- **Statewide Web Site.** Helped to develop LawHelpCalifornia, a statewide web site for legal services clients and lawyers, housed at the Public Interest Clearinghouse and supported also by the Legal Aid Association of California;
- **Evaluation of Programs.** Worked closely with the Judicial Council and the State bar's Legal Services Trust Fund Program to help improve evaluation systems used by legal services programs;

- **National Efforts to Expand Access Commissions.** The Access Commission has worked closely with the ABA, the Department of Justice, and other national groups to help establish similar commissions in other states. Forty states were represented at the last national meeting of Access Commissions;
- **Reports.** Publishing extensive reports on “access to justice” issues, including:
  - *The Path to Equal Justice* (2002),
  - *Language Barriers to Justice in California* (2005),
  - *Action Plan for Justice* (2007)
  - *Improving Civil Justice in Rural California* (2010).
- **Active Committees and Task Forces:**
  - **The Rural Task Force** -- addressing “access” issues in rural areas of the state, including publishing a policy paper on the lack of access and working on outreach and implementation of the recommendations;
  - **The Funding Committee** – developing new resources for civil legal services in California and helping ensure continuation and expansion of the state’s Equal Access Fund, including a joint Task Force with the Legal Services Trust Fund Program on the Justice Gap Fund;
  - **The Pro Bono Coordinating Committee** [joint with the Standing Committee on Delivery of Legal Services] - encouraging increased pro bono in all areas of the state, particularly rural areas, and seeking to increase attorney giving of both time and financial support;
  - **The Communications Committee** – working to improve the visibility of the Access Commission itself, as well as of the work of its various subcommittees, and to help improve public understanding of the importance of legal services for the indigent and access to justice;
  - **The Right to Counsel Committee** – working to expand the right to counsel in civil cases, increase communications about the importance of representation, and helping implement the Shriver Pilot Representation Project, to be launched in 2011 by the Judicial Council; and
  - **The Administrative Agency Committee** -- identifying best practices as well as barriers within administrative agencies and working with agencies to improve access for self-represented litigants.

The California Commission on Access to Justice has been recognized nationally, and in 2004 received the ABA Louis M. Brown Award for Legal Access in recognition of the innovative work of its Limited Scope Representation Committee. The Commission’s work was also the key reason the State Bar received the ABA’s prestigious Harrison Tweed award in 2001,

**“...for its collaborative efforts in obtaining the first state appropriation for legal services in the amount of \$10 million and seeking to increase it, for addressing the needs of unrepresented litigants and for supporting the important work of legal services programs in the state.”**

The Access Commission has successfully pursued a goal of making our justice system available to all. It will continue its work of seeking long-term solutions to the chronic lack of representation available for poor and moderate income Californians.

**APPOINTING ENTITIES AND MEMBERS - 2011  
CALIFORNIA COMMISSION ON ACCESS TO JUSTICE**

**Governor, State of California**

Honorable Andrew J. Guilford  
United States District Judge  
Central District of California  
Santa Ana

Edwin K. Prather  
Law Offices of Edwin K. Prather  
San Francisco

**President Pro Tem of the Senate**

Rozenia Cummings  
California State Automobile Association  
San Francisco

**Speaker of the Assembly**

Edward Thomas Unterman  
Rustic Canyon Partners  
Santa Monica

**California Attorney General**

Ramon Alvarez, President/CEO  
Alvarez Lincoln/Mercury/Jaguar  
Riverside

**Judicial Council of California**

Honorable Steven K. Austin  
Superior Court of Contra Costa County  
Pittsburg

Honorable Ronald Robie – 2011 Chair  
Third Appellate District  
Sacramento

**California Judges Association**

Honorable James Herman  
Superior Court of Santa Barbara County  
Santa Maria

**State Bar of California**

Kenneth W. Babcock – 2011 Vice Chair  
Public Law Center  
Santa Ana

Michelle Manzo  
McDermott, Will & Emery LLP  
Los Angeles

James Brosnahan  
Morrison & Foerster, LLP  
San Francisco

Honorable Douglas P. Miller  
Court of Appeal  
Fourth Appellate District  
Riverside

Sheila Calabro  
Judicial Council of California  
Burbank

Hon. Nho Trong Nguyen  
Superior Court, Orange County  
Westminster

Joanne E. Caruso  
Howrey LLP  
Los Angeles

Paul Tepper  
Western Center on Law & Poverty  
Los Angeles

Mary E. Kelly  
California Unemployment Insurance  
Appeals Board  
Los Angeles

Eric Wayne Wright  
Santa Clara University  
School of Law  
Santa Clara

**Legal Aid Association of California**

David J. Pasternak  
Pasternak, Pasternak & Patton  
Los Angeles

**Council of California County Law Librarians**

Marcia Bell, Director  
San Francisco Law Library

**California Council of Churches**

Robin Clinton Crawford  
Pacifica

**League of Women Voters of California**

Sylvia Martin-James, Retired Educator  
Riverside

**California Chamber of Commerce**

Erika C. Frank  
General Counsel – California Chamber of Commerce  
Sacramento

**California Labor Federation**

Vacant

**Consumer Attorneys of California**

Anne Marie Murphy  
Cotchett, Pitre & McCarthy  
Burlingame

***Ex Officio Members***

Kathryn Eppright  
Andre Morris & Buttery LLP  
San Luis Obispo

Tony L. Richardson  
Reed Smith LLP  
Los Angeles

Honorable Terry J. Hatter, Jr.  
Chief Judge Emeritus  
United States District Court – Los Angeles

Geoffrey L. Robinson  
Bingham McCutchen  
Walnut Creek

Honorable Earl Johnson, Jr. (Ret.)  
Scholar-in-Residence  
Western Center on Law & Poverty  
Los Angeles

Toby J. Rothschild  
General Counsel  
Legal Aid Foundation of Los Angeles

Honorable James R. Lambden  
Associate Justice, Court of Appeal  
First Appellate District, San Francisco

Honorable Ronald L. Taylor (Ret.)  
Superior Court of Riverside County  
Riverside

Jack W. Londen  
Morrison & Foerster  
San Francisco

Honorable Laurie D. Zelon  
Court of Appeal  
Second Appellate District, Los Angeles

Professor James Meeker  
School of Social Ecology  
University of California, Irvine

**From:** [Orange County Bar Association](#)  
**To:** [Anderson, Amy](#)  
**Cc:** ["Hueston, John"](#); ["Wang Ekvall, Lei Lei"](#); ["Trudy Levindofske"](#); ["Carole Martinez"](#); ["Hiles, Lori"](#)  
**Subject:** OCBA Public Comment re Governance Task Force  
**Date:** Tuesday, February 01, 2011 2:20:17 PM  
**Attachments:** [OCBA Response Letter re State Bar Governance.pdf](#)

---

Dear Ms. Anderson:

Please see the attached letter from OCBA President John C. Hueston in response to the request for comments by the State Bar Governance in the Public Interest Task Force.

Grace Epperson  
Executive Assistant  
Orange County Bar Association  
Phone: 949-440-6700, ext. 126  
Fax: 949-440-6710  
Web: [www.ocbar.org](http://www.ocbar.org)  
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BAR ASSOCIATION**

**PRESIDENT**

JOHN C. HUESTON

**PRESIDENT-ELECT**

DIMETRIA A. JACKSON

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**PAST-PRESIDENT**

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February 1, 2011

Amy Anderson  
Office of the General Counsel  
State Bar of California  
180 Howard Street  
San Francisco, CA 94105

Dear Ms. Anderson:

This letter is written on behalf of the Orange County Bar Association (the "OCBA") and its 7600 members and is in response to the request for comments by the State Bar Governance in the Public Interest Task Force (the "Task Force").

The OCBA believes that public protection is an important goal served by The State Bar of California (the "State Bar") and the voluntary bar associations of this state, and the OCBA strives to fulfill that goal by providing year-round continuing education courses to its members and mentoring opportunities to the less experienced attorneys. The OCBA also has an active Mandatory Fee Arbitration Committee and a Client Services Committee, both of which address concerns of clients. Finally, the OCBA has a Lawyer Referral and Information Service, which provides quality legal assistance to the public by maintaining qualified attorneys on referral panels in 35 areas of law.

Given the importance of the issue at hand, the OCBA feels that more information is necessary before it is able to adequately address the Task Force's questionnaire (the "Questionnaire") and request for comments.

There is no information provided to support what appears to be a foregone conclusion that the State Bar is failing to adequately protect the public or that public protection is not the highest priority of the State Bar. In this regard, the OCBA joins in the Sacramento County Bar Association's prefatory comments set forth in its January 10, 2011, letter.

In addition, because it is unclear the exact problems that need to be addressed, it is difficult to respond to questions regarding what changes, *if any*, are needed to the structure of the State Bar Board of Governors. For example, if problems exist with the discipline system of the State Bar, does the solution lie with the structure of the State Bar Board of Governors or with the Office of the Chief Trial Counsel?

The OCBA believes that more information is necessary before it can adequately respond to the Task Force's request for comments. Moreover, before such information becomes available, the OCBA believes that any change to the governance structure of the State Bar would be precipitous.

Sincerely,

ORANGE COUNTY BAR ASSOCIATION

John C. Hueston  
President

**From:** [Robin Peluso](#)  
**To:** [Anderson, Amy](#)  
**Subject:** governance in the public interest task force  
**Date:** Tuesday, February 01, 2011 5:53:26 PM

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To avoid confusion I'm resending this message, the subject title was misleading.

----- Forwarded message -----

**From:** **Robin Peluso** <[robinapeluso@gmail.com](mailto:robinapeluso@gmail.com)>  
**Date:** Tue, Feb 1, 2011 at 5:50 PM  
**Subject:** Re: non-reappointment of Scott Drexel  
**To:** [amy.anderson@calbar.ca.gov](mailto:amy.anderson@calbar.ca.gov)

Amy Anderson  
Office of General Counsel  
Cal. State Bar  
180 Howard Street.  
San Francisco, Ca 94105

Dear Ms. Anderson,

This is to be included in the Governance in the Public Interest Task Force as response from a public member for their final report. While I answered the online survey, I want to include this email that was sent regarding the retention of Scott Drexel as evidence of the malfeasance of the OCTC and the Office of General Counsel, and why the public should have no confidence in the State Bar protecting it.

The Fact that this committee has the liaison of the Supreme Court Beth Jay, on it, along with the corrupt and incompetent Judge Remke is even more disturbing. It illustrates the glaring admission that this committee is more interested in protecting it's past conduct, than protecting the public. The State Bar engaged in violating the legislature's prohibition of taking illegal defaults, denigrating important civil rights verdicts, and final opinions of the COA; while lying about the actual judicial records of Article VI courts, that are in lawsuits between private parties, in order to "suspend" the stellar work of Philip Edward Kay.

The public will never have confidence in the State Bar if it goes after attorneys who have never been sanctioned, admonished, or held in contempt or responsible for the reversal of a trial, and gives a Pass to lawyers who have been found to have committed fraud upon the court, and sanctioned over 300.000 dollars in Federal Court.[Tom Girardi].

The Fact that your boss Star Babcock has "regular" meetings with the Supreme Court through it's liaison Beth Jay, and respondents have no such contact, implies that all of the Decisions of the Supreme Court, take place behind closed doors and back alley's in violation of attorneys due process rights, and are based on political considerations and corruption.

The Fact the Judge Remke is on this committee gives the impression that the State Bar Court is involved with "creating" procedures for the State Bar, which is prohibited by the State Bar Act, and is evidence of why any findings of the "Task

Force" will be tainted. She and her court have violated the State Bar Act by depriving respondent attorneys their 5th amendment rights, statutory rights and the right to have those issues determined by Article VI Courts in disciplinary hearings. She is so venal, or ignorant, that she does not know the difference between, appearing in court and testifying, which are two distinct things. Only by not appearing can one take a default and deny a respondent a hearing. Testifying and refusing to do so, is something altogether different, and can only be punished by contempt, which has to be adjudicated by the Superior Court of California. The legislature has prohibited the conduct she and her court have engaged in. In addition, there are documents such as the Addington Report that documents that she and her court meet with the OCTC and discuss how to "win" cases. This is obscene. Since when are judges allowed to have ex-parte contacts with only one side, at the expense of a respondent?

Star Babcock has personal knowledge that the OCTC withheld exculpatory evidence from Phil Kay, he stipulated to giving it over after Federal Judge Maxine Chesney issued an order to unseal records in the Konig v. State Bar and explain why these records should not be given to respondent Phil Kay. As to any conclusions this Task Force makes will be tainted, due to the fact that this type of prosecutorial misconduct was sanctioned by the State Bar's general counsel, and any suggestions that this committee makes will be an attempt to cover-up the political nature of the selective persecution of Philip Edward Kay, on behalf of losing corporate defense counsel, and disqualified judges, who were removed by the COA in "the interests of justice". That term actually has a legal meaning. It means that the COA found the trial court judge to be impartial and/ or the judge engaged in "whimsical disregard of law", otherwise known as judicial misconduct. For the general counsel and the Judge Remke to allow the State Bar to be used as a proxy for the "rehabilitation" of this judge's public reputation is a disgrace [as discussed in internal emails] and the conclusions of this Task Force will be a joke.

The fact that Judge Remke allowed Judge Armendariz to claim that "improper speculation" can be considered a legal finding to suspend Philip 'Kay is appalling. [the very cite Judge Armendariz uses was labeled "improper speculation" by the COA]. For State Bar judges to be so stupid is a disgrace upon the entire legal profession, let alone the State Bar. For a sitting judge in the State Bar not to know the difference between "speculation" and actual "evidence", let alone what can constitute a legal finding defies belief. The Fact that the State Bar lowered the the standard as to what can be used in disciplinary hearings as evidence because of such ignorance does not bode well for the public. It just reinforces that the fact that State Bar covers up for big corporations and defense firms and is now being used by disqualified and dishonest judges to cover up there malfeasance. For the State Bar Court to think it can accuse and find culpable, someone of a common law crime[obstruction of justice, criminal contempt] without Philip Edward Kay ever even being charged in any court, is beyond comprehension. There is no "civil" equivalent for this crime. Judge Remeke allowed the State Bar Court to be used for a political assassination of Philip Edward Kay's legal career in order to curry favor for a dishonest judge and losing corporate defendants and their counsel.

I will be attending the upcoming meeting and I wish to speak, I will also bring the documents that support all of accusations in this email.

Sincerely  
Robin Peluso

On Wed, Apr 15, 2009 at 5:03 PM, Robin Peluso <[robinapeluso@gmail.com](mailto:robinapeluso@gmail.com)> wrote:  
April 15, 2009

Chief Trial Counsel Reappointment Process  
c/o State Bar of California  
Office of Human Resources  
180 Howard St.  
San Francisco, CA 94105

Reappointment of Scott Drexel

Dear Mr. Schwichow,

I'm writing to voice my strong opposition to the reappointment of Scott Drexel for Chief Trial to the State Bar. The evidence of selective prosecution of Messers. Philip Edward Kay and John Dalton is extremely disturbing, and shows that Mr. Drexel is willing to abuse his authority and allow the State Bar to be used as a proxy for disqualified judges after they have been reversed by the COA or, been removed from cases by the COA in the interests of justice, and losing counsel for parties who have been held liable for violations of civil rights, in order to undermine lawfully obtained verdicts by victims of civil rights violations.

I have been briefed and am fully aware of the facts surrounding the underlying trials and cases for which, Messers. Kay and Dalton are being persecuted. In addition it is very troubling, that the State Bar, which is suppose to be protecting the public, has such little regard for the rights and safety of Messers. Kay and Dalton's clients. The actions and accusations leveled at these attorneys which were done on behalf of their clients, and not for personal gain, will bring great harm to their clients, by trying to obtain findings that these verdicts, all of which were upheld on appeal and affirmed by the Supreme Court, were obtained through dishonesty and deceit.

Mr. Drexel is aware that in all three of these cases, Messers. Kay and Dalton were not; 1] subject to any sanction motion, 2] held in direct or indirect contempt or, 3] found to have denied any party a fair trial based on any of their actions, and as a result no Motion for New Trial was granted on the grounds of attorney misconduct. Yet, Mr. Drexel has accused both these attorneys of those very things, in contradiction to the findings from the trial court, the Court of Appeal and affirmation of the Cal. Supreme Court in all these cases. Mr. Drexel has gone so far, as to allow the prosecution to argue "that the orders denying a Motion for New trial" are open to interpretation, along with the COA opinions. If that were the case, the clients of these attorneys would have had to appeal those orders [which they didn't] and the COA wouldn't have been able to affirm the underlying verdicts, let alone reinstate damages taken away by one of the disqualified judges. Every trial and appellate lawyer in this state knows that, and if they don't then they aren't fit to practice. Which is why Mr. Drexel shouldn't be reappointed. Either

this prosecution is being done out of bad faith and on the behalf of disqualified judges and losing parties, or Mr. Drexel is so ignorant of trial and civil appellate practice that he's unfit to be a prosecutor for the state bar.

By the persecution of these civil rights attorneys, Mr. Drexel is giving these corporations the one thing they weren't able to obtain in the courts. Vindication that they didn't do anything "really" wrong. The findings that these Corporate parties engaged in malicious conduct with conscious disregard for the rights and safety of their employees, is what they want erased, or brought into question, and Mr. Drexel is giving them just that, by attacking the attorneys who fought so hard for their clients and the public policy behind the causes of action of which these clients received verdicts in their favor.

Since when is that the State's Bar mandate. To vindicate corporations in flagrant disregard for the findings of lawfully obtained verdicts?

The State Bar needs to read:

Lady v. Worthingham (1943) 61 Cal.App.2d 780, 782:

"So far as the decisions of this court and the Supreme Court are concerned, it is utterly immaterial what conclusion the State Bar, or any investigating committee thereof, may have reached relative to a judgment of this court or of the Supreme Court. The decisions and judgments of the District Court of Appeal and the Supreme Court are not subject to review by the State Bar or a committee thereof."

The State Bar's mandate is to mete out punishment, not review what went on in a trial court, and contradict the trial judge, or the COA, on behalf of disqualified judges and losing parties.

Sincerely

Robin Ann Peluso