



PRESIDENT'S PAGE

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Our thoughts and prayers are with the people of Ukraine, especially the many families emigrating in the midst of this brutal and unjustified war. The OCBA encourages all members who want to help support nonprofits providing critical resources and relief to those in need to visit our Community Outreach page at www.ocbar.org/Get-Connected/Committees/Community-Outreach

AB 2958 Addresses California State Bar Proposals Concerning Paraprofessionals and Non-Lawyers

The Orange County Bar Association is not a lobbying organization. We don't take positions on political issues or make public comments on every controversy that hits the news cycle. Our Board of Directors has a duty to protect the interests of the OCBA and its members, and to further the purposes outlined in its mission statement—to enhance the system of justice, the lawyers who serve it and the community served by it.

When deciding whether to make a public statement, the OCBA's purview policy requires us to ask three questions:

1. Does the issue pertain to a matter that directly impacts the mission of the Orange County Bar Association or the interests of its members?
2. Is the issue or interest one that is being adequately advanced by other persons and organizations with a more direct stake in the matter?
3. Is the issue one that is highly controversial or about which there may be a strong division of opinion among the members of the bar association?

The OCBA's decision on August 9, 2022, to issue a written statement in support of Section 3 of AB 2958 was a no-brainer.

In order for the State Bar of California to invoice attorneys for licensing fees, the legislature must pass a "fee bill" annually. This year, that bill is AB 2958. Section 3 of AB 2958 includes language proposed by both the Chair of the Assembly Judiciary Committee, Assembly Member Mark Stone, and the Chair of the Senate Judiciary Committee, Senator Tom Umberg, that would require any State Bar entity to exclude programs aimed at corporate ownership of law firms, fee sharing with non-lawyers, and other programs that would abrogate restrictions on the unauthorized practice of law.

Over the last four years, the California State Bar has endeavored to make it possible for non-lawyers to both practice law and hold ownership interests in law firms to address a "justice gap" in the ability of low-income and indigent citizens to receive legal assistance. Specifically, the State Bar has proposed two programs: (1) the California Paraprofessional Working Group, which would allow non-lawyers to practice law without attorney supervision; and (2) the Closing the Justice Gap Working Group, which would establish a regulatory "sandbox" allowing non-lawyers to have ownership interests in law firms and technology-based platforms to practice law without attorney supervision.

The OCBA has joined numerous bars and pro bono legal services organizations in communicating to the State Bar concerns about these programs. At an in-person 2019 town hall event at OCBA headquarters, and in letters dated September 23, 2019, and January 12, 2022, the OCBA has conveyed concerns regarding the potential harm that could result to California consumers. Specifically, the OCBA explained how implementing a "sandbox" of corporately-owned law firms, splitting legal fees with nonlawyers, and allowing legal services by technology-

based programs would risk (1) putting attorneys' fiduciary obligations to their clients at odds with a non-lawyer's or corporation's profit interest and duties to shareholders, (2) flooding the courts with meritless cases and unsubstantiated filings, and (3) exposing indigent populations to ineffective assistance of counsel. The State Bar representatives largely dismissed these and related concerns as expressions of self-interested lawyers worried about facing competition from non-lawyers.

To be clear, the OCBA believes a justice gap exists in California and supports robust research to understand its origins, identify populations affected, and create data-based solutions. However, the State Bar's solution—allowing non-lawyer "paraprofessionals" to practice law in the state with the greatest number of lawyers, without a lawyer's training, qualifications, experience, oversight or ethical responsibilities—would create far greater problems than it solves. Other states like Washington that have attempted paraprofessional programs have since abandoned them after spending millions of dollars and finding zero evidence the programs had any impact on the justice gap.

The OCBA is also concerned that the State Bar's proposed erosion of ethics rules and professional responsibilities is being driven by corporate interests aiming to monetize California's legal system. Proponents of the State Bar's initiatives—including technology companies who stand to profit and groups like the Justice Technology Association, whose board is comprised of CEOs from the legal service technology companies—have made tremendous efforts to have Section 3 removed.

The California legislature added Section 3 of AB 2958 to require the State Bar working groups to exclude corporate ownership of law firms and the sharing of legal fees with non-lawyers from their proposals. The fee bill would require prioritizing the protection of individuals and prohibiting any abrogation of the restrictions on the unauthorized practice of law. The OCBA supports the California's legislature's decision in this regard and believes Section 3 provides necessary protections for California citizens. Section 3 ensures that the State Bar takes appropriate actions and only goes forward with a program if it can do so in a safe and organized manner that ensures protection of the public.

On behalf of the OCBA, I would like to thank all the members of the State Bar Task Force for their tireless work in helping the OCBA provide critical support on these important issues. I'd also like to encourage all OCBA members to help address the justice gap in Orange County directly by supporting the incredible pro bono legal service organizations listed at www.ocbar.org/probono.

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