



**ORANGE COUNTY
BAR ASSOCIATION**

PRESIDENT

TODD G. FRIEDLAND

PRESIDENT-ELECT

MICHAEL L. BARONI

TREASURER

NIKKI P. MILIBAND

SECRETARY

DEIRDRE M. KELLY

IMMEDIATE PAST PRESIDENT

ASHLEIGH E. AITKEN

DIRECTORS

REBECCA J. CALLAHAN

JOHN S. COWHIG

LARISA M. DINSMOOR

BRADLEY S. ERDOSI

SCOTT B. GARNER

ANDRA B. GREENE

MICHAEL A. GREGG

MONA Z. HANNA

KIRSTEN M. KREYMANN

MONICA E. LUKOSCHEK

BRIAN M. MCDONALD

RICHARD J. MCNEIL

KYHM PENFIL

MICHELLE A. PHILO

DANIEL S. ROBINSON

MAYTE SANTACRUZ

EDWARD A. SCHLATTER

AUTUMN D. SPAETH

MEI TSANG

CHRISTINA M. ZABAT-FRAN

ABA REPRESENTATIVE

RICHARD W. MILLAR, JR.

EXECUTIVE DIRECTOR

TRUDY C. LEVINDOFSKE

AFFILIATE BARS

ASSOC. OF BUSINESS TRIAL LAWYERS,
OC CHAPTER

CELTIC BAR ASSOC.

FEDERAL BAR ASSOC.,
OC CHAPTER

HISPANIC BAR ASSOC. OF OC

IRANIAN AMERICAN BAR ASSOC.,
OC CHAPTER

ITALIAN AMERICAN LAWYERS
OF OC - LEX ROMANA

J. REUBEN CLARK LAW SOCIETY

OC ASIAN AMERICAN BAR ASSOC.

OC CRIMINAL DEFENSE BAR ASSOC.

OC JEWISH BAR ASSOC.

OC LAVENDER BAR ASSOC.

OC WOMEN LAWYERS ASSOC.

THURGOOD MARSHALL BAR ASSOC.

February 1, 2016

Paulette Brown
President
American Bar Association
321 North Clark Street
Chicago, IL 60654-7598

Re: ABA Law Connect

Dear Ms. Brown:

This letter is submitted on behalf of the Orange County Bar Association in order to express our concerns related to the American Bar Association's Law Connect program and its partnership with Rocket Lawyer.

For the reasons below, we urge the ABA to either reconsider the implementation of the ABA Law Connect program, or work with its accredited Lawyer Referral and Information Services (LRIS) to address some of the concerns noted below and find a mutually acceptable way of addressing these concerns.

The most urgent concerns of the Orange County Bar Association are as follows:

Ethical Concerns

There are multiple ethical concerns with this program in its current form. First, ABA Law Connect is offered through Rocketlawyer.com, a for profit business. Individuals desiring legal advice through this program must submit their actual legal question online on Rocketlawyer.com. Rocketlawyer.com is an unregulated entity, and not a licensed attorney or law firm in California. Because Rocketlawyer.com is not regulated by the California State Bar, the client protections and ethical rules applicable to lawyers do not exist. Thus, there is significant concern that duties imposed on licensed attorneys in California (such as the duty of confidentiality, the duty of loyalty, avoidance of conflict of interest, etc.) – whose primary purpose is client protection – do not apply to communications submitted through Rocketlawyer.com's website.

A second ethical concern deals with the fact that the ABA Law Connect program attempts to unbundle legal services and narrow the scope of representation in ways that may not be permissible under California law. In some instances, lawyers in California may narrow the scope of their representation, but not in all cases. And, even where a lawyer so narrows the scope of representation, lawyers still may be liable for certain things. *See, e.g., Nichols v. Keller*, 15 Cal. App. 4th 1677 (1993) (finding lawyer liable for

failing to advise potential client on a pending statute of limitations, even though the lawyer had not been formally retained). These types of client protections likely would not apply with entities like Rocketlawyer.

No Minimum Eligibility Requirements

Although the ABA Law Connect Pilot Program was limited to 23 attorneys, there is no information readily available detailing how these attorneys were selected, their experience, qualifications, etc. For example, one attorney appearing on the ABA Law Connect/Rocketlawyer website lists personal injury, automobile accidents, catastrophic injury, elder abuse, medical malpractice, product liability and wrongful death as his practice areas. Business transactions and business litigation are not listed. What steps has the ABA taken to ensure that he is qualified to give small business legal advice?

Of grave concern is that it appears that ABA Law Connect does not establish minimum eligibility requirements for lawyers participating. This is in direct conflict with the ABA's model rules for Lawyer Referral and Information Services which provide, in part, that:

- a. Membership is open to all licensed attorneys who meet the minimum requirements of the service;
- b. The service requires that each attorney maintain malpractice insurance (or provide proof of financial responsibility);
- c. The service must periodically survey client satisfaction;
- d. The service must establish minimum qualification requirements for each panel such that each member has sufficient experience to ensure that the lawyer is qualified in the area of practice.

In this regard, it appears that ABA Law Connect falls well short of the requirements necessary for a lawyer referral service to receive ABA accreditation.

Conflict of Interest and Confusion

To the extent that the ABA accredits lawyer referral services, it appears as though the ABA is in direct conflict with the very referral services which they accredit. Furthermore, the ABA has historically been the organization to establish model rules for referral services to ensure public confidence and protection.

The ABA Law Connect/Rocketlawyer program will likely confuse the public because ABA accreditation for a Lawyer Referral and Information Service is intended to assure the public of each service's integrity and credibility. The ABA's sanctioning of an online portal through Rocket Lawyer creates a significant amount of confusion and minimizes the effectiveness of the ABA accreditation for a LRIS.

Furthermore, many accredited Lawyer Referral and Information Services rely on the income generated to support local non-profit organizations. In fact, last year, the Orange County Bar Association LRIS, both directly and through the Association's charitable arm, provided \$28,500 to support local non-profit organizations. Many of the organizations funded provide free legal services to indigent clients. If the ABA continues to pursue the contemplated on-line alternative (and expands it to other areas), it is conceivable that referrals to accredited Lawyer Referral and Information Services will decline, thus resulting in less income to each service. This result will have the domino effect of less funding of local non-profit organizations that provide pro-bono legal services to those who cannot afford a lawyer. Many such organizations in our community have come to rely on grants from our organization to sustain certain pro-bono programs.

According to the ABA website, Lawyer Referral and Information Services are designed to "to assist persons who are able to pay normal attorney fees but whose ability to locate appropriate legal representation is frustrated by a lack of experience with the legal system, a lack of information about the type of service needed, or a fear of the potential costs of seeing a lawyer." Prompted by this purpose, the ABA designed model rules, the sole purpose of which was to provide consumer protection.

Yet, the ABA promotes ABA Law Connect as "an affordable way to connect quickly and easily with an ABA lawyer to solve your legal needs" without providing any of the consumer protections which the ABA attempts to provide by accrediting Lawyer Information and Referral Services.

By sanctioning this for-profit program through Rocketlawyer in its current form, the ABA is doing a disservice to itself, the public, and the very referral services it accredits. We ask that you reconsider this program, or in the alternative, reach out to our organization and others similarly situated to dialogue on our concerns about this program.

Sincerely,

ORANGE COUNTY BAR ASSOCIATION

A handwritten signature in black ink, appearing to read "Todd G. Friedland". The signature is fluid and cursive, with a long horizontal stroke at the end.

Todd G. Friedland
2016 President