

MEMORANDUM

DATE: July 14, 2014
TO: Members, Stakeholder Relations Committee
FROM: Mark Shem, Chair, Stakeholder Relations Committee
RE: Report on Outreach to State Bar Sections

INTRODUCTION

The Stakeholder Relations Committee is interested in exploring opportunities to involve other State Bar entities in the ongoing work of promoting access to justice. Committee members are conducting outreach to the chairs of the sixteen State Bar Sections and the California Young Lawyers Association (CYLA) to learn what access to justice-related work the sections are engaged in, and/or whether there are opportunities for the sections to become more involved in access to justice issues.

Committee members are surveying Section Leadership to determine the following:

- *The current priorities/major projects for each section;*
- *Whether the section's work involves, or has been related, to access to justice; and*
- *The interest level in working on access-related issues in the future.*

This memorandum summarizes the Committee's preliminary findings.

SUMMARY FINDINGS

Based on our interviews, several of the sections are or have been involved in a range of work that promotes access to justice including, for example, training, providing and promoting pro bono service, and public education. Without exception, all of the sections surveyed expressed an openness and interest in working on access to justice issues.

The specific findings for each section are listed below in alphabetical order by section name.

1) ANTITRUST & UNFAIR COMPETITION – Ken O'Rourke, Chair

The Antitrust & Unfair Competition Section provides education through annual conferences, webinars, and publications; and promotes collegiality in the profession and across the aisle.

This Section is not currently involved in any access to justice issues. According to the Section chair, antitrust is not typically viewed as an access to justice issue and there is a robust plaintiffs' bar who is willing to represent plaintiffs on a contingent fee basis. There may be some issues regarding unfair competition but, again, there is a robust plaintiffs' bar willing to work on a contingent fee basis.

The Antitrust & Unfair Competition Section, however, would consider any suggested proposal by the Committee regarding access-related projects or programming.

2) BUSINESS LAW – Charles McKee, Chair

The Business Law Section contains 15 Standing Committees. The Section focuses on legislation (introducing and commenting on) and education.

This Section is not currently involved in any access to justice issues. Their outreach is focused on attorneys (and some law schools and law students) rather than the general public. From the section chair's perspective, people who are involved in business need access to capital, so they generally have resources.

The Business Law Section, however, would consider any suggested proposal by the Committee regarding access-related projects. Mr. McKee suggested, for example, that they may be able to answer business law questions at a community Law Day.

3) CALIFORNIA YOUNG LAWYERS ASSOCIATION (CYLA) – Alex Calero, Chair

The California Young Lawyers Association (CYLA) is currently focusing on several important projects, including:

- Better preparing new lawyers to practice law effectively and thereby increasing consumer protection. This project includes: (1) developing a library of practical skills MCLE courses for new lawyers—CYLA is working with the Sections to develop these practical skills MCLEs; (2) developing a library of video presentations by legal experts for new lawyers—this project is called the “10 Minute Mentor” program; and (3) providing public comment, whenever possible, to the Board of Trustees and the Task Force on Admission Regulation Reform regarding practical skills training and education.
- Actively participating in the development of CYLA's role as an MCLE auditor. This goes towards CYLA's regulatory role.
- Launching a committee dedicated to outreach to underrepresented areas. This year, CYLA is launching a committee tasked with outreach to geographically underrepresented areas. The committee's goal is to increase new lawyer awareness of the State Bar and its programs and increase new lawyer involvement within these underrepresented areas.
- Promoting pro bono legal service. CYLA is working to increase awareness of pro bono opportunities and service to underserved populations.

CYLA offered suggestions for helping to raise the profile of access to justice issues, including: (1) bringing attention to access to justice issues by publicizing statistics and other information about the justice gap; and (2) liaising with the State Bar to develop legal assistance materials and brochures in additional languages.

4) CRIMINAL LAW – Mark Jackson, Chair

Current priorities/major projects for the Criminal Law Section include:

- Providing public protection via continuing legal education programs (i.e. State Bar Solo Summit in June 2014; State Bar Annual Conference in September 2014; and various webinars/online education including: trial advocacy, courtroom technology, white collar criminal litigation, legal ethics, and criminal law and procedure).
- Ongoing production of the Section’s popular “*Criminal Law Journal*” and “*E-Bulletin*.”
- Administering the Section’s popular student writing competition with law schools throughout the state.
- Continuing to enhance the image of the legal profession and State Bar through participation in programs at Hastings Law School, Stanford Law School, De Anza High School Law Academy and the legal community.

With respect to access to justice work, the Section does extensive programming on the topic of “Ethics.” The Section’s committee members and advisors consist of prosecutors, defense attorneys, and judges who deal with the issue of access to the legal system on a daily basis.

The Section is very interested in co-sponsoring events and working to ensure access to justice for all. For example, the Section would like to partner with the BOT/State Bar to do public protection presentations to the public in the area of identity theft, which is one of the top crimes of 2014. (Identity theft costs the American economy billions of dollars annually and impacts millions of Californians.)

5) ENVIRONMENTAL LAW – Alexander Crockett, Chair

Much of the Environmental Law Section’s work is dedicated to public interest law involving environmental issues. The Section has a subgroup designated to representing community groups in pro bono cases. The cases that the subgroup represents litigants on are generally the type of cases that further the Section’s agenda, i.e., environmental issues.

6) FAMILY LAW – Andrew Cain, Chair

The Family Law Section annually reviews every bill introduced in Sacramento that impacts the practice of family law. The Section provides commentary through Bar-approved letters, testimony and participation in key stakeholder groups. The Section also has an active affirmative/developing legislation group. Through this group the Section proposes bill ideas and works with community

stakeholders to formulate their ideas into a legislative package. The Section currently is sponsoring one bill, AB 414.

Over the last two terms the Section has enhanced its web-based education offerings. The Section attempts to put on webinars two times per month on topics of interest to attorneys of various experience levels and diverse practice areas. One of the Section's recent webinars was viewed live by nearly 200 attendees. In addition, the Section has worked with members of the judiciary to increase its live education offerings. In May, the Section concluded its Essentials of a Trial program. This program was presented in four locations across the state. Bench officers and attorneys joined together on the panel to walk participants through all aspects of a trial, from case preparation to closing argument. The Section hopes to continue the trend of increased education offerings in the future.

The Family Law Section is keenly aware of access to justice issues in light of the high number of pro per litigants accessing the family court system. The cuts to the judiciary budget imposed over the last few years have hit family courts particularly hard. With this in mind, the Section has taken some steps to assert a voice in discussions related to these issues.

For example, a Section member testified in March at a hearing in Sacramento entitled "Family Courts: Budget Cutbacks and Access to Justice." To prepare her for the hearing, the Section's Executive Committee members shared anecdotes of how budget cuts are impacting their jurisdictions. Additionally, the Section routinely comments on Judicial Council proposals to amend the Rules of Court, including those proposals that impact access to justice issues. Recently, the Section submitted comments on rule proposals issued for the Spring, 2014. In the past, the Section has sponsored a grant that allowed attorneys with legal services organizations to access educational offerings at a discounted price, knowing that compensation for legal aid attorneys does not always allow for access to presentations of this nature. The Section's "*Family Law News*" has run a series of articles related to access to justice and budget cut issues. The journal's Editor, Naghmeh Bashar, has taken a great interest in these issues and views the journal as a platform for education of readers of their importance.

A leadership transition in the Section will be happening soon and the new leadership will decide upon the Section's priorities which may include continued work on access to justice issues.

7) INTELLECTUAL PROPERTY LAW – Andy Stroud, Chair

The Intellectual Property Law Section's current priorities/major projects include: (1) educational programming and webinars; (2) maintaining its "*New Matter*" publication; (3) interfacing between the section and IP regulators (US Patent and Trademark Office (USPTO) and Copyright Office); and (4) working directly with the new regional US Patent Office in San Jose to partner on educational programs.

The Section has worked with the USPTO to promote its pro bono program, and encourage attorneys in the section to volunteer for the program to help provide access to patent counsel to those who cannot ordinarily afford such legal assistance: <http://www.uspto.gov/news/pr/2012/12-66.jsp>

The Section is interested in working on access to justice issues in the future. The area in which it would best be able to do this is on the asset protection side for financially challenged inventors, small businesses, authors, artists, photographers. Possible work could include cooperative training sessions with California Lawyers for the Arts regarding “how to” programs with respect to navigating regulatory requirements for asset protection (e.g., patent applications, trademark registration, copyright registration).

8) INTERNATIONAL LAW– Elizabeth Foster, Chair

The International Law Section focuses primarily on member educational programs. Additionally, the Section provides networking opportunities for its members, produces a member newsletter; and facilitates international abroad opportunities for members.

The Section has not been involved in access to justice work but is open to hearing how they might get involved.

9) LABOR & EMPLOYMENT LAW – Carol Koenig, Chair

The Labor & Employment Section’s current projects that directly relate to access to justice include appearing on a radio show every other month to educate listeners about their rights, releasing annual publications, and awarding grants to attorneys to work for underserved communities.

The Section is involved in and interested in access to justice issues.

10) LAW PRACTICE MANAGEMENT & TECHNOLOGY (LPMT) – Tangela Terry, Chair

Current priorities/major projects for the Law Practice Management & Technology (LPMT) Section include improving (expanding and expediting notices with respect to) their social media presence, publishing its “*e-news*” newsletter with useful articles and MCLE, and finding ways to try and increase membership since LPMT is the smallest section, in terms of number of members.

LPMT’s current work has not involved or been related to access to justice. However, the Section (or at least certain members of the group) would be interested if there was some way to integrate the purpose of the Section with the access to justice activity proposed.

11) LITIGATION – Robert Bodzin, Chair

The Litigation Section produces several publications, including the California Litigation Journal, a monthly electronic newsletter, the Litigation Update, and the California Litigation Review. In addition the Section provides live educational programs including Coaching for the New Practitioner’s Program, the In-House Counsel Guide to Choosing a Mediator and the Federal and

State Appeals Program. It also conducts webinars on advocacy, ethics, litigation best practices, appellate best practices, and trial topics.

In addition to these activities, the Section increases access to young lawyers to the bench by hosting social events such as “the Night with the Judges” (which featured twelve sitting San Francisco Superior Court Judges), and the Trial Lawyer Hall of Fame Annual Award and dinner. The Section also hosts brown bag luncheons with state and federal judges throughout California.

The Section engages in charitable outreach through hosting its annual Law Suits and Dress for Success suit collection.

The Litigation Section’s Rules and Legislation Committee comments on Judicial Council legislative and rules proposals affecting litigation practice, including issues relating to access to justice. The committee also is developing its own legislative proposal to amend the Government Claims Act so as to clarify the notices sent by public agencies to claimants, many of whom are not represented by counsel, and clarify timing requirements for commencing litigation.

The section’s Jury Instructions Committee comments on the Judicial Council’s proposed revisions to CACI instructions and makes unsolicited proposals for revisions by sending such proposals to the Advisory Committee on Civil Jury Instructions. Standard jury instructions enhance access to justice by providing an accurate statement of the law and directions for use at no cost to the litigator. The Executive Committee has not yet formed a subcommittee to explore the role of limited scope representation in non-family law/non-juvenile civil litigation matters.

The Section is interested in working on access-related issues and would value guidance and instruction from the Board of Trustees on these topics.

12) PUBLIC LAW – David Hirsch, Chair

Major projects and priorities for the Public Law Section include their recent very successful second annual Public Records Act/Open Meeting Conference. It was held at UC Hastings College of the Law and had about 300 people in attendance. The Section also has been ramping up its efforts to put on webinars, and has a great lineup of programs set for the Annual Meeting in September.

The Section’s Membership Subcommittee has also been hard at work trying to reach out to law students and new admittees, holding receptions and programs with panel presentations by prominent public sector attorneys at law schools around the State. The Section is very proud of its flagship publication, *Public Law Journal*, as well as the regular *E-News* it sends out to its members.

The Section recently selected the winner of its Student Writing Competition, and the winner's article will be published in the Section’s Journal later this year. Chief Justice Cantil-Sakauye will be presenting the Section’s Public Lawyer of the Year Award to this year's recipient, Wendy Patrick, at a reception at the Annual Meeting in September.

According to the Section chair, the Section's current work does not really involve access to justice. The Section, however, is happy to explore whether there is anything the Section can work on in the area of access to justice and is willing to put the topic on the agenda for its next Executive Committee meeting for discussion.

13) REAL PROPERTY LAW – Julie Baird, Chair

Survey results pending

14) SOLO & SMALL FIRM – Shirish Gupta, Chair

The Solo & Small Firm Section works to help attorneys who are opening their own firms, many of whom do pro bono work and represent underserved communities.

Current projects of the section that are somewhat related to access to justice include:

- Visiting rural places, such as Eureka County and Imperial County, to conduct MCLEs.
- Hosting seminars at law schools and educating students how to open their own solo/small firms.
- Releasing publications educating attorneys how to open and run their own solo/small firms.

The Section is interested in access to justice issues.

15) TAXATION – Brad Marsh, Chair

The Taxation Section generally does not work directly on access to justice issues because there are a lot of clinics in California that help people with tax issues. The Section, however, does some activities that help members of the public who may not have easy access to attorneys and the courts. For example, the Taxation Section encourages its members to volunteer at the US Tax Court to give pro bono representation to people who do not have attorneys. Additionally, the Section regularly conducts MCLEs for accountants and young/solo attorneys, who in turn may provide services to underserved people.

Right now, the Section is preparing for its November annual meeting, which is a big event.

16) TRUSTS & ESTATES – Bart Schenone, Chair

The Trusts & Estates Section continues its Educating Seniors project directed at educating seniors about elder abuse in its different forms. The Section has on-line materials, written materials that it is developing in different languages, and is training attorneys to give presentations in senior

centers. All of this is a work-in-progress. At the 2013 Annual Meeting, the Section presented its program during one of the seminars. Educating Seniors continues to be a high priority as the Section views educating seniors as key to helping seniors be able to avoid situations where unscrupulous parties or relatives are engaged in financial (or physical) elder abuse.

The Section continues its program of webinars, stand-alone programs, and programs at the annual meeting. This year the webinar has many programs directed at inexperienced attorneys in the trusts and estates area.

The Section has published its third edition of the *Ethics Guide* and, for the price of shipping, is otherwise providing its members the *Ethics Guide* without cost. The Guide is specifically directed at improving the Trusts and Estates practice and thereby improving services to the public.

The Section continues its legislative agenda to provide comments on legislation where its technical expertise is useful. The Section also proposes legislation sought to improve California laws for the benefit of the public.

Finally, the Section participates with the California Law Revision Commission in projects of mutual interest and provides comments to the Judicial Council where proposed rules fall into the Trusts and Estates area.

17) WORKERS' COMPENSATION – Hon. Paige Levy, Chair

Survey results pending

CONCLUSION

The Stakeholders Committee was excited to learn about the engagement and strong interest level of the Sections in working on access to justice issues. The Committee intends to complete this survey and will work with State Bar staff and other entities, including the California Commission on Access to Justice and the Standing Committee on the Delivery of Legal Services to collaborate with the sections on access-related projects and initiatives whenever possible.