

STATEMENT OF VICE PRESIDENTIAL CANDIDATE

NANCY LEAVITT FINEMAN

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Since 1927, the State Bar of California has shaped the development of the law, regulated the professional conduct of the state's lawyers and provided greater access to legal services for all citizens. Our court system and the legal profession have overcome great challenges over the last few years through the dedication and leadership of the Bar and the judicial branch. The leadership of the Bar over the next few years must build on these great successes and find ways to solve the issues that we continue to confront.

We are very fortunate to have Luis Rodriguez as the next President of the Bar. I agree with his priorities for next year to "continue what Pat Kelly is doing" as an advocate for court funding and the continuing improvement of the discipline system.

BACKGROUND INFORMATION

I have the skills, passion and ability to fulfill the responsibilities of the job of Vice President. I promise to work with the Bar, our judicial leaders, our stakeholders and our critics to continue the Bar's mission of serving and protecting the public by promoting the highest standards of ethics, competency and professionalism among our members and enhancing the administration of justice. While we should be proud of our accomplishments, our work and our ability to improve our profession is not over.

I have been a lawyer since 1986, spending most of my career at the law firm of Cotchett, Pitre & McCarthy, LLP, which I joined in 1989 after a few years working at an insurance defense firm, Sedgwick. While I primarily represent plaintiffs, I also have a defense practice. I have represented individuals, public entities, small businesses and major corporations. Access to justice and the ability to have effective counsel are critical to each of my clients.

I am a litigator with extensive trial and appellate experience. One of my more memorable trials was representing the teachers' pension plan, CalSTRS, in one of the few cases tried under the PSLRA (Private Securities Litigation Reform Act). My law partner, Joe Cotchett, and I were the first private attorneys to interview Bernie Madoff, an interview that was conducted in the visitor's room at the federal prison in Butner, North Carolina in 2009.

I have been recognized as “Litigator of the Week” by the *Am Law Litigation Daily*, a Woman of Achievement by the California Women Lawyers, the Women Trial Lawyer of the Year by Consumer Attorneys of California Women's Caucus, and, for nine years, a California Super Lawyer. I have the highest rating, AV, from Martindale Hubbell.

For the State Bar, I have served on this Board, the JNE Commission, and the California Bar Foundation. I have held many positions within the San Mateo County Bar Association, including serving on the Board of Directors and as President of the Women’s Educational Foundation. I serve on the Boalt Hall Alumni Board and was on the 20th and 25th Reunion Committees.

My non-legal community service includes serving on the Board and President of a food bank and having numerous volunteer positions in my children’s school, including Co-Chair of direct mail fundraising. You can find my full biography on the firm’s website, www.cpmlegal.com.

FUTURE OF THE CALIFORNIA STATE BAR

The State Bar is one of the guardians of our justice system. We have enunciated the following values which guide the Board in its decision making and help us set our priorities.

- 1. We strive to protect the public by developing, supporting and enforcing rigorous standards of competence, ethical behavior and commitment to public service in the legal profession.**

We must never forget our primary duty of overseeing the discipline system and protecting the public from incompetent and unethical attorneys. We have seen the consequences to the Bar and the public when our discipline system fails to work as it should. As trustees, we have the duty to ask the tough questions and make sure that we receive complete and honest answers.

I suggest that we must also look beyond the discipline system to achieve our goal. Let’s stop attorney malfeasance before it happens. Prevention rather than discipline benefits everyone. The Bar has many programs to help lawyers achieve their greatest potential, programs that we must continue for the public good:

- We have rigorous admissions requirements to weed out attorneys who do not have the ability or ethics to become attorneys.

- We want our new lawyers to learn the necessary skills to be successful lawyers. The Board is considering the recommendations of the Task Force on Admissions Reforms, which would increase requirements for new lawyers. I agree that increased requirements for admission make sense. I am concerned, however, that some additional requirements may become counter-productive. We want to make sure that the requirements help new lawyers succeed. The challenges that new lawyers face are enormous, especially with the large student debt most new lawyers have. The first few years of practice are incredibly difficult. The Task Force has listened to the voices of many different constituencies and made thoughtful recommendations. I look forward to the Board's discussion.
- We work to make sure that our members remain competent and ethical practitioners. The Member Oversight Committee, of which I am a member, held hearings about increasing MCLE requirements where we learned important information. Any additional requirements that we impose must provide flexibility so that attorneys can learn effectively and efficiently to benefit their practices and the public good. We must also be mindful of the cost of these programs. Education is one of the easiest ways to increase lawyer competence and I am glad that the Board is considering increasing MCLE requirements.
- We want to make sure that lawyers at the end of their career know when they should stop practicing law. The Senior Lawyers Working Group is addressing the challenges facing senior lawyers and their clients. As a member of the Fee Waiver Committee, I read the pleas of many older lawyers who want to maintain their law license, but do not have the financial resources to pay their bar dues. We must make sure that these lawyers are treated with dignity and respect, but we must not forget that, if they are not competent to practice, the Bar must have a procedure to stop them from providing legal services. We must put programs in place to help older attorneys avoid the discipline system.

2. We work to strengthen the State Bar's leadership and accountability in improving the administration of justice and ensuring the rule of law in our civil society.

Our Strategic Planning Sessions and the New Member Orientation, which I helped plan last year, provide important training for our Board members. I appreciate that the Bar sent me to an ABA leadership training seminar in Chicago, along with other Trustees, to learn additional leadership skills. Most important for me has been the

guidance and friendship extended to me by the senior members of the Board and the Staff who never hesitate to help me understand the workings of the Bar. This welcoming and collaborative environment must continue even when we have different opinions on issues.

Through our collective work, we investigate and debate the important issues facing our profession. We need to make sure that all voices are heard during these discussions and that no one is afraid to express his or her opinion. It is only after vigorous debate that the best decisions are made.

Perhaps no issue has been more important in the last year than court funding. Our Bar leaders have played a critical role in obtaining increased funding for our courts. The road to Sacramento has been well-traveled by our Bar leaders and staff. The Legislature has many demands for funding. Our voices are necessary to explain why the courts, as the third equal branch of government, must have adequate funding. Each of us will have to continue our efforts to educate the Legislature and the public because our courts need to have sufficient funds to continue to provide access to justice. The fair administration of justice and the rule of law, under which our legal system operates, do not work when there is one system for those who can afford private judges or the high cost of lawyers and another system where those without resources cannot obtain access to justice.

The rule of law, which governs our country, sets us apart from most other countries. Attorneys have the ability to effectuate change for their clients in a peaceful and constructive way through our court system. The recent example of the Supreme Court's rulings on the Defense of Marriage Act and Proposition 8 demonstrates the importance of our court system as a way to effectuate change. One has only to look at the recent chaos in Egypt and other countries throughout the world to know how lucky we are to live in the United States where the stability of our system of government continues even when there is disagreement. We need adequate court funding to have a functioning society.

3. We value a culture of transparency and commitment to continuous improvement.

There is no question that the Bar must be transparent in decision making and continue to improve. We have received a great deal of criticism from those who believe that we are not transparent enough and have not changed fast enough. I understand their point of view and have listened carefully to their concerns. We must also consider the viewpoint of those people who may not have the resources to present their opinions to the

Board. The Board collectively makes decisions which we believe best protect the public and which recognize our role as a part of the judicial branch.

4. We believe that all people should have access to high-caliber legal services, regardless of their financial or other circumstances.

In order to have a respected and functioning legal system, everyone needs access to a qualified lawyer. There are many examples of lawyers who have taken unpopular cases because it was the right thing to do. To me, one of the most inspiring stories is that of John Adams, a fierce supporter of American independence who represented British soldiers in 1770. No one, except Adams, would represent these soldiers against charges that they had murdered American colonists protesting the imposition of taxes. The conviction of these soldiers appeared to be a foregone conclusion, until Adams was able to convince the jury to apply the law, not emotion, in reaching its verdict. He was able to obtain the acquittal of six soldiers and the conviction on lesser charges for two soldiers. You cannot imagine the hostility towards Adams and his family by some segments of society. He lost clients and substantial income, but his courage and the admiration of the people took him down the road from an obscure lawyer to President of the United States. His story is but one of many—including stories from today—of attorneys who devote their professional lives to public service. Very few people know these stories. As the State Bar, we need to encourage the teaching of civics in the schools and increase public education so that the public understands the important role that lawyers play in our society.

More importantly, if lawyers are to increase their standing with the public, we must make legal services available to more people. We must volunteer our time to those who cannot afford a lawyer or give money to organizations that will provide those services. The public needs to see that lawyers are concerned about improving society and not just their own pocketbooks. At the Bar, we need to continue to educate our members about the importance of giving back to our community. Although our primary focuses over the coming year will be court funding and discipline, we must also devote resources to continue to promote access to high quality legal services for all members of society.

5. We work to provide services and benefits to members that promote a culture of collegiality and excellence in the practice of law.

As lawyers have increased their practice in courts across the State and the stakes of litigation have increased, collegiality has decreased. The Chief Justice's suggestion of Civility Guidelines is good, but I believe that change will only come when lawyers

connect outside the courtroom. Our sections and committees provide that opportunity for attorneys from different backgrounds to work together for a common good. Our MCLE programs and Annual Convention, not only provide educational opportunities, but additional ways for lawyers to connect. We develop friendships, or at least respect, for people who are on opposing sides in the courtroom or a transaction through these contacts. As a result, we become more collegial with each other and our legal system benefits.

6. We seek to promote economic, racial and geographic diversity in the legal community in an effort to solidify our ties to California's vibrant multicultural demographic.

We live in California because we value the great diversity that the State offers us. Yet our profession does not reflect the demographic makeup of our residents. This disparity must change. Diversity in our profession is the only way to fulfill our mission. People from different backgrounds bring different life experiences and perspectives; our profession improves because of their input. The Access to Justice Commission and California Bar Foundation are but two of the organizations that are working to ensure greater diversity in the legal system. The Bar, and each individual member, needs to do all that they to promote diversity.

It has been a pleasure to work with each of you on this Board. I hope that you will vote for me for Vice President. Working together, we can continue to improve our profession and the service we provide to the public. As Margaret Mead aptly stated: "Never doubt that a small group of thoughtful, committed people can change the world. Indeed, it is the only thing that ever has."