

JOANNA MENDOZA’S COMMENTS TO REVISED DRAFT REPORT OF THE MIWG:

I concur with Scott Garner’s comments, especially that this draft is much better, and add the following comments:

Page 2, Para. 1 under “Working Group Findings:” I would revise the sentence that currently states “In one case, the very premise of the topic was the subject of disagreement; some members of the MIWG disagreed with the premise that legal malpractice insurance confers a public protection benefit” to read “The very premise of whether data supported the existence of a problem arising from uninsured attorneys was the subject of disagreement among the MIWG. In addition, some members of MIWG disagreed that there was sufficient evidence to conclude that legal malpractice insurance confers a public protection benefit.”

Page 3, Fortney: I would request again that we delete the references to Fortney’s unpublished manuscript. If it is decided to leave it in, we need to add a footnote citation to the end of the paragraph where MIWG members disagreed with the 1750 billable hour reference, citing specifically to CLIO’s Legal Trends Report 2018, p. 11, which provides that 1.9 hours on average is realized billing and 1.6 hours of that is collected. Without a citation to that report it appears as if there is no data to back-up the position of those on the MIWG who disagree that Fortney’s calculations are grounded in reality. Either have neither or both citations to keep it balanced.

Page 10, Levin: The purely speculative calculation of Professor Levin is not supported by data and is misleading. I again request that it be deleted as not adding anything of value to this report.

Bibliography: It was indicated we could add a bibliography of material reviewed and considered by the MIWG to the report. Will this still happen?

Special thanks to Linda Katz, Randy Miller, the entire MIWG and the State Bar for working so hard and productively to publish this important report to the Legislature and the California Supreme Court.