



CLOSING THE JUSTICE GAP WORKING GROUP ACTION SUMMARY

Wednesday, August 11, 2021
10:00 am – 4:30 pm

Teleconference

The State Bar of California

Questions regarding any agenda item should be directed to the Committee Coordinator, Lauren McCurdy at 415-538-2107 or Chair, Justice Alison Tucher at 415-538-2116. Committee members are requested to notify the Committee Coordinator as early as possible in advance of the meeting if they wish to remove any item/s from the consent agenda.

Committee Members: Justice Alison Tucher (Chair), Marta Alcumbrac, Andrew Arruda, Judge Irma Poole Asberry, Merri Baldwin, Judge Wendy Chang, David Engstrom, Bridget Gramme, Thomas Greene, Daniel Grunfeld, Eric Helland, Khathy Hoang, Micha Liberty, John Lund, Kevin Mohr, Wendy Musell, Crispin Passmore, Toby Rothschild, Rebecca Sandefur, James Sandman, Patricia Squitiero, and Sacha Steinberger.

Committee Members Not Present: John Lund

Others Present: Neil Gupta; Greg Fortescue; Donna Hershkowitz; Randall Difuntorum; Mimi Lee; Andrew Tuft; Angela Marlaud; Lauren McCurdy; Melanie Lawrence; Mia Ellis; Brady Dewar; Leah Wilson; Shilst; Chet Bhavsar; Mihir Kshirsagar; Edwin Hong; Nare Kupelian; Olivier Taillieu; Iman Jaffrey; Carlos Martinez; Daniel Ghyczy; Charlie Gillig; Rachel Rippetoe; Robert May; Janate Valenzuela; Nancy Drabble; Annette Morasch; Abraham Niman; OneJustice; Chelsee Sachs; Ramin Montakab; Genie Harrison; Bill S.; Ramin Soofer; Molly McKibben; Leonard Sansanowicz; mjk; Monica Milla; Artin Gholian; Steward Albertson; Benji Azizian; Ron Prasad; Carly Sanchez; Andrew Hillier; Richard Jordan; Peter Kunstler; Edwin Hong; Brian O'Neill; Jimmy Cabral; Cameron Perkins; Cindy Panuco; Sherif El Dabe; Alain Kinaly; Gretchen Nelson; Doug Silverstein; Cameron Gallad; Oshea Orchid; Mohamed Eldessouky; Marvin Vallejo; Jacquie Serna; Bill Paoli; Eric Heath; Robert Rankin; Anna; Emily Claus; Dimitri Nichols; Michelle Hemesath; Jennifer Osertag; Adam Krolkowski; Diane Chang; Satereh Panah; Nicole Prince; Zach Newman; Todd Goodman; Mike Kazerouni; Sharol Duenas; Anthony Liberatore; Ian Shakramy; Martin Jerisat; and Michael.

The order of business is approximate and subject to change.

Members of the public may access this meeting as follows:

Zoom Link: <https://calbar.zoom.us/j/98541326133>

Call-In Number: 1-669-900-9128

Webinar ID: 985 4132 6133

OPEN SESSION

I. CHAIR'S REPORT

- A. Roll Call
- B. Public Comment
- C. Announcements
The Chair welcomed Ms. Asberry, Ms. Musell, and Ms. Steinberger as new members of the working group and asked them to introduce themselves. Ms. Hershkowitz announced that Bridget Gramme will be stepping down from her role as a member of the working group and will join State Bar staff as the State Bar's new Deputy Director of Programs.
- D. Staff Report
Mr. Difuntorum reported that the 2022 schedule of meetings has been circulated and asked that members inform staff about any immovable conflicts.
- E. Approval of Open Session Action Summary from the June 18, 2021 Meeting
The working group voted to approve the open session action summary from the June 18, 2021 meeting (13-0-4).

II. BUSINESS

- A. Discussion and Possible Action on a Subcommittee Recommendation for the Structure and Governance of a Sandbox Regulatory Authority (*Lund & Baldwin*)
Ms. Baldwin reported that the Office of General Counsel prepared a memo on the legal considerations regarding the potential structure for sandbox regulatory entity and led a discussion.
- B. Discussion and Possible Action on a Subcommittee Recommendation for a Risk-Based Approach to Regulation for a Sandbox (*Lund & Baldwin*)
This item was not called for discussion and carried forward to a future meeting.
- C. Discussion and Possible Action on Recommendations Concerning Rules and Laws that an Applicant May Seek to Waive for Services Delivered in the Sandbox
This item was not called for discussion and carried forward to a future meeting.

- D. Presentation: Technology Driven Legal Services Delivery Systems Including the Issues of: Dark Patterns; the Need for Scale in Algorithmic Systems; and the Current Limits of Such Systems (*Mihir Kshirsagar – Princeton University Center for Information Technology Policy*)
Mr. Kshirsagar gave a presentation on technology-driven legal services delivery systems including issues concerning dark patterns and algorithmic systems.
- E. Preliminary Report from the Lawyer Advertising and Solicitation Rules Team (*Chang, Rothschild, Baldwin, Tuft*)
Mr. Rothschild presented an initial memo on the advertising rules and led a discussion.
- F. Discussion of a Draft Sandbox Application (*Alcumbrac & Mohr*)
Mr. Greene and Ms. Sandefur presented the draft application and led a discussion.
- G. Discussion and Possible Action on a Subcommittee Recommendation Concerning Sandbox Participation of Lawyers who are Not Entitled to Practice Law (*Tuft & Rothschild*)
Mr. Rothschild gave an oral report on the proposed recommendation that was approved by the Scope Subcommittee. Following discussion, the working group unanimously voted to approve the recommendation as drafted (18-0-0).
- Recommendation:*
Anyone who is an ineligible person under the definition of rule 5.3.1 of the California Rules of Professional Conduct, in any state or jurisdiction, is ineligible to participate in the sandbox in any form.
- H. Discussion of the Sandbox Application Criteria for Applicant Background Checks (*Greene & Sandefur, Liberty*)
Mr. Greene introduced a possible recommendation addressing which individuals or entities should be required to provide disclosures when applying to participate in a sandbox.
- I. Discussion of the Sandbox Application Criteria Concerning Attorney-Client Privilege, Confidentiality, and Data Privacy (*Engstrom & Mohr*)
Mr. Engstrom and Mr. Mohr presented a memorandum on privilege, confidentiality, and data privacy as requirements for sandbox providers and led a discussion.
- J. Discussion of Assignments and Next Steps

CLOSED SESSION

NONE

ADJOURN

In compliance with the American with Disabilities Act, those requiring modifications or accommodations to observe and address this meeting should notify Angela Marlaud at Angela.Marlaud@calbar.ca.gov. Please provide at least 72 hours prior to the meeting to allow sufficient time to make arrangements for accommodations at this meeting.

The notice and agenda is available at <http://board.calbar.ca.gov/committees.aspx>.