



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 50-2 MAY 2024**

**DATE:** May 16, 2024

**TO:** Members, Board of Trustees

**FROM:** Ellin Davtyan, General Counsel  
Robert G. Retana, Deputy General Counsel

**SUBJECT:** Annual Report on the Use of Outside Counsel in 2023

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### **EXECUTIVE SUMMARY**

In its 2017 Audit Report, the California State Auditor recommended the State Bar annually report to the Board of Trustees the prior year's use of outside counsel by the State Bar. This report describes the State Bar's outside counsel use for the calendar year 2023. The item is for informational purposes only; it does not require formal action by the Board of Trustees.

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### **BACKGROUND**

The June 2017 Audit Report states: "To increase transparency, the State Bar should disclose annually to the board a list of all contracts with outside law firms—including a description of the services provided, the need for such contracts, and the value and length of the contracts."

Following that June 2017 Audit Report, the general counsel has reported to the Board of Trustees on the use of outside counsel on an annual basis. As explained below, the total expenditures on outside counsel for the calendar year in 2023 was \$1,675,621,<sup>1</sup> inclusive of amounts spent on investigations. This compares to \$1,756,785 in 2022, not including costs for Special Deputy Trial Counsel.<sup>2</sup>

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<sup>1</sup> Amounts are rounded up.

<sup>2</sup> Last year's report included \$823,833 in the amount spent on the Special Deputy Trial Program under State Bar Rules of Procedure, Rule 2201. The amount spent on that program is not included in this report as it will be the subject of a separate report.

## **DISCUSSION**

Consistent with prior years, in 2023 outside counsel was retained for three primary reasons: (1) advice, representation, audits, and investigations best performed by attorneys external to the State Bar; (2) outside counsel's specialized expertise; and (3) insufficient internal resources. The Office of General Counsel (OGC) continues, where possible, to provide a full array of legal services to the State Bar. In total \$487,137 was spend in 2023 on investigations directed by the Board of Trustees, reports of which have been publicly release with redactions, as appropriate. With regard to legal advice and representations, as detailed in the Attachment A, there were numerous litigation and advice matters that required the use of outside counsel to supplement insufficient internal resources and to obtain specialized legal expertise, including in the following practice areas: bankruptcy, immigration, tax advice, ethics and risk management, insurance coverage and indemnity. Total spent on legal advice and representations in 2023 was \$1,188,454.

## **FISCAL/PERSONNEL IMPACT**

None. The costs were incurred in 2023. There is no current year fiscal impact.

## **AMENDMENTS TO RULES**

None

## **AMENDMENTS TO BOARD OF TRUSTEES POLICY MANUAL**

None

## **STRATEGIC PLAN GOALS & IMPLEMENTATION STEPS**

None – core business operations

None – compliance

## **RECOMMENDATIONS**

None

## **ATTACHMENT LIST**

- A. Report to the Board of Trustees on the State Bar's Use of Outside Counsel in 2023

## Report to the Board of Trustees on the State Bar's Use of Outside Counsel in 2023

**Table 1. Investigations**

<b>Firm</b>	<b>Services provided</b>	<b>Need</b>	<b>Value</b>
Adams, Duerk, Kamenstein LLP	Investigation re Former Deputy Executive Director Robert Hawley's Practices of Authoring Rule 2201 Reports	Investigation best performed by attorneys external to the State Bar	\$42,052.50
Adams, Duerk, Kamenstein LLP	Investigation re Former Board of Trustee's Potential Conflicts of Interest	Investigation best performed by attorneys external to the State Bar	\$84,892.50
Adams Law Group, APC <sup>3</sup>	Investigation re Former Board of Trustee's Potential Conflicts of Interest	Investigation best performed by attorneys external to the State Bar	\$91,605.00
Halpern May Ybarra Gelberg LLP	Investigation into the State Bar's handling of complaints against Thomas Girardi & Related activities	Investigation best performed by attorneys external to the State Bar	\$266,336.90
Law Office of Alyse Lazar	Services related to the audit of closed complaints against Thomas Girardi	Audit related services best performed by attorney external to the State Bar	\$2,250.00
		<b>TOTAL</b>	<b>\$487,136.90</b>

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The Adams Law Group, APC changed its name to Adams, Duerk, Kamenstein LLP in 2023.<sup>3</sup> The total amount spent for the noted investigation is \$176,497.50.

**Table 2. Legal Advice and Representation**

<b>Firm</b>	<b>Services provided</b>	<b>Need</b>	<b>Value</b>
Andrade Gonzalez LLP	Insurance coverage and procurement advice	Specialized expertise of outside counsel	\$54,053.50
Buchalter, A Professional Corporation	Lease and sale of the 180 Howard Street building	Specialized expertise of outside counsel	\$282,208.76
Coblentz Patch Duffy & Bass LLP	Representation related to claims of discriminatory treatment in the discipline process alleged by Respondent Gregory Harper	Insufficient internal resources; specialized expertise of outside counsel	\$140,991.74
Cooley, LLP	<i>Roe, John, et al. v. The State Bar of California, et al.</i>	Insufficient internal resources; specialized expertise of outside counsel	\$170,087.12
Gibson, Dunn & Crutcher LLP	<i>Kohn v. The State Bar of California –</i>	Specialized appellate expertise of outside counsel	\$25,000.00
Hanson Bridgett LLP	Tax Advice	Specialized expertise of outside counsel	\$2,223.00
Isaacs Friedberg LLP	Legal advice relating to investigation and other legal advice as overflow	Specialized expertise of outside counsel; insufficient internal resources	\$116,040.63
Kim Vaughn Lerner LLP	<i>Germain v. Placer</i>	Insufficient internal resources	\$2,545.16
Marquis Aurbach Chtd.	<i>Dydzak V. Cantil-Sakauye et al.</i>	Legal services in connection with Nevada case	\$175.00
Musick, Peeler & Garrett LLP	Insurance coverage and indemnity	Specialized expertise of outside counsel	\$46,739.00
Orbach Huff and Henderson, LLP	Legal services and/or representation in connection with the following matters: <i>Beck v. State Bar;</i>	Insufficient internal resources; specialized expertise of outside counsel	\$57,324.41

Firm	Services provided	Need	Value
	<i>Agaton, et al. v. State Bar</i> ; general advice as needed as overflow		
Papetti Samuels Weiss McKirgan LLP	Enforcement of Subpoena in Arizona	Specialized services (need for Arizona licensed legal counsel)	\$4,246.19
Polsinelli LLP	Privacy/Data Security <sup>4</sup>	Specialized expertise of outside counsel	\$20,986.00
Rosales Law Partners LLP	DEI Policies and Procurement practices	Specialized expertise of outside counsel	\$83,861.50
Sanders Roberts, LLP	<i>Agaton, et al. v. State Bar</i>	Specialized expertise of outside counsel	\$19,607.45
Shaw Law Group, PC	Legal advice relating to labor and employment, whistleblower retaliation	Insufficient internal resources	\$10,334.50
SSL Law Firm, LLP	Lease negotiations	Specialized expertise of outside counsel	\$80.00
Stradling Yocca Carlson & Rauth	Sale of 180 Howard Street	Specialized expertise of outside counsel	\$5,500.00
Strumwasser & Woodcher LLP	Legal advice and representation in connection with motion to intervene and unseal	Insufficient internal resources	\$23,095.65
Van Der Hout LLP	Immigration law and related advice	Specialized expertise of outside counsel	\$16,550.00
Wagstaffe, von Loewenfeldt, Busch and Radwick LLP	Legal services and/or representation in connection with the following matters: <i>LA Times v. State Bar</i> ; <i>Albert v. Farfan</i> ; <i>Germain v. Placer</i> ;	Insufficient internal resources; specialized expertise of outside counsel	\$106,804.85

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<sup>4</sup> Insurance required panel firm.

Firm	Services provided	Need	Value
	<i>Sagi Schwartzberg v. State Bar</i> ; appellate specialized advice		
		<b>TOTAL</b>	<b>1,188,454.46</b>
<b>GRAND TOTAL FOR TABLES 1–2</b>			<b>1,675,621.36</b>