



December 16, 2021

Senator Tom Umberg
CHAIR, Senate Committee on Judiciary
Via email

Assemblymember Mark Stone
CHAIR, Assembly Committee on Judiciary
Via email

Re: December 7, 2021 Letter to Ruben Duran, Chair, Board of Trustees, State Bar of California

Dear Senator Umberg and Assemblymember Stone:

On behalf of the Consumer Protection Policy Center (CPPC), formerly known as the Center for Public Interest Law (CPIL) at the University of San Diego School of Law, I urge you to reconsider the grave policy implications of your December 7, 2021 letter. The letter effectively guts the Bar's Closing the Justice Gap (CTJG) working group and guts the potential for development of a regulatory sandbox. The letter ignores the vital importance of the innovative expansion of legal services, which remains exponentially more critical in light of the ongoing economic consequences of the pandemic. It is apparent from your letter that you are listening closely to the Consumer Attorneys of California (CAOC), but not to the interests of the consumers themselves.

As you know, CPPC closely monitors the State Bar, advocating that it maintain its priority to protect the public—not the profession it regulates. Unfortunately, the letter sends a troubling message to the public: that the voice of the very professionals the Bar licenses and regulates are exponentially more important than any other voice—including those of CTJG volunteer members who have dedicated themselves to closing the justice gap. This is unacceptable. Your letter clearly borrows from the CAOC, who have a vested profit interest in maintaining the status quo. But it has nothing to do with the protection of consumers, who would benefit from innovation in legal services.

Millions of Californians receive no help or inadequate help for their legal problems, and they would benefit from allowing nontraditional legal service providers in a sandbox. But the CAOC's arguments, reflected in your letter, are nothing but protectionism—attorneys wanting to protect their own business. The State Bar must be allowed to fulfill its statutory mission to serve the public and increase access to justice—even if it might be unpopular with licensees of the Bar.

CPPC recognizes that there are important areas still to be considered before the sandbox is ready for a roll-out, including the regulatory structure of such a sandbox, the parameters for applicants, and working with the Legislature to address existing statutes that may need to be amended to ensure a properly functioning and efficient program. There is no evidence of any attempt to



cavalierly make drastic changes without consideration of the consequences. CPPC shares your concern about California’s discipline system—yet the letter ignores the fact that the Bar can do both. The Bar can focus not only on discipline but on innovative ways to close the justice gap. The State Bar must be permitted to identify ways to improve public protection while also fostering innovation in, and expansion of, the delivery of legal services and law-related services, especially in those areas of service where there is the greatest unmet need. There is no justifiable reason to prohibit the CTJG working group from even considering allowing entities who have real potential to deliver new methods of legal services from participating in the sandbox simply because they are not 100% owned by attorneys.

Access to justice is not a new problem in California. CPPC has monitored the State Bar for 40 years, and we can recite countless examples of commissions, working groups, and task-forces charged with closing the justice gap for decades. And yet, that gap continues to widen. Historically, every time a new initiative looks to expand the range of people who can provide legal services, it gets killed—at the behest of the people who want to maintain the status quo because they want to protect their businesses. Your letter continues this shameful legacy by hamstringing the State Bar from considering any real and meaningful opportunities for change. We have tried pro bono representation and legal aid, but they simply are not enough. Millions of Californians with moderate incomes make too much money to qualify for pro bono services or legal aid—and yet they make too little to afford the \$300 per hour in legal services that lawyers have to charge clients.

Notably absent from the letter is any reference to any meaningful alternative proposals for addressing the enormous justice gap consumers suffer in California. The letter also ignores the fact that CTJG has worked hard for years on a variety of issues, including consumer protection mechanisms, conflict of interest concerns, auditing and compliance control, preservation of the attorney-client relationship, and more. The letter also ignores the fact that the CTJG working group came about as the result of months of research and careful deliberation. CTJG has carefully considered models from other jurisdictions within and outside the United States. It also considers public comments and concerns about the potential unintended consequences of relaxing current rules; it continually conducts stakeholder meetings with the Legislature, legal services groups, and attorney groups. Californians deserve a legal profession driven to innovate under careful oversight. This is what the sandbox proposal envisions. The CTJG seeks to investigate ways to increase options for all Californians, especially those with low and moderate incomes and small businesses, to achieve meaningful access to justice. To retreat from this opportunity would demonstrate an egregious lack of leadership.

Finally, CPPC does agree with the final paragraph of the letter insofar as it hints at addressing the cut-rate in licensing attorneys in California.



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On behalf of CPPC, I appreciate your consideration of these critical issues and will gladly answer any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen Thomas Stefano". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

KAREN THOMAS STEFANO, Administrative Director
CONSUMER PROTECTION POLICY CENTER
at the Centers for Public Interest Law

Cc: Ruben Duran, Chair, Board of Trustees, State Bar of California
Leah Wilson, Executive Director, State Bar of California
Justice Alison M. Tucher, CTJG Chair
Merri Baldwin, CTJG Co-Chair
Rebecca Sandefur, CTJG Co-Chair