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## Licensing of nonlawyers gets traction

*State Bar committee says doing so would improve access to justice for many*

By Don J. DeBenedictis

LOS ANGELES - Members of a special State Bar committee Wednesday strongly supported the idea of licensing nonlawyers to provide limited legal services to clients as a way to improve access to justice for those who can't afford lawyers.

"I think we have clear evidence of unmet needs in the legal field," bar Trustee Loren Kieve of San Francisco said near the end of a half-day hearing on the issue. "I think we would be abdicating our responsibility if we did not move forward with this."

Craig E. Holden of Lewis, Brisbois, Bisgaard & Smith LLP said he was impressed by testimony from Judge Daniel J. Buckley, supervising judge of the civil courts in Los Angeles County Superior Court, that about 90 percent of the people appearing in Superior Court domestic violence matters, and up to 80 percent of people in landlord-tenant or family law matters, try to represent themselves.

"These people out there are just at a loss because they can't hire a lawyer," said Holden, who chairs the bar Board of Trustees' Limited License Working Group.

The panel is investigating whether nonlawyers with some legal education could be authorized to provide limited assistance in certain high-demand areas, such as family law or immigration. These "legal technicians" would be able to do more than document preparers or paralegals can do now, including offering some legal advice.

Holden said the goal would be "licensing and regulating conduct that falls within the definition of the practice of law."

New York's chief judge also has endorsed a similar idea, and the Supreme Court in Washington State has adopted a rule allowing for "limited license legal technicians." A special board there is drafting rules and education requirements toward licensing technicians to take on, at least initially, some family law matters.

Gillian Hadfield, a law and economics professor at USC Gould School of Law, told the panel that some data suggests that California consumers face about 12.5 million critical legal problems each year for which they can't afford help. At \$200 per hour, that would translate to \$2.5 billion in unmet legal needs, or about 70 hours of pro bono legal work by every active lawyer in the state.

She said the way to help the underserved is to license organizations where trained nonlawyers could practice in ways that offer economies of scale and sharply reduce overhead.

"The problem of access to justice is a problem of cost, a problem of scale," Hadfield said.

The State Bar should avoid any plan that would merely license sole-practitioner technicians as "lawyer lites," she said.

She also said any future bar proposal should not require the licensed technicians to

### SPECIAL REPORT

#### The New Lawyer Supplement



Thursday, May 23, 2013

#### Law Practice

##### Licensing of nonlawyers gets traction

Members of a special State Bar committee Wednesday strongly supported the idea of licensing nonlawyers to provide limited legal services to clients as a way to improve access to justice for those who can't afford lawyers.

#### Government

##### Government tapping lawyers to assist mentally impaired immigrant detainees

Immigrant detainees with significant cognitive impairments are no longer facing deportation proceedings alone as the government has already tapped several immigrant rights organizations to assist them in court proceedings.

#### Corporate

##### Latham guides \$700 million Scandinavian pharmaceutical deal

Latham & Watkins LLP advised Danish investment firm Novo A/S in its purchase of Norwegian pharmaceutical company Xellia Pharmaceuticals AS for \$700 million.

#### Real Estate

##### Real Estate Deals

Real estate investment trust Douglas Emmett Inc. purchased the previous office of Larry Flynt Publications Inc. located at 8484 Wilshire Blvd. for \$89 million. The 225,000 square-foot building houses multiple tenants.

#### Litigation

##### 3rd Circuit says athlete can sue video game maker EA

The 3rd U.S. Circuit Court of Appeals ruled Tuesday that a former college athlete can pursue a lawsuit against Redwood City-based video game maker Electronic Arts Inc. for using his likeness in a video game.

#### Juvenile

##### State Sen. Leland Yee looks to restrict juvenile solitary confinement

Proposed state legislation would set strict

be supervised by practicing lawyers.

The bar working group seemed divided on that issue. Bar Trustee Karen A. Goodman of Sacramento said she preferred the approach used in medicine, where doctors supervise physician assistants. Holden said he was unsure.

Three of the five committee members, however, agreed with Hadfield. "Otherwise, we have exactly what we have today [with lawyers supervising paralegals], and it makes no difference," said Heather Linn Rosing of Klinedinst PC.

The State Bar panel also heard lengthy testimony Wednesday from Bruce K. Riordan, senior counsel to the U.S. attorney for the Central District, and Rigoberto Reyes, the chief of the Los Angeles County Department of Consumer Affairs, about widespread fraud against immigrants seeking legal status.

Riordan said that if technicians could be licensed to handle simpler immigration matters, it would help "fill the gap" and make it easier for his office to focus on serious felon-level frauds.

But UCI School of Law Professor Jennifer M. Chacon, an expert in immigration law, said federal law might pre-empt California's ability to license immigration technicians. She said federal regulations about who can represent others in immigration matters define practicing law quite broadly.

State Bar Executive Director Joseph L. Dunn, however, said that he, Vice President Luis Rodriguez and a top bar investigator attended a meeting last week with Secretary of Homeland Security Janet Napolitano on current efforts to reform U.S. immigration law. In response to a question from bar officials, Napolitano said she and members of Congress probably would "be open to an anti-pre-emption amendment ... to allow states to enact legislation to prevent [immigration] fraud before it occurs," Dunn said.

He told the panel Wednesday that the bar has already drafted a proposed amendment. "We don't believe it would be controversial," he said.

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**ADR SERVICES, INC. ENTERTAINMENT PANEL**

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standards for the use of solitary confinement at state and local juvenile detention facilities. A similar bill introduced last year stalled in the Senate Public Safety Committee.

### Litigation

#### Public interest group sues disbarred San Diego lawyer over loan scam

A San Diego lawyer disbarred this month for operating mortgage-modification scams now faces a lawsuit by attorneys from Arnold & Porter LLP and the Lawyers' Committee for Civil Rights Under the Law.

### Intellectual Property

#### Beginning of the end for the copyright troll business?

These companies continue to mount losses as judges scrutinize their practices. By **Ryan P. Murray**

### Law Practice

#### Baker & Hostetler nabs former White House executive

Baker & Hostetler LLP snagged a former White House executive, J. David Bournazian, as a litigation partner in its Costa Mesa office, the firm announced Wednesday.

### Labor/Employment

#### Case tests the bounds of public employee free speech

The 9th U.S. Circuit Court of Appeals has issued a decision that expansively describes public employee protected free speech in the context of labor-management relations. By **David Urban**

### Law Practice

#### How (not) to handle exhibits

If you want to know how to irritate the clerk, frustrate the judge, baffle opposing counsel, muddy the record, delay the process, and exasperate your client, read on. By **Kathleen M. White and Daniel P. Maguire**

### Criminal

#### Making the case for the continued use of stop-and-frisk

Despite its success, stop-and-frisk is under attack by those who claim it produces illegal searches and racial profiling. By **Lawrence Rosenthal**

### Administrative/Regulatory

#### Another view of the IRS scandal

In one year the number applying for one type - 501(c)(4) "social welfare" status - spiked 50 percent. By **Bruce Givner**

### Corporate Counsel

#### Richard H. Abramson

Vice President, Legal and Business Affairs and General Counsel of SRI International Menlo Park