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June 4, 2013

Benjamin Palmer
Chief Counsel, Senate Judiciary Committee
State Capitol, Room 2187
Sacramento, California

Re: AB 888 (Dickinson)

Dear Mr. Palmer:

I am the President of the California Association of Legal Document Assistants, which is a statewide professional association of Legal Document Assistants (LDAs) who provide self-help services to unrepresented members of the public pursuant to Business and Professions Code Section 6400 et seq. I am submitting this letter so that our views may be included in your analysis for the committee.

The State Bar already has the authority to seek injunctions against individuals accused of practicing law without a license under Business and Professions Code section 6030. This bill changes the game by providing a financial incentive for the Bar to pursue these claims with two mechanisms:

- 1) The bill provides for a one-way award of attorneys' fees to the State Bar if it prevails in such a lawsuit. However, even in a completely frivolous, unmeritorious proceeding, a prevailing defendant would not be awarded his or her fees, which could amount to tens of thousands of dollars.
- 2) The bill provides that the fines generated pursuant to Business and Professions Code Section 17200 are payable to the State Bar, rather than to the General Fund or a dedicated consumer protection fund.

Both of these aspects would create a perverse financial incentive to pursue claims (even unmeritorious claims) against legitimate service providers.

As a result, this bill would introduce the State Bar as a regulator of Legal Document Assistants, which the Legislature did not intend. When enacting Business and Professions Code Section 6400 et seq, the Legislature provided that the Department of Consumer Affairs was the regulator of the Legal Document Assistant profession (not the State Bar).

The State Bar has a natural conflict of interest in when it comes to regulating LDAs because many of the Bar's members view LDAs as competition. The State Bar will receive a great deal of pressure from its members and from local Bar Associations to pursue these claims against LDAs, and the financial incentive provided by this bill will further incentivize them to do so.

This new perverse incentive to pursue these claims will have a chilling effect on the ability of legitimate Legal Document Assistants to provide services to those who cannot afford attorney representation. The ranks of the self-represented are large and ever-growing, and fewer Legal Document Assistants in this state means that access to justice will be more out of reach of the average consumer than it currently is.

This law does not provide consumers with more protection not already afforded by current law. It does, however, give the State Bar a financial incentive to harass legitimate service providers. As such, we ask that the bill be rejected.

Kind regards,

Ian M. Duncan
CALDA President

cc: Roger Dickinson
Richard Lubetzky