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May 2, 2013

Drew Liebert
Chief Counsel
California State Assembly
Committee on Judiciary
Legislative Office Building
1020 N Street, Room 104
Sacramento, CA 95814

Re: Opposition of California Association of Legal Document Assistants to Assembly Bill No. 888

Dear Mr. Liebert:

I am an attorney in Los Angeles, as well as General Counsel to the California Association of Legal Document Assistants ("CALDA"), and write to express our strong opposition to Assembly Bill No. 888, authored by Assemblyman Roger Dickinson.

CALDA represents over 200 Legal Document Assistants in the state, who are authorized by *Business and Professions Code section 6400, et seq.* to provide self-help service to a member of the public who is representing himself or herself in a legal matter. Legal Document Assistants may not give legal advice, but may type legal documents at the person's specific direction, and provide general published information to assist the person in representing himself or herself. The members of CALDA are required by the organization to adhere to a code of ethics and to undergo continuing education. There are approximately 600 Legal Document Assistants registered in the state. CALDA is the largest organization of its kind in the state.

I am an expert in the unauthorized practice of law, and have devoted a large part of my practice to reviewing the business practices of Legal Document Assistants to ensure compliance with the law. I have also defended Legal Document Assistants in actions brought against them by prosecutors and private attorneys, and have learned that the concept of the practice of law is widely misunderstood by law enforcement, private attorneys, and even the State Bar. Most of these were civil actions brought under *Business and Professions Code section 17200* for unfair competition, alleging the unauthorized practice of law, and sought to extort huge fines, in an effort to drive these service providers out of business. For example, recently a prosecutor in Alameda County sought to enjoin a Legal Document Assistant for the unauthorized practice of law for referring someone to legal aid for assistance, and then later threatened to pursue her again for merely passing out general information on how persons could have their convictions expunged. In other cases, Legal Document Assistants have been threatened with unauthorized practice of law injunctions for merely having passed out a self-help publication. Thus, the potential for abuse in bringing such actions is great.

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Historically, studies have repeatedly demonstrated that the complaints made against Legal Document Assistants are generally made by attorneys, who dislike Legal Document Assistants, or by consumers, who are put up to making such complaints, even though they are not legitimate. On the contrary, CALDA has received repeated accolades from judges and court personnel who have praised the work of CALDA members.

That is not to say that there may be some bad Legal Document Assistants out there that have legitimately harmed consumers. However, these comprise a very small percentage of Legal Document Assistants, and the current law is sufficient to deal with them. The State Bar currently is part of a Joint Task Force with prosecutors, who have successfully prosecuted those cases which have resulted in tangible harm to consumers, and the State Bar currently has the authority under California Business Professions Code section 6030 to issue cease and desist orders and bring direct injunctive relief actions against such wrongdoers.

However, the State Bar now seeks to amend the law for the sole purpose of seeking to be awarded civil penalties, and its costs of investigating and prosecuting unauthorized practice of law actions. Notably, the proposed revision does not provide for awarding the cost of defending such actions, or for an award of attorney's fees to the prevailing defendant in such actions, thereby exposing the gross inequity of the proposal, and encouraging members of the bar to pursue Legal Document Assistants in unmeritorious actions, for the sole purpose of driving such service providers out of business. Legal Document Assistants charge very little for their services, and cannot afford to pay thousands of dollars in attorney's fees to defend such actions, and will be forced to go out of business by default. If this were to occur, consumers would be deprived of a much badly needed alternative service, and be deprived of all access to the courts, as they cannot afford attorneys, and legal aid has insufficient resources to assist them.

For all of the above reasons, we believe that this bill is bad for consumers, and is little more than a cleverly disguised effort by the bar to seek additional revenue from non-members of the bar. It does absolutely nothing more for consumers than existing law provides, and only benefits the bar at the expense of consumers. It should be rejected.

Very truly yours,


Richard Lubetzky

cc: Ian Duncan, President
CALDA