

**Case Nos. S265240  
S265863**

**SUPREME COURT OF THE STATE OF CALIFORNIA**

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GREGORY HARPER et. al.

Petitioner,

v.

STATE BAR OF CALIFORNIA,

Respondent,

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**REPLY TO ANSWER TO PETITION FOR REVIEW**

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In re: Discipline of Gregory Harper

C17-O -01313

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Member Number 146119

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GREGORY HARPER IN PRO PER

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4 **S265863**

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10 GREGORY HARPER et. al.

11 Petitioner,

12 v.

13 STATE BAR OF CALIFORNIA,

14 Respondent,  
15 \_\_\_\_\_

16 **REPLY TO ANSWER TO PETITION FOR REVIEW**

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6 **I. REVIEW SHOULD BE GRANTED IN LIGHT OF THE STATE BAR AND**  
7 **REVIEW DEPARTMENT’S FAILURE TO COMPLY WITH THE**  
8 **CALIFORNIA SUPREME COURTS REMAND ORDER TO ADDRESS**  
9 **THE PETITIONER’S UNADDRESSED CLAIM OF DISPARATE IMPACT.**

- 9 A. The Review Department misinterpreted the Remand Order. There was no  
10 analysis whether the Petitioner’s prior discipline was due to racial bias and  
11 part of a pattern of disparate impact in meting out discipline to Black male  
12 lawyers.
- 12 B. In addressing a claim of disparate impact, evidence must be evaluated.
- 13 1. The Farkas 2019 and Robertson 2020 State Bar commissioned  
14 studies of racial disparities in discipline from 1990 through 2018  
15 provides sufficient credible evidence of racial disparities and  
16 discrimination in discipline.
- 17 2. Contrary to the Review Department’s argument, the Review  
18 Department must conduct further evidentiary hearings to meet the  
19 Court’s Remand Order to examine whether racial bias existed and  
20 impacted the Hearing Department’s (and complaint acceptance and  
21 investigation) which drove their decision to give “Petitioner’s prior  
22 disciplinary history significant weight in aggravation because the  
23 wrongdoing was similar to the misconduct in the current matter and  
24 the prior acts of discipline “demonstrates an inability or  
25 unwillingness to conform to ethical responsibilities.” (State Bar’s  
26 Answer, p. 9, citing HD Decision, at p. 10, 13.)

21 **II THE CALIFORNIA CONSTITUTION ARTICLE I, SECTION 8**  
22 **PROVIDES NO ONE SHALL BE TERMINATED FROM A PROFESSION**  
23 **BASED UPON RACE.**

- 24 C. The disparate impact applies. California Constitution Article 1 Section 8  
25 provides one cannot be terminated from a profession because of race.
- 26 1. State Bar admits discipline based on conduct which should have  
27 been lesser, *e.g.* for de minimus amounts (State Bar Answer at p 14)  
28 Petitioner’s prior discipline must be examined from perspective of  
the State Bar disparate impact study.
- D. The Petitioner’s record of prior discipline which was given heavy weight  
in determining his discipline occurred during the scope of the studies of

1 disparate impact analysis, which would include within its scope the  
2 discipline issued in 1992 and 2003. The disparate impact studies provides  
3 credible evidence, which, on the record, would require the State Bar to  
4 conduct further evidentiary hearings to determine whether racial disparities  
and implicit or explicit bias existed when the discipline was imposed upon  
Petitioner.

5 E. Factors Elucidated in the 2019 and 2020 Studies Affecting Petitioner's  
Prior Discipline Requiring a disparate impact analysis.

- 6 1. Who did the investigating?
- 7 2. What was their race and what is their record involving  
8 investigations?
- 9 3. What was the impact of any additional/closed complaints against the  
10 Petitioner?
- 11 4. The studies do not address how the remoteness of prior offenses  
12 affects the Petitioner as compared with other attorneys?  
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**MISCELLANEOUS**

State Bar Study on Disparities in Discipline (Farkas) 2019.....4,5,7,9

State Bar Study on Disparities in Discipline (Robertson) 2020.....4,5,7,9

Item 702 State Bar Board of Trustees Meeting November 2020.....5

1  
2 **INTRODUCTION**

3 In 2019, the California State Bar recognized that racial disparities exist in its  
4 disciplinary system. Black male attorneys appeared to be subject to State Bar discipline  
5 in numbers that are disproportionate to their membership in the State Bar. In admitting a  
6 problem exists, the State Bar commissioned a study of its disciplinary system in 2019  
7 covering the period from 1990 through 2019<sup>1</sup>. The findings were dismal. Among the  
8 discoveries were glaring disparities in discipline of Black male attorneys as compared to  
9 others. (Id) Particularly troubling among the findings is the fact Black male attorneys are  
10 four (4) times more likely to be disbarred and, also subject to State Bar inquiries,  
11 investigation, and discipline at much higher rates than their white counterparts. (Id)  
12 Pursuant to a recommendation of the study, the State Bar commissioned additional  
13 research in 2020 to address those findings and requested recommendations for the  
14 handling of State Bar discipline as it relates to Black male attorneys <sup>2</sup>. The State Bar  
15 contends it relied heavily upon the Petitioner’s prior disciplinary record. (See, State Bar’s  
16 Answer, p.9). However, Petitioner’s prior discipline occurred during the period  
17 examined by the State Bar racial disparity study that determined many factors resulted in  
18 more onerous discipline being meted out to Black male attorneys.

19 The Petitioner in appealing his discipline to the State Bar Review Department and,  
20 subsequently in a Petition for Review to the California Supreme Court cited the 2019  
21

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22 <sup>1</sup>Farkas, Study on Disparities in State Bar Discipline. Petitioner was included in that  
23 group.

24 <sup>2</sup> See Farkas and Robertson studies  
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27  
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1 study asserting his discipline was due to disparate impact. While the Review Department  
2 ignored the disparate impact issue the Supreme Court remanded the matter for the Review  
3 Department to address the unaddressed claim. The Petitioner contacted the State Bar by  
4 letter and later filed a motion so that the State Bar Court would order a review of  
5 disciplinary data to address disparate impact analysis, study and Petitioner's claim.<sup>3</sup> The  
6 State Bar's Answer still has not addressed Petitioner's disparate impact claim and has not  
7 adequately conducted any disparate impact analysis into each of Petitioner's disciplinary  
8 incidents. Thus, the State Bar's Hearing Department's decision to heavily weigh  
9 Petitioner's prior incident of discipline against him is misplaced and cannot be relied  
10 upon to support its decision to discipline and disbar Petitioner.

11 While the 2020 study was somewhat comprehensive additional work remains to  
12 address the findings of disparate impact. It concluded the State Bar disciplinary system  
13 must recognize that regardless of the implementation of its recommendations the State  
14 Bar has systematic institutional racial discrimination resulting in a disparate impact to a  
15 number of Black male attorneys being disciplined compared with other groups. (Id) To  
16 that end, a commission was created in November, 2020 to address racial discrimination  
17 relative to Black male attorneys.<sup>4</sup> A common issue of the 2019 and 2020 studies is racial  
18 discrimination, how complaints are handled, the impact of prior complaints and, how they  
19 are considered, and whether no or lesser discipline could have been imposed especially  
20 regarding trust accounts.

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22  
23 <sup>3</sup>The motion with exhibits was attached to the State Bar's Answer to the Petition for  
Review and cited by reference

24  
25 <sup>4</sup>In November, 2020 the State Bar formed See open session agenda item 702, November  
26 19, 2020 attached hereto. "Following receipt of a report on disparities in the discipline system,  
the Board directed staff to develop an action plan to address the factors that contribute to the  
disproportionate discipline of Black, male attorneys." at page 1

1           Moreover, the authors did make recommendations as to complaints that are  
2 dismissed and trust account violations for small amounts. It also did not address prior  
3 disciplinary incidents that are remote in time: the studies addressed only those prior  
4 disciplinary events within the 5 year period. However, the authors did not make any  
5 recommendations to address the racial biases that underlie the discretion placed in  
6 whomever handles the complaints, e.g. analysts, investigators, prosecutors and rulings by  
7 hearing judges.<sup>5</sup> Here, the investigator conducted extensive investigations considering  
8 other unfounded complaints and a prior matter with *de minimus* monies involved. No  
9 loss or harm ever occurred to the public in either matter. Petitioner corrected any  
10 mistakes in their accounting pursuant to the Trust Account Handbook. However, it is  
11 apparent mistakes are not allowed if prior trust account discipline exists. In Petitioner's  
12 case, discipline was imposed at the time with heavy weight given to 27 year and 16 year  
13 old prior trust account rule violations from 1992 and 2003 with little or no regard for loss,  
14 intent, or reasonableness.<sup>6</sup>

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16           <sup>5</sup>In the underlying matter, while there was a stipulation as to a fee dispute 2 cases, a 3 year  
17 old post-foreclosure eviction and a breach of habitability were involved. The fee dispute was  
18 with the father a convicted embezzler demanded fees for work he claimed to have done for the  
19 previous attorney. It is undisputed the complaining party was provided with the Mandatory Fee  
20 Arbitration notice she failed to file anything until after the statute for a fee dispute had run in  
21 January, 2017. The investigator conducted extensive interviews with the father and that fee  
22 dispute was voluntarily resolved in August 2017. Judge McElroy did not see the need for a trial  
23 however, she was retiring and did not keep jurisdiction.

24           <sup>6</sup>The 1992 violation involved small amounts of less than \$100. The 2003 violations  
25 involved employee misconduct. Petitioner also several years later voluntarily went to trust  
26 account school to train new staff who assisted him while he operated in Northern and Southern  
27 California.  
28



1 Notwithstanding that findings of the State Bar’s lack of a Disparate Impact  
2 analysis and, studies, the State Bar contends its studies are not credible evidence of any  
3 racial discrimination and that disparate impact racial discrimination cannot be an issue in  
4 this case. Although it had the opportunity to inquire as to how to address disparate  
5 impact, it failed to do so and opined:

- 6 1. Disparate impact is inapplicable in this case as no evidence of other attorney discipline  
7 was presented;
- 8 2. That disparate impact is only applicable to housing or employment matters;
- 9 3. The Review Department inadequately addressed the issue by asserting its studies are  
10 not credible evidence of disparate impact;
- 11 4. Harm, intent and loss were not considered although it was an option.

## 14 ARGUMENT

### 15 WHY REVIEW SHOULD BE GRANTED

- 16 I. **REVIEW SHOULD BE GRANTED IN LIGHT OF THE STATE BAR AND**  
17 **REVIEW DEPARTMENT’S FAILURE TO COMPLY WITH THE**  
18 **CALIFORNIA SUPREME COURTS REMAND ORDER TO ADDRESS**  
19 **THE PETITIONER’S UNADDRESSED CLAIM OF DISPARATE IMPACT.**
  - 20 A. The Review Department misinterpreted the Remand Order. There was no  
21 analysis whether the Petitioner’s prior discipline was due to racial bias.
  - 22 B. In addressing a claim of disparate impact, evidence must be evaluated.
    - 23 1. The Farkas 2019 and Robertson 2020 State Bar commissioned  
24 studies of racial disparities in discipline from 1990 through 2018 are  
25 sufficient credible evidence of racial and discrimination in  
26 discipline. No specific order for evidentiary hearings is required
  - 27 C. The Recommendations Adopted by the State Bar Are Insufficient to  
28 Address the State Systematic Racial Discrimination Against Black Male  
Attorneys.

1 Disparate impact applies. California Constitution Article 1 Section 8 provides one  
2 cannot be terminated from their profession because of race. The State Bar admits  
3 discipline based on conduct which should have been lesser, e.g. for *de minimus* amounts  
4 (State Bar Answer at p 14) Petitioner’s prior discipline must be examined from  
5 perspective of the State Bar study.

6 The State Bar recognizes discrimination in discipline of Black male attorneys  
7 exists. While it has many recommendations for corrective action they do not go far  
8 enough to address the disparate impact and racial disparities adequately. Federal and  
9 California courts have addressed racial discrimination using many methods that have  
10 evolved over the decades and are not limited in how they address racial discrimination in  
11 the context of earning a living.

12 Here it is apparent the State Bar and the Supreme Court wish to address the issue  
13 of racial discrimination and disparities effectively. While the Review Department did  
14 not ask the Supreme court if it should conduct an evidentiary hearing, the Review  
15 Department should do so now and even asks the Supreme Court for an Order to what it  
16 should do. Petitioner agrees the State Bar’s Review Department needs guidance to  
17 evaluate how the evidence of racial disparities impacted the discipline meted out to  
18 Petitioner during 1993 through 2018, *i.e.*, within the scope and period of the disparate  
19 impact study.  
20

21 **II. THE CALIFORNIA CONSTITUTION ARTICLE I SECTION 8**  
22 **PROVIDES NO ONE SHALL BE TERMINATED FROM A PROFESSION**  
23 **BASED UPON RACE.**

24 A. Disparate impact applies. California Constitution Article 1 Section 8  
25 provides one cannot be terminated from a profession because of race.  
26  
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28

1           1.       State Bar admits discipline based on conduct which should have  
2                    been lesser, e.g. for de minimus amounts (State Bar Answer at p 14)  
3                    Petitioner's prior discipline must be examined from perspective of  
4                    the State Bar study.

5           B.       The Petitioner's record of prior discipline which was given heavy weight  
6                    in determining his discipline occurred during the scope of the studies of  
7                    discrimination in 1992 and 2003. The studies are credible evidence on the  
8                    record to conduct further evidentiary hearings whether racial disparities  
9                    and implicit or explicit bias existed when the discipline was imposed.

10           Specifically, since the California Constitution Article I, Section 8 provides the  
11           right to make a living and cannot be terminated based on race. The Petitioner qualifies  
12           for a hearing to evaluate whether the State Bar's pattern of disparate impact against  
13           Black male attorneys affected the State Bar decisions to mete out discipline against the  
14           Petitioner. *Strother v. Southern Cal. Permanente Medical Group* (9th Cir. 1996) 79 F.3d  
15           859, 871-873, *Madison V. Motion Picture Set Painters and Sign Writers Local 729*  
16           (2000) 132 F. Supp 2d 1244; (*Right to pursue a profession under the privileges and*  
17           *immunities clause* See *Toomer v Witsell*, 334 U.S. 385, 396 (1948); *United Bldg. &*  
18           *Constr. Trades Council v. Camden*, 465 U.S. 208, 219 (1984)). An arguably legal policy  
19           is discriminatory if it has a disparate impact on a particular group and violates the 14<sup>th</sup>  
20           Amendment Equal Protection clause of the US Constitution (See *Floyd, et al. v. City of*  
21           *New York, et al.* 959 F. Supp. 2d 540 (2013)) [Disparate impact analysis is appropriate  
22           in light of the stop and frisk policy of New York City police involving Black suspects.  
23           Detentions stops were arguably legal but a disproportionate number of Black males were  
24           stopped in violation of the equal protection clause].

25           Petitioner contends an analysis of the relevant data will support a finding of  
26           discrimination via State Bar policies and rules as applied to his prior discipline. This  
27           disparate treatment of Petitioner and other Black male attorneys is unsupportable under  
28           the California and US constitutions. The exercise of discretion is critical. Discipline is  
          still discretionary based upon an opinion of a complaint analyst or investigator.

1 Discipline is in the hearing judge and while in their province is nonetheless subjective.  
2 Here, the discipline was based upon prior discipline which arguably would not have been  
3 as severe in light of the recommendations now being adopted by the State Bar.

4 E. Factors Elucidated in the 2019 and 2020 Studies Affecting Petitioner's Prior  
5 Discipline Requiring a disparate impact analysis.

- 6 1. Who did the investigating?
- 7 2. What was their race and what is their record involving investigations?
- 8 3. What was the impact of any additional/closed complaints against the Petitioner?
- 9 4, The studies do not address how the remoteness of prior offenses affects the  
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Petitioner as compared with other attorneys?

13 The Supreme Court remanded this matter back to the Review Department so that  
14 they could support its determination that no such racial disparities existed to impact its  
15 disciplinary decisions. Here, the Petitioner presented evidence of disparity (See Answer  
16 at p 14.) The Court's Order for Remand required an evidentiary hearing to determine  
17 whether any racial bias existed in the disciplinary process for each incident of discipline  
18 and whether any evidence of the racial disparities exists that affected the State Bar's  
19 decisions to accept a complaint, investigate any complaint, and arrive at any decisions to  
20 discipline Petitioner. The evidence on the record has not yet been produced by the State  
21 Bar. Without conducting any racial bias/disparity analysis for each incident of discipline,  
22 the State Bar cannot show how prior decisions were not due to racial bias and racial  
23 disparity.

1 **CONCLUSION**

2 Therefore, in light of the foregoing Petitioner requests this Court to require the  
3 State Bar to provide an evidentiary hearing, after discovery into each incident of  
4 discipline is allowed, to determine whether the State Bar’s pattern of racial disparities in  
5 discipline affected Petitioner’s incidents of discipline. In addition, Petitioner seeks to be  
6 reactivated until the State Bar provides the requisite hearing.

7  
8 Dated: January 13, 2021

9 Respectfully submitted,

10 /s/ Gregory Harper  
11 GREGORY HARPER

# **EXHIBIT A**



# The State Bar of California

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## **OPEN SESSION AGENDA ITEM 702 NOVEMBER 2020**

**DATE:** November 19, 2020

**TO:** Members, Board of Trustees

**FROM:** Lisa Chavez, Director, Office of Research & Institutional Accountability

**SUBJECT:** Ad Hoc Commission on the Discipline System: Recommendations for Composition and Charter

---

### **EXECUTIVE SUMMARY**

This agenda item follows up on the September 2020 Board of Trustees meeting at which the Board directed State Bar staff to develop plans to establish an ad hoc commission on the State Bar discipline system in consultation with leadership of the Regulation and Discipline Committee. This item includes recommendations on the commission charge, size, and composition.

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### **BACKGROUND**

Following receipt of a report on disparities in the discipline system, the Board directed staff to develop an action plan to address the factors that contribute to the disproportionate discipline of Black, male attorneys. At the July 2020 Board meeting, staff presented Trustees with 12 potential reforms developed by Professor Christopher Robertson to address disparate discipline imposed on Black attorneys. The Board directed staff to implement and evaluate a number of these reforms, including exploring ways to improve respondent representation, archiving complaints closed without discipline that are more than five years old, pursuing risk-based regulation options to prevent RA-Bank Matters, and studying complaints dismissed without discipline. Progress on this work is outlined in Board of Trustees Agenda Item 703.

The work described above will build on the dozens of initiatives, policies, and procedures the State Bar has implemented over the last several years to improve access and protection of the public served by the State Bar. OCTC in particular has also undergone numerous, major organizational changes designed to process cases more efficiently and effectively, as well as to focus resources on protecting the most vulnerable victims of attorney misconduct and the

misconduct of those who hold themselves out to be attorneys, thereby defrauding the public in the process. Among the changes introduced in the past five years are initiatives to:

- Improve access to the complaint process;
- Improve the treatment of complaining witnesses;
- Enhance operational efficiency;
- Improve the use of technology; and
- Identify and prioritize cases posing the most significant public protection risk.

Finally, the State Bar has developed a research agenda to be carried out over the next 12 months, addressing topics such as risk-based regulation, efficiency, procedural justice, and disparities in the discipline system. This research agenda will largely rely on routinely collected data available in administrative databases, but will be supplemented with data gleaned from in-depth reviews of narratives available in case files where applicable.

In addition to these efforts, the discipline system could nonetheless benefit from a comprehensive re-examination of its policies and procedures. OCTC's efforts to prioritize cases have led to important improvements that demonstrate significantly upgraded mechanisms for protecting the public than those that previously existed. Nonetheless, in many cases, the time to disposition remains lengthier than optimal, and the sheer number of older cases awaiting resolution still needs to be addressed. Additionally, the immense work that has been done is ripe for review to evaluate fairness and equity, ensures a keen focus on the State Bar's public protection mission, and continues to review outcomes to understand and address disparities that may exist based on race or gender. The Board of Trustees therefore directed staff to develop plans for an Ad Hoc Commission on the Discipline System. The commission would review work that has already been done (as well as work currently in progress), build upon initiatives that have been implemented, evaluate such initiatives, and integrate the many initiatives into a coherent whole to develop additional insight on how to improve the discipline system overall.

## **DISCUSSION**

Staff worked with Regulation and Discipline Committee leadership to outline the Ad Hoc Commission's charter, size, and stakeholder composition.

### **Charter**

The Ad Hoc Commission on the Discipline System will take inventory of the changes that have been proposed and implemented in the Office of Chief Trial Counsel since 2016 and evaluate their impact on public protection. The evaluation will focus on the impact of these reforms on a number of key aspects of the discipline system, including:

- Procedural justice and the experiences and perceptions of the system by complaining witnesses and respondents;
- Workload and operational efficiency of case processing;



- Case prioritization and differentiated case-flow management; and
- The efficacy of the system for preventing future attorney misconduct.

In particular, this body will:

- Review the full catalogue of reforms OCTC has implemented and identify one or more sets of processes, policies, and procedures to focus on;
- Evaluate if these processes, policies and procedures had their intended effect; and
- Based on this evaluation, recommend additional or revised reforms.

In so doing, the commission will review research studies that have been completed and determine whether additional research is needed. It will also review research studies in progress and generate policy recommendations as results become available.

Another key element of the State Bar’s discipline system is the State Bar Court, which on its own initiative, also continually evaluates its processes to improve the adjudication of cases. With the participation of the State Bar Court, the commission may examine the structure of the court, principally issues involving its independence and autonomy.

As a guiding principle, the commission will focus on the dual goals of ensuring public protection and fairness in the discipline system.

### **Composition**

The Ad Hoc Commission will consist of 19 members appointed by the Board of Trustees. Members will represent key institutional entities that focus on public protection and reflect the state’s diversity, both demographic and geographic. As a guideline, below are areas from which commission members will be sought and the recommended number of members from each:

- Council on Access and Fairness (2)
- California Medical Board (1)
- Department of Consumer Affairs (1)
- California Lawyers Association (1)
- Association of Discipline Defense Counsel (2)
- National Organization of Bar Counsel (1)
- California criminal justice system (prosecutor, defense counsel, judge) (3)
- State Bar Board of Trustees (2)
- Office of Chief Trial Counsel (2)
- State Bar Court (2)
- Affinity Bar Associations (2)

The commission will be staffed by the State Bar. It will begin its work in early 2021 and present a final report on its findings and recommendations no later than June 30, 2022, with periodic status updates to be provided to the Board of Trustees.

### **FISCAL/PERSONNEL IMPACT**

In addition to personnel costs for staffing this committee and expenses for meetings, it is anticipated that expenses will be incurred to hire a consultant to conduct research as needed.

## **AMENDMENTS TO RULES OF THE STATE BAR**

None

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

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: 2. Ensure a timely, fair, and appropriately resourced admissions, discipline, and regulatory system for the more than 250,000 lawyers licensed in California.

Objective: b. Develop and implement transparent and accurate reporting and tracking of the health and efficacy of the discipline system, and measures to improve the fairness and efficacy of the discipline system to include: (a) an updated workload study for OCTC; (b) identification of staffing and resource needs based on the results of that study; (c) evaluating the different points of contact between the State Bar and Complaining Witnesses/Respondents to identify areas where modifications to the form or content of communication could improve the sense of procedural fairness; and (d) pilot changes in the form or content of communication w/ Complaining Witnesses and Respondents to identify measures that will improve the sense of procedural fairness by complaining witnesses or Respondent Attorneys.

## **RECOMMENDATIONS**

**Should the Board of Trustees concur in the proposed action, passage of the following resolution is recommended:**

**RESOLVED**, that the following charter will guide the work of the Ad Hoc Commission on the Discipline System:

The Ad Hoc Commission on the Discipline System will take inventory of the changes that have been proposed and implemented in the Office of Chief Trial Counsel since 2016 and evaluate their impact on public protection. The evaluation will focus on the impact of these reforms on a number of key aspects of the discipline system, including:

- Procedural justice and the experiences and perceptions of the system by complaining witnesses and respondents;
- Workload and operational efficiency of case processing;
- Case prioritization and differentiated case-flow management; and

- The efficacy of the system for preventing future attorney misconduct.

In particular, this body will:

- Review the full catalogue of reforms OCTC has implemented and identify one or more sets of processes, policies, and procedures to focus on;
- Evaluate if these processes, policies and procedures had their intended effect; and
- Based on this evaluation, recommend additional or revised reforms.

In so doing, the commission will review research studies that have been completed and determine whether additional research is needed. It will also review research studies in progress and generate policy recommendations as results become available.

Another key element of the State Bar's discipline system is the State Bar Court, which on its own initiative, also continually evaluates its processes to improve the adjudication of cases. With the participation of the State Bar Court, the commission may examine the structure of the court, principally issues involving its independence and autonomy.

As a guiding principle, the commission will focus on the dual goals of ensuring public protection and fairness in the discipline system.

### **Composition**

The Ad Hoc Commission will consist of 19 members appointed by the Board of Trustees. Members will represent key institutional entities that focus on public protection and reflect the state's diversity, both demographic and geographic. As a guideline, below are areas from which commission members will be sought and the recommended number of members from each:

- Council on Access and Fairness (2)
- California Medical Board (1)
- Department of Consumer Affairs (1)
- California Lawyers Association (1)
- Association of Discipline Defense Counsel (2)
- National Organization of Bar Counsel (1)
- California criminal justice system (prosecutor, defense counsel, judge) (3)
- State Bar Board of Trustees (2)
- Office of Chief Trial Counsel (2)
- State Bar Court (2)
- Affinity Bar Associations (2)

The commission will be staffed by the State Bar. It will begin its work in early 2021 and present a final report on its findings and recommendations no later than June 30, 2022, with periodic status updates to be provided to the Board of Trustees and it is

**FURTHER RESOLVED**, that the Board of Trustees directs State Bar staff to solicit membership for the Ad Hoc Commission and it is

**FURTHER RESOLVED**, that the Ad Hoc Commission on the Discipline System will begin its work in early 2021 and present a final report on its findings and recommendations no later than June 30, 2022, with periodic status updates provided to the Board of Trustees.

## **ATTACHMENT(S) LIST**

- A. None

CERTIFICATE OF WORD COUNT  
(Rule 8.204)

I, Gregory Harper, Petitioner in Pro Per certify pursuant to the California Rules of Court, that the word count for this document is [insert word count]words, excluding the tables, this certificate, and any attachment permitted under rule 8.204(d). This document was prepared in WordPerfect, and the word count generated by the program for this document is 2126. I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed, at El Cerrito

California, on January 13, 2021.

/s/Gregory Harper  
Gregory Harper  
Petitioner in Pro Per

1 PROOF OF SERVICE

2 Case Name: HARPER V STATE BAR  
3 Case No. 17-O-01313

4 I, declare:

5 I am over the age of eighteen years and not a party to the cause of action. My  
6 business address is 3060 EL CERRITO PLAZA #100 EL CERRITO, CA 94530, I  
7 served the documents described as **Reply to Answer to Petition for Review** on the  
8 interested parties in this matter by true copy thereof in a sealed envelope(s) addressed  
9 as follows:

10 Suzanne Grandt

11 State Bar of California Office of the General Counsel

12 180 Howard Street, San Francisco, CA 94105

13 Service of the above document(s) was effectuated by the following means of  
14 service:

15  **By First Class Mail** -- I am readily familiar with this office's  
16 practice for collection and processing of correspondence for  
17 mailing with the United States Postal Service. It is deposited  
18 with the United States Postal Service in the ordinary course of  
19 business on the same day it is processed for mailing. I caused  
20 such envelope(s) to be deposited in the mail at El Cerrito,  
21 California. The envelope was mailed with postage thereon fully  
22 prepaid.

23  **By Personal Service** -- By causing to personally deliver a true  
24 copy thereof in a sealed envelope.

25  **By Overnight Delivery Service** -- I caused such envelope(s)  
26 to be deposited in a box or other facility regularly maintained by  
27 the express service carrier or delivered to an authorized courier  
28 or driver authorized by the express service carrier to receive  
documents. The envelope was deposited with the express  
service carrier with delivery fees paid or provided for.

**Facsimile Transmission** -- I served the documents in this matter  
via facsimile transmission to:

**Email Transmission** -- I served the documents in this matter via  
electronic transmission to:

I declare under penalty of perjury under the laws of the State of California that  
the foregoing is true and correct, and executed January 13, 2021, at: El Cerrito,  
California.

  
Phyllis Carr

**PROOF OF SERVICE**

**Case Name: HARPER V STATE BAR**  
**Case No. 17-O-01313**

I, declare:

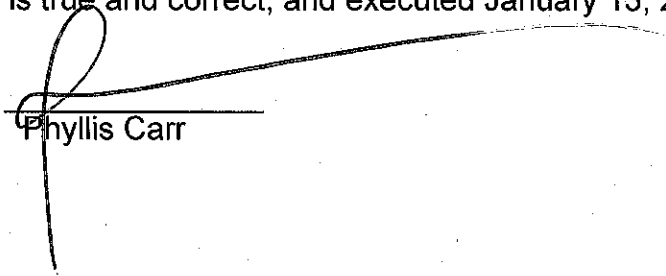
I am over the age of eighteen years and not a party to the cause of action. My business address is 3060 EL CERRITO PLAZA #100 EL CERRITO, CA 94530, I served the documents described as **Reply to Answer to Petition for Review** on the interested parties in this matter by true copy thereof in a sealed envelope(s) addressed as follows:

Suzanne Grandt  
State Bar of California Office of the General Counsel  
180 Howard Street, San Francisco, CA 94105

Service of the above document(s) was effectuated by the following means of service:

- By First Class Mail** -- I am readily familiar with this office's practice for collection and processing of correspondence for mailing with the United States Postal Service. It is deposited with the United States Postal Service in the ordinary course of business on the same day it is processed for mailing. I caused such envelope(s) to be deposited in the mail at El Cerrito, California. The envelope was mailed with postage thereon fully prepaid.
- By Personal Service** -- By causing to personally deliver a true copy thereof in a sealed envelope.
- By Overnight Delivery Service** -- I caused such envelope(s) to be deposited in a box or other facility regularly maintained by the express service carrier or delivered to an authorized courier or driver authorized by the express service carrier to receive documents. The envelope was deposited with the express service carrier with delivery fees paid or provided for.
- Facsimile Transmission** -- I served the documents in this matter via facsimile transmission to:
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Phyllis Carr