

January 11, 2007

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The State Bar of California
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Dear Ms. Murphy, Ms. Henderson and Mr. Yochelson:

I write to urge the Committee on Bar Examinations to support a proposed study of factors affecting bar passage rates. That study, proposed by Professor Stephen Klein, et al., can help the California State Bar and the legal profession better understand the dynamics of entry into the bar.

As a result of my personal and professional history, I have a strong interest in creating an open legal profession. My grandfather, the son of a working class immigrant, could not afford college so he entered Georgetown's law school after high school. My father was on the committee that forced the racial integration of the District of Columbia Bar Association. I served as Hiring Partner at a 300 lawyer firm, where I ran a hiring program that featured "hard" and "soft" affirmative action. I saw first hand how various demographic and institutional factors suppressed entry into the bar for certain groups, and I struggled to fight against those factors. For about twenty semesters, I've taught the Legal Profession course as a Lecturer at UC-Berkeley School of Law (Boalt Hall), Santa Clara University School of Law, and Stanford Law School. Those courses always include units on exclusion and inclusion in the legal profession and I frequently give advice to students who are bewildered and frustrated about how to enter and succeed in the profession. Additionally, I am a member of the Committee on Professional Responsibility and Conduct, which deals less directly—but still in important ways—with this exclusion issue. (Of course, I speak only for myself in this letter and not for any institution.)

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No doubt, a careful statistical study into the factors that affect bar passage rates—and in particular that affect the distressing gap in bar passage rates between white and African-American students—would be of enormous benefit to everyone. That is a compelling reason to do the study. We need to know a lot more about entry into the profession. But I also want to address one concern that may or may not affect CBE's decision: the fear that careful statistical studies might nonetheless be used by some people for political positions the CBE might not endorse.

I can assure you from first hand experience that the problem in understanding and combating exclusion is the *absence* of careful statistical studies, not the *existence* of them.

In the absence of well-constructed studies based on sound data, ignorance reigns. The members of the bar who are trying to open the profession will not know what the problem is or how to fix it. Even worse, in the absence of sound studies there can be an unhelpful flourishing of half-baked theories, well-intended-but-harmful stereotypes, and even counter-productive finger pointing. We need good studies—ones that are subjected to peer review and are based on sound data. And it is my understanding that in this area, the California State Bar has amassed some unique and particularly helpful data. I urge the CBE to advance our state of knowledge and thereby advance the cause of an inclusive legal profession.

Very truly yours,



John Steele

cc.: Professor Richard H. Sander
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