

Title:

The State Bar - How Legal Incompetence Generates Oppression

Word Count:

723

Summary:

A blow-by-blow report of the California State Bar's attempt to disbar me, all the while perpetrating the same conduct of which it complains. Includes serious legal analysis.

Keywords:

courts, law, legal, legal research, legal writing, litigation, prosecutorial zeal, State Bar

Article Body:

The California State Bar's Office of the Chief Trial Counsel was awestruck and panic-stricken when it lost its motion for entry of default, in a direct test of its legal position against me, the pro se respondent in Case No. 05-R-04605, et. al.

I start the account in the middle, with the outrageous misconduct of the Office of the Chief Trial Counsel, through Deputy Trial Counsel Melanie K. Lawrence, Esq. The forum is the State Bar Court's Hearing Department, presided over by the Hon. Richard A. Honn. Today's story is merely the beginning of the extensive coverage and analytic commentary I seek to provide regarding "In the Matter of Stephen R. Diamond, No. 183617, A Member of the State Bar, an action in which I am obviously an interested party.

What follows today is a small but revealing part of the story. If you thought the State Bar Court is simply a court like many others, think again.

1. I filed a motion to reconsider after the court denied my motion to dismiss the notice of Disciplinary Charges. That day, a Tuesday, I had brought my intent to move for reconsideration to the court's attention at an in-person status conference, where the court confirmed that this motion was a proper and timely responsive pleading.

2. I served a copy to the Deputy Trial Counsel. Then I delivered two copies to the filing clerk, to whose window other clerks had directed me. She took my motion to reconsider, inspected it carefully, and stamped my conformed copy

"Received."

3. Although I filed it Tuesday, the motion was not due until the following Monday. On that Monday, the Deputy Trial Attorney e-mailed me. In her words, "At this point you have failed to properly file any responsive document. So, I intend to ask the Court to enter your default."

4. The Deputy Trial Counsel lacked any awareness of the egregiousness of her misconduct. She admitted being served with the actual signed document Tuesday, waited till Monday to point out the oversight, and attempted to exploit it to take a default in a quasi-criminal proceeding, while refusing even to supply documentation.

5. In my opposition, I argued beyond a due process matter concerning notice, the obvious issue, but one fraught with procedural uncertainties. More fundamentally and effectively, I challenged the court's jurisdiction to reject a document for filing after the clerk had accepted it for filing. "The Clerk accepted respondent's motion for filing on September 4, and the court lacked jurisdiction to reject the same document on September 10." I stated of the motion to enter default, "The State Bar's motion to dismiss is frivolous, malicious, and outrageous."

6. The Hearing Department of the State Bar Court denied the Deputy Trial Counsel's motion to dismiss, as shocking as this outcome was to the Office of the Chief Trial Counsel. The State Bar Court's stance during the hearing, however, showed enough bias to discredit it. The court ignored the misconduct of the Deputy Trial Counsel and focused its attention on my failure to recover some mail in my transit. The court declared that I now am "on a short leash." Courts have used the phrase "on a short leash" to mean maintaining tight management of a case. No neutral court would put such a general onus on a party to an action. The court did not acknowledge that the document's acceptance by the clerk was dispositive of its status as filed and distinguished between "Received" and "Filed." The court claimed that the whole court system made this distinction, a purported observation that the court thought sufficient justification. On its own initiative, the court effectively took judicial notice of this "fact," without briefing on either its accuracy or relevance.

More than my case, I am concerned with general issues. The State Bar's method is to make outrageous charges without evidence and then seek evidence through undisciplined discovery. I intend to challenge its methods of work. I am convinced State Bar misconduct is standard. In future installments, I will tell more of this story, its background, and its unfolding. I can afford to be principled, because I don't fear the State Bar, partly because my livelihood

derives from contracting with lawyers to prepare legal briefs and devise legal theories.

This ongoing account contains the legal theory guiding my case before the State Bar.