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1. DFEH Case Management Data

Overview and Introduction

The Department of Fair Employment and Housing (DFEH) stores information on each complaint it receives in the Complaint Management Information System (CMIS). The information is a public record, and the DFEH provided us with the complete database as of May 8, 2009. The database is relational, and the information is spread across five tables: Complainant, Respondent, Respondent’s Representative, Legal Actions (if referred by DFEH to its legal department), and Mediation. In the database we received the CMIS contained records on 241,228 individual complaints, of which 227,013 were employment related. The date of the earliest complaint is 1984, but there are only a handful of cases (34) before 1996, and 1996 contains only partial data. For this report we have used records of employment complaints from 1997 to 2008 (N=212,144) unless otherwise specified.

The CMIS is extensive, and a complete description of its contents is beyond the scope of this section. We instead focus on the two elements that are relevant to this study: the complainant and the respondent. As this is a relational database, we were able to match complainants and respondents for our analysis. For the purpose of describing the dataset, it is useful to treat them separately.

Complaint and Complainant Data.

For each complainant the DFEH collects up to 52 separate pieces of data. These include demographic, occupational and contact information of the complainant, the type of complaint (employment, housing, Unruh or Ralph Act), description of the bases and the acts precipitating the complaint (up to 4 of each per complaint), the name and contact information of the complainant’s legal counsel, if any, and several process markers (i.e., dual-filed with EEOC, sent to legal). From these we created several new variables for our analysis. Binary indicator variables were generated from the bases and acts variables, to allow us to analyze each allegation separately. This was necessary to allow us to analyze combinations of multiple complaint types. We compressed ethnicity from 29 different classifications into 6 major classifications: African-American, African-American & Other, Asian-PI, Caucasian, Hispanic/Latino and Native American. We used the address of the complainant to geocode at the census tract level, which allowed us to apply ecological data about the neighborhood in which the complainant lived, including income, education and racial/ethnic makeup. Having tract-level data also

allowed us assign an MSA designation to the complainant. Finally, we created a binary variable that captured whether the complainant was issued a Right-to-Sue Letter within the first 7 days of filing the complaint.

Respondent Data

For each respondent the DFEH collects up to 28 pieces of data. These include name and contact information, respondent type (e.g., manufacturing, communication, etc.), any benefits paid by the respondent to the complainant, and the date on which the complaint against the respondent was closed and how. It is possible to have multiple respondents for each complaint, and consequently there are more respondents (240,214) than there are complainants. These data also include a field for the complainant's estimate of how many employees there are in the firm, a difficult field to rely upon as it is rarely consistent across complainants. However, we use these data to estimate the size of the respondent when we are able to match respondents across complaints. There are a significant number of respondents appear more than once in the database, and they are typically large firms with many employees. However, we discovered that there is no standardization of respondent names in the CMIS, and so matching respondent by their names consequently undercounted the number of complaints filed against each firm. In order to create a list of matched respondents, we had two research assistants read through approximately 85,000 cases from 2003-2007, matching respondents using an ID number we assigned for that purpose.

Analysis and Methodology

This report is primarily descriptive, and we present these findings using raw counts, percentages and ratios. The main exception to this practice is the use of sequential logit, a statistical procedure that estimates the probability of passing a set of transitions in a multi-step process. In our study the process begins with filing a complaint, and it can end at any one of eight different points. Since this methodology is a significant part of our analysis and since it is a seldom-used procedure, it is worth taking a moment to explain the principles if not the operation of sequential logit.

Each complaint can potentially pass through eight individual steps or transitions in the DFEH process: Obtaining a Right-To-Sue Letter (immediately or at some later time in the process), having DFEH dismiss the complaint without investigation, having DFEH dismiss it after investigation either for insufficient evidence or no probable cause, having DFEH arrange a settlement, or sending it to the legal department and obtaining resolution there. Each one must be passed in order. At each of these transitions there is a probability that the complaint will continue or will drop out of the DFEH caseload. From an analytical perspective it would be relatively easy to estimate the probability of dropping out at each transition (i.e., DFEH dismissed without investigation or not), but these estimates would be made without reference to the other transitions that came before. The problem is that the transitions are not independent. A group's probability of obtaining a Right-to-Sue Letter might directly affect the likelihood that members of that group who did not receive a letter will obtain satisfaction through DFEH.

The fact that these two probabilities are dependent is why sequential logit is an appropriate tool for this analysis. Using this procedure we can study the simultaneous probability that a complaint will either survive or fall out of the process at each step. We can use it to determine whether those probabilities are significantly related to multiple factors associated with the complainant, with the

complaint or with the respondent. Consequently, we are able to say with some confidence which complainants, complaint types and respondent types are most likely to survive the DFEH process to a conclusion favorable to the complainant. And we can compare these probabilities across the process, within and across groups, to provide a textured image of the process of employment discrimination enforcement in California.

2. Jury Verdict Report Data

Overview

The purpose of this part of the research was to collect information on jury verdicts reached in California employment discrimination cases for all jury verdicts rendered in calendar years 2007 and 2008, and to compare data from those verdicts two data previously collected by Professor David J. Oppenheimer for calendar years 1998 and 1999. We first evaluated available data sources for completeness. We downloaded potential candidate verdict reports and used full text indexing to identify potential verdicts for inclusion in our database. In order to be included in the database, a verdict had to be rendered in a California state court, and to be from all indications a verdict in an employment discrimination case. We then coded the verdicts into a database that contained fields identical to those utilized by Prof. Oppenheim for his earlier study.

Locating Jury Verdict Reports

As with other jury verdict researchers, we relied upon commercial jury verdict reporting services. Two advanced law students, under the supervision of Gary Blasi, evaluated four potential sources of jury verdicts in California employment discrimination cases: (1) the VerdictSearch service, a well-established commercial jury verdict reporting service (www.verdictsearch.com); (2) the verdict and settlement reporting service for California provided by the *Daily Journal* legal newspaper to subscribers; (3) the various jury verdict databases available through Westlaw¹; and (4) the jury verdict databases available through Lexis/Nexis². We determined through a test search of 100 verdicts that all of the relevant verdicts available through the commercial VerdictSearch service were also available on Westlaw. After test searches on the databases available through Westlaw and Lexis/Nexis, we determined that a search of three databases on Westlaw (CA-JV-ALL, CA_JV, and CA-JV-COMB) returned all of the verdicts that we located through any of the searches available through either Westlaw or Lexis. These databases are made available to legal academics for research purposes without charge. We also conducted a search of the *Daily Journal* Verdicts and Settlements database available to *Daily Journal* subscribers on a \$2.00 per report basis. We concluded that the *Daily Journal* Verdicts and Settlements database included verdicts that had not been included in the Westlaw databases. We therefore determined to download all relevant jury verdict reports from the Westlaw service, and then to conduct a parallel search of the *Daily Journal* verdict reports, downloading the verdict reports from the latter source whenever they did not also appear in the verdicts downloaded from Westlaw.

¹ California Jury Verdicts All (CA-JV-ALL), Jury Verdict and Settlement Summaries (LRP-JV); VerdictSearch California Jury Verdicts & Settlements (VS-CA-JV); California Jury Verdicts Plus (CA-JV-PLUS); California Combined Jury Verdicts (CA-JV-COMB); California Trials Digest Jury Verdict Summaries (CA-JV); Jury Verdict and Settlement Summaries – California (LRPCA-JV).

² California Jury Verdicts, Combined (CAJURY); California Jury Verdicts (CAREV);

Searching Jury Verdict Reports

Our preliminary tests of databases indicated that, while the reporting services often identified cases in which verdicts were reported in categorical terms (e.g., “employment discrimination,” “sexual harassment,” etc.), the coding by the reporting services was underinclusive. We therefore conducted searches of the full text of the reports using a more inclusive search string. After tests, we utilized the following search string on Westlaw: (employ! rac! religi! disab! "national origin" ancestry "physical disability" "mental disability" "medical condition" sex! age pregnan! child! married marital marriage marry /p discriminat! harass!) "fair employment and housing act" "feha" & da(2008) % ("district court") [or date 2007]

The supplemental search on the Daily Journal service, which does not permit full text searching, was done using the categorical coding scheme in that service, beginning with the “employment” category, plus each of the categories enumerated following: retaliation but not race sex national origin disability; sexual harassment; national origin discrimination; race discrimination; racial discrimination; racial harassment; sex discrimination; sexual discrimination.

Coding

Consistent with the Oppenheimer study, we treated each plaintiff in a consolidated case as a separate “case.” Coding of the verdict reports was done in four phases:

1. The primary research assistant, a newly minted attorney, who had participated in the evaluation studies as a law student and law graduate, did the initial coding.
2. A PI (Blasi) utilized a full text search of all the downloaded verdict reports to insure that appropriate cases had not been included.
3. A research assistant, a 2nd year law student, conducted a supplemental review focused on the coding of damages and the separation of
4. A supplemental review of sexual harassment cases was conducted by a PI (Blasi)

Data

The resulting data were combined with the corresponding data from the Oppenheimer data (excluding wrongful termination cases not involving discrimination). This yielded the following initial coding in an Excel database (additional processing was done in STATA)

Variable	Definition
Source	Data source: UCLA or Oppenheimer
Source_No	Corresponding to original database entry
County	County of Court
Case_no	Case Number
First Date Reported	Date of the verdict report
No_Ps	Number of plaintiffs at trial
Case_Name	Case title
Race_Nat_Origin	Ethnicity of plaintiff, if stated
Sex	Sex of plaintiff, if stated
BASIS1*	Alleged basis (sex, race, disability, etc.)
BASIS2*	Alleged basis (sex, race, disability, etc.)
BASIS3*	Alleged basis (sex, race, disability, etc.)
ACT1*	Alleged wrongful act (termination, harassment, etc)
ACT2*	Alleged wrongful act (termination, harassment, etc)
V	Prevailing party (plaintiff or defendant)
TOTAL DAMAGES*	Total amount of award
NON PUNITIVE DAMAGES*	All damages other than punitive damages
PUNITIVE DAMAGES*	Punitive damages
Attorney Fees	Attorney fee award, if stated
Costs	Costs awarded, if stated

3. Court Case Filings Following Issuance of a Right to Sue Letter

Overview:

Before any litigation under either the FEHA or Title VII is commenced, the complainant must obtain a of right to sue (RTS) letters. The purpose of this data collection was to estimate the fraction of RTS letters that are followed by a court filing and to determine what we could about outcomes from court docket information, without physical examination of court files. FEHA complainants have one year following issuance of a RTS letter to bring suit. We drew a sample of DFEH complaint records in which a RTS letter had issued during a time period that would allow time for filing plus an additional time to allow most cases to have reached a resolution. According to all of the plaintiffs' attorneys with whom we spoke, attorneys representing clients with FEHA claims that might also constitute Title VII claims invariably file in California state court, for a variety of reasons, not the least of which is the unlimited amount of damages permitted. We therefore focused initially on state court filings. But because obtaining a RTS letter can also serve to fulfill the administrative exhaustion requirement for Title VII, however, we also conducted a search for filings in the federal district courts in California.

Where possible, court dockets were downloaded for copying, or in some cases, obtain by mail. They were then coded to obtain as much information as possible regarding the handling and disposition of the case. Objective coding (name of case, case number, jurisdiction, etc.) was done by law student assistants. The coding of dockets as to their indication of the outcome of a case, particularly whether the case settled, was done by PI Blasi, who has more than 20 years of litigation experience in California civil courts. The resulting data was coded and cleaned in Excel, then converted to a STATA research database.

Selecting a Sample of Right to Sue (RTS) Letters

The DFEH administrative database contains information on the residence city of the complainant and the city of the respondent. However, because plaintiffs can select a county in which to sue according to California venue rules, determining where a complaint might be filed that follows issuance of a RTS letter is not always possible. Searching all possible courts, even when those courts have dockets online, would have been very time consuming. We therefore determined to limit our search to counties in which there is good coverage in consolidated databases, and to supplement those searches with searches in the counties in which they have good coverage, utilizing the court clerk docket systems available in those counties.

There are two possible commercial sources of compiled on-line information regarding California Superior Court cases available to researchers: Lexis/Nexis and Bloomberg. Lexis is easier to use to determine whether and when a case was filed in court. However, Lexis reports only case filings. Bloomberg reports both filings and, in most cases, case dockets, from which some (but not all) information regarding case disposition can be gleaned. Lexis is generally quicker to use (requiring about 4 minutes per case to determine whether a case has been filed, from information about the complainant and one (1) respondent/defendant. Searching for all respondents/defendants, when the first listed respondent does not generate a "hit" will increase the time required.

Time Period Selection

The California Judicial Counsel³ reports the following: Of unlimited jurisdiction civil cases in California in FY 2006-2007, 68% were resolved in 12 months, 85% in 18 months, and 92% in 24 months. We can add an additional year to capture cases that may be more complex and take longer to get to trial, or are in courts where the statewide averages are not obtained. We thus drew a sample of complaints in which RTS letters were issued between 4/1/05 and 3/31/06 (since our DFEH administrative dataset included complaints through the middle of April, 2009). In other words, our sample included complaints in which RTS letters were issued at least 36 months earlier.

County Selection

The venue in a FEHA case is typically the county in which the employer is located or in which the alleged acts of discrimination took place. The variable in the CMIS data containing the respondent's county code is d_RSP_FIPSCN. Complications include (1) fact that there are multiple respondents in many cases, each of which may have a different county code, and (2) in some cases, the respondent County code may be a headquarters address, as opposed to where the incident actually took place. While that might be an appropriate place for venue, it is more likely that a case would be filed in the county where the incident took place. CMIS does not apparently contain a County code for the location of the alleged violation. Accordingly, we determined to select counties based on complainant addresses.

Looking at the distribution of the 7,752 RTS closings in 2005 by complainants county and respondent's county yields the following:

³ Page 49 of this document: <http://www.courtinfo.ca.gov/reference/documents/csr2008.pdf>

CMP COUNTY	RTSin7	%total	Cum%	RSP COUNTY	RTSin7	%of total	Cum%
37 Los Angeles	3,191	41.2%	41.2%	37 Los Angeles	2,975	38.4%	38.4%
59 Orange	657	8.5%	49.6%	59 Orange	692	8.9%	47.3%
73 San Diego	624	8.0%	57.7%	73 San Diego	584	7.5%	54.8%
1 Alameda	370	4.8%	62.5%	0 Out of state	473	6.1%	60.9%
67 Sacramento	339	4.4%	66.8%	1 Alameda	408	5.3%	66.2%
85 Santa Clara	319	4.1%	70.9%	67 Sacramento	322	4.2%	70.4%
71 San Bernardino	236	3.0%	74.0%	85 Santa Clara	320	4.1%	74.5%
75 San Francisco	226	2.9%	76.9%	75 San Francisco	252	3.3%	77.7%
65 Riverside	183	2.4%	79.3%	71 San Bernardino	209	2.7%	80.4%
13 Contra Costa	180	2.3%	81.6%	65 Riverside	171	2.2%	82.6%
111 Ventura	169	2.2%	83.8%	111 Ventura	145	1.9%	84.5%
19 Fresno	127	1.6%	85.4%	13 Contra Costa	129	1.7%	86.2%
77 San Joaquin	101	1.3%	86.7%	19 Fresno	120	1.5%	87.7%

Given this distribution, we determined to draw a sample from among those counties in which either the complainant county code or the respondent county code is within the range of counties for which data was available on Lexis or Bloomberg.

Lexis has case index information from a number of California counties in which the index is no longer updated on Lexis. The following Superior Court civil case indexes are both on Lexis and maintained currently.

CA Superior Court Civil Case Index - Los Angeles County

CA Superior Court Civil Case Index - Marin County

CA Superior Court Civil Case Index Orange County

CA Superior Court Civil Case Index - Sacramento County

CA Superior Court Civil Case Index San Diego County

CA Superior Court Civil Case Index San Francisco County

CA Superior Court Civil Case Index - Santa Barbara County

CA Superior Court Civil Case Index - Ventura County

CA Superior/Municipal Civil Case Index - Fresno County

CA Superior/Municipal Court Civil Case Index - Kern County

CA Superior/Municipal Court Civil Case Index - Riverside County

Some experimentation revealed that Bloomberg's service regarding court dockets was not as current as that of Lexis. We therefore relied on Lexis as the primary source to search for case filings. Based on the distribution of cases and the availability of statewide case search capacity, we drew a sample of 400 cases in which the RTS letter had issued between 4/1/05 and 3/31/06 and complainant's address was in one of the following counties (the numbers are the internal code for the county in the database).

Los Angeles 37

Marin 41

Orange 59

Sacramento 67

San Bernardino 71

San Diego 73

San Francisco 75

San Luis Obispo 79

Santa Barbara 83

Ventura 111

Fresno 19

Kern 29

Riverside 65

San Mateo 81

Santa Clara 85

Searching for Case Filing Information

Our initial search was conducted on Lexis, which was much quicker than Bloomberg. The procedure we used to search on Lexis is provided in Attachment A.

We then turned to Bloomberg to supplement those efforts. Search efforts were coded as one of the following:

- Case found (and information captured for further work)
- Case not found and likely to have been filed in venue within search
- Case not found and likely not to have been filed in venue within search.

We also determined that the court records maintained by the courts themselves in some counties were likely more reliable than Lexis and Bloomberg or both combined.

We therefore used the available resources to supplement our search where that information was available (descriptions of the procedure used to find and use these resources are provided in Attachment B).

Once we determined which cases we knew were filed in Superior Courts, we then searched for copies of the court dockets. We primarily did this on Bloomberg. The procedure we used to find dockets on Bloomberg is provided in Attachment B. Once a docket was found, we saved the document as a Word file, with the document's title being its DFEH Complaint Number.

Bloomberg did not provide dockets for several counties (i.e. San Diego, Marin). It also did not always provide up-to-date information for certain counties. We used the Public Records systems provided by the Superior Courts to supplement the information we found on Bloomberg. The available Public Records databases we used and the procedures one must follow to search to use them are provided in Attachment A. Once we obtained these dockets, we saved them as Word or PDF files, with the document's title being its DFEH Complaint Number.

Coding Dockets

Objective coding of the dockets was entered into Excel by one law student research assistant and checked by another law student research assistant. PI Blasi conducted a tertiary review and cleaning, focused primarily on estimating case outcomes.

Variable	Definition
CMP_CASEID	DFEH Complaint Id Number (for linking to DFEH administrative dataset)
MSJ_Filed	Binary as to whether summary judgment motion was filed
MSJ_Date	Date of motion for summary judgment
Entries	Number of docket entries
atty_pltf	Attorney for the plaintiff(s)
atty_deft	Attorney for the defendant(s)
last_entry	Verbatim: last entry in the docket
clear_settle	Binary as to unequivocal settlement (e.g., notice of settlement filed)
outcome	Outcome code: 1=clearly settled; 2=probably settled; 3=trial; 4=removed or other resolution not on merits; 5=arbitrated; 6=SJ for Deft.; 7=Insufficient evidence to determine; 8=no docket entries available; 9=docket not found; 10=pending case; 11=Dismissed, other bases
county	County of the superior court
case_no	Superior court case number
date_filed	Date case filed
comments	Coder comments regarding ambiguities

After data were reviewed and cleaned in Excel, they were converted to STATA and then merged with the full DFEH record pertaining to the case in which the original RTS letter had been generated. The resulting STATA dataset (RTSin7 Dockets 112809.dta) comprised our research database.

ATTACHMENT A

PROCEDURE TO IDENTIFY AND RETRIEVE CASE INFORMATION AND COURT DOCKETS

Lexis

Lexis provides a public index to search for cases which have been filed in several California Superior Courts. Their information is usually up-to-date and is the most efficient means to look up case information.

1. Enter the LexisNexis Research System.
2. Under "Look for a Source," select the "Public Records" tab.
3. Select the link for "Find Filings."
4. Then select the link for "Civil and Criminal Court Filings and Regulatory Actions"
5. Select the link for "Civil and Criminal Filings- Selected States"
6. Select the link for "California"
7. Then select the link for "CA Combined Civil Court Filings from Superior and Municipal Courts"
8. You can then search by party names, combinations of names, and limit by date to narrow results.

Bloomberg Law

Bloomberg Law provides dockets that are easy to read and save. However, they do not provide dockets for several counties (i.e. San Diego, Marin). Their coverage of Los Angeles dockets is also unreliable and often not updated past mid-2007.

1. Go to www.bloomberg.com and select the link at the top of the screen for "Bloomberg Anywhere."
2. Log in and launch the Bloomberg Professional service. Allow access to your computer.
3. Type "BLAW" in the command bar. This will take you to the Bloomberg Law center.
4. Under the "Dockets and Litigation" header, select the "DCKS" (U.S. Court Filings) database.
5. Then select "California Superior Court."
6. Select "Refine Search." You can search by party names, key words, or docket numbers. Run the search, and you will be provided with dockets that meet your search criteria.
7. Select the docket you need. To save the docket, go to "Options," then "Save." This will launch the BBA File Manager. Select "Save," and then the location on your computer where you would like to save the file.

Butte Superior Court

1. To find case information, go to http://www.buttecourt.ca.gov/online_index/CMSSearch.cfm?URLdc=y
2. You can then search by party name or case number.
3. When you select the a case number link, it will take you to the registrar of actions (docket).

Fresno Superior Court

1. To find case information, go to http://www.fresnosuperiorcourt.org/case_info/
2. Select “Click Here for Case Information”
3. You can search by party name or case number.
4. When you select the case number link, it will lead you to a docket report.

Kern Superior Court

1. To find case information, go to <http://www.kern.courts.ca.gov/>
2. Select the “Public Searches” tab on the homepage
3. Select the link for “Case information,” and then you can search by party name or case number.
4. When you select the case number link, it will then lead you to a Case Information Summary. There will be a link on this page to “Register of Actions/Case Docket” if it is available.

Los Angeles Superior Court

1. To find case information, go to <http://www.lasuperiorcourt.org/civilCaseSummary/index.asp?CaseType=Civil>.
2. Type the case number or party names into the search box.
3. Run the search, and it should provide a case summary for that case number with attorney information, dockets, and proceedings held. If interested, it also provides document images for a fee.

Marin Superior Court

1. To find case information, go to <http://www.marincourt.org/PublicIndex/SearchForm.aspx>
2. You can search by party name, case name or case number.
3. This will not provide a docket, but will provide with other information you will need to request docket from court (i.e. case number, date filed)
4. To request docket, go to http://www.marincourt.org/records_management.htm
5. After reading about the Court’s Records Management system, send an email to courtrecords@marincourt.org with the party names, case number, and a request of the information you want.
6. They will either email or call back with the cost of the copies, and you can pay with check or credit card. Then they will send the copies.

Orange Superior Court

1. Go to <https://ocapps.occourts.org/CivilPubv2/Login.do>
2. Accept their terms, and then you can search by case number, person or business.

3. This will take you to the case record with the docket.

Riverside Superior Court

The Riverside Superior Court provides an Open Records system with up-to-date information.

1. Go to <http://www.riverside.courts.ca.gov/pubacc.htm>.
2. Select the link “Click Here to Search Court Records.”
3. Select the “Civil/Sm. Claims/Fam Law & Probate Cases” button.
4. Log In following the instructions they provide.
5. Case Number search is often unreliable, so I suggest running a Name Search. Select the button for “Name Search.” Enter in your search parameters and run the search.
6. Select the case number of the case you are interested in. It will lead you to the court’s records.
7. At the top of the page are links to various parts of the record (i.e. Complaints/Parties, Actions, etc.) The most comprehensive record is the “Case Report.” The pages take some time to load.
8. This information does not copy well (formatting will be altered), so save the webpage, or print it out and then scan to save as a pdf.
9. This system also provides copies of court records for a fee.

Sacramento Superior Court

1. Go to <https://services.saccourt.com/indexsearchnew/>
2. Select the button to “Proceed to the Search System”
3. Select “Civil” for case type, and then you can search via party name.
4. This provides case information (case number, filing date) but does not provide a docket. You will have to contact the court directly to find this information.

San Bernardino Superior Court

1. Go to <http://www.co.san-bernardino.ca.us/COURTS/flash.asp>
2. Select the “Civil” tab at the top of the screen, and then “Case Information Online.”
3. Accept their terms, and then you will be provided access to their Open Records system.
4. This system operates the same as the Riverside Open Records System. Use following the same instructions.

San Diego Superior Court

1. First go to http://www.sdcourt.ca.gov/portal/page?_pageid=55,1641716&_dad=portal&_schema=PORTAL.
2. Select the link for the “Online Case Search.” Then select a “Party Name Search.” Change the Case Location to “Unknown” and then search by party name.

3. Select the case number for the docket you are interested in.
4. Then select the button for “File Location.” Write down the name of the courthouse the file is located at.
5. Then return to http://www.sdcourt.ca.gov/portal/page?_pageid=55,1641155&_dad=portal&_schema=P ORTAL
6. Select the link for “Obtain a Copy.”
7. The website provides instructions to send a request by mail. Send a letter to the courthouse you found in your prior search with the case number, the name of the parties involved and the name of the documents you want copied. Included a self-addressed, stamped envelope for the copies to be returned in. Also include a check made payable to the “Superior Court” with a “Not to exceed \$_____” note if you are not sure of the cost of the copies.
8. The court will receive the request and mail back the copies.

San Joaquin Superior Court

1. Go to <http://www.stocktoncourt.org/courts/caseinquiry.htm>
2. Select the link for “Civil, Small Claims, and Probate Inquiries”
3. You can then search by participant name.
4. This will provide you with case information but not docket information. You will have to contact the court directly to obtain this information.

San Francisco Superior Court

1. Go to http://www.sfgov.org/site/courts_index.asp?id=77500
2. You can select a Case Number or Name Search Inquiry.
3. If you select the name, and then the case number for the party you are interested in, you are then led to the docket record.

San Mateo Superior Court

1. Go to http://www.sanmateocourt.org/director.php?filename=./includes/midx_open_access.html
2. You can search the index to obtain case information, or search “Open Records” to find docket information.

Santa Barbara Superior Court

1. Go to <http://www.sbcourts.org/pubindex/>
2. Authorize you have read the usage agreement, and select “Continue”
3. Select the link to the “Civil Index”
4. On the left hand side of the screen, you can search by party name or case number.

5. This does not provide docket information- you must contact the court directly to obtain that information.

Santa Clara Superior Court

1. <http://www.sccaseinfo.org/>
2. Select the button for “Civil, Small Claims...Cases”
3. The options to search (case number, party name) are located at the top of the page. Select the tab for the search method of your choice
4. Select the party name and then case number you are interested in and it will provide you with docket information and upcoming events.

Ventura Superior Court

1. Go to: <http://www.ventura.courts.ca.gov/venturaMasterFrames18.htm>
2. Select “Continue”
3. Select the link for “Civil, Small Claims, and Probate Inquiries”
4. You can then search by participant name. You then can obtain case and docket information.

Cannot locate a public records system for the following counties:

- Imperial
- Alameda
- Yuba
- Lake
- San Luis Obispo

4. Survey of Employment Discrimination Attorneys

Overview

A survey was conducted of employment discrimination lawyers, utilizing an online survey service. The target population was employment discrimination lawyers representing both employers and employees in California. The purpose of the survey was to obtain as much data as possible and to provide additional information in areas in which interviews of practitioners may have been subject to selection bias of other kinds.

Instrumentation

The survey instrument was developed and pretested utilizing the online survey service at www.surveymonkey.com. In accordance with human subjects protection rules that both UCLA and RAND, the survey responses were collected anonymously, both as to name of respondent, any other identifying information, and IP address. Before the survey was conducted, approval was obtained from the UCLA Institutional Review Board. The survey was designed with a skip pattern that would present somewhat different questions to attorneys who primarily represent employers and attorneys who primarily represent employees. A copy of the printed version of the survey instrument is attached to this appendix.

Universe and Sampling

There are two organizations with a substantial membership of attorneys who represent either employers or employees in employment discrimination cases in California. The largest of these is the Labor and Employment Section of the State Bar of California (www.calbar.ca.gov/laborlaw), an official subdivision of the organization to which all California lawyers are required to belong. Members of the Section practice in all the areas of labor and employment law, not only discrimination law. The Labor and Employment Section has a membership of approximately 5000 attorneys. A 2007 survey of the membership of the Section indicated that about two thirds of the section membership represents employers and one third employees.⁴ The other major organization of attorneys in California engaged in employment discrimination practice is the California Employment Lawyers Association (CELA, <http://www.cela.org>), with a membership of approximately 800 attorneys who represent employees.

We did not select a sample from these two populations of attorneys but rather attempted to attract as many respondents as we could. The existence of the survey and the website address at which the survey could be accessed were publicized by various means:

- A notice on the homepage of the website of the State Bar Labor and Employment Section.
- A notice included within a legal update prepared by DFEH director Phyllis Chang and circulated to employment lawyers across California.
- An e-mail from the leadership of CELA to its membership.
- Presentations at meetings of the State Bar Labor and Employment Section

⁴ Data provided by State Bar of California, on file with author.

Sample Distribution and Response Rate

These notices resulted in 110 attorneys completing the survey, although not all responses produced usable information. This is, of course, too small a sample of the universe of attorneys who might have taken the survey to constitute a representative sample, and we do not rely on the survey to estimate population characteristics. There is, however, evidence that the respondents were in some respects similar to the target population. 56.7% of respondents indicated that they primarily represented employees while 43.3% primarily represented employers. Because there is no reliable source of information about the actual distribution of employment discrimination practice among lawyers, we cannot estimate the degree to which this breakdown reflects the target universe, although it appears to be roughly comparable. 39.4% of respondents were from Los Angeles County. According to CELA, 40% of their membership is in Los Angeles County. There is no accessible data on the geographic distribution of the employer side discrimination attorneys.

Attachment: Survey Instrument

5. Interviews

5. Interviews

Overview and Introduction

The primary purpose of the interviews we conducted was to assist in interpreting the data we collected and analyzed and to solicit in a more unstructured way the views of participants and stakeholders in the employment discrimination system. Some interviewees were chosen more systematically, others comprise a convenience sample of knowledgeable individuals. We do not, therefore, generalize from what interviewees told us to estimate the views of those in the same roles or categories. Interviews upon which we rely were conducted on an anonymous basis, in accordance with a protocol approved by the UCLA Office for the Protection of Research Subjects and UCLA's Institutional Review Board. After obtaining informed consent from interviewees, each was provided with a randomly generated number they could at any time thereafter use to request that the information from their interview be deleted from our files. Following the interview, all information from which the interviewee could be identified was deleted from our records and the interviewees thereafter referred to by the assigned subject number. Interviews were conducted both in person and by telephone, in most cases by law students who had received extensive training in interviewing and were conducted utilizing a structured interview protocol that had been approved for human subjects protection purposes. In most cases, interviews were conducted by a interviewer while another member of the team took extensive contemporaneous notes on a lap top computer. Those notes were thereafter converted to interview memoranda summarizing the content of the interview, the basis of the subjects knowledge, and so on.

Interviews Conducted

The table below summarizes the number of interviews we conducted with individuals in the specified categories.

Interview Subjects

Interview Subject Role or Perspective	Interviews Completed
Attorneys primarily representing employers	21
Attorneys primarily representing employees	18
DFEH Employment Consultants	7
DFEH Managers	5
Public interest attorneys representing members of protected categories	5
DFEH Attorneys	4
Employer human resources managers	3
EEOC managers	2
Disability rights expert, advocate	1
Employment discrimination mediator	1

Selection of Interviewees

Attorneys representing both employers and employees were solicited from several sources: the Executive Committee of the Labor and Employment Section of the State Bar of California, employee attorneys who appeared most frequently in DFEH's records for purposes other than obtaining a right to sue letter, and individuals to whom we were referred by our initial round of interviewees.

DFEH Consultants and District Administrators were selected for interview on a random basis from a staff list provided by DFEH.

We interviewed as many DFEH managers and attorneys as we were able, drawing upon a staff directory and organization chart.

We identified and solicited leaders, including attorneys, of organizations whose publicly stated mission is the advancement of the rights of individuals who belong to one or more of the protected categories under the FEHA. We were somewhat surprised at the relative lack of interest on the part of leaders of these groups, with the exception of disability rights advocates and women's rights groups.

Screening Potential Interviewees

In most cases, potential interviewees were contacted to determine both their willingness to be interviewed and the scope of their relevant knowledge. Initial contact was by means of a solicitation letter (See, e.g. Attachment A), together with a copy of an informed consent form for the screening interview and a letter from DFEH Director Cheng requesting cooperation (Attachment B). Screening calls were thereafter made to

subjects, utilizing a screening protocol (Attachment C). The basic format of the solicitation letter and attached material was consistent, although some modifications were made to account for context.

Conduct of Interviews

Interviewees were sent a solicitation by email, surface mail, or both, together with a letter from DFEH Director Cheng asking for their cooperation and explaining the purposes of the study and the conditions under which an interview would be conducted. They were also provided with an informed consent form (Attachment E). If subsequent communication revealed a willingness to be interviewed, a time and location (if the interview was to be conducted) was arranged. Interviews were conducted either by a Principal Investigator or by a 2nd or 3rd year law student who had received training in interviewing experts as part of a clinical course at the UCLA School of Law. Interviews were semi-structured, following a protocol appropriate to the particular category of interviewees. An example is provided at Attachment D. With rare exceptions, each interview was conducted by a two person team, with one member responsible for conducting the interview and the other for taking contemporaneous notes on a laptop computer. Within a short time after the interview, the team prepared a detailed interview memorandum. Those memoranda were then used in the preparation of our report.

Attachments:

- A. Initial Contact Letter for Interview
- B. Informed Consent form (Screening) and letter from Director Cheng
- C. Screening Protocol
- D. Interview Checklist – Plaintiffs’ Attorneys
- E. Informed Consent (Interviews)

FEHA and its Enforcement

Introduction (all respondents)

This survey of California attorneys with experience in employment discrimination law is being conducted by the UCLA/RAND Center for Law and Public Policy. The survey is part of an assessment of the Fair Employment and Housing Act (FEHA) and the effectiveness and efficiency with which it is enforced. You were invited to participate in this survey because of your membership in an organization comprised primarily of attorneys interested in and knowledgeable about these issues.

- * 1. All responses to this survey are anonymous and confidential. No data will be retained from which you or your firm could be identified. Your participation in the survey is voluntary. You can decline to answer a question and you can stop at any time, with no consequences to you. If you have questions or concerns about this research you can contact Professor Gary Blasi, UCLA School of Law, Los Angeles, CA 90095-1476 or 310 206 9431 or Joe Doherty, Director, UCLA RAND Center for Law and Public Policy at 310-206-2675. If you have questions regarding your rights as a research subject, contact the Office for Protection of Research Subjects, UCLA, 11000 Kinross Avenue, Suite 102, Box 951694, Los Angeles, CA 90095-1694, (310) 825-8714.

Having considered the foregoing information, do you consent to participate in the survey?

Yes

No

- * 2. During the past 3 years, has more than 10% of your practice been devoted to providing advice or representation in employment discrimination matters involving the California Fair Employment and Housing Act (FEHA)?

Yes

No

Interest of non-specialists

3. Please tell us about the nature of your involvement in employment discrimination law and/or the Fair Employment and Housing Act.

Basic information (all respondents)

FEHA and its Enforcement

4. What year were you admitted to practice in California?

5. In what County have you practiced MOST during the past 3 years?

Alameda

Contra Costa

Fresno

Los Angeles

Sacramento

San Bernardino

San Francisco

Santa Clara

Other

6. During the past 3 years, about what percentage of your practice has involved employment discrimination claims?

**NOTE: For this and all other questions asking for estimates of a percentage, please enter ONLY a number with no percent sign or decimal point.

* 7. During the past 3 years, of the employment discrimination matters you have handled, which have you MOST often represented?

Employees

Employers

Employee Rep page

FEHA and its Enforcement

* 8. Of the FEHA employment discrimination matters you have handled in the past 3 years, have your interactions with DFEH involved MORE than assisting in the filing of a complaint in order to obtain a "Right to Sue" letter?

Yes

No

Employee Side - DFEH Performance

9. During the past 3 years, about how many employment discrimination cases have handled that were investigated by DFEH -- NOT including those in which DFEH's involvement was limited to immediate issuance of a "Right to Sue" letter?

**NOTE: Please enter a number only, with no text or symbols.

FEHA and its Enforcement

10. Based on your knowledge of DFEH's activities, practices and procedures over the past three (3) years, how would you rate DFEH's effectiveness in the following areas:

	Poor	Fair	Average	Good	Very Good	No Opinion
Accessibility of the DFEH complaint process to employees with potential claims.	jñ	jñ	jñ	jñ	jñ	jñ
Achieving reasonable settlements for persons with employment discrimination claims.	jñ	jñ	jñ	jñ	jñ	jñ
Conducting investigations sufficiently thorough to make a determination of merits of complaints.	jñ	jñ	jñ	jñ	jñ	jñ
Educating the legal profession on developments in the law.	jñ	jñ	jñ	jñ	jñ	jñ
Informing employees of their legal rights and responsibilities.	jñ	jñ	jñ	jñ	jñ	jñ
Informing employers of their legal rights and responsibilities.	jñ	jñ	jñ	jñ	jñ	jñ
Investigating claims of employment discrimination.	jñ	jñ	jñ	jñ	jñ	jñ
Making accessible the process for filing a complaint of discrimination.	jñ	jñ	jñ	jñ	jñ	jñ
Making accurate decisions as to the validity of claims.	jñ	jñ	jñ	jñ	jñ	jñ
Making it easy for FEHA complainants to obtain a "Right to Sue" letter.	jñ	jñ	jñ	jñ	jñ	jñ
Obtaining essential information in interview of complainant.	jñ	jñ	jñ	jñ	jñ	jñ
Taking legal or other action to address systemic or widespread problems.	jñ	jñ	jñ	jñ	jñ	jñ

11. How do you rate DFEH's overall performance now compared to three years ago?

- Much worse
- Worse
- About the same
- Better
- Much better
- No basis for opinion

FEHA and its Enforcement

12. Based on your knowledge of settlements reached by DFEH in FEHA cases, how would you compare those settlements to settlements you would expect to see in the same matter if it were handled by a competent private attorney, as to the three areas listed below?

	DFEH much less	DFEH less	DFEH about the same	DFEH more	DFEH much more	No opinion
Net compensation to complainant, if any	jn	jn	jn	jn	jn	jn
Other remedies obtained by complainant	jn	jn	jn	jn	jn	jn
Time to achieve settlement	jn	jn	jn	jn	jn	jn

13. Other than those areas mentioned above, are there specific areas in which DFEH's enforcement of FEHA should be improved?

14. Other than those areas mentioned above, are there other areas in which DFEH's enforcement of FEHA is particularly good?

EE- Your practice and employment discrimination practice in your area

15. During the past 3 years, about what percentage of your employment discrimination cases have involved, among other possible claims, claims under the Fair Employment and Housing Act (FEHA).

16. With regard to FEHA claims, with the exception of pro bono or unusual cases, what is the approximate minimal size of matter (based on total damages or potential settlement value) that YOUR FIRM is likely to accept for representation.

**NOTE: For this and all all questions asking for estimates of dollar amounts, please enter a single number with no text, dollar sign or decimal point.

FEHA and its Enforcement

17. Based on your knowledge of the profession and practice in your region, what is the approximate minimal size of matter (based on total damages or potential settlement value) below which a complainant is unlikely to be able to obtain counsel on a non-pro bono basis from ANOTHER ATTORNEY IN YOUR REGION?

**NOTE: For this and all other questions asking for estimates of a dollar amount, please enter ONLY a number with no dollar sign or decimal point.

18. Approximately what percentage of the potential clients with employment discrimination claims who contact you do you accept for representation? (Number only, no % sign or decimal)

19. How would each of the factors below influence the likelihood that you or your firm would accept a FEHA case for representation (assuming the other factors were equal)?

	Very negatively	Negatively	No effect	Positively	Very positively
Claimant is undocumented immigrant	jn	jn	jn	jn	jn
Claim based on mental disability	jn	jn	jn	jn	jn
Claimant is low wage worker	jn	jn	jn	jn	jn
Claimant is African American	jn	jn	jn	jn	jn
Employer is large business	jn	jn	jn	jn	jn
Claim based on failure to hire	jn	jn	jn	jn	jn
Claim based on sexual orientation	jn	jn	jn	jn	jn
Claim based on physical disability	jn	jn	jn	jn	jn
Claim based on race or national origin	jn	jn	jn	jn	jn
Claim based on harassment	jn	jn	jn	jn	jn
Claim based on age	jn	jn	jn	jn	jn
Employer is small business	jn	jn	jn	jn	jn
Claim based on sex	jn	jn	jn	jn	jn
Claim based on termination	jn	jn	jn	jn	jn

FEHA and its Enforcement

20. For FEHA cases you take on a contingency basis, what percentage of the recovery do you most often charge in fees in each of the following circumstances? (Numbers only, no % sign)

Settled before summary judgment	<input type="text"/>
Settled after summary judgment but before trial setting	<input type="text"/>
Settled after trial setting but before trial	<input type="text"/>
Settled during trial	<input type="text"/>
Successfully tried to verdict	<input type="text"/>

21. In approximately what percentage of FEHA cases do you and your client (s) succeed in obtaining money damages, either by settlement or trial? (Numbers only, no % sign)

22. In FEHA cases in which you obtain a settlement for your client, how likely is it that your client will receive the following remedies or kinds of relief?

	Very unlikely	Somewhat unlikely	Neither likely nor unlikely	Somewhat likely	Very likely
A job promotion previously denied	jn	jn	jn	jn	jn
Employment in a position for which he or she was previously rejected	jn	jn	jn	jn	jn
Reinstatement to a previously held position with some modification or accomodation	jn	jn	jn	jn	jn
Reinstatement to a previously held position	jn	jn	jn	jn	jn

* 23. Have you ever handled a case for HOUSING discrimination under FEHA?

Yes

No

Yes as to Housing Discrimination cases under FEHA

24. About how many FEHA housing discrimination cases have you handled?

**NOTE: Please enter number only, no text or symbols.

FEHA and its Enforcement

25. How much was the largest settlement or award you obtained in a housing discrimination case based in part on FEHA?

**NOTE: Please enter number only (no \$ sign or decimal).

No as to Housing discrimination under FEHA?

26. Which, if any, of the following reasons explains why you have not handled a housing discrimination case under FEHA? (You can select more than one).

I am not familiar with the field of housing discrimination.

I have not been asked to handle a housing case.

The damages in housing discrimination are too low, compared to those available in employment discrimination cases or other cases I handle.

Other (please specify)

Employer Side DFEH Staff Quality

27. During the past three years, with about how many different DFEH staff have you had some interaction?

**NOTE: Please enter number only -- no text or symbols.

FEHA and its Enforcement

28. Of those FEHA NOTICES AND COMPLAINTS as to which you have assisted a client in preparing a response, how many could be accurately described as follows:

	None or very few	Few	Some	Most	All or nearly all
The complaint lacked sufficient information about the events alleged to have taken place (dates, times, places, persons involved).	jn	jn	jn	jn	jn
The complaint was inadequate in some other manner to allow employer to conduct an adequate internal investigation,	jn	jn	jn	jn	jn
The complaint did not describe facts that would constitute a violation of FEHA even if those facts were assumed to be true.	jn	jn	jn	jn	jn
The complaint was defective or inadequate in some manner not mentioned above.	jn	jn	jn	jn	jn
The complaint was adequate in all respects, even if the underlying facts alleged were not true.	jn	jn	jn	jn	jn

29. Based on your knowledge of INVESTIGATIONS regarding FEHA complaints conducted by DFEH staff in the past 3 years, how would you rate the average quality of those investigation as regards the following:

	Very poor	Poor	Average	Good	Very Good	No Opinion
Quality of initial interview with complainant	jn	jn	jn	jn	jn	jn
Number and selection of other witnesses for interview.	jn	jn	jn	jn	jn	jn
Quality of interviews with other witnesses.	jn	jn	jn	jn	jn	jn
Thoroughness and relevance of document requests	jn	jn	jn	jn	jn	jn
Openness to information offered by employer	jn	jn	jn	jn	jn	jn
In general or overall	jn	jn	jn	jn	jn	jn

Other comments on DFEH investigations (please specify):

FEHA and its Enforcement

30. Based on your knowledge of efforts of DFEH staff over the past three years to facilitate SETTLEMENTS regarding FEHA complaints, how would you rate the average quality of those efforts as regards the following:

	Very Poor	Poor	Average	Good	Very Good	No Opinion
Realistic appraisal of settlement value	<input type="radio"/>					
Communications and settlement skill	<input type="radio"/>					
Apparent legal knowledge of consultants	<input type="radio"/>					
Apparent legal knowledge of District Administrators	<input type="radio"/>					
Overall settlement efforts by consultants	<input type="radio"/>					
Overall settlement efforts by District Administrators	<input type="radio"/>					

Other comments on DFEH settlement efforts (please specify):

31. Based on your knowledge of settlements reached by DFEH in FEHA cases, how would you compare those settlements to settlements you would expect to see in the same matter if it were handled by a competent private attorney, as to the three areas listed below?

	DFEH much less	DFEH less	DFEH about same	DFEH more	DFEH much more	No Opinion
Net compensation to complainant, if any	<input type="radio"/>					
Other remedies obtained by complainant	<input type="radio"/>					
Time to achieve settlement	<input type="radio"/>					

32. How do you rate DFEH's overall performance now compared to three years ago?

- Much worse
- Worse
- About the same
- Better
- Much Better
- No Basis for Opinion

FEHA and its Enforcement

* 33. In assisting clients in responding to DFEH complaints during the past three years, have you assisted in the evaluation or preparation of responses to DISCOVERY or information requests from DFEH?

Yes

No

Employer Side Discovery Page

34. Based on your interactions with DFEH staff in the past 3 years in which DFEH sent discovery requests to you or the employer, how would you rate the average quality of the discovery requests in the following respects?

	Very poor	Poor	Average	Good	Very Good
Capacity and willingness to confer to resolve issues	<input type="checkbox"/>				
Clarity and precision of description of information sought	<input type="checkbox"/>				
Lack of undue burden in responding to request	<input type="checkbox"/>				
Relevance to the subject matter of the complaint	<input type="checkbox"/>				

Other comments on DFEH discovery requests (please specify)

ER Side Practice Questions

35. About what percentage of your practice is devoted to matters that involve, among other issues, potential or alleged violations of FEHA?

**NOTE: For this and all other questions regarding estimates of percentages, please enter number only, with no percent sign or decimal.

FEHA and its Enforcement

36. Of that portion of your practice that involves FEHA to some extent, about what percentage of THAT practice is devoted to each of the following:

**NOTE: For this and all other questions regarding estimates of percentages, please enter number only, with no percent sign or decimal.

Training and counseling in general	<input type="text"/>
Representation before DFEH or FEHC	<input type="text"/>
Litigation defense	<input type="text"/>
Other	<input type="text"/>

37. In cases in which you have represented employers in each of the following possible stages of responding to a FEHA complaint, please estimate the average total cost to your client (costs and attorneys fees).

**NOTE: Please enter number only (no text, dollar sign or decimal).

Prepare response to DFEH complaint	<input type="text"/>
Prepare response and negotiate settlement with DFEH	<input type="text"/>
Represent employer before Fair Employment and Housing Commission	<input type="text"/>
Defend litigation by private counsel until summary judgment motion	<input type="text"/>
Defend litigation by private counsel through summary judgment motion	<input type="text"/>
Defend litigation by private counsel through trial	<input type="text"/>

All respondents: Please tell us a bit about yourself.

38. What is your sex?

- Female
- Male
- Other/declines

FEHA and its Enforcement

39. What is your race or ethnicity?

- White or Caucasian
- African American
- Latino or Hispanic
- Asian American
- Native American
- Other/declines

40. How many lawyers practice in your firm?

1

2-5

6-10

11-50

Over 50

THANKS VERY MUCH FOR YOUR TIME.

THANKS VERY MUCH FOR YOUR TIME!



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PROFESSOR OF LAW

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Phone: (310) 206-9431
email: blasi@law.ucla.edu

[Date]

FirstName LastName
Organization
Address
City, State, Zip

Re: UCLA-RAND study of state antidiscrimination laws and their enforcement

Dear FirstName LastName:

The UCLA RAND Center for Law and Public Policy is conducting research to assist in an evaluation of California’s antidiscrimination laws and their enforcement, particularly the Fair Employment and Housing Act (FEHA) and its enforcement by the Department of Fair Employment and Housing (DFEH) and through the legal system. Our aim is to produce a fair, impartial and objective evaluation of state antidiscrimination law and its effectiveness, costs, and benefits, as we approach the 50th anniversary of the precursor of FEHA. DFEH Director Phyllis Cheng and her Department are supporting and fully cooperating in this research, as indicated in the attached letter.

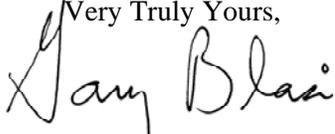
Our study will involve both the statistical analysis of administrative data and court records, as well as surveys of and interviews with knowledgeable stakeholders from as wide a range of perspectives as possible. We are in the process of developing a list of such stakeholders for possible interviews. We are contacting you because DFEH records indicate that you are one of the most experienced attorneys in the state in representing claimants filing claims with DFEH.

You will receive a follow-up call and/or email from a member of our team in the next several days. The purpose of this communication, which will last no more than 5 minutes, will be to help assess whether you have information relevant to the research and your willingness to participate in a further interview, which may last 30-60 minutes at a mutually agreeable time in the future. I have attached to this letter some additional information regarding the study and your rights as a potential source of information for this study.

If after reading this letter and the attached information, you know you do NOT wish to participate, please feel free to contact me by telephone or email and I will be sure that you are removed from any list of possible participants. If you do wish to consider participation and contacting us is more convenient for you than our contacting you, please feel free to contact me in the same manner.

December 29, 2009
Page 2

Thank you for considering this request.

Very Truly Yours,

Gary Blasi
Professor of Law
Project Co-Director

University of California, Los Angeles
CONSENT TO PARTICIPATE IN RESEARCH SCREENING
California Antidiscrimination Laws and Their Enforcement

You are asked to participate in screening procedures in order to determine whether you may be eligible for a research study conducted by Professor Gary Blasi and Statistician Joe Doherty, from the UCLA School of Law and the UCLA RAND Center for Law and Public Policy. You were selected as a possible participant in this study because of <CONTACT REASON> [HERE PROVIDE SOURCE OF NAME AND/OR REASON FOR CONTACT:, E.G., “of your position of leadership in the California State Bar Section on Labor and Employment Law as reflected on the State Bar website.”]

Purpose of Study.

We are conducting a study of California anti-discrimination law and how it is enforced, by DFEH and through the courts. The purpose of the research is to determine how these laws are working and how they might be improved. We are interviewing people with knowledge of the subject from many different perspectives. . The purpose of the screening is to help us insure that we are interviewing a reasonable cross section of persons with significant experience and knowledge of the subject matter. The purpose of this screening is to determine the nature and extent of your knowledge and experience.

Procedures

If you agree to participate in the screening, I will have about 5 minutes worth of questions about the nature and kind of experience you have had in dealing with discrimination claims.

Potential Risks and Discomforts.

We do not anticipate that our questions will cause you any discomfort or pose any risk for you

Potential Benefits To Subjects and Payment for Participation

You will not directly benefit from the screening and you will not be paid for participating in the screening.

Confidentiality

Your answers will be confidential. No one will know your answers other than the research team. Whether you decide to participate in a further interview or not, all information from which you could be identified, either now or in that interview, will be destroyed

Participation and Withdrawal

If you volunteer to participate in the screening, you may withdraw at any time without consequences of any kind.

Identification of Investigators

If you have any questions about the research, please feel free to contact Professor Gary Blasi, UCLA School of Law, Los Angeles, CA 90095-1476 or 310 206 9431.

December 29, 2009

Page 4

Rights of Research Subjects

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal claims, rights or remedies because of your participation in this research study. If you have questions regarding your rights as a research subject, contact the Office for Protection of Research Subjects, UCLA, 11000 Kinross Avenue, Suite 102, Box 951694, Los Angeles, CA 90095-1694, (310) 825-8714.

You will be asked during the screening call if you understand the procedures described above, if your questions have been answered to your satisfaction, and whether you agree to participate in the screening.

DEPARTMENT OF FAIR EMPLOYMENT & HOUSING

2218 Kausen Drive, Suite 100, Elk Grove, CA 95758-7115
(916) 478-7251 TTY (800) 700-2320 Fax (916) 478-7329



January 27, 2009

Dear potential research participant:

I write to encourage you to speak with the researchers at the UCLA/RAND Center for Law and Public Policy, who are conducting an extensive study of the Fair Employment and Housing Act (FEHA) and its enforcement.

This year marks the 50th anniversary of the FEHA. In 1959, The Act was originally signed into law as the Fair Employment Practices Act (FEPA). In 1980, the FEPA and the Rumford Fair Housing Act were combined and recodified as the FEHA. On its half-century mark, it is an appropriate time to examine in depth how the FEHA is working, and how its enforcement can be both more effective and efficient. The UCLA/RAND Center has agreed to undertake just such a study. I have asked the researchers to conduct a full, fair and impartial evaluation, to make the results available to me, the Administration and the Legislature.

In addition to conducting data analysis from the Department of Fair Employment and Housing (DFEH) and the courts, the research team is interviewing stakeholders from every perspective on the issues. You have received this letter and the enclosed request from the researchers because you have been identified as an experienced and knowledgeable person, who may be of assistance both in evaluating the current state of affairs and in making suggestions for improvement. As the research team explains in the enclosed materials, all information provided will be completely confidential and not attributable to any individual.

I urge you to cooperate with the research team, and to share you insights and opinions. A half hour or an hour of your time can make a real difference.

Sincerely,

A handwritten signature in black ink, appearing to read "Phyllis W. Cheng".

Phyllis W. Cheng
Director

University of California, Los Angeles
CONSENT TO PARTICIPATE IN RESEARCH SCREENING
California Antidiscrimination Laws and Their Enforcement

You are asked to participate in screening procedures in order to determine whether you may be eligible for a research study conducted by Professor Gary Blasi and Statistician Joe Doherty, from the UCLA School of Law and the UCLA RAND Center for Law and Public Policy. You were selected as a possible participant in this study because of <CONTACT REASON> [HERE PROVIDE SOURCE OF NAME AND/OR REASON FOR CONTACT; E.G., "of your position of leadership in the California State Bar Section on Labor and Employment Law as reflected on the State Bar website."]

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We are conducting a study of California anti-discrimination law and how it is enforced, by DFEH and through the courts. The purpose of the research is to determine how these laws are working and how they might be improved. We are interviewing people with knowledge of the subject from many different perspectives. The purpose of the screening is to help us insure that we are interviewing a reasonable cross section of persons with significant experience and knowledge of the subject matter. The purpose of this screening is to determine the nature and extent of your knowledge and experience.

Procedures

If you agree to participate in the screening, I will have about 5 minutes worth of questions about the nature and kind of experience you have had in dealing with discrimination claims.

Potential Risks and Discomforts.

We do not anticipate that our questions will cause you any discomfort or pose any risk for you

Potential Benefits To Subjects and Payment for Participation

You will not directly benefit from the screening and you will not be paid for participating in the screening.

Confidentiality

Your answers will be confidential. No one will know your answers other than the research team. Whether you decide to participate in a further interview or not, all information from which you could be identified, either now or in that interview, will be destroyed

Participation and Withdrawal

If you volunteer to participate in the screening, you may withdraw at any time without consequences of any kind.

Identification of Investigators

If you have any questions about the research, please feel free to contact Professor Gary Blasi, UCLA School of Law, Los Angeles, CA 90095-1476 or 310 206 9431.

CERTIFIED EXEMPT
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FEB 11 2009

Rights of Research Subjects

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal claims, rights or remedies because of your participation in this research study. If you have questions regarding your rights as a research subject, contact the Office for Protection of Research Subjects, UCLA, 11000 Kinross Avenue, Suite 102, Box 951694, Los Angeles, CA 90095-1694, (310) 825-8714.

You will be asked during the screening call if you understand the procedures described above, if your questions have been answered to your satisfaction, and whether you agree to participate in the screening.

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Potential Subject Name: _____

Remove at dotted line and destroy immediately after screening for all refusals or terminations.

.....
University of California, Los Angeles

California Antidiscrimination Laws and Their Enforcement (Interviews)

TELEPHONE SCREENING SCRIPT

Subject Number _____

SCREENER _____

DATE/TIME _____

1. Hi, my name is _____ NAME _____ and I'm calling for the UCLA RAND Center for Law and Public Policy. You probably received a letter or email letting you know that we would be calling and providing some additional information about the screening process. Do you have two minutes now to speak with me?

IF NO ⇒ Is there a better time for me to call you back?

IF NO ⇒ Thanks for your time.

IF YES ⇒ RECORD INFORMATION RE POSSIBLE CALL-BACK: _____

2. Did you receive our letter and have a chance to review the Informed Consent Information form that was included with it?

IF YES ⇒

2a. Did you understand all of the information in the Informed Consent Information Form? Y / N

IF NO, SKIP TO 3

2b. Do you have any questions at all about your rights as a research subject? Y / N

IF YES, SKIP TO 3

2c. Do you want to continue with the screening interview, which will take about 5 minutes? Y / N

IF NO, THANK AND TERMINATE.

IF YES, SKIP TO 4

3. Before I begin the screening I would like to tell you a little bit about the research. We are conducting a study of California anti-discrimination law and how it is enforced, both by DFEH and through the courts. The purpose of the research is to determine how these laws are working and how they might be improved. We are interviewing people with knowledge of the subject from many different perspectives. You were identified as such a person because of [RESTATE CATEGORY FROM INITIAL CONTACT LETTER]. You do not have to answer any questions you do not wish to answer or are uncomfortable answering, and you may stop at any time. Your participation in the screening is voluntary. If you consent, I will have about 5 minutes worth of questions about the nature and kind of experience you have had in dealing with discrimination claims. The purpose of the screening is to help us insure that we are interviewing a reasonable cross section of persons with significant experience and knowledge of the subject matter. Your answers will be confidential. No one will know your answers other than the research team. Whether you decide to participate in a further interview or not, all information from which you could be identified, either now or in that interview, will be destroyed.. If you volunteer to participate in the screening, you may withdraw at any time without

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consequences of any kind. ? I am going to give you a couple of telephone numbers to call if you have any questions later. Do you have a pen? If you have any questions about the research, please feel free to contact Professor Gary Blasi, UCLA School of Law, Los Angeles, CA 90095-1476 or 310 206 9431 or Joe Doherty, Director, UCLA RAND Center for Law and Public Policy at 310-206-2675. If you have questions about your rights as a research subject, you can call the UCLA Office for Protection of Research Subjects at (310) 825-8714. Would you like to continue with the screening?

IF NO ⇒ Thanks for your time. AND TERMINATE

IF YES ⇒ Continue with 4

3. Do you have some involvement in dealing with claims of discrimination?
___ Yes ___ No*

IF NO, SKIP TO 10 BELOW.

4. In which of the following areas of discrimination are you involved?

___ Employment discrimination
___ Housing discrimination
___ Discrimination in public accommodations
___ Other (specify):

5. About what percentage of your work on discrimination matters involves:

Assisting or representing people with discrimination claims: _____ %
Assisting or representing people or firms against whom
discrimination claims have been made: _____ %
Acting as a mediator, arbitrator or other neutral: _____ %
Other (specify): _____
_____ %

6. About what percentage of the discrimination matters on which you work involves FEHA or DFEH? _____ %

7. [SKIP FOR SUBJECTS WHO DO NO WORK ON CLAIMANT SIDE]
Of the work you do that involves FEHA or DFEH, about what percentage of those matters involve only obtaining a "Right to Sue" letter _____ %

8. About how many matters have you been involved in that went beyond the initial filing of, or responding to, a complaint to DFEH? _____ %

IF SUBJECT APPEARS NOT TO MEET SUBJECT NEED CRITERIA AT THIS POINT:

9. Thank you very much for your time. I will review your information with the Project Supervisors and we may contact you again for a follow-up interview. In that case, we will also send you in advance an Informed Consent Form for you to consider.

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IF SUBJECT CLEARLY MEETS SUBJECT NEED CRITERIA
(Degree of knowledge, perspective)

11. Based on what you have told me, I know our team will want to speak with you further if you are willing. The longer interview will take about 45 minutes and can be done over the phone, or at your office or another place convenient for you. Again, participation is completely voluntary and confidential. We would need to send you another informed consent form for you to review and agree to before the interview. With that understanding, can arrange a tentative appointment now?

RECORD RESPONSE:

IF PRELIMINARY CONSENT GIVEN AND APPOINTMENT SET, ENTER REQUIRED INFORMATION FOR SCHEDULING INTERVIEW BELOW.

IF PRELIMINARY CONSENT REFUSED OR INTERVIEW TERMINATED FOR OTHER REASON, REMOVE SUBJECT IDENTIFICATION BLOCK ON PAGE ONE AND DESTROY. FILE THIS FORM IN "SCREENING REFUSALS" FILE.

SIGNATURE OF INVESTIGATOR OR DESIGNEE

In my judgment the subject is voluntarily and knowingly giving informed consent and possesses the legal capacity to give informed consent to participate in the research screening.

Name of Investigator or Designee (Screener)

Signature of Investigator or Designee (Screener)

Date

.....

Remove at Dotted Line and Destroy After Interview
APPOINTMENT FOR INTERVIEW:

SUBJECT NAME: _____ SUBJECT NUMBER _____

INTERVIEW DATE: _____ TIME: _____

IF BY TELEPHONE: NUMBER TO CALL: _____

IF IN PERSON: LOCATION AND OTHER NECESSARY INFORMATION RE PARKING, ETC.:

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DFEH INTERVIEW CHECKLIST (Employee Side Attorneys) Ver. 2-10-09

I. Introduction and Icebreakers

- A. Clarify available time*
- B. Informed consent form signed and questions answered.*
- C. Provide interviewee with his/her subject identification number so s/he can contact us in the future regarding the study.*

II. Explain goals of the interview: to obtain the benefit of your experience in assessing the effectiveness of the Fair Employment and Housing Act, both by DFEH and in the Courts.

III. Background

- A. Years involved in employment discrimination cases?*
- B. Estimated number of cases handled in last 2 years?*
 - 1. Estimated number of trials
 - 2. Estimated number of settlements
- C. Any particular speciality or type of cases?*

IV. Litigation and DFEH administrative procedures

- A. About how many of your clients have filed a complaint with DFEH before they come to you?*
- B. Attorney Filed Complaints*

V. DFEH operations and procedures (Skip sections where subject lacks knowledge)

- A. Experience and other basis of knowledge re DFEH procedures*
 - 1. About how many cases have you taken through some or all of the DFEH administrative process in the last 5 years?
 - 2. Clients who have experience with DFEH prior to coming to you?
 - a) *About how many? What percentage?*
 - 3. Other
- B. What are your general impressions of how DFEH handles complaints?*
 - 1. Positive aspects about its operations or effectiveness as an organization?
 - a) *T-FUNNEL for all areas in which impression is positive*
 - b) *Bases, examples as to each. T-funnel each.*

2. Less positive or negative aspects about its operations or effectiveness as an organization?
 - a) *T-FUNNEL for all areas in which impression is negative*
 - b) *Bases, examples as to each. T-funnel each.*

C. Going through process (Skip where redundant)

1. *Intro section*
 - a) In addition to the things we've talked about already, we would like to get any opinions you have about particular aspects of the DFEH administrative process. I will try not to be redundant.
 - b) **[SKIP AREAS WHERE YOU ALREADY HAVE FULL INFORMATION]**
2. **How well do you think DFEH communicates with the public at large?**
 - a) *Kinds of communication or outreach*
 - b) *Quality of communications*
 - c) *Examples, bases of opinion as to each*
3. **How well do you think DFEH communicates with potential claimants?**
 - a) *Kinds of communications or outreach*
 - b) *Quality of communications*
 - c) *Example, bases as to each*
4. **Intake and Interview Process at DFEH?**
 - a) *General impressions*
 - b) *Thoroughness and getting essential facts*
 - (1) *Strengths*
 - (2) *Weaknesses*
 - c) *Communications with complainants*
 - (1) *Language*
 - (2) *Other issues*
 - d) *Other impressions of intake and interview*
5. **Investigation**
 - a) *General impressions of investigations conducted by DFEH*
 - (1) *Scope and thoroughness*
 - (2) *Quality*
 - b) *Methods and effectiveness*
 - (1) *Document requests, interrogatories, etc. to Employer*

(2) Interviewing witnesses

(3) Other?

c) *What should DFEH do in addition or differently (if anything). T-funnel.*

d) *Other than what you have mentioned, what investigation do you do that DFEH does not do?*

6. Informal resolution (get examples, bases for each)

a) *Strengths*

b) *Weaknesses and suggestions for improvement*

7. Formal conciliation (get examples, bases for each)

8. Administrative hearings (get examples, bases for each)

9. Court litigation (get examples, bases for each)

VI. Case acceptance by subject and his/her firm

A. Introduce area: In addition to looking at how DFEH handles FEHA claims, we're interested in better understanding what kinds of claims are attractive to private lawyers. We have some questions both about your own practice and those of other kinds of employment discrimination firms.

B. *How do most clients come to you? T-funnel*

1. Word of mouth referrals
2. Referrals from other lawyers
3. Advertising

C. *What kinds of information do you need before you decide to take a case? T-funnel*

1. About the client
2. About the facts of the case
3. About the defendant
4. Other?

D. *What factors go into your decision to take a case or refer it elsewhere? T-funnel*

1. Caseload and firm priorities

2. Liability and factual strength of the case
3. Client factors
4. Defendant factors
 - a) *Ability to pay judgment*
 - b) *Insurance*
 - c) *Likely jury reaction*
5. Level Potential damages
 - a) *Generally speaking, what would be the smallest case (in terms of expected settlement value) that you would be likely to take?*
 - (1) How do potential attorney's fees factor into your assessment?
 - b) *Do you refer cases you are unable to take?*

VII. Case selection by attorneys generally

A. *Different factors used by other attorneys?*

1. Particular markets (geography, nature of practice in which other factors significant

B. *Size of case*

1. *Generally speaking, what would be the smallest case that would be likely to be attractive to any attorney?*
2. *Are there factors that might make up for the relatively low expected damages?*
 - a) Court awarded attorney fees

C. Role of attorneys' fees

1. Why are the attorney fee provisions alone insufficient to make factually strong cases attractive?
 - a) *Difficulty of settlement prior to trial*
 - b) *Other*
2. How would plaintiffs' lawyers be affected if there were no court-awarded fees in FEHA cases?

D. *Common cases in which clients have difficulty getting an*

attorney?

1. Other than factually weak cases or cases with unappealing clients, are there common kinds of cases unlikely to be attractive to a lawyer?
 - a) *Low wage industries*
 - b) *Particular protected categories*

VIII. Other suggestions

- A. Other than the things we've talked about, do you have other suggestions for how we might improve FEHA or how it is enforced? T-funnel
 1. What changes at DFEH if there were no funding restrictions?
 2. How can DFEH make your life easier?
- B. How can DFEH help those whom you cannot help?
- C. *Are there other employee-side lawyers you would recommend that we interview?*
- D. Are there employer-side lawyers you would recommend that we interview?
- E. Are there any DFEH employees you would recommend we interview?

IX. CONCLUDING

- A. Thank for time.
- B. Leave copy of Informed Consent Form and confirm Subject has his/her Subject Identification Number in case s/he wants to contact using the future regarding records of his/her interview.

University of California, Los Angeles

CONSENT TO PARTICIPATE IN RESEARCH

California Antidiscrimination Law and Its Enforcement (Interviews)

You are asked to participate in a research study conducted by Professor Gary Blasi and Statistician Joe Doherty, from the School of Law and the UCLA RAND Center for Law and Public Policy at the University of California, Los Angeles. You were selected as a possible participant in this study because a screening interview determined that you had knowledge and experience that would be important to include in the study. Your participation in this research study is voluntary.

PURPOSE OF THE STUDY

We are conducting a study of California anti-discrimination law and how it is enforced by the California Department of Fair Employment and Housing (DFEH) and through the courts. The purpose of the research is to determine how these laws are working and how they might be improved.

PROCEDURES

If you volunteer to participate in this study, we will conduct a structured interview that will last approximately 45 minutes.

POTENTIAL RISKS AND DISCOMFORTS

During the interview, you may feel some embarrassment (as well as pride) in talking about your practice or and experience in working in some manner on discrimination cases. Although we will not be seeking information about specific cases, our discussion may touch on what some people regard as sensitive areas, such as sexual harassment or discrimination based on race or sexual orientation. We believe that our confidentiality measures will eliminate any risk that might result in your responses later being identified with being attributable to you.

POTENTIAL BENEFITS TO SUBJECTS AND/OR TO SOCIETY

You will not benefit directly from your participation in the research. However, the results of the research may lead to improvements in the efficiency and effectiveness of California antidiscrimination law, which may benefit you as well as others in California.

PAYMENT FOR PARTICIPATION

You will receive no payment for your participation.

UCLA IRB Number:
Expiration Date:

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CONFIDENTIALITY

Any information that is obtained in connection with this study and that can be identified with you will remain confidential and will be disclosed only with your permission or as required by law. Confidentiality will be maintained by means of our destroying any information from which you could be linked to any information you provide. After this interview, all of our records will refer to you only by reference to a Subject Number, the nature of your work (e.g., lawyer representing employees, lawyer representing landlords, human resources professional dealing with discrimination claims, etc.), and the region of California (1 of 10) where you are located. All other information from which you might be identified, other than your signature on this form, will be destroyed.

PARTICIPATION AND WITHDRAWAL

You can choose whether to be in this study or not. If you volunteer to be in this study, you may withdraw at any time without consequences of any kind. If you wish to withdraw from the study in the future, please contact either Professor Blasi or Dr. Doherty and provide them with the subject identification number you are being given today. With that number and at your request, they can destroy all records regarding this interview.

IDENTIFICATION OF INVESTIGATORS

If you have any questions or concerns about the research, please feel free to contact: Professor Gary Blasi, UCLA School of Law, Los Angeles, CA 90095-1476 or 310 206 9431 or Joe Doherty, Director, UCLA RAND Center for Law and Public Policy at 310-206-2675

RIGHTS OF RESEARCH SUBJECTS

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal rights because of your participation in this research study. If you have questions regarding your rights as a research subject, contact the Office for Protection of Research Subjects, UCLA, 11000 Kinross Avenue, Suite 102, Box 951694, Los Angeles, CA 90095-1694, (310) 825-8714.

SIGNATURE OF RESEARCH SUBJECT

I understand the procedures described above. My questions have been answered to my satisfaction, and I agree to participate in this study. I have been given a copy of this form.

Name of Subject

Signature of Subject

Date

UCLA IRB Number:
Expiration Date:

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SIGNATURE OF INVESTIGATOR OR DESIGNEE

In my judgment the subject is voluntarily and knowingly giving informed consent and possesses the legal capacity to give informed consent to participate in this research study.

Name of Investigator or Designee

Signature of Investigator or Designee

Date

UCLA IRB Number:
Expiration Date:

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