

Information about your 2024 fees

Statement of Expenditures of Mandatory Fees

The State Bar is a regulatory agency. On January 1, 2018, the former Sections of the State Bar were separated from the State Bar and became part of an independent entity, the California Lawyers Association (“CLA”).¹ The State Bar no longer has membership or associational aspects and is no longer an integrated bar. Nonetheless, the State Bar continues to apply the requirements for integrated bars’ expenditures of mandatory dues set forth in *Keller v. State Bar of California*, 496 U.S. 1 (1990), to its expenditures of mandatory fees paid by licensees. *Keller* held that integrated bars may constitutionally use mandatory dues to fund political or ideological activities that are germane to regulating the legal profession or improving the quality of legal services. They may not use mandatory dues to support activities of an ideological or political nature that are not germane to those goals. To permit attorneys to gauge the propriety under the *Keller* requirements of the annual licensing fees that they are charged and must pay, the State Bar provides the below Statement of Expenditures of Mandatory Fees and Independent Accountant’s Report for the year ended December 31, 2022 as an explanation of the programs and activities funded by mandatory fees.

Deductions

- Attorneys are not required to pay and may deduct two dollars (\$2) from their annual fees if they do not wish to support programs that address concerns of access and bias in the legal profession and the justice system.
- Attorneys are not required to pay and may deduct forty-five dollars (\$45) from their annual fees if they do not wish to support nonprofit organizations that provide free legal services to persons of limited means. Cal. Bus. & Prof. Code § 6140.03.

Keller challenge

After reviewing the Statement of Expenditures of Mandatory Fees and Independent Accountant’s Report for the year ended December 31, 2022 and the information provided here, an attorney may challenge the amount of mandatory fees for 2024 in a hearing before an independent decision maker. The only basis for challenging fees is a contention that mandatory fees are expended on ideological or political activities that are not germane under the standard set forth in *Keller v. State Bar*, 496 U.S. 1 (1990). An attorney’s challenge must be submitted on the Challenge to Mandatory Fees Form. Instructions and procedures are set forth on the form. Submitting a challenge does not relieve an attorney of the obligation to pay the invoiced annual mandatory fees on time. **Any**

¹ The CLA is not part of the State Bar. Mandatory fees paid to the State Bar may not be and are not used to support the activities of the CLA. Under California Business & Professions Code section 6031.5, the State Bar collects the voluntary dues paid by attorneys who choose to join the CLA and remits those dues to the CLA. The CLA reimburses the State Bar for the administrative cost of collecting and remitting voluntary CLA dues.

challenge to the mandatory fees for 2024 must be received by the State Bar by February 1, 2024.
Challenges must be submitted to:

SECRETARY
THE STATE BAR OF CALIFORNIA
180 HOWARD STREET
SAN FRANCISCO, CALIFORNIA 94105-1639

Upon receipt of a timely and proper challenge, the State Bar will place the disputed amount of the challenger's mandatory fees in an interest-bearing escrow account. At its next regularly scheduled meeting or as soon thereafter as the matter may be considered, the Board of Trustees will decide whether to provide an additional deduction to the challenger or to submit the dispute for expeditious arbitration before an impartial arbitrator. If the dispute is submitted for arbitration, the Board may consolidate all challenges. The challenger(s) and the State Bar by agreement may select an impartial arbitrator. In consolidated challenges, the arbitrator may be selected by an agreement between the State Bar and 75 percent of the challengers. If there is no agreement on an impartial arbitrator within 30 days following the decision to arbitrate, an impartial arbitrator will be appointed by the American Arbitration Association. The arbitration will be heard at the San Francisco office of the State Bar. The proceedings are informal, and the State Bar will have the burden to show that the disputed activities are not political or ideological and/or are germane to the State Bar's purposes of regulating the legal profession or improving the quality of legal services. The challenger(s) will be given an opportunity to present their own evidence and to present written arguments in support of their challenge(s).



The State Bar of California

Statement of Expenditures of Mandatory Fees and Independent Accountant's Report Year Ended December 31, 2022

April 28, 2023



Independent Accountant's Report

To the Boards of Trustees
State Bar of California

We have examined the State Bar of California's (State Bar) compliance with the United States Supreme Court's decision in *Keller v. State Bar of California* (1990) 496 U.S. 1, which held that the State Bar of California cannot use mandatory fees paid by its licensees for political or ideological activities not related to regulation of the legal profession or improvement of quality of legal services in California, for the year ended December 31, 2022. The expenditures of mandatory fees for the year ended December 31, 2022 is included in the accompanying Statement of Expenditures of Mandatory Fees (Statement) and related notes. Management of the State Bar is responsible for the State Bar's compliance with the specified requirements. Our responsibility is to express an opinion on the State Bar's compliance with the specified requirements based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. Those standards require that we plan and perform the examination to obtain reasonable assurance about whether the State Bar complied, in all material respects, with the specified requirements referenced above. An examination involves performing procedures to obtain evidence about whether the State Bar complied with the specified requirements. The nature, timing, and extent of the procedures selected depend on our judgment, including an assessment of the risks of material noncompliance, whether due to fraud or error. We believe that the evidence we obtained is sufficient and appropriate to provide a reasonable basis for our opinion.

We are required to be independent and to meet our other ethical responsibilities in accordance with relevant ethical requirements relating to the engagement.

Our examination does not provide a legal determination on the State Bar's compliance with specified requirements.

In our opinion, the State Bar complied, in all material respects, with the United States Supreme Court's decision in *Keller v. State Bar of California* (1990) 496 U.S. 1, which held that the State Bar of California cannot use mandatory fees paid by its licensees for political or ideological activities not related to regulation of the legal profession or improvement of quality of legal services in California, for the year ended December 31, 2022.

Walnut Creek, California
April 28, 2023

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees
Year Ended December 31, 2022

	<u>Dollar Amount</u>	<u>Percentage of Total Program Expenses</u>
CHARGEABLE EXPENSES AND RELATED		
PROGRAM REVENUES:		
Chief Trial Counsel	\$ 64,172,241	65.30%
State Bar Court	14,568,706	14.82%
Client Security Fund	4,864,559	4.95%
Attorney Regulation and Consumer Resources	6,842,945	6.96%
Professional Competence	3,875,951	3.94%
Lawyer Assistance Program	2,348,679	2.39%
Probation	1,901,694	1.94%
Center on Access to Justice	628,533	0.64%
Communications	1,554,811	1.58%
Judicial Evaluation	887,611	0.90%
Mandatory Fee Arbitration	203,022	0.21%
Program Revenues	<u>(3,572,484)</u>	<u>-3.64%</u>
Total chargeable program expenses	<u><u>\$ 98,276,267</u></u>	<u><u>100.0%</u></u>

See accompanying notes to the statement of expenditures of mandatory fees.

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees
Year Ended December 31, 2022

1. SIGNIFICANT ACCOUNTING POLICIES

Description of Entity – The State Bar of California (“State Bar”) was first formed as a public corporation by the California State Legislature’s passage of the State Bar Act on July 29, 1927. On November 8, 1960, voters amended the California Constitution to add the State Bar as a constitutional agency in the judicial branch of government. A license from the State Bar and payment of an annual fees are required as a condition of the practice of law in the State of California.

Basis of Accounting – To ensure observance of limitations and restrictions placed on the use of resources available to the State Bar, the accounts of the State Bar are maintained in accordance with the accrual basis of accounting using principles of fund accounting. This is the procedure by which resources for various purposes are classified for accounting and reporting purposes into funds established according to their nature and purpose.

Accounting principles generally accepted in the United States of America are applied by the State Bar in conformance with pronouncements of the Governmental Accounting Standards Board. Amounts in the Statement of Expenditures of Mandatory Fees (“Statement”) were derived from the State Bar’s audited 2022 financial statements.

Use of Estimates – The preparation of the Statement requires management to make estimates and assumptions related to the amounts of chargeable expenditures during year. Actual results could differ from those estimates.

2. BASIS OF PRESENTATION

The accompanying Statement was prepared for the purpose of showing the allocation of certain expenditures into chargeable and non-chargeable categories. Although derived from the State Bar’s audited 2022 financial statements, the Statement is not a substitute for the financial statements, nor is it intended to be a complete presentation of the State Bar’s revenues and expenses in conformity with accounting principles generally accepted in the United States of America. Amounts reported in the Statement can be agreed to amounts reported in the State Bar’s financial statements.

The State Bar Act sets the amount of the annual fees that the State Bar may charge lawyers for the license to practice law in California. The amount of the annual fee, however, is subject to certain adjustments. The United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990) (“*Keller*”) held that the State Bar could not require California lawyers to pay, as mandatory fees, the expense of the State Bar’s political or ideological activity that was not necessarily or reasonably related to the State Bar’s purpose of regulating the legal profession or improving the quality of legal services. The Statement provides a basis of determination for the mandatory fees that each licensee must pay in order to practice law in California. It describes and separates programs and activities that are “chargeable” and “non-chargeable” to licensees under the *Keller* standard. In calculating the chargeable and non-chargeable expenditures, absolute precision is not expected nor required pursuant to *Keller*, at 16, citing to procedural requirements outlined in *Chicago Teachers v. Hudson*, 475 U.S. 292, 310 (1986). Expenses included in the Statement are derived from expenses included in the General Fund (except for program costs funded by filing fees or other fees), Client Security Fund, and the Lawyers Assistance Program Fund of the State Bar.

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

2. BASIS OF PRESENTATION (Continued)

Since January 1, 2000, amendments to the State Bar Act have provided each licensee with the option of deducting \$5 from the annual licensing fee for lobbying and related activities outside of the parameters established in *Keller* (Cal. Bus. & Prof. Code §6140.05). In addition to these changes, in 2001, the Board of Trustees provided licensees the option of an additional \$2 deduction from annual fees for the Elimination of Bias program. Although some or all of these programs and activities may be chargeable under the criteria in *Keller*, the Board of Trustees has elected to make them optional in their entirety.

Since January 1, 2000, the amount of expenses that the State Bar may incur for legislative activity outside of the parameters of *Keller* was restricted by statute to the total revenue collected from those licensees electing to pay the \$5 and not take the deduction from the annual fee under Cal. Bus. & Prof. Code §6140.05. Instead of categorizing its programs as within or outside of *Keller*, the State Bar has elected to restrict the expenses of all of its legislative activity to voluntary funds. Similarly, the State Bar has a \$2 deduction for activities under the Elimination of Bias program and limited its funding to voluntary fees paid by licensees not taking this deduction. Licensees who do not wish to support either the State Bar's Legislative Activities or its Elimination of Bias program can deduct the amounts from their annual fees. As a result, no part of the mandatory annual fees that a lawyer must pay as a condition of practicing law are used to fund non-chargeable expenses. Therefore, for purposes of the Statement, there are no non-chargeable expenses for mandatory licensing fees for the year ended December 31, 2022.

3. DESCRIPTION OF CHARGEABLE PROGRAMS

The following is a listing of the major expenses that the State Bar has categorized as chargeable, including a description of the programs or activities performed by category. The classification of a program expense as chargeable was based on the standards in *Keller* that have been applied to determine whether an expense was necessarily or reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal services available to the people of the State of California. Non-chargeable expenses, as stated above, were funded by voluntary fees paid at the option of licensees. Determining which State Bar programs and activities are chargeable and non-chargeable requires that judgments be made by the State Bar.

a. *Chief Trial Counsel*

The Office of the Chief Trial Counsel receives, reviews, and analyzes incoming communications which relate to disciplinary inquiries and complaints against attorneys. It investigates allegations of unethical and unprofessional conduct against attorneys who may have violated provisions of the State Bar Act, Rules of Professional Conduct, or other standards of professional conduct. It prosecutes attorneys in formal disciplinary hearings in the State Bar Court for violations of the State Bar Act or Rules of Professional Conduct. Activities include, as appropriate, the preparation of formal disciplinary pleadings, conduct of formal and informal discovery, and representation of the State Bar as Trial Examiners in the actual hearings and subsequent review proceedings. (Bus. & Prof. Code §6043, 6044, 6049, 6077, 6078, 6092.5 et seq.)

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

3. DESCRIPTION OF CHARGEABLE PROGRAMS (Continued)

b. *State Bar Court*

The State Bar Court adjudicates formal disciplinary matters resulting in the final imposition of discipline or, in certain instances involving suspension or disbarment, the recommendation of discipline to the California Supreme Court. (Bus. & Prof. Code §6086.5, 6086.65; Cal. Rules of Court, rules 9.13, 9.16, 9.18)

c. *Client Security Fund*

The Client Security Fund receives, evaluates, and processes applications made by persons who have suffered monetary losses due to dishonest conduct of lawyers, and authorizes recovery to eligible clients out of funds collected for this purpose. (Bus. & Prof. Code §6140.5.)

d. *Attorney Regulations and Consumer Resources*

The Office of Attorney Regulations and Consumer Resources maintains the Court's roll of attorneys admitted to the practice of law by the court. It also bills and collects fees, costs, and penalties imposed on licensed attorneys, including reimbursements to the Client Security Fund and disciplinary costs. It also keeps track of all licensees of the Bar, including any record of discipline, and answers inquiries from courts, other governmental agencies, other states, and the public.

e. *Professional Competence*

The Office of Professional Competence maintains and improves the standards of the legal profession to enhance attorney competence through: (1) promulgating and strengthening professional standards to protect the public; (2) assisting licensees to comply voluntarily with such standards (e.g., Ethics Hotline, California Compendium on Professional Responsibility, Lawyers Personal Assistance Program); and (3) planning and development of programs to enhance attorney competence. (Bus. & Prof. Code §6076, 6077.)

f. *Lawyer Assistance Program*

The Lawyer Assistance Program provides an alternative to the traditional State Bar disciplinary mechanism, with the goal of identifying and rehabilitating attorneys with impairment due to abuse of drugs or alcohol, or due to mental illness. The Office of the Lawyer Assistance Program adopts reasonable rules and regulations as may be necessary or advisable for the purpose of implementing and operating the Lawyer Assistance program. (Bus. & Prof. Code §6231.)

g. *Probation*

The Office of Probation ("OP") monitors disciplined attorneys who have been ordered to comply with probation or reproof conditions pursuant to orders issued by the California Supreme Court and/or the State Bar Court. The OP also monitors cases where conditions have been imposed pursuant to Business and Professions Code, section 6007(h). Once these orders or agreements become effective, the OP establishes its own case files to maintain a record of compliance or non-compliance for each attorney.

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

3. DESCRIPTION OF CHARGEABLE PROGRAMS (Continued)

OP staff monitor participating attorneys' compliance. The monitoring requires OP staff to contact the attorney being monitored and third parties such as former clients, service providers, and other departments of the State Bar. OP staff provides timely information to the attorney, Office of Chief Trial Counsel, and State Bar Court regarding non-compliance and are available to testify regarding such under oath in court.

h. *Center on Access to Justice*

This program addresses the development of policy and initiatives in collaboration with other institutions working to expand access to justice for low-income Californians (e.g. Judicial Council; legal services entities; local, state and national organizations such as the American Bar Association and National Legal Aid and Defender Association).

Programs that affect the public's access to justice fall within the exclusive preserve of the judicial branch. (See Superior Court v. Mendocino, supra (1996) 13 Cal.4th at 66.)

i. *Communications*

The State Bar's Office of Communications and Stakeholder Engagement is responsible for ensuring that the general public and the legal community are informed about the State Bar's public protection role and know how to access the Bar's services and resources. The Office is tasked with conveying critical information to Californians about how to protect themselves from attorney misconduct and what to do if that happens, including by filing complaints against attorneys or seeking compensation for harm through the Client Security Fund. A major emphasis is on activities that reach the public in California to ensure they know how to access the resources of the State Bar's attorney discipline system, as well as to help attorneys understand their ethical obligations.

The Office of Communications and Stakeholder Engagement provides important updates for attorneys licensed in California regarding rules and ethics guiding the profession, as well as ongoing education to improve competence. This office provides information about how to find a lawyer and information about access to legal services for low-income Californians.

j. *Judicial Evaluation*

The Commission on Judicial Nominees Evaluation, established pursuant to Government Code section 12011.5, is the State Bar agency which evaluates all candidates who are under consideration for a judicial appointment by the Governor. The mission of the Commission is to assist the Governor in the judicial selection process and thereby to promote a California judiciary of quality and integrity by providing independent, comprehensive, accurate, and fair evaluations of candidates for judicial appointment and nomination.

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

3. DESCRIPTION OF CHARGEABLE PROGRAMS (Continued)

As stated in *Hoffman v. State Bar of California* (2003) 113 Cal.App.4th 630, 635 (2003), the State Bar has the “constitutional responsibility, along with the Chief Justice of the Supreme Court and the houses of the Legislature, to appoint a specified number of licensees to the Judicial Council. (Cal. Const., art. VI, § 6.) Through the appropriate committee, the association is also required by statute to evaluate potential appointees for judicial office and report its recommendation to the Governor. (Gov.Code, § 12011.5, subds.(a), (c).) No candidate may be appointed until the State Bar has so reported, or the time for reporting has elapsed. (Id. at subd. (k).)” Having a strong judiciary evaluation system promotes public protection by helping ensure a fair legal system.

k. *Mandatory Fee Arbitration*

The Fee Arbitration Program (Business and Prof. Code § 6200 et seq.) provides for resolution of fee disputes between attorneys and clients. It is mandatory for the lawyer if the client requests arbitration. Most complaints come to the program independently of the Office of Trial Counsel's Intake Unit, and the availability of this service almost certainly prevents the filing of additional disciplinary complaints. Maintaining a program that decreases the number of additional complaints assists the disciplinary system in processing those cases that cannot otherwise be handled. Although it may be argued that the arbitration program is not necessarily an indispensable part of an attorney disciplinary process, the California Supreme Court has held it is a valuable and justifiable component of a comprehensive disciplinary system. (*In re Attorney Discipline System*, 19 Cal. 4th 582, 622 (199).)

1. *General Fund Allocated Support Service* – General and administrative expenses are incurred to provide staff and operational support to all programs and activities of the State Bar including, but not limited to: human resources; finance; licensee billing; information technology; procurement; building maintenance; general services; legal counsel; the formulation, implementation, and administration of policies through the Board of Trustees and the Office of the Executive Director. The “Indirect Costs/Overhead Allocation” is the share of the administrative costs that are charged to the restricted fund programs for the support provided, using the methodology of the State of California for apportioning and recouping administrative support cost provided by the State’s general fund to its special fund programs.

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

3. DESCRIPTION OF CHARGEABLE PROGRAMS (Continued)

The 2022 State Bar indirect cost allocation to chargeable programs is summarized below:

General Counsel	\$ 4,864,838
Finance	2,421,813
Member Billing	799,800
Human Resources	1,882,800
Recruitment & Retention	1,326,400
General Services - Los Angeles	5,309,944
General Services - San Francisco	6,172,170
Building	1,736,600
Information Technology	12,933,058
Governance	3,912,960
OPEB	<u>3,649,000</u>
Indirect Cost Pool	45,009,383
Less: Overhead Allocation Charged to Other Programs	<u>(10,665,192)</u>
Overhead Allocation to Chargeable Program	<u><u>\$ 34,344,191</u></u>

The amount of the Overhead Allocation to Chargeable Programs is included in the various Chargeable Program expenses on the Statement of Expenditures of Mandatory Fees.

- m. *Program Revenues* – Program revenues related to chargeable expenses from the General Fund, Building Fund, Client Security Fund, Lawyers Assistance Fund, and the Support and Administration Fund of the State Bar are held to fund the related program expenses. Other revenues include charges by the State Bar to the California Lawyers Association (CLA) for administrative and support services in the annual collect of member dues. Program revenues for 2022 are comprised of:

Law Corporation Registration Fees	\$ 1,764,913
Continuing Legal Education Fees	618,974
Seminar/Workshop Revenue	4,800
Other	<u>1,183,797</u>
Total	<u><u>\$ 3,572,484</u></u>

THE STATE BAR OF CALIFORNIA
Statement of Expenditures of Mandatory Fees (Continued)
Year Ended December 31, 2022

4. OPTIONAL DEDUCTIONS

The State Bar sets an amount that attorneys are not required to pay and may deduct from the annual licensing fees. These deductions were \$52 for active and inactive attorneys. This amount included \$5 fixed by the court for legislative, \$2 for elimination of bias and \$45 set by the court for the Legal Services Voluntary Assistance Option for both active and inactive attorneys.

These deductions are allowed for the following activities:

a. *Lobbying*

Attorneys who do not want to fund lobbying and other legislative activity may deduct \$5. (Bus. & Prof. Code §6140.05.)

b. *Elimination of Bias*

Attorneys who do not want to fund programs that address concerns of access and bias in the legal profession and the justice system may deduct \$2. (*Keller v. State Bar of California* (1990) 496 U.S. 1.)

c. *Legal Services Voluntary Assistance Option*

Attorneys who do not want to support nonprofit organizations that provide free legal services to persons of limited means may deduct \$45. (Bus. & Prof. Code §6140.03.)