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8 **SENATOR JOSEPH DUNN (Ret.)**

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
10 **COUNTY OF LOS ANGELES – CENTRAL DISTRICT**

11 **SENATOR JOSEPH DUNN (Ret.),**  
12 **Executive Director of the State Bar of**  
13 **California; and WHISTLEBLOWER DOES**  
14 **1-7,**

15 Plaintiff,

16 vs.

17 **THE STATE BAR OF CALIFORNIA;**  
18 **CRAIG HOLDEN, an individual; and ROES**  
19 **1 through 50, inclusive,**

20 Defendants.

Case No.

**COMPLAINT FOR DAMAGES**

- 1. **WHISTLEBLOWER LIABILITY AND RETALIATION – CALIFORNIA LABOR CODE SECTION 1102.5**
- 2. **BREACH OF FIDUCIARY DUTY**

**DEMAND FOR JURY TRIAL**

21 **INTRODUCTION**

22 1. Senator Joseph Dunn (Ret.), the Executive Director of the State Bar of  
23 California, and Whistleblower DOES 1-7 bring this whistleblower action and demand for  
24 injunctive relief against the State Bar of California (the “State Bar”) based on the State Bar’s  
25 unilateral termination of Senator Dunn’s employment on November 7, 2014, immediately  
26 after Senator Dunn, and other whistleblowers, through counsel, lodged two whistleblower  
27 notices with the State Bar’s Board of Trustees (“BOT”) on November 3, 2014 and November  
28 5, 2014.

1           2.       Senator Dunn’s whistleblower notices identified serious ethical breaches,  
2 prosecutorial lapses, and fiscal improprieties by State Bar President Craig Holden, certain  
3 BOT members, and Chief Trial Counsel and head of the State Bar’s Office of the Chief Trial  
4 Counsel (“OCTC”) Jayne Kim, which were being concealed from the public.

5           3.       The conduct Senator Dunn complained about included (1) the unlawful  
6 intentional manipulation and false reporting of backlog cases, (2) the intentional lack of  
7 prosecutorial efforts to proactively investigate and prosecute “notario” and lawyer fraud as  
8 envisioned by the Legislature in passing Assembly Bill 1159, and (3) the conflicted retention  
9 of a private firm with close ties to a BOT member in violation of State Bar protocol to  
10 evaluate a complaint against undisclosed targets and, upon information and belief, against  
11 Senator Dunn. Holden, and a small group of BOT members, hired the conflicted firm  
12 outside of established protocol, leading to a bill that is likely in excess of \$300,000.00, even  
13 though a retired California Supreme Court Justice had agreed to provide the same services  
14 pro bono as a way to give back to the State Bar. Even with this unnecessary and exorbitant  
15 cost to members of the State Bar, the BOT only decided to terminate Senator Dunn without  
16 cause.

17           4.       Since becoming the Chief Executive of the State Bar in 2010, Senator Dunn  
18 received consistent high praise and positive performance reviews in his formal performance  
19 evaluations from 2011-2013. In fact, Senator Dunn’s performance was determined to be so  
20 excellent by the State Bar that he received bonuses substantially above his yearly salary  
21 during the years 2011-2013.

22           5.       In September 2014, attorney Craig Holden was installed as the new President  
23 of the State Bar. In May 2014, Holden was the only announced candidate, so it was clear he  
24 would be elected State Bar President. Starting in May, Holden told several people he was  
25 determined “to do something about Dunn,” with the clear implication that he was determined  
26 to have him fired. The events described below gave Holden the pretext to begin a process  
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1 leading to Senator Dunn’s termination. Finally, after Senator Dunn sent his whistleblower  
2 notice, Holden guided the BOT to terminate Senator Dunn, but even then only “without  
3 cause.”

4 6. Defendant Craig Holden was installed as President of the State Bar in  
5 September 2014. Defendant Craig Holden, now a partner at Lewis Brisbois Bisgaard &  
6 Smith LLP, is an attorney that has had difficulties in previous law firms and who submitted  
7 irregular expense reports to the State Bar.

8 7. Defendant Craig Holden’s conduct is part of an effort to usurp executive  
9 authority in the State Bar and has cleared the way for Defendant Holden to assume control  
10 over the State Bar’s executive functions. Employees of the State Bar have been informed  
11 that Defendant Holden and Deputy Executive Director Robert Hawley will oversee and  
12 manage the State Bar in the “interim” period. There has been no announcement for the  
13 formation of a process to hire a new Executive Director. No previous State Bar President in  
14 history has assumed executive management authority over the State Bar, as Defendant  
15 Holden has now done. Plaintiff alleges that Defendant Holden has engaged in this conduct  
16 to ultimately become the State Bar Executive Director.

17 8. In addition to the termination of Senator Dunn, the State Bar has recently  
18 targeted some of the Whistleblower DOES 1-7 with various degrees of discipline and  
19 retaliation because they corroborated and identified the same conduct Senator Dunn  
20 complained of and joined in the whistleblower notices to the State Bar. Under the leadership  
21 of Holden, the BOT has engaged in an effort to purge the ranks of whistleblowers at the State  
22 Bar who were aware of and complained about the conduct of the BOT, President Holden,  
23 and other ROE defendants. That purge of State Bar employees, consolidating power in the  
24 hands of Holden, is unprecedented in the history of the State Bar.

25 9. On Friday, November 7, 2014, at approximately 5:00 p.m., while giving a  
26 speech for the State Bar in San Francisco, Plaintiff Senator Dunn received a termination  
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1 letter from Defendant President Holden. The termination letter demanded that Senator Dunn  
2 not speak with the press or public if he desired to negotiate a “mutually acceptable  
3 [severance] agreement.”

4 10. Senator Dunn brings this whistleblower action to protect the public integrity of  
5 the Defendant State Bar, to overturn the illegally motivated decision to terminate his  
6 employment, and to vindicate his rights as a whistleblower.

7 **PARTIES**

8 11. Senator Joseph Dunn (Ret.) is a former California State Senator who  
9 represented California’s 34th Senate District in Orange County, California. Senator Dunn  
10 was appointed as Executive Director of the State Bar of California on November 22, 2010.  
11 Senator Dunn served in this capacity as the State Bar’s chief executive officer from  
12 November 22, 2010 through his termination on November 8, 2014. Senator Dunn is a  
13 resident of Orange County, California.

14 12. “The State Bar of California is a public corporation. Every person admitted and  
15 licensed to practice law in this State is and shall be a member of the State Bar except while  
16 holding office as a judge of a court of record.” (Cal. Const., art VI, § 9.) Under pain of  
17 criminal punishment, no person may practice law in California unless he is an active member  
18 of the State Bar. (Cal. Bus. & Prof. Code §§ 6125-6126.) The Board of Trustees of the State  
19 Bar, upon authorization from the Legislature, fixes and imposes an annual membership fee  
20 upon members of the State Bar. (*Id.* § 6140.) The fees are paid into the treasury of the State  
21 Bar, and become part of its funds. (*Id.* § 6144.) The State Bar acts through the Board of  
22 Trustees of the State Bar of California. The Board of Trustees makes rules of procedure,  
23 regulates and operates the State Bar. The State Bar office is located at 845 South Figueroa  
24 Street, Los Angeles, California 90017.

25 13. Defendant Craig Holden was installed as President of the State Bar in  
26 September 2014 and is also a current partner at Lewis Brisbois Bisgaard & Smith LLP.

1 Defendant Holden resides in Los Angeles County, California. Craig Holden is sued herein in  
2 his individual capacity.

3 14. ROES 1-50 include trustees and employees of the State Bar who acted in  
4 concert with Defendant Holden as well as certain government employees not employed by  
5 the State Bar.

6 **JURISDICTION AND VENUE**

7 15. The Court has personal jurisdiction over the Defendants because they are  
8 residents of and/or are doing business in the State of California.

9 16. Venue is proper in this county in accordance with Section 395(a) of the  
10 California Code of Civil Procedure because the Defendants, or some of them, reside in this  
11 county and the injuries alleged herein occurred in this county.

12 **STATEMENT OF FACTS**

13 **Senator Dunn's Appointment as Executive Director**

14 17. In 2009, the California Bureau of State Audits conducted a complete audit of  
15 the State Bar's disciplinary system. The Bureau highlighted the backlog reporting process  
16 and shined light on the failure of the State Bar to include all backlog cases in the annual  
17 discipline report. The report called for more transparency in the reporting of backlog cases  
18 to give stakeholders a clear picture of the State Bar's effectiveness. The Audit Report  
19 criticized: "By not reporting consistently and including all pertinent information, the State  
20 Bar is limiting its stakeholders' and the Legislatures ability to measure the effectiveness of  
21 the discipline system."

22 18. Senator Dunn was appointed as Executive Director in 2010, in the wake of this  
23 highly critical audit, with the directive to reform the State Bar by bringing fiscal  
24 responsibility and transparency to the State Bar's reporting obligations. The Executive  
25 Director functions as the chief executive officer for the State Bar and oversees all employees.  
26 The Executive Director is the only employee directly hired by the BOT and the Executive  
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1 Director reports directly to the BOT. All other State Bar employees report directly to the  
2 Executive Director, with the exception of the head of the OCTC—responsible for  
3 prosecuting grievances in the State Bar Court—who exercises a quasi-independent function  
4 based on the unique appointment process which requires direct BOT approval and Senate  
5 confirmation. The head of the OCTC is Jayne Kim.

6 19. Senator Dunn succeeded in bringing important reforms to the State Bar. For  
7 example, Senator Dunn brought the investigative backlog on open complaints with the State  
8 Bar to near zero in 2011 after years of criticism from the legislature on the size of the  
9 backlog. Senator Dunn oversaw the purchase, remodel, and move in to the State Bar’s new  
10 home at 845 South Figueroa Street. Working with the Chief Financial Officer, Senator Dunn  
11 stabilized the State Bar’s budget with no new increase in mandatory dues under his  
12 leadership. Senator Dunn created an external relations team to proactively advance the  
13 public protection mission of the State Bar. This includes outreach to other State regulatory  
14 bodies, law enforcement, the consulate community, religious communities, labor unions, and  
15 others. Senator Dunn is also credited with substantially improving relations between the  
16 Legislature and the State Bar including launching joint town halls with other regulatory  
17 partners through the district offices of legislators. Senator Dunn also created a small  
18 working group that met regularly to develop proposals to increase funding for legal services  
19 in California.

20 20. In all his years as Executive Director of the State Bar, Senator Dunn received  
21 glowing performance reviews. All of Senator Dunn’s formal performance reviews from  
22 2011-2013 were positive leading the State Bar to award him substantial yearly bonuses in  
23 addition to his salary.

24 21. Senator Dunn’s written employment agreement, initially set for a three year  
25 term, was renewed in 2013 for a subsequent three-year term through 2016. However,  
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1 Senator Dunn was given notice of termination on November 7, 2014, just one year into his  
2 new term as Executive Director. The termination was “without cause.”

3 22. As discussed below, Senator Dunn had learned of egregious improprieties  
4 being committed by BOT members, by Chief Trial Counsel Jayne Kim, and by Holden.  
5 When Senator Dunn raised these concerns with other whistleblowers, which called to task  
6 the State Bar’s core functions and competencies, Senator Dunn was targeted by Holden who  
7 has attempted to cover up for the malfeasance that was reported. Holden initiated an  
8 “evaluation” of certain executive employees at the State Bar including Senator Dunn and  
9 tasked a private firm, outside of protocol, to investigate Senator Dunn and those executive  
10 employees.

11 **Ethical Breaches – Unlawful Removal of Backlog**

12 23. Senator Dunn was one of the whistleblowers within the State Bar who reported  
13 that Chief Trial Counsel Jayne Kim unlawfully removed backlog cases from the official  
14 reports released to the BOT and the public. This was done to benefit Ms. Kim in her  
15 upcoming evaluation and to fraudulently inflate the productivity of her office.

16 24. It was uncovered that at Ms. Kim’s direction, internal reports were altered to  
17 unlawfully remove cases from the statutory backlog. Ms. Kim then issued false reports to  
18 the Regulation Admissions & Discipline (“RAD”) Committee of the State Bar, the  
19 membership of the State Bar, the Legislature and the Governor, and the general public.

20 25. Ms. Kim’s conduct did not involve a few isolated incidents but was shockingly  
21 rampant. In her reports to the RAD Committee on September 30, 2013, Ms. Kim unlawfully  
22 removed 269 cases from the internal reports. She then used the altered internal reports to  
23 prepare her official quarterly report to the RAD Committee and posted this information on  
24 the State Bar website for public consumption. The information in the public reports was  
25 false and misleading due to Ms. Kim’s unlawful removal of cases from the backlog reports.

1 26. The State Bar server that houses the backlog and case reports left a digital  
2 footprint detailing the changes to the reports made at Ms. Kim’s direction. The first run of  
3 the backlog reports shows the accurate number of backlogged files. However, the backlog  
4 report run two hours later removed a certain group of cases to artificially lower the number  
5 of backlog cases. The metadata on the State Bar server exposes the changes and Ms. Kim’s  
6 misconduct. The reduction in the State Bar’s backlog inventory was not due to increased  
7 productivity but rather due to Ms. Kim’s removal of cases from the official backlog reports.

8 27. The California Bureau of State Audits is set to conduct its biannual audit of the  
9 State Bar in 2015. Rather than hold Ms. Kim and the OCTC accountable for its actions as  
10 Senator Dunn encouraged, the State Bar has terminated Senator Dunn and taken adverse  
11 actions against other whistleblowers for bringing this issue to their attention.

12 28. Upon hearing concerns from Senator Dunn about her performance, Ms. Kim  
13 attempted to preserve her position by filing a complaint against Senator Dunn. As detailed  
14 below, an evaluation of Senator Dunn was conducted at an exorbitant expense to the  
15 membership of the State Bar. Ms. Kim’s complaint against Senator Dunn was made shortly  
16 after the annual review process for her was commenced, and was merely pretextual to avoid  
17 Senator Dunn’s oversight, criticism, and review of her. To date, the State Bar has not  
18 provided a copy or summary of Ms. Kim's complaint to Senator Dunn. What we do know is  
19 the unilateral decision to terminate Senator Dunn was made “without cause.”

20 **Fiscal Improprieties**

21 29. The BOT, upon receiving Ms. Kim’s complaint, decided to conduct an  
22 “internal evaluation” of Senator Dunn and others and to retain a private firm for that purpose.  
23 This was despite the fact that a retired California Supreme Court Justice offered to do the  
24 same evaluation, pro bono. The private firm retained by the State Bar had close personal ties  
25 with BOT member Miriam Krinsky which ties were never fully disclosed prior to the firm’s  
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1 retention. The retention of the private firm, in addition to being an utter waste of State Bar  
2 membership dues, violated State Bar protocol.

3 30. The retention of private counsel by the State Bar is a function of the State  
4 Bar's Office of General Counsel ("OGC"). The protocol for retaining a private firm is  
5 simple: if it is determined that the retention of a private firm is needed, the OGC is charged  
6 with selecting the appropriate firm based on experience and cost. The OGC protocol that is  
7 in place attempts to secure the retention of a private firm on financially feasible terms and to  
8 sift out potential conflicts of interest and cronyism with BOT members. Here, that process  
9 was blatantly ignored.

10 31. The selected firm was retained based on the recommendation of BOT member  
11 Miriam Krinsky. The OGC was never consulted in this process; rather, Holden decided the  
12 OGC was "conflicted out" from performing its functions. Furthermore, this private firm was  
13 retained at exorbitant rates. Three billing partners from the private firm that were put on the  
14 "evaluation" each billed in excess of \$800 per hour. The current billable hours for the  
15 services rendered by that private firm likely exceeds \$300,000.00.

16 32. BOT member Miriam Krinsky had a close personal and professional  
17 relationship with the private firm's lead billing partner who was assigned to lead the  
18 "evaluation." Board Member Krinsky and the lead partner of the private firm had a two-  
19 decade long relationship beginning when they were co-counsel at the United States  
20 Attorney's Office in the 1990s through 2010 when Ms. Krinsky shared office space with the  
21 lead partner while she was the Executive Director of the LA County Citizen's Commission  
22 in 2010. This was not disclosed to the BOT.

### 23 **Legislative Compliance Failures**

24 33. Senator Dunn has raised concerns that the State Bar BOT and Jayne Kim of the  
25 OCTC were not enforcing the provisions of Assembly Bill 1159.

1 34. Assembly Bill 1159 was passed with bipartisan support of the State  
2 Assembly and Senate. The bill was passed to enhance OCTC enforcement powers to  
3 prosecute both lawyer and “notario” fraud, a form of unauthorized practice of law (“UPL”)  
4 that preys on California’s large immigrant community.

5 35. The bill contained an urgency clause and was therefore effective the date it was  
6 signed into law in October 2013. At or around the same time Ms. Kim was unlawfully  
7 removing the backlog cases from her internal and public reports, she was also not  
8 prosecuting fraud cases pursuant to the legislative will. Ms. Kim’s failure to comply with  
9 the legislative mandate was so egregious it prompted the author of AB 1159,  
10 Assemblywoman Lorena Gonzalez, to send a letter demanding answers concerning the lack  
11 of enforcement.

12 36. To date, the Legislature’s questions about the enforcement of AB 1159 remain  
13 ignored.

14 **Whistleblower Notice**

15 37. On November 3, 2014, Senator Dunn and a group of other individuals  
16 employed by the State Bar, through their counsel Geragos & Geragos, APC, submitted an  
17 anonymous whistleblower complaint to the State Bar BOT outlining a number of the  
18 concerns addressed above. Thereafter, on November 5, 2014, the whistleblowers submitted  
19 another letter through counsel, providing further information and evidence of the  
20 improprieties outlined herein. Senator Dunn was identified by the BOT as one of the group  
21 of whistleblowers.

22 38. Senator Dunn was given notice of his termination on Friday, November 7,  
23 2014 at 5:00 p.m. while he was giving a speech for the State Bar in San Francisco. Senator  
24 Dunn received no explanation as to the basis for his termination. Senator Dunn was also  
25 instructed by Holden that if he wanted to negotiate a severance agreement, he should not  
26 speak to the public or the press about what had taken place. To date, Senator Dunn has not  
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1 been afforded any opportunity to respond to the unilateral notice of his termination or any of  
2 the allegations that may have been made against him.

3 39. On November 10, 2014, some of the other whistleblowers that were  
4 responsible for providing information contained in the two whistleblower notices were  
5 targeted with various degrees of retaliation and discipline and believe they are in imminent  
6 jeopardy of being terminated. Like Senator Dunn, the other whistleblowers who have been  
7 loyal, dedicated, and high-level employees at the State Bar for many years received no  
8 explanation for the sudden unilateral retaliation against them by the State Bar.

9 40. It is with deep sadness and a heavy heart that Senator Dunn has been  
10 compelled to bring this action against the State Bar of California, an organization which he  
11 loyally served for four years. However, given the glaring injustices, unethical conduct, and  
12 massive cover-up that has crippled the State Bar's ability to function, this action has become  
13 necessary to restore the public trust and confidence in the State Bar, to restore the integrity of  
14 the organization, and to vindicate Senator Dunn's rights.

15 **FIRST CAUSE OF ACTION**

16 **WHISTLEBLOWER LIABILITY AND RETALIATION --**

17 **LABOR CODE SECTION 1102.5**

18 **Senator Dunn Against Defendant the State Bar of California**

19 41. Plaintiff re-alleges and incorporates by reference all preceding paragraphs of  
20 this Complaint, as though fully set forth herein.

21 42. At all relevant times, Plaintiff was an employee of the State Bar.

22 43. On November 3, 2014 and November 5, 2014, Plaintiff made whistleblower  
23 complaints to the State Bar as detailed above. Additionally, Plaintiff made numerous  
24 complaints to the State Bar's BOT about the willful failure of the Chief Trial Counsel Jayne  
25 Kim to prosecute UPL fraud which would protect the immigrant community.

1 44. Plaintiff was given notice of termination from his employment as Executive  
2 Director of the State Bar on November 7, 2014 because he was identified as a whistleblower  
3 and because Holden intended to cover up malfeasance in the State Bar and secure his own  
4 agenda in usurping executive authority within the State Bar.

5 45. The State Bar has ratified and condoned the acts and omissions of Defendant  
6 Holden, Jayne Kim, and Miriam Krinsky. Specifically, the State Bar has terminated Plaintiff  
7 because he reported the serious malfeasance, illegal conduct, and financial improprieties  
8 described above.

9 46. The termination of Plaintiff on account of his complaints about the unlawful  
10 conduct violates the fundamental public policy against retaliation of whistleblowers in this  
11 State and the protections afforded under Labor Code section 1102.5.

12 47. As a result of the unlawful treatment of Plaintiff which culminated in his  
13 termination, Plaintiff suffered damages.

14 48. Defendants are subject to civil penalties and assessment under Labor Code  
15 section 1102.5.

16 49. Based on the unlawful acts taken by Defendants, Plaintiff has been deprived of  
17 his position as Executive Director of the State Bar. Pursuant to Labor Code section 1102.5,  
18 Plaintiff Senator Dunn seeks his immediate reinstatement as Executive Director of the State  
19 Bar, or alternatively, for the Court to issue an Order to Show Cause regarding why Senator  
20 Dunn should not be immediately reinstated based on the unlawful termination by the State  
21 Bar.

22 **SECOND CAUSE OF ACTION**  
23 **BREACH OF FIDUCIARY DUTY**

24 **Senator Dunn Against Defendant Craig Holden and Board of Trustee ROES**

25 50. Plaintiff re-alleges and incorporates by reference all preceding paragraphs of  
26 this Complaint as though fully set forth herein.

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51. At all times, Defendant Holden owed a fiduciary duty to the State Bar, Plaintiff as Executive Director of the State Bar, to DOE Whistleblowers 1-7, and to the public.

52. Defendant Holden breached his fiduciary obligations by engaging in the conduct described above, including but not limited to, authorizing the out-of-protocol and conflicted retention of a private firm, condoning and attempting to cover up the unlawful removal of backlogged State Bar complaints, failing to implement legislation, and terminating Plaintiff and the DOE whistleblowers for reporting the illegal, improper, and unethical conduct described above.

53. As a direct and proximate cause of Defendants' conduct, Plaintiff has been injured, in an amount according to proof at trial.

54. Defendants' conduct was wanton, willful, and malicious giving rise to punitive damages in favor of Plaintiff.

**WHEREFORE**, Plaintiffs request judgment against the Defendants as follows:

**On the First Cause of Action:**

- 1. For general and special damages in an amount according to proof at trial;
- 2. For pre- and post-judgment interest according to proof;
- 3. For costs of suit incurred herein;
- 4. For attorneys' fees;
- 5. For damages and fees pursuant to California Code of Civil Procedure § 1021.5;
- 6. For injunctive relief reinstating Plaintiff as Executive Director of the State Bar or, alternatively, for an Order to Show Cause why Senator Dunn (Ret.) should not be immediately reinstated based on the unlawful termination and retaliation by the State Bar; and
- 7. For all other relief as this Court may deem proper.

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**On the Second Cause of Action:**

1. For general and special damages in an amount according to proof at trial;
2. For pre- and post-judgment interest according to proof;
3. For exemplary damages against Defendants;
4. For costs of suit incurred herein; and
5. For all other relief as this Court may deem proper.

Respectfully submitted,

DATED: November 13, 2014

GERAGOS & GERAGOS, APC

By: 

MARK J. GERAGOS  
BEN J. MEISELAS  
Attorneys for Plaintiff  
SENATOR JOSEPH DUNN (Ret.)

**DEMAND FOR JURY TRIAL**

Plaintiff Senator Dunn (Ret.) hereby demands a jury trial.

DATED: November 13, 2014

GERAGOS & GERAGOS, APC

By: 

MARK J. GERAGOS  
BEN J. MEISELAS  
Attorneys for Plaintiff  
SENATOR JOSEPH DUNN (Ret.)