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Bar turns to Hueston Hennigan for defense against Dunn's suit

Litigator John Hueston retained to defend agency in retaliation complaint by former executive director

By Lyle Moran
Daily Journal Staff Writer

The State Bar is turning to former Enron prosecutor John Hueston and his prominent Los Angeles law firm to defend the agency against Joseph L. Dunn's high-profile lawsuit over his firing as executive director.

Hueston, who was the co-lead trial prosecutor in the fraud and insider trading cases against top Enron executives, leads Hueston Hennigan LLP along with partner Moez Kaba.

The firm has been retained with Dunn's whistleblower retaliation suit headed to arbitration in the near future.

"We are genuinely excited to represent the State Bar in so significant an action where I truly believe the State Bar has been wronged and maligned," Hueston said in an interview. "We look forward to putting this to rest in the court of law as quickly as possible."

Previously, the bar had been represented by Burke Williams & Sorensen, including attorneys Charles E. Slyngstad in Los Angeles and M. Carol Stevens in Mountain View.

Bar President David Pasternak said it was General Counsel Vanessa Holton's decision to make the shift in firms, and the change did not reflect concerns about Dunn's claims or the agency's prior counsel.

"We have the utmost confidence that Hueston Hennigan LLP will help to quickly put this distraction behind us and will end the resource expenditure that Mr. Dunn has caused the State Bar with his lawsuit for per-

sonal gain ..." Pasternak said in a prepared statement.

Mark Geragos, Dunn's Los Angeles attorney with Geragos & Geragos, said the bar's latest change in counsel was further indication they are worried about the suit.

"Obviously, they fear the exposure," he said. "Changing law firms won't change the facts of the case."

He also called the bar's retention of outside counsel a waste of the agency's resources.

"They can keep needlessly spending the dues of the lawyers of the state of California, but it won't take away from the fact that the State Bar is irretrievably broken and dysfunctional," Geragos said.

Bar spokeswoman Laura Ernde said the bar's insurer was paying Hueston Hennigan's costs and has paid for previous costs of the litigation. She did not say how much Hueston Hennigan is being paid or how much Burke Williams & Sorensen received.

The bar rejected the Daily Journal's public records request for the retention agreement, with Ernde saying the document falls under the exemption for attorney-client privilege.

Hueston also declined to disclose the rate his firm will be paid. Pasternak said it was a discounted rate, but he did not provide the amount.

Geragos said he wondered whether the bar had done a conflict check because Hueston Hennigan already represents former Bar President Craig Holden, another defendant in the case. Geragos said the arrangement appeared "to be an irreconcilable conflict of interest."

Hueston said there is no conflict.

Dunn filed the suit after his November 2014 termination, which he alleged was in retaliation for filing anonymous whistleblower complaints against then-president

Craig Holden and Chief Trial Counsel Jayne Kim. *Dunn v. State Bar*, BC563715 (L.A. Super. Ct., filed Nov. 13, 2014).

In addition to the bar and Holden, the suit also names Beth Jay, former principal counsel to the chief justice of California, as a defendant.

The bar has called Dunn's allegations "baseless," and an investigative report it commissioned alleged that Dunn made false representations to the organization's board, among other allegations of wrongdoing.

The parties met for two all-day mediation sessions with John Kagel in San Francisco last fall, but there was no breakthrough.

Los Angeles County Superior Court Judge Michael J. Raphael recently appointed retired U.S. Magistrate Judge Edward A. Infante in San Francisco to handle the binding arbitration. The bar said the arbitration is expected to begin soon, although no hearing date has been set.

While Geragos has said he wants the arbitration to be open to the public, Hueston said the bar has the opposite stance.

"Our position is the arbitration should proceed as designated and intended, as a privately adjudicated proceeding called for by the contract Mr. Dunn signed," Hueston said.

Geragos called the bar's stance hypocritical. "When somebody gets charges filed against them by the State Bar, they put a scarlet letter on their page on the Internet," he said. "Yet when they are spending millions of dollars of lawyers' dues on litigation, they want it to be private."

Hueston said his firm has also been retained by the bar to defend against filed or threatened action by other former State Bar employees, including the complaint former bar investigator Thomas Layton filed with the Public Employment Relations Board last year.