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March 17, 2006

Hon. Ronald M. George, Chief Justice  
Hon. Associate Justices  
Supreme Court of California  
350 McAllister Street  
San Francisco, CA 94102

RE: BENNINGHOFF V. SUPERIOR COURT OF ORANGE COUNTY  
4th CIVIL NO. G035923  
OCSC CAES NO. 05CC00971  
SUPREME COURT CASE NO. S141459

Dear Judge George:

I am writing to urge the Court to accept the above case for review.

My interest is that I am an attorney with thirty-five years experience in the practice of law. I am a practicing attorney in the state of California, County of Los Angeles, and have been so since 1971. I intend to retire in the near future.

I am concerned that the application of the definition of the practice of law in the decision of the Court of Appeal will lead people to believe that any "legal advice" given, no matter how it is given, would be deemed to be the practice of law. This is an important issue to people like myself who are thinking of retiring. It deals with issues of insurance, tail insurance, and retirement. I am concerned that off-handed remarks dealing with "legal advice" could be deemed to be the practice of law and thereby require an attorney to continue purchasing malpractice insurance. The purchase of "tail" insurance could be utilized. However, tail insurance will always require one to state that they are "not practicing law." If mere off-handed "legal advice" given at a cocktail party could be deemed to be the practice of law, an attorney would have to buy very expensive insurance to protect him or herself.

I am writing on behalf of myself as well as all other attorneys who are in similar situations (at or about the time for "partial retirement" and "not actively practicing law"). I am 67 years old. I have been practicing law for 35 years. I have considered



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"retirement." However, I am not ready to entirely forget everything that I have learned as an attorney, nor hang up my hat and turn to a completely different field of work.

It is my belief that the practice of law must include an attorney client relationship. That is the only way that an attorney can keep from being required to forget everything that he ever knew while he was an attorney.

Unlike Benninghoff, I have not been disciplined. If I choose to resign from the State Bar, I should not have to completely flush my brain of everything that I have learned as an attorney. A number of things that I do, is:

1. Write a book on California Construction Law that is updated annually;
2. Conduct a number of seminars dealing with construction law;
3. Conduct arbitrations and mediations;
4. Act as an advocate on behalf of clients; and
5. I advise clients.

It is my opinion that the practice of law includes only the last two areas. It is my opinion that the practice of law requires an attorney client relationship. The illogical result of the present decision could mean that if one were to completely retire and do no work whatsoever, and give an off-handed opinion at a cocktail party, that would be the practice of law. It seems to me that this puts a severe strain on attorneys who have retired and are not practicing law, from ever rendering an opinion even with respect to an article that might appear in a newspaper wherein someone might ask them "What do you think about this?" It would put a scarlet letter on the forehead of every attorney. I could not even think about anything that I have done for the past 35 years.

Further, it would give an unlicensed person rights that a non-lawyer, whether they be disbarred or not be disbarred, could give opinions and "legal advice" and do all of the things that an attorney might do, except appear in court. Yet one who has had a great deal of experience, could do none of those things without purchasing insurance to cover him or herself. This is illogical, and counterproductive for everyone. It puts people like myself at a disadvantage and does nothing to protect potential clients.



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I cannot have my thirty-five years of experience in the practice of law be taken away from me. I suggest that I would continue to do seminars, write articles, and update my present book. I would also like to continue conducting arbitrations and mediations without being involved in the practice of law.

I respectfully urge this Court to grant review to make clear that the broad application of the practice of law rendered in the published opinion of the Court of Appeal is not correct.

Respectfully submitted,  
ABDULAZIZ, GROSSBART & RUDMAN



SAM K. ABDULAZIZ

SKA:dak

Encl. (opinion)

cc: Attached service list (with encl.)

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