

CHOICE OF RELIEF IN CALIFORNIA STATE COURT SUITS

SEEKING BENEFITS FOR LARGE NUMBERS OF PEOPLE

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Legal services attorneys will recognize the dilemma. A client has just walked in the door with the case of the New Millennium, or at least the decade. (Never underestimate the power of initial over-optimism.) The government or a large business is acting illegally in a way that is injuring not just the client, but thousands of other poor people as well.

The problem is that if you stop the defendant from acting illegally towards just that one client, you have not done anything for the others similarly situated, many of whom eventually will find their way, one by one, to your already over-burdened office.^{1/} How do you help them as well?

If the nature of the illegality requires you to be in federal court, there is only one choice. You must file a federal class action, and litigate jurisdiction, standing, mootness, ripeness, private rights of action, governmental immunities, Rule 23 and other procedural issues too numerous even to mention. Good luck.

If, however, you plan to file in California state court, you have far fewer procedural obstacles to surmount and far more serious choices to make in framing your complaint. The purpose of this article is to explore these choices, asking, for each choice, a few basic questions: (1) will this choice help to surmount standing problems?; (2) is it possible to obtain quick, preliminary relief?; (3) can the similarly situated persons recover retroactive benefits?; (4) can the suit continue if either the disappearance of the

1 . There are people, including a few judges, who believe that once a court points out to the government that it is acting illegally towards an individual, the government will voluntarily cease acting illegally towards similarly situated individuals. Those people also believe in the Easter bunny.

plaintiff or an offer of settlement by the defendant threatens mootness?; and (5) are there other procedural problems or opportunities associated with the choice?

THE BASIC CHOICES

There are several choices for obtaining class-like relief, depending on whether the suit is against a government or a business. In either case, the choices are not mutually exclusive. Nothing prevents counsel from combining strategies, as for example pleading taxpayer and writ of mandate causes of action.

If you are suing the government, you have five choices: (1) a suit by an individual seeking equitable relief (hereafter an "individual suit"); (2) a suit on behalf of an organization ("organizational suit"); (3) a taxpayer suit pursuant to Code of Civil Procedure §526a and common law; (4) a writ of mandate pursuant to Code of Civil Procedure §1085; and (5) a class action (Code Civ. Proc. §382).^{2/}

If the suit is against a private entity, there are four choices: (1) an individual suit; (2) an organizational suit; (3) a class action; and (4) a suit alleging an unlawful business practice pursuant to Business and Professions Code §17200 *et seq.* (a "§17200 suit"). Section 17200 suits merit special mention. In order to obtain an injunction against an unlawful business practice, a consumer need only show that the defendant has a business practice that is prohibited by law. *People v. McKale*, 25 Cal.3d 626, 632 (1979).

2 . But see 45 C.F.R. §1617.3 (recipients of funding from the Legal Services Corporation are prohibited from litigating class actions).

THE FIVE BASIC QUESTIONS

1. Which of these choices effectively prevents standing problems?

Individual suits - NO. In an individual suit, the plaintiff lacks standing unless personally affected by the challenged practice. California Water & Telephone Co. v. County of Los Angeles, 253 Cal.App.2d 16, 22-23 (1967). However, even for individual suits, California state court standing rules are far less restrictive than federal rules. See, e.g., Stocks v. City of Irvine, 114 Cal.App.3d 520 (1981), in which the Court of Appeal rejected application of Warth v. Seldin, 422 U.S. 490 (1975), to allow persons living outside of a city to challenge the city's exclusionary land use practices even if they could not point to a particular housing project they could have lived in were it not for those practices. But see Torres v. City of Yorba Linda, 13 Cal.App.4th 1035, 1046 (1993) (disagreeing with Stocks).

Organizational plaintiffs - NO. An organization may, of course, sue on behalf of its members. However, if the members lack standing to sue, merely asserting that the organization is interested in the subject matter of the lawsuit does not provide the organization with standing. Residents of Beverly Glen, Inc. v. City of Los Angeles, 34 Cal.App.3d 117, 124 (1973), citing Sierra Club v. Morton, 405 U.S. 727, 739 (1972).

Taxpayer Suits - YES. A plaintiff does not have to be personally affected to bring a taxpayer suit under Code of Civil Procedure §526a.^{3/} Blair v. Pitchess, 5 Cal.3d 258, 267-70 (1971). Legal services attorneys, however, should be aware of two pitfalls.

First, there is some question whether a person has standing to sue if her sole basis is payment of

3 . Section 526a provides, in relevant part: "An action to obtain a judgment, restraining and preventing any illegal expenditure of, waste of, or injury to, the estate, funds, or other property of a county, town, city or city and county of the State, may be maintained against any officer thereof, or any agent, or other person, acting in its behalf, either by a citizen resident therein, or by a corporation, who is assessed for and is liable to pay, or, within one year before the commencement of the action, has paid, a tax therein."

sales taxes. On the one hand, the Court of Appeal in Torres v. City of Yorba Linda, 13 Cal.App.4th at 1046-48, held that paying sales tax is not good enough. The court somehow concluded that sales taxes are really paid by retailers, not consumers. More recently, however, the California Supreme Court, without extensive discussion, held that a group of plaintiffs, all but one of whom was homeless, had taxpayer standing to challenge the constitutionality of a city's ordinance prohibiting camping in public areas. Tobe v. City of Santa Ana, 9 Cal.4th 1069, 1086 (1995). Nonetheless, unless and until Torres is expressly overruled, plaintiffs whose only basis for taxpayer standing is payment of sales tax should make sure that there is also some other basis for standing.

Second, the County of Los Angeles has argued to the California Supreme Court that taxpayers should not have standing to file suits that would require the government to spend more money on a lawful activity, as opposed to suits to prohibit the government from spending money on an illegal activity.^{4/} The Court did not decide the issue, holding that the plaintiffs had standing because they had also brought the suit as a writ of mandate. Common Cause v. Board of Supervisors, 49 Cal.3d 432, 439-40 (1989). The county's argument is contrary to decades of authority and is otherwise untenable,^{5/} but you should be aware of it.

Writs - YES. A writ proceeding against the government can withstand any standing attack. Where ""the question is one of public right and the object of the mandamus is to procure the enforcement of a public duty . . ."" the petitioner ""need not show that he has any legal or special interest in the result, since it is sufficient

4 . Petitioners' Opening Brief on the Merits at 27-32, Common Cause of California v. Board of Supervisors (No. S 001833).

5 . See Application for Leave to File Amicus Curiae Brief and Amicus Curiae Brief in Support of Respondents on Taxpayer Issues at 5-13, Common Cause; Wirin v. Parker, 48 Cal.2d 890, 894 (1957), and cases cited ("It is immaterial that the amount of the illegal expenditures is small or that the illegal procedures actually permit a saving of tax funds.").

that he is interested as a citizen in having the laws executed and the duty in question enforced” Green v. Obledo, 29 Cal.3d 126, 144 (1981) (citations omitted). The “passing reference” to the word “citizen” in the case law was not “intended as a limitation on who may bring an action to enforce a public right or duty.” League of Women Voters v. Eu, 7 Cal.App.4th 649, 657, n .4 (1992). Thus, organizations have standing to bring public interest writs (*id.*), as presumably do non-citizen individuals.

Class actions - NO. Pleading a class action does not improve your chances of having standing to sue. A class representative asserting the rights of others must first have standing to sue herself. Petherbridge v. Altadena Fed. Sav. & Loan Assn., 37 Cal.App.3d 193, 200 (1974).

Section 17200 suits - YES. A plaintiff has standing under §17200 to obtain an injunction preventing a violation of a statute even when the plaintiff has suffered no personal injury. Stop Youth Addiction, Inc. v. Lucky Stores, Inc., 17 Cal.4th 553, 561 (1998); Hernandez v. Atlantic Finance Corp., 105 Cal.App.3d 365, 371-73 (1980).

2. Which of These Choices Allows You to Recover Retroactive Benefits for Large Numbers of Persons?

Individual suits - NO. Neither logic nor precedent justifies an individual, suing only on behalf of herself, obtaining retroactive benefits for large numbers of persons.

Organizational plaintiffs - NO. Perhaps the organization can obtain retroactive benefits for its members, but not for the general public.

Taxpayer suits - NO. There are arguments in favor of awarding retroactive benefits in a taxpayer suit, but no court has yet accepted them. In Boehm v. Superior Court, 178 Cal.App.3d 494 (1986), the Court of Appeal ruled that several general relief recipients, suing as individuals and taxpayers, were wrongfully denied a preliminary injunction, and held that they were entitled to retroactive benefits. When defendants

stated they would refuse to pay anybody but the named plaintiffs, plaintiffs, on petition for rehearing, asked the court to specify that taxpayers were entitled to obtain retroactive benefits for similarly situated people.^{6/} Instead, the Court of Appeal, sua sponte, ordered the trial court on remand to determine whether the suit should be certified as a class action. Boehm, 178 Cal.App. 3d at 504. The Boehm court, as have others, thus expressed a definite preference for the class action as a vehicle for retroactive benefits awards.

Writs - POSSIBLY. Some of the welfare writ cases discuss the importance of awarding retroactive benefits^{7/}, but usually in the context of a class action. In at least one case, the California Supreme Court, without discussion, ordered the State welfare director "to reinstate, with retroactive benefits, all prior recipients improperly terminated" even though the suit was not a class action.⁸ In Jordan v. Department of Motor Vehicles, 75 Cal.App.4th 449, 466-68 (1999), however, the Court of Appeal held that in a suit that was not filed as a class action, a trial court lacked power to order refunds to all persons who had been forced to pay an illegal tax. The appeals court relied in part on factors peculiar to tax law, but also in part on the principle that "a judgment may not be entered either for or against one is not a party to an action or proceeding." Id. at 467. If the goal in a writ case is retroactive benefits, the best bet is also to plead a class action.

Class actions - YES. Courts have long awarded retroactive benefits to large groups of persons in class actions. See, e.g., Employment Development Dept. v. Superior Court, 30 Cal.3d 256, 265 (1981) ("a class action is a 'peculiarly appropriate' vehicle for providing effective relief when . . . a large number of applicants

6 . Petition for Rehearing re Modification with Supporting Declaration, Boehm (5 Civ. No. F006320).

7 . See, e.g., Board of Social Welfare v. County of Los Angeles, 27 Cal.2d 81, 85-86 (1945).

8 . County of Alameda v. Carleson, 5 Cal.3d 730, 749-50 (1971).

or recipients have been improperly denied governmental benefits on the basis of an invalid regulation, statute or administrative practice."); Hypolite v. Carleson, 52 Cal.App. 3d 566, 583-85 (1975) (affirming award of retroactive AFDC benefits).

Section 17200 Suits - YES. Business and Professions Code §17203 expressly provides for restitution for unfair business practices. When a large group of consumers is injured by a business, a trial court “should order defendants to identify, locate, and repay to each [injured consumer] the full amount of funds improperly acquired from that [consumer], retaining the power to supervise defendants’ efforts to ensure that all reasonable means are used to comply with the court’s directives.” Kraus v. Trinity Management Services, Inc., 23 Cal.4th 116, 138 (2000). Unlike in consumer class actions, however (Code Civ. Proc. §384), the court does not have power to order “fluid recovery”: payment of unclaimed restitution into a fund for uses consistent with the goals of the litigation. Id. at 126-37.

While restitution is available in §17200 suits, damages are not. Bank of the West v. Superior Court, 2 Cal.4th 1254, 1266 (1992). But see Cortez v. Purolator Air Filtration Products Co., 23 Cal.4th 163, 173-78 (2000) (unpaid back wages are not damages and may be recovered in a §172000 action).^{9/}

3. Which Choices Allow the Suit to Continue if an Offer of Settlement to the Named Plaintiff, Subsequent Events or the Disappearance of Plaintiff Threatens to Moot Out the Case?

Individual suits - NO. If there is no plaintiff, there is no suit.

Organizational plaintiffs - YES. An organization is unlikely to disappear. And while it is possible, it is difficult to buy off an organization without benefitting a large number of persons.

Taxpayer Suits, Writs and Section 17200 Suits - NO. Even though each of those suits is designed to benefit

9 . For an excellent discussion of §17200 issues from a defense standpoint written before Kraus and Cortez were decided, *see* Jonathan M. Jenkins, "A Fair Deal," 22 Los Angeles Lawyer 28 (June 1999).

a large group of persons, unlike in a class action suit the plaintiff does not owe a fiduciary duty to a class. The plaintiff is free to settle the case in a way that benefits only herself. Before devoting vast program resources to a writ or taxpayer action, you should explore very carefully what the plaintiff's goals are. Alternatively, be prepared to spend tens of thousands of dollars in attorney time to win a \$500 settlement. Class actions - YES. Receipt of benefits by the named plaintiff in a class action does not render the case moot. Named plaintiffs have a fiduciary duty to the class which continues even after they receive all the benefits sought by the suit. La Sala v. American Sav. & Loan Assn., 5 Cal.3d 864, 871 (1971). Even if the named plaintiffs can no longer continue in the suit, the trial court should afford counsel the opportunity to add new individual plaintiffs. Id. at 872.

4. Which of These Choices Permits Quick Relief For Large Numbers of Persons?

Individual suits - PROBABLY NOT. An individual, of course, can obtain a preliminary injunction for herself. However, in many cases the injunction may be framed in a way that benefits only the plaintiff.

Organizational plaintiffs - POSSIBLY. If the plaintiff is a large organization with plaintiffs directly affected by the suit, a preliminary injunction, by definition, would have wide-spread benefits.

Taxpayer suits - PROBABLY NOT. In practice, taxpayer plaintiffs frequently have obtained benefits for many people by preliminary injunction without having to litigate their procedural right to do so. More recently, the Court of Appeal has held that in balancing the equities between the parties, the trial court should consider only the harm to the named plaintiffs and not the injury to non-parties. Loder v. City of Glendale, 216 Cal.App.3d 777, 783-87 (1989). This decision virtually eliminates preliminary injunctions in actions (such as Loder itself) where there are no plaintiffs with traditional personal standing, because the monetary stake of the taxpayer almost never will outweigh the interest of the monetary harm to the government if the

injunction is granted.

The Loder court (in response to a request for modification) left open some hope for the more typical legal services taxpayer case in which the named plaintiff has personal as well as taxpayer standing: "we do not conclude or imply that the effect of a preliminary injunction obtained by a plaintiff who establishes irreparable harm must be limited to restraining the defendants in that action with respect to that plaintiff alone." Id. at 786. Conversely, however, no court has ever held that an injunction in favor of an irreparably harmed plaintiff must be extended to others similarly situated. If quick relief is an important goal, a taxpayer suit standing alone is unlikely to achieve it.

Writs - YES, BUT NOT TOO QUICK. A writ petitioner can obtain the entire relief sought by a lawsuit by filing a motion for a peremptory writ along with the writ petition. Code Civ. Proc. §1088. In some counties, it might take months for the motion to be heard, however. If even quicker relief is sought, it may be useful to add a cause of action for injunctive relief and move for a temporary restraining order.

Class actions - YES. Code of Civil Procedure §527(a) allows a plaintiff to obtain a temporary restraining order or a preliminary injunction "for the benefit of numerous parties . . . whether or not the class has been certified."

Section 17200 suits - YES. A court may issue a preliminary injunction to prevent an unfair business practice. Bus. & Prof. Code §17203; Hernandez v. Stabach, 145 Cal.App.3d 309, 314-15 (1983).

5. What Other Problems or Opportunities are Associated with These Choices?

The four questions framed above, while a good starting point, do not determine the choice of suit in every instance. There are other important considerations.

First and perhaps foremost, in some larger jurisdictions the choice of suit may dictate the location

of the litigation and which judge will decide it. Consult your local rules.

Second, the Supreme Court has expressed a strong preference for writs of mandate over mandatory injunctions that change the status quo. In Common Cause v. Board of Supervisors, 49 Cal.3d 432, the high court several times suggested in dictum that mandatory injunctions might not be available when mandamus is an available legal remedy.^{10/} Thus, depending on how the Common Cause dictum is construed in later cases, practitioners seeking mandatory as opposed to prohibitory relief^{11/} either may need to include a mandate claim and/or to argue that mandate is not an adequate legal remedy in a particular case.^{12/} There are other problems and opportunities uniquely associated with each choice:

Organizational plaintiffs: Nobody likes to consider at the outset the possibility of losing a case, but losing can be particularly dangerous to organizational plaintiffs if the defendant seeks reimbursement for costs.

10 . See id. at 438 ("County has not challenged the propriety, as a procedural matter, of awarding interim mandamus relief that neither preserves the existing status quo nor restores a status quo that previously existed."); 442 ("Mandamus, rather than mandatory injunction is the traditional remedy for the failure of a public official to perform a legal duty."); 439, n.3 ("Our approval of plaintiffs' standing does not indicate approval of the grant of a preliminary injunction or permanent injunction when the relief sought may be obtained by way of a mandamus action."); 442, n.8 ("County has not challenged the issuance of the preliminary injunction on the ground that mandamus is an available legal remedy. . . . such an objection is not jurisdictional and may be waived.").

11 . The statutory definition of an injunction as "a writ or order requiring a person to refrain from a particular act" (Code Civ. Proc. §525) "succinctly defines a prohibitory injunction." 6 Witkin, Cal. Procedure (4th ed. 1997), "Provisional Remedies," §280 at 222. As Witkin notes, "The important distinction between mandatory and prohibitory injunctions is more complicated than appears at first glance." Id., §282 at 224. Indeed, deciding in a close case whether an injunction is prohibitory or mandatory is not unlike determining how many angels can fit on the head of a pin, and about as meaningful. Suffice it to say that if you are seeking an injunction "prohibiting [the defendant] from failing to [take action]," a court will probably construe the requested relief as mandatory.

12 . If the plaintiff seeks a preliminary injunction, it is difficult to see how mandate could be construed as an adequate alternative remedy. If the petitioner is not prepared to move for a peremptory writ -- the ultimate relief in the case -- a preliminary injunction may be the only relief available.

Code Civ. Proc. §1032(b) (prevailing party entitled to costs).^{13/} While this is a potential problem in any suit in which costs (such as deposition expenses) are likely to be incurred,^{14/} the danger is greatest when there is an organizational plaintiff. In most cases, a defendant will not make a serious attempt to collect costs from a judgment-proof plaintiff. However, an organization either may have or be perceived to have money, which could create a problem.

For the same reason, a court is more likely to require an organization obtaining a preliminary injunction to furnish an undertaking to secure a preliminary injunction. In Conover v. Hall, 11 Cal.3d 842, 850-53 (1974), the Supreme Court held that trial courts have authority to grant preliminary relief to indigents without the undertaking normally required by Code of Civil Procedure §529.

See also Code Civ. Proc. §995.240 (codifying Conover). An organization may not always be deemed "indigent" for purposes of waiving the undertaking requirement.

In addition, a program funded by the Legal Services Corporation should be aware of LSC regulations limiting the representation of organizations to those that are primarily composed of eligible clients and which have no practical means of obtaining private counsel. 45 C.F.R. §1611.5(b)(3)(C).

13 . Notwithstanding the mandatory language of the statute, a good argument can be made that courts have inherent authority to waive costs for unsuccessful indigent plaintiffs who sued in good faith. Unfortunately, the case law is not favorable. *See, e.g., Townzen v. County of El Dorado*, 64 Cal.App.4th 1350 (1998) ("California is among those states that do not exempt the unsuccessful indigent party from a judgment for costs."). By contrast, appellate rules, while providing for an award of costs to the prevailing party, permit exceptions "when the interests of justice require it . . ." (Cal.R.Ct., R. 26(a)). Appellate courts have sometimes been merciful to unsuccessful indigent parties, particularly after a liberal justice has made a conservative ruling on the merits. *See, e.g., King v. McMahan*, 186 Cal.App.3d 648, 670 (1986) (absolving unsuccessful AFDC foster care applicants from payment of costs on appeal); Board of Supervisors v. Superior Court (Comer), 207 Cal.App.3d 552, 565 (1989) (actually awarding costs to completely unsuccessful indigent class of mental health care recipients).

14 . *See, e.g., Van de Kamp v. Bank of America*, 204 Cal.App.3d 819, 868-69 (1988), holding that costs in a class action must be borne by the unsuccessful named plaintiffs rather than apportioned among class members.

Taxpayer suits: An attorney filing a taxpayer suit should be aware that Code of Civil Procedure §526a limits taxpayer status to citizens. While this requirement would probably be read out of the statute by an appellate court to avoid equal protection problems,^{15/} it is questionable whether it is a good use of program resources to file a suit to test your right to file a suit.

Writs: Writs are automatically stayed on appeal unless the petitioner can show irreparable damage "in his business or profession" Agricultural Labor Relations Bd v. Tex-Cal Land Management, Inc., 43 Cal.3d 696, 706, n.8 (1987); Code Civ. Proc. §1110b. A mandatory injunction will also automatically be stayed, but a prohibitory injunction is not ordinarily stayed. Wolf v. Gall, 174 Cal. 140, 142 (1916). Advocates obtaining a writ or a mandatory injunction, however, should be aware of the power of an appellate court to make any order, including an injunction pending appeal, in aid of its jurisdiction. Code Civ. Proc. §923. See, e.g., People ex rel. S.F. Bay etc. Com v. Town of Emeryville, 69 Cal.2d 533, 536-39 (1968), enjoining operation of a landfill pending an appeal of a judgment permitting the landfill.

Class actions: Programs funded by the Legal Services Corporation may not initiate or participate in a class action. 45 C.F.R. §1617.3. Even for those attorneys not affected by LSC regulations, class actions present a host of procedural problems.

The right to class certification is not automatic and, ironically, might be denied because of the availability of the other choices discussed in this Article. See, e.g., Dean Witter Reynolds, 211 Cal.App.3d at 772-73, denying class certification in a suit against a brokerage because the plaintiff had not shown that a class action was superior to a §17200 suit. Whether notice must be provided to absent class members,

15 . There would be good precedent for this. In Irwin v. City of Manhattan Beach, 65 Cal.2d 13, 19 (1966), the Supreme Court held that even though the literal language of §526a confers standing on "a citizen resident" of a defendant locality, and a "corporation," in order to avoid equal protection problems non-resident citizens must be permitted to sue as well.

what the notice should look like and who should pay for it may become issues.^{16/} And any settlement or dismissal, even a partial dismissal, requires court approval,^{17/} which can involve an extensive process.^{18/}

On the other side of the ledger, filing a class action may be advantageous when extensive discovery is expected. Governmental agencies often resist providing information from welfare files even when the welfare recipients authorize them to do so.^{19/} The issue becomes even more difficult when the data plaintiffs' counsel seek from files includes information concerning persons who are not named plaintiffs and have not signed authorizations. Presumably, a court would look more favorably on that kind of discovery if counsel represent a class of recipients and thus can claim they are seeking information on their own clients. Compare Hoffman-La Roche, Inc. v. Sperling, 493 U.S. 165 (1989) (affirming discovery order for names and addresses of potential class members in age discrimination suit) with McCabe v. Snyder, 75 Cal.App.4th 337 (1999) (affirming denial of writ of mandate to compel pre-litigation disclosure of potential class members in suit for class tax refund).

Moreover, legislation enacted in 1993 makes class actions easier to settle in suits against businesses. Previously, a defendant might not take seriously a claim for retroactive benefits because in many cases the

16 . But see Lowry v. Obledo, 111 Cal.App.3d 14, 23 (1980) (notice to absent class members serves no purpose when the suit is declaratory and injunctive relief, there are no factual disputes and the plaintiff class is adequately represented by counsel).

17 . Cal.R.Ct., R. 365.

18 . See, e.g., Los Angeles Super. Ct. Rules 15.41-15.46 (specifying procedures for class action settlement hearings, including notice to the absent class members). Some courts have allowed circumvention of these procedures when the settlement provides the plaintiff class with all benefits sought by the suit, but when the settlement is a genuine compromise notice and a fairness hearing may be necessary.

19 . Reynolds, Emerging Issues in Civil Practice: Confidentiality of Public Assistance Records, Legal Services Section News, Spring 1989, at 4.

class may be difficult to locate and the number of persons who actually recover may be small. Code of Civil Procedure §384 now specifies, however, that prior to judgment in a class action the court shall determine the amount "payable to all class members, if all class members are paid the amount that was actually paid to the class members." Any unclaimed residual shall be paid to the California Legal Corps (Bus. & Prof. Code §6034) or other organization designated by the court.^{20/} The statute does not apply against government entities, but permits courts to impose "any equitable cy pres remedy" that may already exist even against a government defendant. Code Civ. Proc. §384(d).

CONCLUSION

As might be expected by now, there is no one right answer to the dilemma posed at the outset of the Article. Attorneys should recognize their choices, evaluate the goals of the litigation (for example, are retroactive benefits important?), spot the potential problems in the litigation (e.g., standing, mootness, etc.) and choose accordingly.

11/02

20 . Counsel may consider designating the State Bar's Interest on Lawyers Trust Account (IOLTA) program, from which all legal services programs benefit.