

Have you heard of ORS 9.460 and SB 818?

By Calvin O. L. Henry, Ph.D., OABA President

October 3, 2009

Have you heard of ORS 9.460 and SB 818? If not, why?

ORS 9.460 is a state law that describes what an attorney licensed by the State of Oregon shall provide. This state law does not say that an attorney shall provide unbiased and effective representation to all clients. There are many citizens in the State of Oregon who cannot receive unbiased and effective legal representation from some attorneys licensed by the State of Oregon. SB 818 was a bill before the 2009 Oregon Legislative Assembly that would have amended ORS 9.460 to state that an attorney shall **“provide unbiased and effective representation for all clients.”**

There is **no state law** that requires attorneys licensed by the State of Oregon to be accountable to all their clients by providing unbiased and effective representation when the clients retain these attorneys. In the future, there will be many life events in which attorneys licensed by the State of Oregon will be required; Oregon citizens need to know that these attorneys licensed by the State of Oregon can provide unbiased and effective representation and can be held accountable by **state law**. Attorneys who can provide unbiased and effective representation and who are accountable by state law are essential to Oregon society where citizens can defend their citizenship rights. Without attorneys licensed by the State of Oregon who can provide unbiased and effective representation, there is no access to justice.

According to ORS 9.310 and ORS 9.320, only an attorney can represent another person in Oregon courts.

Because of this, the Oregon Assembly for Black Affairs (OABA) believes that an attorney licensed by the State of Oregon has a duty as well as an obligation to not let his or her fears, biases or any other personal consideration prevent him or her from providing unbiased and effective representation for all clients.

SB 818 is a bill that was introduced in the 2009 Oregon Legislative Session. State Senator Vicki Walker (D-Eugene) and State Senator Jackie Winters (R-Salem) introduced SB 818 at the request of the Oregon Assembly for Black Affairs (OABA). This bill exposes the problem of the failure that some Oregon citizens have in receiving unbiased and effective representation from some attorneys licensed by the State of Oregon. OABA recognized that it had brought up a problem (SB 818) before 2009 Oregon Legislative Session that the Oregon State Bar (OSB) did not want to be heard and that OSB would hide its hands while it got its members, who are legislators, to do the work of stopping SB 818 from being discussed at a legislative hearing. From OABA understanding of the actions of the Oregon State Bar toward SB 818, the Oregon State Bar does not want a state law to hold attorneys licensed by the State of Oregon accountable for providing unbiased and effective representation for all clients. Also it appears that providing unbiased and effective representation for all clients, by state law, is a standard to which the Oregon State Bar does not want attorneys to be held.

SB 818 would have amended ORS 9.460 to read “An attorney shall **‘provide unbiased and effective representation for all clients’.**” Also SB 818 would have provided for **“all active members of the Oregon State Bar to “receive cultural competency training designed to educate members on providing unbiased and effective representation for all clients.””**

Perhaps, you did not hear about SB 818 during the 2009 Oregon Legislative Session because the Senate Judiciary Committee Chairperson refused to hold a hearing on the bill. Also you did not hear about it because Oregon electronic and print news media did not cover the importance of this bill to **ALL Oregon citizens in the future** as they seek to use and protect their civil rights. From OABA discussions with some of the newspapers’ editors, there were indications that they saw SB 818 as something that Black Oregonians wanted and that it was not needed. Also there was one newspaper editor who was not willing to cover the bill because of the position of the Oregon State Bar.

Since its establishment in 1977, OABA has received many complaints from many Blacks in Oregon. Among such complaints, it has been revealed to OABA that these Black individuals have had extreme difficulties in finding attorneys licensed by the State of Oregon who would take their cases. When these individuals were able to obtain an attorney, the attorney did not pursue the case with vigor nor provide the

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effective legal representation that leads to good results. OABA concluded that because many Black Oregonians have experienced tremendous difficulty in securing effective legal representation, many Blacks in Oregon feel they must bear with, even tolerate, crimes or discrimination against them rather than be further victimized, even humiliated, by not being able to get effective legal representation. Yes, some Black Oregonians are scared to talk about this, and they will deny it when they are asked about it, and they get silent by saying that is just the way it is.

The Oregon Assembly for Black Affairs (OABA) is aware that other people of color as well as some White Oregonians have experienced biased and ineffective legal representation from some attorneys licensed by the State of Oregon. When the Oregon Attorney General went to the King City Community Center to talk with some senior citizen about his proposal on civil rights before the 2009 Oregon Legislature, Oregon Attorney General was told by some of the seniors that they had not been receiving effective legal representation for the attorney licensed by the State of Oregon whom they had retained.

In the “Report of the Oregon Supreme Court Task Force on Racial/Ethnic Issues in the Judicial System” dated May 1994, one of the conclusions that was made is the following:

“All nonminorities involved in the justice system—judges, court staff, lawyers, law school professors and law students—need ongoing, cross-cultural training. Nonminorities have contributed to most of the problems facing minorities today. Nonminorities must recognize that problems exist; nonminorities must address them with resolve and sensitivity.”

The purpose of SB 818 was to correct the difficulties that Black Oregonians as well as other Oregonians have had in obtaining effective legal representation in Oregon, regardless of their ability to pay or their status in society.

The sponsors of SB 818 in the 2009 Oregon Legislative Session were: Senator Jackie Winters (R-Salem), Senator Vickie Walker (D-Eugene); Senator BATES, Senator Brian Boquist (R-Dallas), Senator Peter Courtney (D-Salem), Senator Jackie Dingfelder (D-Portland), Senator Ted Ferrioli (R-John Day), Senator Mark Hass (D-Beaverton/Aloha/SW Portland), Senator Jeff Kruse (R-Roseburg), Senator Laurie Monnes Anderson (D-Gresham), Senator Rod Monroe (D-Portland), Senator Bill Morrisette (D-Springfield), Senator Frank Morse (R-Albany), Senator Diane Rosenbaum (D-Portland), Senator Chris Telfer (R-Bend), Senator Joanne Verger (D-Coos Bay), Representative Jules BAILEY (D-Portland), Representative Michael DEMBROW (D-Portland), Representative Sal Esquivel (R-Medford), Representative Sara Gelser (D-Corvallis), Representative Paul Holvey (D-Eugene), Representative Dave Hunt (D-Clackamas County), Representative Tina Kotek (D-Portland), Representative Ron Maurer (R-Grant Pass), Representative Chuck Riley (D-Hillsboro), Representative Mike Schaufler (D-Happy Valley/SE Portland), Representative Chip Shields (D-Portland), Representative Kim Thatcher (R-Salem), and, Representative Jim Weidner (R-McMinnville).

If you examine the sponsors of SB 818, you will see that there were sixteen (16) of the 30 state senators who were sponsors and co-sponsors of SB 818. And there were thirteen (13) state representatives who were co-sponsors of SB 818. The co-sponsors included Oregon Senate President Peter Courtney (D-Salem) and Oregon House of Representatives Speaker Dave Hunt (D-Clackamas County).

SB 818 was introduced in the Oregon Senate and it was assigned to the Senate Judiciary Committee. State Senator Floyd Prozanski (D-Eugene) was chair of the Oregon Senate Judiciary Committee during the 2009 Oregon Legislative Regular Session, and he is a member of the Oregon State Bar. Senator Prozanski told the OABA President that he had made an individual decision not to hear SB 818, and he essentially argued the positions of the Oregon State Bar as the bases of his decision. This certainly raises the question: “when does an elected official use the elected official position to deny a hearing on a problem in the profession in which he or she is trained and a member?” It is OABA’s position that the Oregon Legislative Assembly should not allow the Oregon State Bar to dictate to it what bills of Oregon citizens that the Oregon Legislative Assembly should hear whether or not the bill may point out problems with attorneys licensed

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by the State of Oregon in providing unbiased and effective legal representation for all clients. By his individual decision, Senator Prozanski denied the majority (sixteen (16) of the 30 state senators) of the Oregon Senate from hearing what citizens had to say about this problem that SB 818 was introduced to address.

After Senator Prozanski refused to call a hearing on SB 818, OABA requested Oregon Senate President Peter Courtney to take action to move SB 818 through the Senate, but he did not take the actions requested. Instead, his office expressed that Senator Courtney wanted hearings to be held on the bill after the regular session.

Senator Walker resigned her senate seat to take a position on the Oregon Parole Board, and Senator Winters stated that she will work for a hearing on SB 818 during the interim period of the Oregon Legislature.

Because of actions of legislators and the silence of the news media on this important piece of legislation, there needs to be greater sunshine on the actions of legislators who would use their public positions to protect the positions of Oregon State Bar rather than take the corrective action needed to address this problem facing citizens of Oregon and on the failure of some attorneys licensed by the State of Oregon to provide unbiased and effective representation to all clients.

The Oregon Assembly for Black Affairs (OABA) notified Oregon Governor Ted Kulongoski, Oregon Secretary of State Kate Brown, Oregon State Treasurer Ben Westlund, Oregon Attorney General John Kroger, Oregon BOLI Commissioner Brad Avakian, Oregon Superintendent of Public Instruction Susan Castillo, Oregon Supreme Court Chief Justice Paul J. De Muniz, and Oregon Court of Appeals Chief Judge David V. Brewer concerning SB 818 and requested their support of the bill. Only one of these statewide officeholders responded to the request.

Also, since some people might believe that OABA was presenting such a bill to benefit Black Oregonians only, the question is: "As citizens of Oregon, do you believe that ALL members of Oregon Society (including Black Oregonians) should receive unbiased and effective legal representation from attorneys licensed by the State of Oregon, regardless of their status in Oregon society or their ability to pay, when these attorneys licensed by the State of Oregon are retained by these Oregonians to handle their legal issues?" If you do, will you help?

If an Oregon citizen does not know his or her rights, she or he does not have any rights. Attorneys licensed by the State of Oregon are the best source to help Oregon citizens to understand and to protect their rights.

OREGON ASSEMBLY FOR BLACK AFFAIRS - An Organization For CHANGE And Building A Better Oregon for the Black Community. What Benefits Black Oregonians Benefits ALL Oregonians. --- OABA, P. O. BOX 12485, SALEM, OREGON 97309
