



The State Bar of California

A.5. January Action Summary
04-16-20 Meeting
Open Session

Committee on Professional Responsibility and Conduct
Friday, February 28, 2020
10:00 am – 4:30 pm

State Bar Office – San Francisco
180 Howard Street, 4th Floor
San Francisco, CA 94105

Members Present: Mr. Bacon, Ms. Banola, Ms. Basner, Prof. Bundy (by telephone), Mr. Carr, Mr. Fields, Ms. Inlender, Mr. Koss, Mr. Krueger (by telephone), Ms. Lee, and Ms. Roche.

Not Present: Mr. Bacon and Mr. Whitney.

Others Present: Ms. Lee, Mr. Tuft (State Bar staff), Jane Flannigan, Bridget Gramme, Brian Shearer, and Sejal Singh.

The order of business is approximate and subject to change.

To Join by Conference Call
Toll-Free Dial-In Number: 1-855-520-7605
Conference Code: 800-238-4427#

Additional Locations
32351 Coast Highway, Laguna Beach, California 92651-6703

ACTION SUMMARY

A. Remarks From the Chair

1. Roll Call
2. Public Comment
The Chair called for public comment. Bridget Gramme (Center for Public Interest Law), Brian Shearer (Justice Catalyst Law), and Sejal Singh (Pipeline Parity Project) gave public comment.
3. Announcements
4. Staff Report
Mr. Tuft reported that: (1) 16-0002 is circulating for public comment with a deadline of March 30th; (2) the public comment period for 17-0001 ended on February 24th; (3) rule amendments in response to AB1987 were approved by the Board on January 24th and are being prepared to be sent to the Supreme Court; (4) Board approved 13-0003 and is published as CAL 2020-201; (5) ATILS had their last meeting on February 24 and voted out 7 recommendations that will go to the Board for consideration on March 12th in San Francisco; (6) deadline to apply for COPRAC is March 13, 2020; and

(7) the Ethics Symposium will be held on April 17 in San Francisco and Mr. Zitrin will receive the 2019 Harry B. Sondheim Award.

5. Approval of Open Session Action Summary from the January 17, 2019 Meeting
The Action Summary was approved (10-0-0).

B. Discussion of Draft Opinions Previously Circulated for Public Comment

1. 14-0002 [re Alternative Litigation Funding]
Mr. Fields presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion.
2. 17-0001 [re Advising a Cannabis Business]
Prof. Bundy gave an oral report on the public comments received and presented a revised opinion. Following discussion by the Committee, the Committee voted to the approve the opinion for publication. (10-0-0)

C. Discussion and Possible Approval for Public Comment of Draft Opinions Not Yet Released for Public Comment

1. 13-0002 [re Attorney with a Vulnerable Client]
Prof. Bundy presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion
2. 14-0001 [re Colleague Impairment]
This item was not discussed.
3. 17-0003 [re Duty of Confidentiality to Prospective Client]
This item was not discussed.
4. 19-0003 [re Improper Contract Provisions]
Mr. Carr presented a revised issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion.
5. 19-0004 [re Client File Release and Retention Duties]
Ms. Lee presented a revised issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare an opinion outline in accordance with the Committee's discussion.
6. 20-0001 [re Lawyer as Expert Witness]
Mr. Bundy presented an issues memo and gave an oral report. Following discussion, the drafting team was asked to prepare an issues outline. Mr. Koss is the lead drafter, Ms. Banola is added to drafting team. Prof. Bundy is the advisor. Mr. Carr is also on the drafting team.

7. 20-0002 [re Succession Planning]
Ms. Roche presented an issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion. Mr. Fields and Ms. Lee joined the drafting team.

D. Discussion and Possible Approval of Arbitration Advisories Not Yet Release for Public Comment

1. 2019-0XA [re Arbitration Advisory on Awards of Interest by Arbitrator]
Mr. Krueger presented a revised advisory and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised advisory in accordance with the Committee's discussion
2. 2019-0XB [re Arbitration Advisory on Costs]
This item was not discussed.

E. Oral Report on Opinions Currently Circulating for Public Comment

1. 16-0002 [re Data Breaches]
This item was not discussed.

F. Special Projects

1. 2020 Annual Statewide Ethics Symposium Planning
This item was covered in the Staff Report.
2. Outreach Working Group Report
This item was not discussed.
3. ATILS Working Group Report
This item was covered in the Staff Report.

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The notice and agenda is available at: <http://board.calbar.ca.gov/Committees.aspx>.