



# THE STATE BAR OF CALIFORNIA

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

OFFICE OF PROFESSIONAL COMPETENCE

PLANNING, AND DEVELOPMENT

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## MEMORANDUM

**DATE:** February 15, 2013

**TO:** Members of the Board's Regulation, Admissions & Discipline Oversight Committee

**FROM:** Randall Difuntorum, Director, Professional Competence Programs

**SUBJECT:** RAD Meeting on March 6, 2013 – Status of the Professional Competence Unit

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This memorandum provides a 2012 year-end report on the activities of the Professional Competence Unit.<sup>1</sup> In addition to this memorandum, provided are the following: (Att. 1) Ethics Hotline Activity Statistics, (Att. 2) Ethics Hotline Satisfaction Survey Excerpts; (Att. 3) Ethics Hotline Issues – Percentage of Calls by Month; (Att. 4) Educational Program Evaluation Summaries; and (Enc. 5) Professional Competence Budget Summary – Authorized vs. Actuals. Board members with questions may contact Randall Difuntorum at (415) 538-2161 or Lauren McCurdy at (415) 538-2107.

### 1. ETHICS HOTLINE

In 2012, 14,535 member inquiries were received with a completion rate of 88%. This completion rate includes distribution of 307 copies of published ethics opinions and other written materials requested by inquirers and 5,873 referrals to information posted at the Bar's website. (Due to the availability of State Bar Formal Opinions at the Ethics Information area of the website, there is a decreasing need for distribution of this information by mail.) In addition, the staff made 2,212 courtesy follow-up calls to members who placed a call to the Hotline, received a call back from Hotline staff but were not available at that time to take the call from the Hotline staff person. These members received instructions on how to call-in and receive priority handling when they choose to return the Hotline's call at their convenience. However, when no return call is received, the Hotline initiates a courtesy follow-up call. (See Attachment 1: Ethics Hotline Activity Statistics.)

Five Ethics Hotline paralegals handled the majority of calls received. In 2012: (1) the monthly average number of total calls handled by one paralegal was 376; (2) the monthly average number of completed calls by one paralegal was 222; and (3) the monthly average number of left messages by one paralegal was 154. In 2012, 49 voluntary satisfaction surveys were received from members after using the Ethics Hotline service. Each survey asks for a rating on several specified categories of service, including: satisfaction with the system for handling the calls; helpfulness of receptionist; helpfulness of paralegal; usefulness of materials sent; whether the inquirer would recommend the Hotline to others; and whether they received the assistance they needed. Nearly all of the surveys received gave the Hotline top marks in most survey categories (Copies of 2012 surveys are available upon request). Of these 49 surveys, 13 were received from October through December and were not included in the last status report. Comments from members were provided on twelve of these surveys, commending the staff for being thorough,

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<sup>1</sup> There are 13.5 authorized positions in the Professional Competence Unit and one of the positions, a paralegal position, currently is vacant. This vacancy was posted on December 31, 2012. Initial interviews have begun.

knowledgeable, professional and courteous. (See Attachment 2: Ethics Hotline Satisfaction Survey Excerpts.)

The table below presents the top issues presented by the Hotline callers in 2012 as compared to 2011 and 2010. The top issues raised in 2012 were: communications (17%); fees and costs (16%); and attorney advertising and solicitation (14%). Demographic data collected voluntarily from callers indicates that 53% of the Ethics Hotline users were first time callers and 47% were callers who had previously used the service. (See Attachment 3: Ethics Hotline Issues – Percentage of Calls by Month for a detailed presentation of the percentage of primary issues by month for 2012.)

<b><i>Ethics Hotline: Primary Issues</i></b>	<b>2012</b>	<b>2011</b>	<b>2010</b>
<i>Communications with Clients, Adverse Party and Others</i>	17%	11%	11%
<i>Fees and Costs for Legal Services</i>	16%	18%	17%
<i>Attorney Advertising and Solicitation</i>	14%	10%	11%
<i>Conflicts of Interest</i>	12%	13%	11%
<i>Client Confidential Information</i>	11%	8%	8%
<i>Misconduct/Moral Turpitude/Trial Conduct</i>	9%	10%	9%
<i>Unauthorized Practice of Law</i>	5%	6%	6%

## **2. COPRAC**

COPRAC's 2012 accomplishments report is provided as a separate agenda item on the Board Committee's March 6, 2013 agenda (RAD Open Session Agenda Item V.D.).

Since the last Professional Competence status report submitted for the Board Committee's November 14, 2013 meeting, COPRAC met on December 7, 2012 in Los Angeles, and February 1, 2013 in San Francisco.

### **A. Published Opinions**

The following two opinions were completed and published at the Bar's website:

Formal Opinion No. 2012-185 (formerly 09-0001A):

**ISSUE:** In settling a dispute with a former client, may an attorney seek: (1) the former client's written representation that no State Bar complaint has been filed; (2) the former client's representation that he or she has no present intention to file a State Bar complaint; (3) the former client's written contractual agreement not to file a State Bar complaint against the attorney based on matters relating to or arising out of the representation; or (4) the former client's oral agreement not to file a State Bar complaint against the attorney based on matters relating to or arising out of the representation?

**DIGEST:** Business and Professions Code section 6090.5 prohibits an attorney from seeking a client's written or oral agreement not to file a State Bar complaint against that attorney. "Seeking" an agreement includes any attorney communication to a client proposing or suggesting a prohibited agreement. "Seeking" also may encompass factual recitations in the settlement agreement that the client has not filed a State Bar complaint, or concerning the client's future intentions regarding filing a State Bar complaint. Section 6090.5 might prohibit these types of recitations because they could produce

an impermissible chilling effect on the client's future filing of a State Bar complaint. If a lawyer seeks an oral or written agreement to not file a State Bar complaint, withdrawal of that request does not cure the ethical violation.

Formal Opinion No. 2012-186 (formerly 10-0001):

**ISSUE:** Under what circumstances would an attorney's postings on social media websites be subject to professional responsibility rules and standards governing attorney advertising?

**DIGEST:** Material posted by an attorney on a social media website will be subject to professional responsibility rules and standards governing attorney advertising if that material constitutes a "communication" within the meaning of rule 1-400 (Advertising and Solicitation) of the Rules of Professional Conduct of the State Bar of California; or (2) "advertising by electronic media" within the meaning of Article 9.5 (Legal Advertising) of the State Bar Act. The restrictions imposed by the professional responsibility rules and standards governing attorney advertising are not relaxed merely because such compliance might be more difficult or awkward in a social media setting.

**B. Meetings**

At the December 7th meeting, COPRAC considered the public comment received on Formal Opinion Interim No. 11-0001 (Third Party Payors) and 11-0002 (Deceitful Conduct). COPRAC also continued pre-public comment work on the following draft opinions: 11-0004 (ESI and Discovery Requests); 12-0001 (Disclosure of Confidences at Motions for Withdrawal); 12-0002 (Shifting Conflicts); 12-0003 (Attorney Ratings Descriptions); 12-0004 (In Rem Proceedings); 12-0005 (Law Firm Privilege); 12-0006 (Attorney Blogging) and 12-0007 (Puffing in Negotiations). The Committee discussed the status of plans for the 2013 Annual Statewide Ethics Symposium scheduled to be held at the UCLA School of Law on April 20, 2013. Finally, the Committee began planning for the COPRAC panels to be presented at the 2013 Annual Meeting.

Post-public comment consideration of the following opinion occurred at the Committee's December 7, 2012 meeting, and the Committee revised the opinion in accordance with the Committee's discussion following consideration of public comments and approved the opinion as revised for submission to the Board Committee on Regulation, Admissions and Discipline (RAD). The draft opinion was circulated to RAD for a 30-day approval period with a deadline of March 1, 2013.

Formal Opinion Interim No. 11-0001:

**ISSUE:** Who is entitled to the refund of remaining advanced fees at the end of a case where fees were paid by a non-client?

**DIGEST:** Where a third-party pays the attorney's fees for a client and there are funds remaining after the representation is concluded, the attorney must return the balance to the payor, rather than to the client, unless the agreements with the client and the payor specify otherwise.

The following opinion was tentatively approved by COPRAC for an additional 60-day public comment circulation at its December 7, 2012 meeting, with a public comment deadline of March 11, 2013. Post-public comment consideration of the opinion will occur at the Committee's April 19, 2013 meeting.

Formal Opinion Interim No. 11-0002:

**ISSUE:** Has an attorney engaged in deceitful conduct by not alerting opposing counsel of: (A) an apparent material error made by opposing counsel in contract language; or (B) a material change made by the attorney in contract language?

**DIGEST:** Where an attorney has engaged in no conduct or activity that induced an apparent material error by opposing counsel, the attorney has no obligation to alert the opposing counsel of the apparent error. However, where the attorney has made a material change in contract language in such a manner that his conduct constitutes deceit, active concealment or fraud, the failure of the attorney to alert opposing counsel of the change would be a violation of his ethical obligations.

At the February 1, 2013 meeting, COPRAC considered the public comment received on Formal Opinion Interim No. 06-0004 (Confidential Information and Unsolicited E-mail Correspondence). COPRAC also continued pre-public comment work on the following draft opinions: 11-0004 (ESI and Discovery Requests); 12-0001 (Disclosure of Confidences at Motions for Withdrawal); 12-0002 (Advanced Waiver), the prior title of this opinion was "Shifting Conflicts;" 12-0003 (Attorney Ratings Descriptions); 12-0004 (In Rem Proceedings); 12-0005 (Law Firm Privilege); 12-0006 (Attorney Blogging) and 12-0007 (Puffing in Negotiations). The Committee discussed the status of plans for the 2013 Annual Statewide Ethics Symposium scheduled to be held at the UCLA School of Law on April 20, 2013. The Committee continued discussion regarding the COPRAC panels to be presented at the 2013 Annual Meeting. The Committee discussed the progress of the self-study articles they are drafting each month for the Cal Bar eJournal.

Committee leadership selected an Appointment Nominations Subcommittee to evaluate applicants for the 2013-2014 committee-year, conduct interviews and make appointment recommendations to the full committee. The Appointment Nominations Subcommittee will be meeting by conference call to rank and select applicants for interview sometime in May.

COPRAC's next meeting is scheduled for March 1, 2013 and will be held in San Francisco. At this meeting, COPRAC will consider the public comment received on Formal Opinion Interim No. 11-0003 (Dissolving Firm and Moving to New Firm), and continue post-public comment consideration of 06-0004 (Confidential Information and Unsolicited E-Mail Correspondence). COPRAC will continue pre-public comment work on the following opinions: 11-0004 (ESI and Discovery Requests); 12-0001 (Disclosure of Confidences at Motions for Withdrawal); 12-0002 (Advanced Waivers); 12-0003 (Attorney Ratings Descriptions); 12-0004 (In Rem Proceedings); 12-0005 (Law Firm Privilege); 12-0006 (Attorney Blogging) and 12-0007 (Puffing in Negotiations). The committee will also continue work on plans for the 2013 Annual Statewide Ethics Symposium scheduled to be held at the UCLA School of Law on April 20, 2013, and for the COPRAC CLE panels to be offered at the 2013 Annual Meeting.

### **3. PROPOSED NEW AND AMENDED RULES OF PROFESSIONAL CONDUCT**

On October 22, 2012, the State Bar submitted to the Supreme Court for approval proposed rule 1.1 (re competence) and proposed rule 1.8.10 (re sexual relations with clients), as adopted by the Board. This submission included a transmittal memorandum providing an overview of the State Bar's rule revision project. Proposed Rules of Professional Conduct do not become binding unless and until they are approved by the Supreme Court. This submission is a part of the State Bar's work with Supreme Court staff to facilitate the most effective way for the Supreme Court and its staff to penetrate the large amount of data presented by the State Bar's comprehensive proposed new and amended rules.

#### **4. HARRY B. SONDHEIM CALIFORNIA PROFESSIONAL RESPONSIBILITY AWARD**

The Harry B. Sondheim California Professional Responsibility Award was created by the Board in 2010 to recognize a California lawyer for outstanding long-term contribution to the advancement of attorney professional responsibility standards in California. It is issued every three years. The nomination period for the 2013 recipient ended on August 31, 2012. Submissions were reviewed by a selection committee and following consideration of the selection committee's recommendation, at their November 15-16 meetings, the Nominations and Appointments Committee (NAC) and the Board, approved Paul W. Vapnek as the 2013 recipient of the award. The award will be conferred to Mr. Vapnek by the State Bar President at the 2013 Annual Statewide Ethics Symposium scheduled for Saturday, April 20<sup>th</sup> at UCLA, and Mr. Vapnek will also deliver the keynote address for the Symposium following receipt of the award.

#### **5. IMPLEMENTATION OF SENATE BILL NO. 1186**

Senate Bill No. 1186, authored by Senate President Pro Tem Darrell Steinberg (D-Sacramento) and Senator Bob Dutton (R-Rancho Cucamonga), made significant changes to the law. The bill contained an urgency clause, and was therefore effective immediately upon enactment on September 19, 2012, but some of the bill's provisions state a specific operative date of January 1, 2013.

The bill includes the following provisions, all of which govern construction-related disability access claims: (1) a general prohibition against sending a demand letter that includes a request or demand for money or an offer or agreement to accept money, effective immediately; (2) a revision to the existing mandatory written advisory that must be provided with a demand letter or complaint, effective immediately; (3) a requirement that a lawyer send a copy of a demand letter to the State Bar and the California Commission on Disability Access, effective January 1, 2013; (4) a requirement that a demand letter sent by a lawyer include the lawyer's State Bar license number, effective January 1, 2013; (5) a requirement that a lawyer send a copy of a complaint to the California Commission on Disability Access, effective January 1, 2013; (6) a requirement that demand letters and complaints contain plain language sufficient for a recipient business or property owner to determine the basis of alleged violations, including: specific identification of each access barrier encountered; the date of the incident; and a description of how each barrier interfered with full and equal access, effective January 1, 2013; (7) a requirement that a complaint be verified by the plaintiff, effective January 1, 2013. A complaint filed without verification is subject to a motion to strike; (8) a reduction of statutory damages if specified conditions apply, effective immediately; and (9) the establishment of procedures for a mandatory evaluation conference, effective as to claims filed on or after January 1, 2013.

Professional Competence staff is assigned to receive and review copies of demand letters as provided for in SB 1186 and steps have been taken to implement the new regulatory responsibilities. Demand letters are being screened by Professional Competence and matters that may give rise to a disciplinary investigation are being forwarded to the Office of Enforcement.

The table below reflects the number of demand letters received and reviewed by the Office of Professional Competence, as well as the number of matters referred to Enforcement for possible violations of the statute, by month. Collection of data began in January of 2013.

**ADA Letters Received-Referred to Enforcement**

Month	Letters Received	Letters Referred To Enforcement
Jan.	27	14
Feb. (thru 2/12/13)	4	0
TOTAL	31	14

The table below reflects the possible compliance issues and numbers of matters referred to Enforcement ordered by issue during the first month of the statutory requirement. In some cases, ADA demand letters were found to have multiple compliance issues and are reflected in multiple compliance issues.

**Compliance Issues Referred to Enforcement\***  
(1/1/13 through 2/12/13)

Compliance Issue	No. of Issues
Failure to Copy the State Bar within 5 Business Days	5
Failure to Include Mandatory Advisory	12
Failure to Copy the CCDA within 5 Business Days	3
Possible Prohibited Request/Demand for Money or Offer/Agreement to Accept Money	0
Possible Prohibited Statement of Recipient's Specific Monetary Liability	0

(\*Note: A single letter may have more than one compliance issue.)

## 6. COMPETENCE PUBLICATIONS

Handbook on Client Trust Accounting for CA Attorneys: A revised 2013 online version of the handbook is now available at the Bar's website. The revised book provides updated information concerning FDIC coverage for IOLTA accounts that results from the expiration (on December 31, 2012) of the temporary full insurance coverage provisions in the Dodd-Frank Act. The online Trust Accounting Handbook html webpage was visited 6,848 times in 2012.

California Compendium on Professional Responsibility: Sales of the 2012 Compendium update began in November and 293 orders for the 2012 update and past updates were received and processed through December 31, 2012. Production of the 2013 Compendium update is progressing, with an anticipated release date in the second quarter of the year.

CA Rules of Professional Conduct & State Bar (a.k.a Publication No. 250): Sales of the 2012 Publication 250 began in late July, and 1,500 orders have been received and processed through December 31, 2012. In 2012, 61 copies of the e-Reader version of the Bar's rule book<sup>2</sup> have been purchased. The 2013 e-Reader version of Pub. 250 is in the works and anticipated to be available in the second quarter of the year, at which time publication notices will be circulated and other outreach will be conducted.

## 7. PROFESSIONAL COMPETENCE EDUCATIONAL PROGRAMS

At the Annual Meeting, in addition to the COPRAC programs, the Office of Professional Competence also sponsored two additional programs. One program was entitled "Ethics Issues Arising From the Use of Technology and the Web," and the other program was entitled

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<sup>2</sup> The e-Reader version of the rule book is compatible with the Kindle Reader App which is a free e-Reader application available for iPads, iPhones, Blackberry Phones, Android Phones, Macbooks, and PC laptops. The book also works on all versions of Amazon.com's own Kindle Reader device, including the new Kindle Fire. The e-Reader version of the book can be purchased at Amazon.com and has several useful features including: a search function; bookmarking; highlighting and annotating. In addition, once downloaded to a tablet, smartphone or other compatible device, the book can be accessed at any time, even if there is no Internet or cellular data signal.

“Lawyering on the Outside: Electronic Communications & Social Networking vs. Ethics & Professional Responsibility.” Collectively, 242 members attended these two programs.

Professional Competence staff also conducted an outreach program to the Lake County Bar Association on August 16, 2012. The program provided 1.5 hours of CLE ethics credit. In an email received from the President of the Lake County Bar Association, appreciation for the presentation was expressed with a special note that a significant portion of the attorneys in Lake County attended the presentation.

(See Attachment 4: Educational Program Evaluation Summaries for a summary of the evaluation results received from the attendees of these three programs.)

## **8. COMPETENCE RESOURCES AT CALBAR.CA.GOV**

Year-end Web Activity: The State Bar tracks the web activity for all html website pages accessed.<sup>3</sup> The chart below lists selected web pages administered by Professional Competence and the 2012 activity in terms of visits.

<b>Professional Competence Web Resources – Activity Detail*</b> <b>January – December, 2012</b>	
<b>Webpage</b>	<b>Approx. Number of Visits</b>
Rules of Professional Conduct html web pages	536,600
The State Bar Act html web pages	36,300
Ethics Opinions html web pages	41,100
Ethics Information html web pages	239,580
Ethics & Technology html web pages	19,005

Year-end Professional Competence Free MCLE Information: Two free online MCLE self-study articles produced by the Office of Professional Competence were available in 2012. An article entitled “A ‘Charging Lien’ as an Adverse Interest Under Rule 3-300 of the Rules of Professional Conduct” was used by 2,535 members and another article addressing the Proposed New and Amended Rules of Professional Conduct was used by 3,166 members.

One of the panels from the Annual Statewide Ethics Symposium held in 2012 at UC Hastings was posted at the Bar’s MCLE website and offered 1.5 hours of free online participatory credit in ethics. This panel entitled “The No Contact Rule: Up Close and Personal” was viewed by 499 members. In addition, the 2011 Symposium panel entitled “Ethics in Limbo: Practical Issues for Lawyers as Changes in the Law Regulating Lawyers Continue” was viewed by 1,388 members in 2012.

Following the November 2012 Board meeting, the Professional Competence free MCLE content, including self-study and participatory credit offerings, were no longer offered for free. The self-study offerings were priced at \$15. The participatory credit offerings were priced at \$52.50. It is anticipated that this pricing will continue and that Professional Competence MCLE content will no longer be offered for free at the Section MCLE store.

Since the last Professional Competence status report submitted for the Board Committee’s November 15, 2012 meeting, the following website updates have been made:

1. Updated PDFs for the California Rules of Professional Conduct, The State Bar Act, and Selected Statutes Regarding Discipline of Attorneys and Duties of Members of the State Bar reflecting the change from Board of Governors to Board of Trustees,

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<sup>3</sup> Web download statistics are not available for web content posted as Adobe PDF documents.

and other legislative revisions, were posted at the Bar's Rules and Selected Legal Authority pages of the website.

2. Updated the online Client Trust Accounting Handbook PDF to provide revised information concerning FDIC coverage for IOLTA accounts that results from the expiration (on December 31, 2012) of the temporary full insurance coverage provisions in the Dodd-Frank Act.
3. The following draft opinions were posted at the public comment page of the Bar's website: 06-0004 (Confidential Information and Unsolicited E-Mail Correspondence), 11-0002 (Deceitful Conduct), and 11-0003 (Dissolution of Law Firm).
4. The following opinions were published at the Bar's website: CAL 2012-185 (State Bar Complaint Threats) and CAL 2012-186 (Social Networking).
5. A "Save the Date" letter announcing the April 20, 2013 Ethics Symposium to be held at UCLA School of Law was posted at the COPRAC Education page of the Bar's website.

cc: Robert A. Hawley



## ETHICS HOTLINE ACTIVITY STATISTICS - 2012

Month	Work Days	Incoming Calls	Completed Calls	Left Messages	Percentage of Incoming Calls that are Completed Calls	Percentage of Incoming Calls that are Left Messages	Resources Mailed/ Faxed	Internet Resource Referrals
January	22	1,316	1,113	203	85%	15%	41	519
February	20	1,227	1,053	174	86%	14%	44	557
March	21	1,314	1,166	148	89%	11%	35	542
April	21	1,263	1,121	142	89%	11%	37	533
May	22	1,351	1,198	153	89%	11%	26	547
June	21	1,272	1,046	226	82%	18%	23	457
July	21	1,222	1,044	178	85%	15%	6	435
August	23	1,362	1,204	158	88%	12%	11	534
September	19	1,117	1,026	91	92%	8%	17	482
October	22	1,211	1,103	108	91%	9%	26	469
November	19	972	890	82	92%	8%	24	400
December	18	908	771	137	85%	15%	17	388
<b>Cumulative Totals</b>	<b>249</b>	<b>14,535</b>	<b>12,735</b>	<b>1,800</b>	<b>88%</b>	<b>12%</b>	<b>307</b>	<b>5,873</b>

**EXPLANATIONS**

**Incoming Calls:** Total member inquiries to the Hotline received during that month.

**Completed Calls:** Member inquiries received in that month that were handled and resolved by staff during that month.

**Left Messages:** Member inquiries received in that month where staff left an initial message or courtesy follow-up message, but did not reach the member to resolve the inquiry.

**Percentage of Incoming Calls that are Completed Calls:** Proportion of Incoming Calls that were Completed Calls handled and resolved by the staff.

**Percentage of Incoming Calls that are Left Messages:** Proportion of Incoming Calls where staff left a message but the member did not return the call.

**Key Hotline Activity Averaged by Day and Month**

<b>Daily:</b>	Incoming Calls:	58
	Completed Calls:	51
<b>Monthly:</b>	Incoming Calls:	1,211
	Completed Calls:	1,061

**Aggregate Outgoing Calls**

<b>Current Month:</b>	1,364*
<b>Cumulative to Date:</b>	22,656*

\*These figures account for all calls placed by staff, including: Completed Calls; Left Messages; and, courtesy follow-up calls. Due to "telephone tag" with members, staff may place multiple calls and leave multiple messages prior to completing a call.

## Attachment 2: Ethics Hotline Satisfaction Survey Excerpts

### Excerpt from Ethics Hotline Customer Satisfaction Surveys Additional Comments (Surveys Received for October, 2012 - December, 2012)

1. Received October 3, 2012

#### COMMENTS / SUGGESTIONS:

The receptionist, David, was very helpful! I have been calling the hotline for the last 7 years, and I have only spoken with David, so it is always nice to hear a friendly and familiar voice when I call.

2. Received October 16, 2012

#### COMMENTS/SUGGESTIONS:

The receptionist David was very kind and receptive to my concerns that the matter was urgent. The ethics research paralegal was very knowledgeable and directed me to appropriate authorities to help me resolve my issue. I was very satisfied with the attention given to my issue. Thank you.

3. Received October 17, 2012

#### COMMENTS/SUGGESTIONS:

I appreciate the time and explanation given to me by researcher Lynn Cobb. She was very thorough and knowledgeable. Thank you again!

4. Received October 17, 2012

#### COMMENTS/SUGGESTIONS:

Thank you so much for the info! It was timely & very helpful. Great service, too :)

5. Received October 18, 2012

#### COMMENTS/SUGGESTIONS:

The receptionist, David, was very helpful and courteous. The research paralegal, Ricardo, was very informative and helpful. It was a positive experience and a wonderful benefit for the members. Thank you!

6. Received October 23, 2012

#### COMMENTS/SUGGESTIONS:

David, the receptionist, was extremely helpful and friendly in explaining the call-back process and started off my interaction on a positive, informative, and engaging note. He obviously has a lot of knowledge and experience in this forum and his good humor is infectious. The research paralegal, Pamela Hill, who provided assistance was knowledgeable, responsive, and provided useful information. Overall, this experience was an A+ and I will recommend the Ethics Hotline to my colleagues. Keep up the great work and thank you for this valuable service.

## Attachment 2: Ethics Hotline Satisfaction Survey Excerpts

7. Received October 29, 2012

COMMENTS/SUGGESTIONS:

Your department is wonderful! Incredibly helpful and knowledgeable. I am always amazed at the cases, codes, cannons, etc. that roll off the tip of your respective tongues. Best of all, you help me sleep better at night knowing I have done the right thing and I have done the very best I can for my client(s). Thank you immensely for this wonderful (and free!) service. You make a difference and you are worth every penny you receive in funding. Take care – Marvin

8. Received October 31, 2012

COMMENTS/SUGGESTIONS:

I don't know how you can improve your service. It is outstanding. I had the good fortune in law school to be taught the existence of the Ethics Hotline. This service is invaluable to any attorney's practice, based on my experience. I have been a licensed attorney for over 11 years and used the Hotline numerous occasions. I have very strong opinions supporting this service and the vital role it plays in advancing the quality of lawyers' practice. Further, I am certain the service increases the value to clients of any legal representation and nurtures the public's trust and positive impression of legal practice. My genuine opinion is the value of the Ethics Hotline service far exceeds the amount I pay in yearly bar dues. (I hope that is not misunderstood to be an endorsement of increased bar fees. It is not).

A fine example of the wonderful benefit to members who use the Hotline is the experience I had today. I had the privilege of working with Mr. Elbert Lee. I needed information and resources to explore nuanced and complicated ethics issues that recently arose when a client terminated our attorney-client relationship and hired subsequent counsel. Specifically, I need to learn about the details of my obligations to provide the client's file to subsequent counsel insofar as it is not certain whether or not my personal attorney notes a part of the client's file or whether they are my personal property. I had several discrete questions regarding my fact pattern and the issue of what is legally deemed part of the client's file.

9. Received November 5, 2012

COMMENTS/SUGGESTIONS:

I have not yet received the call back, but in the meantime, before I forget, I do wish to commend the receptionist, David, for his professionalism, courtesy and extremely pleasant and good humored manner. It is very refreshing, and I hope that he is recognized appropriately. Overall, this is a wonderful resource. I am glad that the initial contact which callers have is so positive.

10. Received November 29, 2012

COMMENTS/SUGGESTIONS:

I've been practicing 29 years and (happily) do not recall ever needing to call the hotline before. I spoke with Elbert Lee. He was specific and clear and very pleasant. He gave me code sections and case law as well as more general guidance. It was all very helpful. Thank you.

## Attachment 2: Ethics Hotline Satisfaction Survey Excerpts

11. Received December 18, 2012

COMMENTS/SUGGESTIONS:

Thank you for providing guidance to a new solo practitioner.

12. Received December 28, 2012

COMMENTS/SUGGESTIONS:

I called the State Bar ethics hotline today and the person helping me (I have forgotten his name) was extremely knowledgeable and quick. I really appreciated his help. I wish I had remembered his name. Awesome service. Thanks.

### Attachment 3: Ethics Hotline Issues - Percentage of Calls by Month

#### ETHICS HOTLINE ISSUES – PERCENTAGES BY MONTH

(Shading Indicates the Top Issue(s) for Each Month and for the Overall Average to Date)

	Jan	Feb	Mar	Apr	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Avg. % for 2012
<b>Advertising</b>	14%	15%	15%	12%	14%	15%	13%	15%	10%	14%	16%	14%	14%
<b>Communications</b>	16%	18%	16%	15%	14%	17%	17%	16%	19%	18%	19%	17%	17%
<b>Competence</b>	9%	9%	9%	9%	8%	5%	3%	6%	10%	9%	9%	7%	8%
<b>Confidence and Secrets</b>	10%	10%	12%	14%	12%	12%	10%	9%	10%	9%	10%	10%	11%
<b>Conflicts</b>	11%	10%	11%	11%	12%	10%	15%	13%	12%	12%	11%	12%	12%
<b>Fees and Costs</b>	16%	16%	16%	14%	16%	16%	17%	18%	13%	15%	16%	16%	16%
<b>Files</b>	5%	5%	6%	5%	4%	5%	5%	4%	5%	6%	4%	5%	5%
<b>Forms of Practice</b>	1%	1%	1%	1%	1%	1%	1%	1%	1%	1%	0%	1%	1%
<b>Misconduct/ Moral Turpitude</b>	9%	9%	9%	10%	10%	11%	9%	9%	11%	10%	8%	9%	9%
<b>Unauthorized Practice of Law</b>	4%	4%	4%	6%	5%	4%	6%	6%	5%	4%	5%	5%	5%
<b>Withdrawal from Employment/ Termination</b>	3%	3%	3%	4%	4%	4%	4%	3%	4%	4%	3%	3%	3%

In 2012, the category of “Communications” (17%) was the most frequently raised issue category by Hotline callers, closely followed by the categories of “Fees and Costs” (16%) and “Advertising” (14%). The “Communications” category encompasses questions concerning: the duty to keep a client informed of significant developments; prohibited communications with a party represented by counsel; and ex parte communications with judges, judicial officers, jurors, and witnesses. The “Fees and Costs” category encompasses questions concerning: client trust accounts; fee agreements; and advances of costs/expenses to clients; loans to clients; and payment of third party expenses. Historical data indicates that these categories often occupy the top three positions each year.

### **#111 Ethics Issues Arising (138 Attendees)**

**To what extent were your personal objectives satisfied?**

- I will have to learn more about all the social and other sites available before I will be able to really follow all the information you presented. The session certainly made me more aware of potential problems.
- Very good – relevant technology and anecdotes.
- **Average Rating on a Scale of 1-5: 4.4**

**To what extent did the environment contribute to the learning experience?**

- Tables, yeah!
- Very cold.
- **Average Rating on a Scale of 1-5: 4.3**

**To what extent did the materials contribute to the learning experience?**

- Online are unusable in room
- **Average Rating on a Scale of 1-5: 4.2**

**To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied?**

- Never got to IP litigation issues
- **Average Rating on a Scale of 1-5: 4.4**

**To what extent did the program contain significant current intellectual or practical content?**

- Very good survey of online resources.
- Would have benefited from coordination w/similar courses (#50, #41) to address duplications and inconsistencies
- Rather boring.
- **Average Rating on a Scale of 1-5: 4.5**

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**Instructor: Neil Smith**

- Too much introduction, not enough specifics on the topic.
- No involvement
- Incredibly thorough.
- Didn't talk much
- Not loud enough; good credentials; a bit scattered
- If possible, jass it up - This topic is not interesting so requires speakers who can hold interest. Wendy met this well - others, not.
- Too slow/hesitant and too many details
- All were good and knowledgeable
- Well done!
- All 4 very good.
- Wonderful, superb.
- **Average Rating on a Scale of 1-5: 4.2**

## Attachment 4: Educational Program Evaluation Summaries

### **Instructor: John Steele**

- Good at pointing out where the laws are.
- Interesting and very knowledgeable - but I have a hearing handicap and you would sometimes drop your voice or speak very fast, which did not allow me to hear what you were saying.
- Both Wendy and Bill were particularly engaging.
- Best speaker thus far for conference - by far
- Effective speaker, but pretty narrow
- Outstanding, exciting.
- **Average Rating on a Scale of 1-5: 4.6**

### **Instructor: Paul Vapnek**

- As a former adjunct Professor, he still likes to administer his students.
- Didn't talk too much
- Good delivery, I could understand every word.
- Good voice; good delivery; well organized; clear.
- Very narrow and fact unspecific examples
- Very knowledgeable
- **Average Rating on a Scale of 1-5: 4.6**



**#124 Lawyering on the Outside (104 Attendees)**

**To what extent were your personal objectives satisfied?**

- Wanted more info/black letter, not just cites to things I won't have time to read.
- **Average Rating on a Scale of 1-5: 4.5**

**To what extent did the environment contribute to the learning experience?**

- Dim lighting on speakers
- **Average Rating on a Scale of 1-5: 4.3**

**To what extent did the materials contribute to the learning experience?**

- Would have been very helpful to include hypos and other screened materials in online pdf.
- Those on flash drive did not patch PPT?
- Applying rule to fact pattern very helpful.
- **Average Rating on a Scale of 1-5: 4.4**

**To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied?**

- Didn't finish – waiting for cocktail party answer.
- Could have been more relevant to solos.
- **Average Rating on a Scale of 1-5: 4.5**

**To what extent did the program contain significant current intellectual or practical content?**

- Too much time on hypos. Not enough on answers or helpful info. It would be nice to have this to review and act on.
  - **Average Rating on a Scale of 1-5: 4.2**
- 

**Instructor: Judith Gilbert**

- **Average Rating on a Scale of 1-5: 3.9**

**Instructor: Wendy Patrick**

- Knows subject matter.
- Thanks for the great enthusiasm, I almost went to sleep with the other speakers' mumbling and monotones.
- **Average Rating on a Scale of 1-5: 4.8**

**Instructor: Tanya Forsheit**

- Clear, helpful examples.
- **Average Rating on a Scale of 1-5: 4.7**

**Instructor: Browning Marean**

- Nice humor
- **Average Rating on a Scale of 1-5: 4.7**

**LAKE COUNTY BAR ASSOCIATION MCLE PROGRAM EVALUATIONS**

**PROGRAM NAME: STATE BAR OF CALIFORNIA,  
OFFICE OF PROFESSIONAL COMPETENCE PROGRAMS AND RESOURCES**

**To what extent were your personal objectives satisfied?**

- **Average Rating on a Scale of 1-5: 4.7**

**To what extent did the environment contribute to the learning experience?**

- **Average Rating on a Scale of 1-5: 4.3**

**To what extent did the materials contribute to the learning experience?**

- **Average Rating on a Scale of 1-5: 4**

**To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied?**

- **Average Rating on a Scale of 1-5: 4.5**

**To what extent did the program contain significant current intellectual or practical content?**

- **Average Rating on a Scale of 1-5: 4.6**

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**Instructor: Andrew Tuft**

- **Average Rating on a Scale of 1-5: 4.3**

**Instructor: Mimi Lee**

- **Average Rating on a Scale of 1-5: 4.3**

## Professional Competence Budget Summary

### Authorized vs. Actual

Year-to-Date as of December 31, 2012

<b>Budget (Actual)</b>	\$1,505,915
<b>Budget (Authorized)</b>	\$1,722,387
<b>Variance</b>	\$216,472

#### Monthly (January-May)

	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>
<b>Budget (Actual)</b>	\$145,141	\$80,120	\$154,649	\$97,654	\$110,337	\$121,394
<b>Budget (Authorized)</b>	\$131,450	\$135,113	\$189,078	\$135,113	\$135,113	\$135,113
<b>Variance</b>	-\$13,691	\$54,993	\$34,429	\$37,459	\$24,776	\$13,719

#### Monthly (July-December)

	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>
<b>Budget (Actual)</b>	\$146,721	\$164,529	\$120,863	\$126,524	\$113,450	\$124,533
<b>Budget (Authorized)</b>	\$134,581	\$188,280	\$134,581	\$134,581	\$134,581	\$134,803
<b>Variance</b>	-\$12,140	\$23,751	\$13,718	\$8,057	\$21,131	\$10,270