



# 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 24, 2016

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

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

**SUBJECT:** RAD Meeting on March 10, 2016 – Status of the Professional Competence Unit

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This memorandum provides a 2015 year-end report on the activities of the Professional Competence Unit.<sup>1</sup> In addition to this memorandum, provided are the following: (Encl. 1) Ethics Hotline Activity Statistics; (Encl. 2) Ethics Hotline Satisfaction Survey Excerpts; (Encl. 3) COPRAC 2015 Accomplishments Report; and (Encl. 4) 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 2015, 13,494 member inquiries were received with a completion rate of 87%. This completion rate includes distribution of 258 copies of published ethics opinions and other written materials requested by inquirers and 3,535 referrals to information posted at the Bar's website. In addition, the staff made 1,058 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 Enclosure 1: Ethics Hotline Activity Statistics.)

Five Ethics Hotline paralegals handled the majority of calls received. In 2015: (1) the monthly average number of total calls handled by a paralegal was 334; (2) the monthly average number of completed calls by a paralegal was 202; and (3) the monthly average number of left messages by a paralegal was 132. In 2015, 32 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 2015 surveys are available upon request). Of these, 4 surveys were received from October through December that were not included in the last status report. Comments from members were provided on three of these surveys, one survey stated that the caller had utilized the Ethics Hotline for the past 25 years and had "received excellent information with comprehensive backup documentation" and considered their "State Bar dues well spent on the services provided" by the staff person who assisted the caller. One of these four surveys gave the Hotline the lowest marks for overall satisfaction of the information received and helpfulness of ethics research paralegal,

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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.

without providing additional details of their specific concerns in the open comment field.<sup>2</sup> (See Enclosure 2: Ethics Hotline Satisfaction Survey Excerpts.)

The table below presents the top issues posed by the Hotline callers in 2015 as compared to 2014 and 2013. For 2015, the top issue category was “Fees and Costs” which accounted for 19% of the total calls. This category encompasses questions concerning: client trust accounts; fee agreements; and costs (litigation expenses, advances of costs to client, loans to client, payment of third party expenses). Close behind were the categories of “Communications” (17%) and “Conflicts” (15%). Demographic data collected voluntarily from callers indicates that 64% of the Ethics Hotline users were first time callers and 34% were callers who had previously used the service.

<b><i>Ethics Hotline: Primary Issues</i></b>	<b>2015</b>	<b>2014</b>	<b>2013</b>
<i>Fees and Costs for Legal Services</i>	19%	19%	18%
<i>Communications with Clients, Adverse Party and Others</i>	17%	16%	17%
<i>Conflicts of Interest</i>	15%	15%	14%
<i>Client Confidential Information</i>	12%	11%	10%
<i>Attorney Advertising and Solicitation</i>	11%	12%	12%
<i>Misconduct/Moral Turpitude/Trial Conduct</i>	8%	8%	10%

## **2. COPRAC**

Since the last Professional Competence status report submitted for the Board Committee’s November 19, 2015 meeting, COPRAC met on December 4, 2015 in San Francisco, January 15, 2016 in Los Angeles and February 26, 2016 in San Francisco.

### **A. Meetings**

At the December 4, 2015 meeting, COPRAC continued the post-public comment work on Formal Opinion Interim No. 12-0006 (Attorney Blogging) and 13-0005 (Publicly Available Confidential Information). COPRAC also continued pre-public comment work on the following draft opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee continued work on plans for the 2016 Annual Ethics Symposium being held in San Francisco in April. The Committee also discussed the actions taken during Rule Revision Commission’s November 13<sup>th</sup> & 14<sup>th</sup> meeting.

At the January 15, 2016 meeting, COPRAC continued the post-public comment work on Formal Opinion Interim No. 12-0006 (Attorney Blogging) and 13-0005 (Publicly Available Confidential Information). COPRAC also continued pre-public comment work on the following draft opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee continued work on plans for

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<sup>2</sup> When complaints or concerns are raised about the service received on the Ethics Hotline our general practice is to contact the caller and discuss their concerns, discuss the concerns raised with the staff person who handled the call, and, if appropriate, offer the guidance of another staff person concerning their matter. In this case, the survey submitted contained no personal contact information so we were unable to conduct further follow-up.

the 2016 Annual Ethics Symposium being held in San Francisco in April. The Committee also discussed their draft public comment letter on proposed rule of professional conduct 5-110 [3.8].

Post-public comment consideration of proposed Formal Opinion Interim No. 12-0006 occurred at the Committee's January 15, 2016 meeting, and the Committee approved this opinion for an additional 90-day public comment period. The public comment period ends on May 12, 2016 and the Committee will consider the public comments received at its May 20, 2016 meeting. The issue and digest of proposed Formal Opinion Interim No. 12-0006 is set forth below.

Formal Opinion No. 12-0006:

**Issue:** Under what circumstances is “blogging” by an attorney a “communication” subject to the requirements and restrictions of the Rules of Professional Conduct and related provisions of the State Bar Act regulating attorney advertising?

- Digest:**
1. Blogging by an attorney may be a communication subject to the requirements and restrictions of the Rules of Professional Conduct and the State Bar Act relating to lawyer advertising if the blog expresses the attorney's availability for professional employment directly through words of invitation or offer to provide legal services, or implicitly through its description of the type and character of legal services offered by the attorney, detailed descriptions of case results, or both.
  2. A blog that is an integrated part of an attorney's or law firm's professional website will be a communication subject to the rules and statutes regulating attorney advertising to the same extent as the website of which it is a part.
  3. A stand-alone blog by an attorney, even if discussing legal topics within or outside the authoring attorney's area of practice, is not a communication subject to the requirements and restrictions of the Rules of Professional Conduct and the State Bar Act relating to lawyer advertising unless the blog directly or implicitly expresses the attorney's availability for professional employment.
  4. A stand-alone blog by an attorney on a non-legal topic is not a communication subject to the rules and statutes regulating attorney advertising, and will not become subject thereto simply because the blog contains a link to the attorney or law firm's professional website. However, extensive and/or detailed professional identification information announcing the attorney's availability for professional employment will itself be a communication subject to the rules and statutes.

At the February 26, 2015 meeting, COPRAC continued post-public comment work on Formal Opinion Interim No. 13-0005 (Publicly Available Confidential Information). COPRAC also continued pre-public comment work on the following draft opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). In addition, the Committee discussed the actions taken during the Rule Revision Commission's February 19<sup>th</sup> & 20<sup>th</sup> meeting. The Committee continued work on plans for the 2016 Annual Ethics Symposium being held in San Francisco in April. The Committee began planning for four panel presentations for the State Bar Annual Meeting being held in September in San Diego.

COPRAC's next meeting is scheduled for April 8, 2016, and will be held in San Francisco. At this meeting, COPRAC will continue post-public comment consideration of Formal Opinion Interim 13-0005 (Publicly Available Confidential Information). COPRAC will continue pre-public comment work on the following opinions: 12-0002 (Revocation of Waivers); 12-0003 (Attorney Directory and Rating Websites); 12-0005 (Law Firm In-House Counsel); 13-0002 (Attorney with a Vulnerable Client); 13-0003 (Ethical Obligations When Departing Firm); 13-0004 (Collecting Unpaid Fees); 14-0001 (Colleague Impairment); 14-0002 (Alternative Litigation Funding); 14-0003 (Settling Before Withdrawal); and 14-0004 (Witness Perjury). The Committee will also continue planning for the 2016 State Bar Annual Meeting programs.

## **B. Education and Outreach Programs**

COPRAC members presented ethics CLE programs on the following dates: January 26<sup>th</sup> for the USC Gould School of Law Tax Institute in Los Angeles; and January 29<sup>th</sup> for the 2016 Chapman Law Review Symposium at Chapman University in Orange.

As part of this Professional Competence year-end report, COPRAC has submitted its 2015 Annual Accomplishments Report. (See Enclosure 3: COPRAC 2015 Accomplishments Report.)

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

As authorized at the Board's November 2015 meeting (see 122 NOV 2015), proposed amendments to Rule 5-110 and 5-220 have been posted for a 90-day public comment period ending on February 29, 2016. A public hearing to receive oral comment on the proposed rules was held on February 3, 2016, presided over by the Commission Chair, Justice Edmon, and several Commission members. In addition, Board members Jason Lee and Brandon Stallings attended the hearing. Fifteen speakers addressed the panel, including representatives from both defense attorneys and prosecutors. The hearing was held at the State Bar office in Los Angeles, with two speakers addressing the panel via video-conference from the San Francisco office, and three speakers addressing the panel via telephone.

The Commission also met on November 13 & 14, 2015, and January 22 & 23, 2016, at the State Bar office in Los Angeles.

The Commission has tentatively approved the following thirty-four rules as of the Commission's January 22 & 23, 2016 meeting:

- Rule 1-100 (Rules of Professional Conduct, in General)
- Rule 1-100(D) (Disciplinary Authority; Choice of Law)
- Rule 1-110 (Compliance with Conditions of Discipline and Agreements in Lieu of Discipline)
- Rule 1-200 (False Statement Regarding Admission to State Bar)
- Rule 1-300 (Unauthorized Practice of Law)
- Rule 1-311 (Employment of Disbarred, Suspended, Resigned, or Involuntarily Inactive Members)
- Rules 1-320, 1-310 & 1-600 [5.4] (Financial and Similar Arrangements with Nonlawyers)
- Rule 1-500 (Agreements Restricting a Member's Practice)
- Rule 1-650 (Limited Legal Services Programs)
- Rule 1-700 (Judicial Officials)
- Rule 1-710 (Lawyer as Temporary Judge, Referee, or Court-Appointed Arbitrator)
- Rule 2-100 (Communication with a Represented Party)
- Rule 2-200 (Financial Arrangements Among Lawyers)
- Rule 2-300 (Sale of a Law Practice)
- Rule 3-100 (Confidential Information of a Client)
- Rule 3-110 (Failing to Act Competently)

- Rule 3-500 (Communication)
- Rule 3-510 (Communication of Settlement Offer)
- Rule 4-200 (Fees for Legal Services)
- Rule 4-210 (Payment of Personal or Business Expenses Incurred by or for a Client)
- Rule 4-300 (Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review)
- Rule 4-400 (Gifts from Client)
- Rule 5-110 (Performing the Duty of a Member in Government Service)<sup>3</sup>
- *New Rule 1.0.1 (Terminology)*
- *New Rule 1.3 (Diligence)*
- *New Rule 1.8.2 (Use of Current Client's Information) [no CA counterpart]*
- *New Rule 1.14 (Client with Diminished Capacity) [no CA counterpart]*
- *New Rule 2.4 (Lawyer as Third-Party Neutral) [no CA counterpart]*
- *New Rule 4.3 (Communication with Unrepresented Party) [no CA counterpart]*
- *New Rule 5.1 (Responsibilities of Supervisory or Managerial Lawyers) [no California counterpart]*
- *New Rule 5.2 (Responsibilities of Subordinate Lawyers) [no CA counterpart]*
- *New Rule 5.3 (Responsibilities regarding Nonlawyer Assistants) [no CA counterpart]*
- *New Rule 6.3 (Membership in Legal Services Organization)*
- *New Rule 8.4 (Misconduct)*

The Commission's next meetings are scheduled for February 19 & 20, 2016 at the State Bar office in San Francisco and March 31 & April 1, 2016 at the State Bar office in Los Angeles.

At the request of the Commission's Board Liaison, Jason Lee, plans have been made for staff to provide executive summaries for select rules to the Board Committee at its March and May meetings. The executive summaries give Board members an opportunity to become familiar with some of the key substantive and policy issues that have arisen in the Commission's study. (See RAD's March Agenda Item III.B. for the executive summaries prepared by Commission staff.)

#### **Rules Revision Action Timeline**

May 12 & 13, 2016	RAD/BOT: Expedited consideration of Commission's proposed rules concerning special duties of prosecutors (Proposed amended Rules 5-110 and 5-220). Return from 90-day public comment (deadline 2/29/16), request for final adoption, and, if necessary, authorization to re-distribute certain proposed rules for additional public comment
June 24 & 25, 2016 (tentative)	Special BOT meeting to authorize circulation of Commission's tentative final report and request for 90-day public comment authorization
June 27 – Sept. 26, 2016	90-day public comment period
August 12 (tentative)	Commission public hearing to receive public comment on proposed rule amendments
November 17 & 18, 2016	RAD/BOT: return from 90-day public comment, request for final adoption, and, if necessary, authorization to re-distribute certain proposed rules for additional public comment
Nov 21, 2016 – Jan 9, 2016	Additional 45-day public comment period, for some rules, if needed.
March 9 & 10, 2017	RAD/BOT: return from 45-day public comment, adoption of remaining rules for submission to the Supreme Court for approval
March 31, 2017	Deadline to submit entire set of proposed new and amended rules to the Supreme Court for approval

<sup>3</sup> The Commission is recommending that proposed amended Rule 5-110 rule be prioritized and processed separately from, and ahead of, the Commission's anticipated comprehensive report and recommendation.

#### 4. IMPLEMENTATION OF SENATE BILL NO. 1186

Enacted in September 2012, Senate Bill No. 1186 made significant changes to the law governing construction-related disability access claims. In accordance with Senate Bill No. 1186, Professional Competence staff receives and reviews copies of demand letters to screen for matters that may give rise to a disciplinary investigation. Any identified compliance issues are forwarded to the Office of Enforcement. Senate Bill No. 1186 also requires the State Bar to submit an annual report to the legislature on July 31 of each year. The 2014/2015 report was filed with the legislature on July 30, 2015 and is posted at the State Bar's website: <http://www.calbar.ca.gov/AboutUs/Reports.aspx>.

The table below shows 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 in 2015.

**ADA Letters Received-Referred to Enforcement in 2015**

Month	Letters Received	Letters Referred To Enforcement
Jan.	18	2
Feb.	17	1
Mar.	40	0
Apr.	49	1
May	17	1
June	43	0
July	21	0
Aug.	43	0
Sept.	15	1
Oct.	27	1
Nov.	14	11
Dec.	44	42
<b>TOTAL</b>	<b>348</b>	<b>60</b>

The table below lists the potential compliance issues identified by Professional Competence staff and shows the numbers of compliance issues referred to Enforcement staff.

**2015 Compliance Issues Referred to Enforcement\***

(Compared to 2013 and 2014)

Compliance Issue	No. of Issues in 2015	No. of Issues in 2014	No. of Issues in 2013	Total
Failure to Copy the CCDA within 5 Business Days	4	14	29	47
Failure to Copy the State Bar within 5 Business Days	2	12	20	34
Failure to Include Mandatory Advisory	56	10	43	109
Possible Prohibited Statement of Recipient's Specific Monetary Liability	5	7	15	27
Possible Prohibited Request/Demand for Money or Offer/Agreement to Accept Money	2	6	13	21

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

## **5. COMPETENCE PUBLICATIONS**

### Handbook on Client Trust Accounting for California Attorneys:

The online Trust Accounting Handbook html webpage was visited 7,811 times in 2015.

California Compendium on Professional Responsibility: The 2015 Compendium update is currently being printed and is anticipated to be released in the 1st quarter of 2016. Work on the 2016 Compendium update is underway.

California Rules of Professional Conduct & State Bar (a.k.a Publication No. 250): Sales of the 2015 Publication 250 began in July 2015, and 660 orders have been received and processed through December 31, 2015. Work on the 2016 Publication 250 is underway and is anticipated to be released in the 2<sup>nd</sup> quarter of 2016.

An e-Reader version of Publication 250<sup>4</sup> is available at the Amazon Kindle store. A total of 252 e-books have been purchased to date. One hundred thirty-five copies of the 2011 e-book have been purchased since posting in September 2011. Thirty-eight copies of the 2012 e-book have been purchased since posting in June 2012. Twenty-nine copies of the 2013 e-book have been purchased since posting in June 2013. Thirty-six copies of the 2014 e-book have been purchased since posting in June 2014. The 2015 version of Publication 250 was posted on August 21, 2015 and 14 copies have been purchased to date.

## **6. PROFESSIONAL COMPETENCE EDUCATIONAL PROGRAMS & OTHER OUTREACH ACTIVITIES**

Client Trust Accounting Resources and Education: In follow-up to the discussion at the Board's January planning meeting, Professional Competence assumed a lead role in coordinating State Bar staff's development of a member survey on client trust accounting. At an April 24, 2015 teleconference meeting, the Board Committee approved the voluntary survey and an initial outreach and education plan. A brief article announcing the survey ran in the June issue of the California Bar Journal. On June 9, 2015, the survey and the new trust accounting online resources page were featured in The San Diego Daily Transcript. An MCLE self-study article highlighting the survey as well as the State Bar's client trust accounting resources appeared in the July issue of the California Bar Journal. Outreach utilizing social media (Twitter posts) was carried out through the end of the survey period on July 31, 2015. At the close of the survey period, 1,123 surveys were submitted. A meeting of the staff working group was held on October 1, 2015 to orient the staff to the survey content and results received and provide options for the staff to request any cross tabulations of the results they believed to be informative. Another meeting to further discuss the survey results and initiatives for targeted education and outreach was held on January 13, 2016. A staff memorandum on the survey results, including initial recommendations for enhanced education and outreach is on the Board Committee's March 2016 meeting agenda for information (See RAD March Agenda Item III.C.).

Event Outreach: Professional Competence produces a brochure containing a summary of the ethics resources available to members, including the Ethics Hotline, ethics publications, online ethics resources, and COPRAC. In 2015 the brochure was a key outreach tool distributed at the following events: 2015 Solo Summit; 2015 Annual Meeting; and some of the outreach CLE programs conducted by COPRAC members. In addition, approximately 8,000 copies of this brochure were included in mailings sent out to the 2015 new admittees.

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<sup>4</sup> The e-Reader version of Publication 250 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 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.

In addition, Professional Competence produces a complimentary condensed version of the Publication 250 (“Mini Pub. 250”) that contains the current California Rules of Professional Conduct, and selected State Bar Act sections and other significant statutes. In 2015, the Mini Pub. 250 was distributed at the following events and programs: 2015 Solo Summit; 2015 Annual Meeting; and various COPRAC Bar Association outreach programs.

## 7. COMPETENCE RESOURCES AT CALBAR.CA.GOV

Senior Lawyer Ethics Resources Page: This page recognizes that many attorneys reach their senior years with questions about what to do if they faced health problems that might affect how long they can work. They may be thinking of closing their practice or how to handle their business if they suddenly become ill or pass away. The new Senior Lawyers Ethics Resources page is a collection of resources addressing attorney professional responsibility issues that arise in connection with retirement, disability, and death of attorneys. The resources include rules, advisory ethics opinions, articles, publications, and MCLE programs. Most of the links are to internal resources found on other State Bar pages. Others are external links to the ABA’s website, or to local, or out-of-state bar associations. The Senior Lawyer web pages were visited approximately 11,944 times in 2015.

Judicial Campaign Ethics Page: The Judicial Ethics page is a collection of selected resources to promote a lawyer’s awareness and understanding of judicial ethics. The Judicial Ethics page was launched in October 2013 and has been visited approximately 4,260 times through December 31, 2015. Lawyers often interact with judges and court staff, sometimes on a daily basis. An awareness of the standards of conduct applicable to judges and court staff helps assure that a lawyer practices law in a competent and professionally responsible manner. In some circumstances, a lawyer is required to comply with standards ordinarily applicable only to judges (for example, a lawyer serving as a temporary judge, referee or court-appointed arbitrator). The provided resources are organized into five categories: general information; candidates for judicial office; gifts to judges; lawyers as temporary judicial officers; and social media. The resources include rules, statutes, advisory ethics opinions and court policy guides. The resources also include information concerning restrictions on gifts to judges, and a link to an online educational course on Judicial Campaign Ethics which is a mandatory requirement for all candidates for judicial office. Several social media blasts were sent out during the 2015 holiday season with a link to California Judicial Ethics Opinion No. 2014-005 “Gifts to Judges” which discusses restrictions on gifts to judges.

Year-end Web Activity: The State Bar tracks the web activity for all html website pages accessed.<sup>5</sup> The chart below lists selected web pages administered by Professional Competence and the 2015 activity in terms of visits.

Professional Competence Web Resources – Activity Detail January – December, 2015	
Webpage	Approx. Number of Visits
Rules of Professional Conduct html web pages	560,900
The State Bar Act html web pages	27,440
Ethics Opinions html web pages	40,060
Ethics Information html web pages	213,431
Ethics & Technology html web pages	18,380
Judicial Campaign Ethics html web page	2,740

<sup>5</sup> Web download statistics are not available for web content posted as Adobe PDF documents.



Since the last Professional Competence status report submitted for the Board Committee's November 17, 2015 meeting, the following website updates have been made:

1. The Commission for the Revision of the Rules of Professional Conduct web page and State Bar Board of Trustees meeting page were updated as follows: (1) posting of the November 13 & 14, 2015 meeting agenda and materials; (2) posting of the January 22 & 23, 2016 meeting agenda and materials; (3) posting of eleven new and amended tentatively approved Rules of Professional Conduct to the Proposed Rules page following the November 2015 Commission meeting; and, (4) posting of four new and amended tentatively approved Rules of Professional Conduct to the Proposed Rules page following the January 2016 Commission meeting.
2. The public hearing notice on the proposed amendments to Rules 5-110 and 5-220 of the Rules of Professional Conduct were posted in a news release and on the main Ethics Information page and the Commission's pages.
3. The Ethics Opinions page was updated with a link to newly published Formal Opinion No. 2015-194 (re Puffing in Negotiations).
4. Draft Formal Ethics Opinion Interim No. 12-0006 (Attorney Blogging) was posted at the public comment page of the Bar's website for additional public comment with a deadline of May 12, 2016.
5. The Ethics & Technology pages were updated to add a link to an article on attorney rating sites that appeared in Lawyernomics.

## ENCLOSURE 1

### ETHICS HOTLINE ACTIVITY STATISTICS - 2015

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	21	1,206	1,051	155	87%	13%	35	362
February	19	1,229	1,126	103	92%	8%	21	336
March	21	1,228	1,047	181	85%	15%	29	330
April	22	1,171	1,050	121	90%	10%	22	292
May	20	1,106	916	190	83%	17%	16	286
June	22	1,146	984	162	86%	14%	17	299
July	22	1,157	1,005	152	87%	13%	24	328
August	21	1,132	979	153	86%	14%	9	300
September	21	1,127	967	160	86%	14%	19	276
October	21	1,140	979	161	86%	14%	17	297
November	18	889	776	113	87%	13%	22	239
December	20	963	883	80	92%	8%	27	190
Cumulative Totals	246	13,494	11,763	1,731	87%	13%	258	3,535

#### **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.

### 2015 Key Hotline Activity Averaged by Day and Month

<b>Daily:</b>	Incoming Calls:	55
	Completed Calls:	48
<b>Monthly:</b>	Incoming Calls:	1,125
	Completed Calls:	980

### 2015 Aggregate Outgoing Calls

<b>Average Monthly Aggregate:</b>	1,383*
<b>Cumulative to Date:</b>	20,043*

\*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.

## **ENCLOSURE 2**

**Excerpt from Ethics Hotline Customer Satisfaction Surveys**  
**Additional Comments**  
(Surveys Received for October – December 2015)

**1. Received December 9, 2015**

**COMMENTS/SUGGESTIONS:**

Accessing the State Bar Ethics Hotline for the past twenty-five years, Ricardo is among the top two percent of paralegals from whom I have received excellent information with comprehensive backup documentation.

I consider my State Bar dues well spent on the services provided today by Ricardo.

Happy Holidays to all our critically important Hotline staff.

**2. Received December 9, 2015**

**COMMENTS / SUGGESTIONS:**

Receptionist was very courteous, and paralegal was very knowledgeable and helpful.

**3. Received December 18, 2015**

**COMMENTS / SUGGESTIONS:**

Receptionist: helpful, friendly, hard-working  
Paralegal: very helpful, insightful, and nice

**ASSESSMENT OF PERFORMANCE  
OF THE STANDING COMMITTEE  
ON PROFESSIONAL RESPONSIBILITY AND CONDUCT  
OF THE STATE BAR OF CALIFORNIA**

2015 Year End

Chair: Merri Baldwin  
Staff Contact: Andrew Tuft (415-538-2172)

**Summary of Accomplishments**

The Committee on Professional Responsibility and Conduct (“COPRAC” or “the Committee”) is assigned to develop advisory ethics opinions, to conduct educational programs, and to assist the Board of Trustees in matters pertaining to attorney professional responsibility. This report presents an assessment of the Committee’s 2015 activities and accomplishments.

1. Conducted 8 one-day meetings.
2. Published 5 proposed opinions for public comment.
3. Published 3 formal opinions approved by the Board of Trustees for inclusion in the 2015 update to the *California Compendium on Professional Responsibility*, and posting online at the State Bar’s website.
4. Administered the 19th Annual Statewide Ethics Symposium at the Thomas Jefferson School of Law.
5. Presented 4 ethics programs at the State Bar Annual Meeting, all four programs were selected for videotaping for participatory online CLE credit in legal ethics.
6. Participated in 14 CLE outreach programs including requests from local and specialty bar associations.
7. Published 10 California Bar Journal MCLE self-study articles on various ethics topics.
8. Presented 2 ethics programs at the California Solo and Small Firm Summit.

## **Performance Indicators and Actual Performance**

1. **[Performance Indicator] Meetings – To carry out its charge, 9-10 day-long meetings will be held in FY 2015. Most of these meetings will be held in-person at the State Bar facilities in San Francisco or Los Angeles. Given the nature of the Committee's work, in-person member participation is the most productive meeting format.**

[Actual Performance] In FY 2015, COPRAC met for a total of 8 one-day meetings. The 2015 meeting schedule is attached. (Attachment A)

2. **[Performance Indicator] Ethics Opinions - COPRAC plans to issue 3-5 formal ethics opinions. The Committee shall assist members of the State Bar in their desire to appreciate and adhere to ethical and professional standards of conduct, which assistance shall include, but is not limited to:**

1. Issuing to members of the bar advisory opinions on the ethical propriety of hypothetical attorney conduct at the request of members of the State Bar or on its own initiative;
2. Responding to such inquiries from members of the bar; and
3. Publishing its opinions.

[Actual Performance] In FY 2015, the Committee issued 3 opinions for public comment distribution (Interim Opinion Nos. 12-0006, 12-0007, and 13-0005). Interim Opinion No. 12-0006 (Attorney Blogging) was approved for a second public comment period during COPRAC's December 4, 2015 meeting. This Committee will consider the public comments received on this opinion at its May 20, 2016 meeting. Interim Opinion No. 13-0005 (Publicly Available Confidential Information) is currently being modified following its initial publication for public comment. Finally, Interim Opinion No. 12-0007 (Puffing in Negotiations) was officially published as State Bar Formal Opinion No. 2015-194.

In addition, two proposed opinions were submitted to the Board Committee on Regulation and Discipline Oversight for final publication in 2015. One of these proposed opinions (Interim Opinion No. 12-0001) was finalized for publication in early 2015 as State Bar Formal Opinion No. 2015-192. The other opinion (Interim Opinion No. 11-0004) was officially published as State Bar Formal Opinion No. 2015-193. The new formal opinions were included in the 2015 update to the *California Compendium on Professional Responsibility* and posted online at the Ethics Opinions page of the State Bar's website. A summary of the published opinions and the opinions distributed for public comment is attached. (Attachment B)

A complete archive of the Committee's formal opinions published by the State Bar since its inception in 1965 is maintained at the Bar's website. In 2015, the Ethics Opinions homepage and its subpages were visited over 40,060 times.

3. **[Planned Activity] Legislation – As assigned by the Board, COPRAC will review and analyze bills that relate to attorney professional responsibility, serve as a technical resource to the State Bar's Office of Government Affairs. On an as needed basis, COPRAC may comment in its own name with a disclaimer indicating its comment does not reflect the views of the State Bar or the Board of Trustees.**

[Activity Report] There was no legislation referred to the Committee by the Board in FY 2015.

4. **[Planned Activity] Judicial Council – As assigned by the Board, COPRAC will review and analyze Rules of Court and other proposals or studies that relate to attorney professional responsibility, including proposed ethical rules for judges and arbitrators. On an as needed basis, COPRAC may comment in its own name with a disclaimer indicating its comment does not reflect the view of the State Bar or the Board of Trustees.**

[Activity Report] There were no Judicial Counsel referrals from the Board in FY 2015.

5. **[Planned Activity] Conference of California Bar Associations – As assigned by the Board, the Committee will review and analyze Conference resolutions that relate to attorney professional responsibility.**

[Activity Report] There were no resolutions referred to the Committee for consideration during FY 2015.

6. **[Planned Activity] American Bar Association House of Delegates - As assigned by the Board, the Committee will review and analyze ABA studies and proposals that relate to attorney professional responsibility (e.g., the ABA's study and revision of the Model Rules of Professional Conduct and the ABA's Report on Multidisciplinary Practice).**

[Activity Report] There were no referrals to the Committee by the Board in FY 2015.

7. **[Planned Activity] Annual Statewide Ethics Symposium - The Committee will plan and present a day-long statewide educational program offering a high level interactive discussion of key professional responsibility issues.**

[Activity Report] COPRAC's 19th Annual Statewide Ethics Symposium was held on April 25, 2015 at the Thomas Jefferson School of Law in San Diego. The theme of the Symposium was "Brave New World: Legal Ethics for Today." The panels presented included the following: The Net: Law Firm Cybersecurity; Déjà Vu All Over Again: Brainstorming the New California Rules Project; The Color of Money: Alternative Litigation Funding; and Liar, Liar: Negotiation Ethics. COPRAC Chair Scott Garner provided welcoming remarks. Professor Steven Berenson, Professor of Law at the Thomas Jefferson School of Law, provided additional opening remarks. State Bar Vice-President Heather Rosing attended and also provided welcoming remarks. There were 69 attendees at the Symposium. The Symposium received high marks in all categories from the attendees. A copy of the Symposium Activity Evaluation Results is attached. (Attachment C)

8. **[Performance Indicator] State Bar Annual Meeting Programs – COPRAC plans to conduct 3-5 CLE programs in connection with the State Bar Annual Meeting (identification and preparation of program topics and materials begin in Spring 2015 for programs presented at the Annual Meeting in the Fall of 2015).**

[Actual Performance] COPRAC conducted 4 programs at the State Bar Annual Meeting held in Anaheim in October 2015. The programs were entitled "Ethics Update 2015: Significant Developments in the Law of Lawyering;" "Dealing with Difficult Clients in Your Law Practice;" "Ethics for the Solo and Small Firm Lawyer;" and "Ethics of Getting Your Legal Fees Paid." All four programs were selected for videotaping and are available as part of the State Bar's online CLE resources. Collectively, these programs had 673 attendees at the Annual Meeting. All of these programs received high marks in all categories from the attendees. A copy of the Activity Evaluation Results is attached. (Attachment D)

9. **[Planned Activity] Local Bar Outreach Programs – As opportunities arise, the Committee will coordinate with local and specialty bar associations in developing professional responsibility CLE programs tailored to local/specialty interests.**

[Activity Report] During FY 2015, members of COPRAC represented the Committee as participants in 14 continuing legal education programs. Generally, at these programs the speaker's role as a member of

COPRAC is to publicize the work of the Committee and to encourage members of the bar to submit opinion requests, to comment on proposed opinions and to apply to serve on the Committee. A table listing COPRAC member participation in outreach programs during FY 2015 is attached. (Attachment E)

**10. [Planned Activity] Coordination with other State Bar Entities – On matters of mutual interest, COPRAC will coordinate with State Bar entities.**

[Activity Report] The California Bar Journal editorial staff solicited COPRAC's assistance in regularly contributing ethics MCLE self-study articles. As part of a cooperative effort, in FY 2015 committee members wrote 10 MCLE self-study articles for the California Bar Journal on the following ethics topics: law firm in-house general counsel, conflicts and the attorney-client privilege; recognizing impairment; how withdrawal from a contingency fee matter may forfeit certain fees; the handling of confidential information received inadvertently; multijurisdictional practice of law; the nuances of the joint defense "privilege"; client confidentiality and social media; ethical issues for lateral hires and the firms that hire them; ending an engagement without inviting a disciplinary proceeding; and, determining when a prospective client becomes an actual client.

In addition, COPRAC was invited to submit a proposal for a program to be offered at the 2015 California Solo and Small Firm Summit. Following acceptance of COPRAC's proposal, COPRAC members presented two CLE programs entitled "Dealing with Difficult Clients;" and "Ethics for the Solo Practitioner."



**ATTACHMENT A**  
**2015 SCHEDULE OF MEETINGS**

**COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT**

**January 23, 2015**  
San Francisco State Bar Office

**March 6, 2015**  
Los Angeles State Bar Office

**April 24, 2015 (Meeting)**  
**April 25, 2015 (Symposium)**  
Best Best & Krieger LLP/Thomas Jefferson School of Law

**June 5, 2015**  
San Francisco State Bar Office

**July 17, 2015**  
Los Angeles State Bar Office

**August 28, 2015**  
San Francisco State Bar Office

**October 8, 2015**  
Anaheim – State Bar Annual Meeting

**December 4, 2015**  
San Francisco State Bar Office

## **ATTACHMENT B**

### **SUMMARY OF PUBLISHED OPINIONS (2015)**

#### **Officially Published Opinions**

##### **FORMAL OPINION NO. 2015-192 (Formerly Interim No. 12-0001)**

**ISSUE:** What information may an attorney ethically disclose to the court to explain her need to withdraw from a representation – particularly in the face of an order to submit to the court, in camera or otherwise, the substance of the attorney-client communications leading to the need to withdraw?

**DIGEST:** An attorney may disclose to the court only as much as is reasonably necessary to demonstrate her need to withdraw, and ordinarily it will be sufficient to say only words to the effect that ethical considerations require withdrawal or that there has been an irreconcilable breakdown in the attorney-client relationship. In attempting to demonstrate to the court her need to withdraw, an attorney may not disclose confidential communications with the client, either in open court or in camera. To the extent the court orders an attorney to disclose confidential information, the attorney faces a dilemma in that she may not be able to comply with both the duty to maintain client confidences and the duty to obey court orders. Once an attorney has exhausted reasonable avenues of appeal or other further review of such an order, the attorney must evaluate for herself the relevant legal authorities and the particular circumstances, including the potential prejudice to the client, and reach her own conclusion on how to proceed. Although this Committee cannot categorically opine on whether or not it is acceptable to disclose client confidences even when faced with an order compelling disclosure, this Committee does opine that, whatever choice the attorney makes, she must take reasonable steps to minimize the impact of that choice on the client.

##### **FORMAL OPINION NO. 2015-193 (Formerly Interim No. 11-0004)**

**ISSUE:** What are an attorney's ethical duties in the handling of discovery of electronically stored information?

**DIGEST:** An attorney's obligations under the ethical duty of competence evolve as new technologies develop and become integrated with the practice of law. Attorney competence related to litigation generally requires, among other things, and at a minimum, a basic understanding of, and facility with, issues relating to e-discovery, including the discovery of electronically stored information ("ESI"). On a case-by-case basis, the duty of competence may require a higher level of technical knowledge and ability, depending on the e-discovery issues involved in a matter, and the nature of the ESI. Competency may require even a highly experienced attorney to seek assistance in some litigation matters involving ESI. An attorney lacking the required competence for e-discovery issues has three options: (1) acquire sufficient learning and skill before performance is required; (2) associate with or consult technical consultants or competent counsel; or (3) decline the client representation. Lack of competence in e-discovery issues also may lead to an ethical violation of an attorney's duty of confidentiality.

##### **FORMAL OPINION NO. 2015-194 (Formerly Interim No. 12-0007)**

**ISSUE:** When an attorney is engaged in negotiations on behalf of a client, are there ethical limitations on the statements the attorney may make to third parties, including statements that may be considered "puffing" or posturing?

**DIGEST:** Statements made by counsel during negotiations are subject to those rules prohibiting an attorney from engaging in dishonesty, deceit or collusion. Thus, it is improper for an attorney to make false statements of fact or implicit misrepresentations of material fact during negotiations. However, puffery and posturing, such as statements about a party's negotiating goals or willingness to compromise, are generally permissible because they are not considered statements of fact.

## **ATTACHMENT B**

### **SUMMARY OF PUBLISHED OPINIONS (2015)**

#### **Opinions Published for Public Comment**

##### **FORMAL OPINION INTERIM NO. 12-0006**

**ISSUES:** Under what circumstances is “blogging” by an attorney subject to the requirements and restrictions of the Rules of Professional Conduct and related provisions of the State Bar Act regulating attorney advertising?

**DIGEST:**

1. Blogging by an attorney is subject to the requirements and restrictions of the Rules of Professional Conduct and the State Bar Act relating to lawyer advertising if the blog expresses the attorney’s availability for professional employment directly through words of invitation or offer to provide legal services, or implicitly through its description of the type and character of legal services offered by the attorney, detailed descriptions of case results, or both.
2. A blog that is a part of an attorney’s or law firm’s professional website will be subject to the rules regulating attorney advertising to the same extent as the website of which it is a part.
3. A stand-alone blog by an attorney that does not relate to the practice of law or otherwise express the attorney’s availability for professional employment will not become subject to the rules regulating attorney advertising simply because the blog contains a link to the attorney or law firm’s professional website.

##### **FORMAL OPINION INTERIM NO. 13-0005**

**ISSUES:** What duties does a lawyer owe to current and former clients to refrain from disclosing potentially embarrassing or detrimental information about the client, including publicly available information the lawyer learned during the course of his representation or relating to the representation?

**DIGEST:** A lawyer may not disclose his client’s secrets, which include not only confidential information communicated by the client to the lawyer, but also publicly available information that the lawyer obtained during or related to the professional relationship which the client has requested to be kept secret or the disclosure of which might be embarrassing or detrimental to the client. Even after termination of the lawyer-client relationship, the lawyer may not disclose potentially embarrassing or detrimental information about the former client if that information is related to or was acquired by virtue of the lawyer’s prior representation.

## ATTACHMENT C

### 2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY

#### **Panel One: The Net: Law Firm Cybersecurity**

(W. Chang, R. Egger, T. Forsheit, S. Garner, W. Hsu)

Overall Teaching Effectiveness: 4.73

Effectiveness of Teaching Methods: 4.70

Significant Current Intellectual or Practical Content: 4.75

*(10 responses in 26 results)*

#### **Comments Regarding Particular Speakers or the Panel as a Whole are Welcome Here:**

- Again, brochure suggested more practical info re: cyber security risk prevention/management; panel largely focused on post-breach/incident.
- Excellent, helpful, current.
- Great topic, well presented by speakers. Could have taken up an additional hour.
- Speakers need to be more engaging. They are obviously brilliant, but lost the audience's attention.
- Hsu and Forsheit were particularly good.
- W. Hsu was especially good.
- This was an excellent panel - given the importance of the topic, this could have benefitted from 90 minutes - a lot of substantial material covered.
- Very interesting topic
- Very informative to the practice of law to enforce rules of professional conduct.
  - Would have liked more interaction among panelists.

## **ATTACHMENT C**

### **2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY**

#### **Panel Two: Deja Vu All Over Again: Brainstorming the New California Rules Project**

(M. Baldwin, C. Buckner, K. Mohr, R. Zitrin)

Overall Teaching Effectiveness: 4.38

Effectiveness of Teaching Methods: 4.38

Significant Current Intellectual or Practical Content: 4.54

*(13 responses in 26 results)*

#### **Comments Regarding Particular Speakers or the Panel as a Whole are Welcome Here:**

- Disappointing panel. Kevin Mohr did a good job. The rest gave short script to topics that should have been open for more in depth discussion.
- Panel discussion after was more appropriate to a discussion which would take place at an RRC meeting.
- Strongly suggest some power point or outline so audience can follow what each person in discussing.
- Excellent
- Very interesting, but disappointing that there wasn't time to discuss 3.8
- A power point would help as each speaker referred to specific pages all the time.
- Speakers should be Mohr & Zitrin only - would like to hear more from them. They captured my attention. I would suggest a different commentator other than M. Baldwin. I didn't like what appeared to be an attack on speaker Zitrin. His political position is irrelevant. I found it unprofessional and offensive. A commentator should be neutral.
- Professors in love with the sound of their own voices. Need to respect time limits and other panelists.
- Richard Zitrin was bold and opinionated.
- The overview of the process by Kevin Mohr was very helpful and set the stage for a discussion of the more specific topics.
- Wish the program time was longer. And hour and half would have been better.
- Very good presentation - continuing work needs to be shared w/ participants - updates are informative.
- All very interesting. Dynamic.

## ATTACHMENT C

### 2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY

#### **Panel Three: The Color of Money: Alternative Litigation Funding**

(J. Becker, P. Benzian, C. Langford, M. Steinitz)

Overall Teaching Effectiveness: 4.23

Effectiveness of Teaching Methods: 4.14

Significant Current Intellectual or Practical Content: 4.33

*(12 responses in 26 results)*

#### **Comments Regarding Particular Speakers or the Panel as a Whole are Welcome Here:**

- Moderator looked almost exclusively at the panel. No engagement of the room. Only took questions from those who were within her limited gaze. This was a very superficial panel. The ethics issues turn on specifics which were so generally and non-specifically discussed that the ethics discussion lacked any meaningful content.
- Cases mentioned, but no citations for some of them in the written materials. Would have been helpful to have an SLF contract as a sample to which speakers could refer (with references to parties deleted.)
- Very interesting panel - the one I was least interested in upon walking in the door, but enjoyed the most. All speakers were engaging and presented info concisely but effectively.
- Panel moderator did a great job keeping the issues and discussion going.
- This was interesting, really enjoyed history of contingency etc. However, only real practical information came from Langford - Provided opinions & cites.
- Steinitz was excellent. Rest not good presenters. (No issue with Becker)
- Wanted greater connection to lawyer ethical duties. Too much focus on weather funder had obligations.
- really interesting topic
- I thought Carol Langford and Maya Steinitz were excellent but Peter Benzian focused too much on Burford and was not effective.
- Didn't attend
- Very controversial subject - need further work - include and send out updates to participants.
- Interesting issues. Somewhat uneven presentation. Langford was addressing different issues than the others were.

## ATTACHMENT C

### 2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY

#### **Panel Four: Liar, Liar: Negotiation Ethics**

(S. Spencer, E. McIntyre, D. McGowan, J. Wagner)

Overall Teaching Effectiveness: 4.80

Effectiveness of Teaching Methods: 4.79

Significant Current Intellectual or Practical Content: 4.63

*(11 responses in 26 results)*

#### **Comments Regarding Particular Speakers or the Panel as a Whole are Welcome Here:**

- Particularly like the format, i.e. Round 1 topic, Round 2. very helpful for following discussion; speakers very engaging and made content more understandable.
- Very entertaining.
- I enjoyed the lighthearted nature of this confusing issue.
- Interesting and lovely presentation.
- These speakers were excellent! Absolutely loved the sense of humor, especially Ed. Very entertaining.
- Most entertaining and just right for last session.
- Better to context discussion with staged negotiation frame: 1. Information exchange 2. Competitive bargaining 3. the closing analysis would be more focused and practical if it examined at each phase or stage of the process.
- Great presentation
- Didn't attend
- I liked interaction in adversarial setting - but too short.
- Great Format. Good interaction between the speakers.

## **ATTACHMENT C**

### **2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY**

#### **GENERAL/OVERALL 2015 ETHICS SYMPOSIUM EVALUATIONS**

##### **To what extent were your personal objectives satisfied? 4.27**

*(26 responses in 26 results)*

- Very disappointing symposium. This was just another talking heads CLE that you can get anywhere.
- I am glad 5 MCLE are provided - would like to see more on reporting to law enforcement when crimes involved.
- Great conference with well-chosen topics
- Very good presenters
- This was a very good symposium

##### **To what extent did the environment contribute to the learning experience? 4.60**

*(25 responses in 26 results)*

- WIFI is a big issue and should always be considered at other venues. TJSJ is a very nice facility, plenty of outlets.
- Nice location.
- Great set up - lots of room - comfortable chairs.
- Beautiful facility, lousy parking.
- top notch
- great school, great room.
- It was very conducive.
- Loved it.

##### **To what extent did the materials contribute to the learning experience? 4.25**

*(24 responses in 26 results)*

- I must say I prefer print materials.
- I would have preferred single page pdf of materials. Part of the materials were double paged or displaced horizontally making it difficult to read.
- Some of us don't want to download and print.
- excellent
- Still wish they offered hard copies.
- It supplemented the learning experience which included case law.

##### **To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied? 4.52**

*(23 responses in 26 results)*

- Re: Panel 1: Law Firm Cyber security - the brochure indicated there would be practical advice re: pro-actively managing risks of breach to data; felt there was mostly discussion re: duty after breach.



## ATTACHMENT C

### 2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY

- Accurate representation.
- n/a promotional literature not noted anywhere.

#### **To what extent did the activity contain significant current intellectual or practical content? 4.60**

*(25 responses in 26 results)*

- There was specific discussion re: professional rules which is interesting, but I was hoping for information geared towards practical application.
- All of the panel topics were very good this year.
- Complex yet intellectually stimulating!
- Stimulating discussion of confidentiality obligations & IT. Good update on Rules Revision. Negotiation ethics was practical & great!

#### **Please provide your suggestions for future symposium panel topics below.**

- I'd like to see a longer session on the California Rules Project. Also need to provide time for questions. Fewer panels and more audience participation.
- Allow more time for questions.
- Extend training to two days to include on-hands ethics sessions to go over model cases with fact scenarios.
- Inadvertent disclosure.

#### **Are the topic(s) you suggested above for:**

Result	Responses	Percentage
Ethics Specialists	0	0.0%
Lawyers, in General	0	0.0%
Both	0	0.0%

0 responses in 26 results

#### **Describe how we can improve the Symposium, in order to increase attendance from attorneys who practice or have an interest in legal ethics as well as attorneys looking to fulfil their ethics CLE requirements at a relatively low cost.**

- you are most likely to get people from the local area, as many cannot travel.
- There was specific discussion re: professional rules which is interesting, but I was hoping for information geared towards practical application.
- All of the panel topics were very good this year.
- Complex yet intellectually stimulating!
- Stimulating discussion of confidentiality obligations & IT. Good update on Rules Revision. Negotiation ethics was practical & great!

## **ATTACHMENT C**

### **2015 ANNUAL ETHICS SYMPOSIUM EVALUATION SUMMARY**

**We are considering holding the Ethics Symposium on a Friday instead of a Saturday and would like your input. Which day would you prefer that the Symposium be held?**

<b>Result</b>	<b>Responses</b>	<b>Percentage</b>
---------------	------------------	-------------------

Friday	1	3.8%
--------	---	------

Saturday	3	11.5%
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4 responses in 26 results

**How did you hear about the Ethics Symposium?**

<b>Result</b>	<b>Responses</b>	<b>Percentage</b>
---------------	------------------	-------------------

State Bar Website	1	33.3%
-------------------	---	-------

Calbar Journal	0	0.0%
----------------	---	------

Direct Invitation	2	66.6%
-------------------	---	-------

Other	0	0.0%
-------	---	------

3 responses in 26 results

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

#### PROGRAM # 28 EVALUATIONS Significant Developments in the Law of Lawyering

##### Program Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

- |   |      |
|---|------|
| 1. The program met my educational objectives.   | 4.50 |
| 2. The program contained significant current professional content.  | 4.67 |
| 3. The instructional materials were beneficial in learning the topic.   | 4.54 |
| 4. The promotional materials accurately described the program.  | 4.52 |
| 5. Additional comments regarding this program:  |      |
| • Excellent - very informative and well worth the price of admission!   |      |
| • Presenting an entire presentation in legal hypos at 8:30 am is an awful idea and not effective.                                       |      |
| • Questions from audience distracted  |      |
| • Would have been better if Wendy expanded a little on her hypos - the descriptions were so brief it was a little hard to analyze them. |      |
| • Course as for more advanced than I expected from blurb, very lost.  |      |
| • Very technical.   |      |
| • Liked the hypotheticals format - more fun than just presentation  |      |
| • Liked approach of hypotheticals.  |      |

##### Speaker Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

###### **Speaker Name: M. Baldwin**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.71 |
| Speaker had Current Knowledge of Subject   | 4.70 |
| Speaker was Enthusiastic and Spoke Clearly | 4.71 |
| Speaker Managed Class Time Well            | 4.74 |
| Comments About This Speaker:               |      |
| • Excellent content, well presented.       |      |

###### **Speaker Name: W. Chang**

- |  |      |
|--|------|
| Overall Teaching Effectiveness                         | 4.46 |
| Speaker had Current Knowledge of Subject               | 4.56 |
| Speaker was Enthusiastic and Spoke Clearly             | 4.37 |
| Speaker Managed Class Time Well                        | 4.58 |
| Comments About This Speaker:                           |      |
| • Hard to hear because the mic wasn't used effectively |      |
| • Did not like hypo approach to teaching               |      |
| • Needed to speak clearly into mic.                    |      |

###### **Speaker Name: S. Garner**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.70 |
| Speaker had Current Knowledge of Subject   | 4.70 |
| Speaker was Enthusiastic and Spoke Clearly | 4.74 |
| Speaker Managed Class Time Well            | 4.72 |
| Comments About This Speaker:               |      |
| None                                       |      |

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

#### PROGRAM # 39 EVALUATIONS Dealing with Difficult Clients in Your Law Practice

##### Program Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

- |  |      |
|--|------|
| 1. The program met my educational objectives.  | 4.47 |
| 2. The program contained significant current professional content.   | 4.66 |
| 3. The instructional materials were beneficial in learning the topic.  | 4.57 |
| 4. The promotional materials accurately described the program.   | 4.67 |
| 5. Additional comments regarding this program:   |      |
| • Great material & Content. Well presented; good mix on panel of different perspectives.   |      |
| • Practical advice was nice touch - very helpful   |      |
| • Good info. presented. Wish they shared more guidance on how to deal with difficult clients.  |      |
| • Well organized - useful information  |      |
| • OMG! It was freezing in that room. Good thing the speakers kept us interested! What to do with these clients when you don't agree or cannot pacify!  |      |
| • Wish it addressed the mental health issues of clients and how to handle that   |      |
| • Excellent Program  |      |
| • Bad audio. Poorly focused.   |      |
| • Lots of good information, some pretty basic. Would have liked more about nuts & bolts & psychological aspects of dealing with difficult clients, but not sure if there is more. All speakers were great. |      |
| • Room was an icebox.  |      |
| • Don't have law professors and psychologists talk on this. I need practitioners speaking on this subject. Speakers did not use microphone well except Jennifer.   |      |
| • Really enjoyed   |      |
| • It was freezing in the hall! Arctic!   |      |
| • Would like more info. for government attorneys that cant's withdraw from assisting department heads (client is board of supervisors).  |      |

##### Speaker Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

###### **Speaker Name: J. Becker**

Overall Teaching Effectiveness	4.75
Speaker had Current Knowledge of Subject	4.80
Speaker was Enthusiastic and Spoke Clearly	4.80
Speaker Managed Class Time Well	4.57
Comments About This Speaker:	
None.	

###### **Speaker Name: R. Brain**

Overall Teaching Effectiveness	4.61
Speaker had Current Knowledge of Subject	4.86
Speaker was Enthusiastic and Spoke Clearly	4.63
Speaker Managed Class Time Well	4.45
Comments About This Speaker:	
• I had to work a lot to follow what he was saying.	

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

**Speaker Name: R. Simon**

Overall Teaching Effectiveness	4.78
Speaker had Current Knowledge of Subject	4.86
Speaker was Enthusiastic and Spoke Clearly	4.82
Speaker Managed Class Time Well	4.86

Comments About This Speaker:

- Best part of presentation - a lot of useful info. most lawyers don't know.
- Rather quiet, dry, low key delivery regarding a rather dry subject.
- Very useful perspective - thank you!
- Interesting and helpful.
- Great insights!

**Speaker Name: M. Tausch**

Overall Teaching Effectiveness	4.60
Speaker had Current Knowledge of Subject	4.90
Speaker was Enthusiastic and Spoke Clearly	4.70
Speaker Managed Class Time Well	4.63

Comments About This Speaker:

- Also quite dry delivery. Had to hold my attention

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

#### PROGRAM # 64 EVALUATIONS Ethics for the Solo and Small Firm Lawyer

##### Program Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

- |   |      |
|---|------|
| 1. The program met my educational objectives.   | 4.43 |
| 2. The program contained significant current professional content.  | 4.50 |
| 3. The instructional materials were beneficial in learning the topic.   | 4.46 |
| 4. The promotional materials accurately described the program.  | 4.50 |
| 5. Additional comments regarding this program:  |      |
| • More examples, less reciting of the rules, opinions. Boring one at end of the day.  |      |
| • Ran out of time.  |      |
| • The slides are hard to read. Need to be darker.   |      |
| • After the MPRE and PR class, this section did not present new information.  |      |
| • Very useful information; panel discussion style and use of visuals made it easy to follow along.  |      |
| • Group knowledgeable. Interesting.   |      |
| • Color on Power Point. Hard to read from middle of room on some slides.  |      |
| • All rooms too cold - many complaints. Provide coffee in classrooms. Not enough time between classes. Where did the good old days go - cookies and snacks? |      |
| • Outstanding! Wish we would have gotten through the rest of the materials!   |      |
| • Most of this subject matter applies to all attorneys, not just solos. Title of program is misleading.   |      |

##### Speaker Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

###### **Speaker Name: A. Dilworth**

- |   |      |
|---|------|
| Overall Teaching Effectiveness                            | 4.55 |
| Speaker had Current Knowledge of Subject                  | 4.73 |
| Speaker was Enthusiastic and Spoke Clearly                | 4.65 |
| Speaker Managed Class Time Well                           | 4.58 |
| Comments About This Speaker:                              |      |
| • A pleasure to listen to. Very clear and interesting.    |      |
| • Moderator should ask questions and pose hypos to panel. |      |

###### **Speaker Name: L. Doyle**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.58 |
| Speaker had Current Knowledge of Subject   | 4.64 |
| Speaker was Enthusiastic and Spoke Clearly | 4.53 |
| Speaker Managed Class Time Well            | 4.51 |
| Comments About This Speaker:               |      |
| • Would have liked him to have more time.  |      |

###### **Speaker Name: D. Majchrzak**

- |   |      |
|---|------|
| Overall Teaching Effectiveness  | 4.44 |
| Speaker had Current Knowledge of Subject  | 4.61 |
| Speaker was Enthusiastic and Spoke Clearly  | 4.34 |
| Speaker Managed Class Time Well   | 4.55 |
| Comments About This Speaker:  |      |
| • Got a little rushed at the end, so some clarity was sacrificed. Clearly a smart lawyer, but maybe should have not rushed through a lot of material. |      |

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

**Speaker Name: S. Spencer**

Overall Teaching Effectiveness	4.59
Speaker had Current Knowledge of Subject	4.71
Speaker was Enthusiastic and Spoke Clearly	4.46
Speaker Managed Class Time Well	4.54

Comments About This Speaker:

- Hold questions to the end, so you can get through the materials.
- Clear, concise and very helpful even though she covered a lot of material.

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

#### PROGRAM # 85 EVALUATIONS Ethics of Getting Your Legal Fees Paid

##### Program Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

- |   |      |
|---|------|
| 1. The program met my educational objectives.   | 4.54 |
| 2. The program contained significant current professional content.                            | 4.81 |
| 3. The instructional materials were beneficial in learning the topic.                         | 4.46 |
| 4. The promotional materials accurately described the program.                                | 4.74 |
| 5. Additional comments regarding this program:  |      |
| • Great content. Enjoyed program. All speakers were very informative!                         |      |
| • I enjoyed the hypos but the projected slides did not match written materials - distracting. |      |
| • Time management.  |      |
| • Would be helpful to have name place cards for all panels. Time management issues.           |      |
| • Good practical information.   |      |
| • Sound was uneven/bothersome.  |      |
| • I liked the hypo method of teaching; prefer it to simply giving off info.                   |      |
| • Excellent topic. Very useful. Good job.   |      |

##### Speaker Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

###### **Speaker Name: A. Bomse**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.82 |
| Speaker had Current Knowledge of Subject   | 4.77 |
| Speaker was Enthusiastic and Spoke Clearly | 4.77 |
| Speaker Managed Class Time Well            | 4.71 |
- Comments About This Speaker:
- Needs to speak louder.
  - Excellent presentation with good hypos.

###### **Speaker Name: J. DeCure**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.81 |
| Speaker had Current Knowledge of Subject   | 4.81 |
| Speaker was Enthusiastic and Spoke Clearly | 4.76 |
| Speaker Managed Class Time Well            | 4.75 |
- Comments About This Speaker:
- Excellent discussion of SB perspective.
  - Did not give him enough time.
  - The panel ran out of time - he was the last speaker. Time management problems.

###### **Speaker Name: R. Egger**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.90 |
| Speaker had Current Knowledge of Subject   | 4.90 |
| Speaker was Enthusiastic and Spoke Clearly | 4.90 |
| Speaker Managed Class Time Well            | 4.67 |
- Comments About This Speaker:
- Easiest to hear.
  - Excellent- valuable knowledge- good explanations.
  - Very articulate on ethics rules - fee disputes and entire topic.



## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

**Speaker Name: S. Spencer**

Overall Teaching Effectiveness	4.85
Speaker had Current Knowledge of Subject	4.90
Speaker was Enthusiastic and Spoke Clearly	4.76
Speaker Managed Class Time Well	4.75

Comments About This Speaker:

- Also needs to speak up.
- Excellent panel management. Very good interaction with other panel members.

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

#### PROGRAM # 89 EVALUATIONS

##### Current Ethical Issues for In-House and Outside Counsel

##### Program Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

- |   |      |
|---|------|
| 1. The program met my educational objectives.   | 4.38 |
| 2. The program contained significant current professional content.                        | 4.46 |
| 3. The instructional materials were beneficial in learning the topic.                     | 4.41 |
| 4. The promotional materials accurately described the program.                            | 4.23 |
| 5. Additional comments regarding this program:  |      |
| • I liked the hypothetical format.  |      |
| • Sound system thumpy and distracting.  |      |
| • The guys came through loud and clear but the two women mumbled.                         |      |
| • Good program focus on in house/outside counsel. Effective issues.                       |      |
| • Very good panel! Probably the best I've seen at the conference so far.                  |      |
| • Hypos too narrow in issue coverage.   |      |
| • Could have used a little more time.   |      |
| • Written materials looked detailed and informative, but presentation didn't follow them. |      |
| Frustrating and hard to follow.   |      |

##### Speaker Evaluation (Rate on a Scale of 1 to 5 with 1 Lowest and 5 the Highest)

##### **Speaker Name: J. Gilbert**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.19 |
| Speaker had Current Knowledge of Subject   | 4.18 |
| Speaker was Enthusiastic and Spoke Clearly | 4.14 |
| Speaker Managed Class Time Well            | 4.43 |
| Comments About This Speaker:               |      |
| • Difficult to understand at times.        |      |
| • Mundane voice/tone                       |      |

##### **Speaker Name: W. Chang**

- |   |      |
|---|------|
| Overall Teaching Effectiveness                          | 4.62 |
| Speaker had Current Knowledge of Subject                | 4.58 |
| Speaker was Enthusiastic and Spoke Clearly              | 4.62 |
| Speaker Managed Class Time Well                         | 4.44 |
| Comments About This Speaker:                            |      |
| • Was very easy to understand and knew topic very well. |      |
| • Extremely knowledgeable!                              |      |

##### **Speaker Name: K. Mohr**

- |  |      |
|--|------|
| Overall Teaching Effectiveness             | 4.36 |
| Speaker had Current Knowledge of Subject   | 4.56 |
| Speaker was Enthusiastic and Spoke Clearly | 4.28 |
| Speaker Managed Class Time Well            | 4.24 |
| Comments About This Speaker:               |      |
| • Very knowledgeable.                      |      |

## ATTACHMENT D

### 2015 ANNUAL MEETING PROGRAM EVALUATION SUMMARY

**Speaker Name: D. Parker**

Overall Teaching Effectiveness	4.58
Speaker had Current Knowledge of Subject	4.58
Speaker was Enthusiastic and Spoke Clearly	4.50
Speaker Managed Class Time Well	4.40

Comments About This Speaker:

- Enjoyed real life examples from hypotheticals.
- Great speaker - tone, clarity, insightful. Practical pointers.

**ATTACHMENT E****2015 COPRAC Member Outreach Programs**

	<b>Date</b>	<b>Name</b>	<b>Host or Provider</b>	<b>Location</b>
1.	01-15-2015	Scott Garner	Orange County Bar Association	Tustin, CA
2.	01-17-2015	Suzanne Spencer	Orange County Bar Association	Newport Beach, CA
3.	03-11-2015	Wendy Chang	Hinshaw Culbertson LLP	Los Angeles, CA
4.	03-25-2015	Wendy Chang	Orange County Bar Association	Newport Beach, CA
5.	04-14-2015	Michele Trausch	Aegis Living General Manager/Health Services Director Regional Meeting	Oakland, CA
6.	05-13-2015	Michele Trausch	Conference on Charitable Giving	Palo Alto, CA
7.	07-23-2015	Wendy Chang	Northern Santa Barbara County Bar Association	Santa Barbara, CA
8.	09-09-2015	Scott Garner	Orange County Bar Association	Newport Beach, CA
9.	10-02-2015	Michele Trausch	County Counsels' Association of California	Burlingame, CA
10.	10-21-2015	David Majchrzak & Suzanne Spencer	Appellate Defenders, Inc.	San Diego, CA
11.	10-22-2015	David Majchrzak	San Diego ESI Forum	San Diego, CA
12.	10-27-2015	Scott Garner	USC Gould School of Law	Los Angeles, CA
13.	12-03-2015	Michele Trausch	Bar Association of San Francisco	San Francisco, CA
14.	12-15-2015	Scott Garner	Orange County Bar Association	Newport Beach, CA

## ENCLOSURE 4

### Professional Competence Budget Summary Authorized vs. Actual

Year-to-Date as of December 31, 2015

<b>Budget (Actual)</b>	\$2,296,659
<b>Budget (Authorized)</b>	\$2,548,757
<b>Variance</b>	\$252,098

Monthly (January thru December 31, 2015)

	<b>January</b>	<b>February</b>	<b>March</b>	<b>April</b>	<b>May</b>	<b>June</b>
<b>Budget (Actual)</b>	\$218,622	\$173,392	\$168,836	\$158,715	\$176,427	\$191,957
<b>Budget (Authorized)</b>	\$269,266	\$195,588	\$195,868	\$196,120	\$196,146	\$202,377
<b>Variance</b>	\$50,644	\$22,196	\$27,032	\$37,405	\$19,719	\$10,420

	<b>July</b>	<b>August</b>	<b>September</b>	<b>October</b>	<b>November</b>	<b>December</b>
<b>Budget (Actual)</b>	\$285,621	\$159,402	\$186,782	\$173,614	\$185,051	\$218,240
<b>Budget (Authorized)</b>	\$271,521	\$198,425	\$198,569	\$199,104	\$199,118	\$226,655
<b>Variance</b>	-\$14,100	\$39,023	\$11,787	\$25,490	\$14,067	\$8,415