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May 23, 2016 Marlaud Email to Drafting Team, cc Chair, Difuntorum, Mohr, McCurdy & Lee:

Please see attached OCTC memo with comments concerning ABA MR 8.3. Please consider these comments in preparation for the June meeting.

Attached:

RRC2 - [4-100][3-400][3-410][3-700][[1.8.5A][6.1][1.10][1.18][2.3][3.9][4.1][4.4][5.7][8.3] - 05-19-16 OCTC Memo to RRC2.pdf

May 19, 2016 OCTC Memo [Dresser] to RRC2:

* * *

N. ABA Model Rule 8.3 [Reporting Professional Misconduct]

OCTC would not oppose a narrowly tailored rule requiring members to report another attorney's misconduct where that conduct involves dishonesty or otherwise places the attorney's fitness to practice law in question. Such a rule would protect clients and be consistent with members being officers of the court. OCTC notes that many states have adopted a version of the reporting requirement, and, in California, judges have reporting requirements regarding other judges and attorneys. (See Canon 3D of the Code of Judicial Ethics; Business & Professions Code sections 6086.7 and 6086.8; Rothman, "California Judicial Conduct Handbook," sections 5.65-5.68; and *Dodds v. Comm. on Judicial Performance* (1995) 12 Cal.4th 163.)

May 25, 2016 Kehr Email to Difuntorum & Mohr:

I respectfully disagree with the recommendation that we not adopt any version of MR 8.3 and have attached a proposed draft for consideration. The top of the page is a computer-marked comparison to the MR, and a clean version follows. Time does not permit me to explain my thinking, so I will have to leave that to our next meeting.

Attached:

RRC2 - [8.3] - Rule 8.3 - DFT1 (05-25-16)RLK - RED & CLEAN.docx

May 26, 2016 Cardona Email to Drafting Team, cc Difuntorum & Mohr:

I do not believe we need to do anything to address the OCTC comment. I think it is already covered by the pros and cons identified in connection with our report and recommendation.