



**THE STATE BAR
OF CALIFORNIA**

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

OFFICE OF PROFESSIONAL COMPETENCE

PLANNING, AND DEVELOPMENT

TELEPHONE: (415) 538-2167

MEMORANDUM

DATE: March 3, 2017

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

FROM: Randall Difuntorum, Director, Professional Competence Programs

SUBJECT: RAD Meeting on March 9, 2017 – Status of the Professional Competence Unit

This memorandum provides a 2016 year-end report on the activities of the Professional Competence Unit.¹ 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 2016 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 2016, 12,350 member inquiries were received with a completion rate of 84%. This completion rate includes distribution of 140 copies of published ethics opinions and other written materials requested by inquirers and 2,749 referrals to information posted at the Bar's website. In addition, the staff made 301 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.)

Four Ethics Hotline paralegals handled the majority of calls received. In 2016: (1) the monthly average number of total calls handled by a paralegal was 355; (2) the monthly average number of completed calls by a paralegal was 218; and (3) the monthly average number of left messages by a paralegal was 137. In 2016, 21 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 the 2016 surveys are available upon request). Of these, 7 surveys were received from October through December that were not included in the last status report. Top ratings were received across all categories and favorable comments from members about the service received were provided on six of these surveys. (See Enclosure 2: Ethics Hotline Satisfaction Survey Excerpts.)

The table below presents the top issues posed by the Hotline callers in 2016 as compared to 2015 and 2014. For 2016, the top issue category was "Communications with Clients, Adverse Party and Others" which accounted for 20% of the total calls. This category encompasses questions concerning: the duty to keep a client informed of significant developments; *ex parte*

¹ There are 13.5 authorized positions in the Professional Competence Unit and one of the positions, a paralegal position, currently is vacant.

communications with an opposing party or a judge; and, communications with jurors and witnesses. Close behind were the categories of “Fees & Costs” (17%) and “Conflicts” (15%). Demographic data collected voluntarily from callers indicates that 73% of the Ethics Hotline users were first time callers and 27% were callers who had previously used the service.

Ethics Hotline: Primary Issues	2016	2015	2014
<i>Communications with Clients, Adverse Party and Others</i>	20%	17%	16%
<i>Fees and Costs for Legal Services</i>	17%	19%	19%
<i>Conflicts of Interest</i>	15%	15%	15%
<i>Client Confidential Information</i>	11%	12%	11%
<i>Attorney Advertising and Solicitation</i>	11%	11%	12%
<i>Misconduct/Moral Turpitude/Trial Conduct</i>	6%	8%	8%

2. COPRAC

Since the last Professional Competence status report submitted for the Board Committee’s November 17, 2016 meeting, COPRAC met on November 4, 2016 in Los Angeles, December 9, 2016 via video-conference in San Francisco and Los Angeles, and January 6, 2017 in Los Angeles.

A. Published Opinions

The following opinion was approved and published at the Bar’s website:

Formal Opinion No. 2016-196 (formerly 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.

B. Meetings

At the November 4, 2016 meeting, COPRAC continued pre-public comment work on the following draft opinions: 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); 14-0004 (Witness Perjury); 16-0001 (Practice in Multiple Firms); 16-0002 (Lost or Stolen Laptop or Briefcase); and 16-0003 (Ancillary Business). The Committee began planning for the Statewide Ethics Symposium being held in Los Angeles on Friday, April 21, 2017.

At the December 9, 2016 meeting held via video-conference, COPRAC continued pre-public comment work on the following draft opinions: 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); 14-0004 (Witness Perjury); 16-0001 (Practice in Multiple Firms); 16-0002 (Lost or Stolen Laptop or Briefcase); and 16-0003 (Ancillary Business). The Committee also reviewed and approved public comment letters for nine of the proposed rules circulating for an additional public comment period. The Committee continued planning for the 2017 Statewide Ethics Symposium.

At the January 6, 2017 meeting, COPRAC continued pre-public comment work on the following draft opinions: 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); 14-0004 (Witness Perjury); 16-0001 (Practice in Multiple Firms); 16-0002 (Lost or Stolen Laptop or Briefcase); and 16-0003 (Ancillary Business). The Committee also reviewed and approved public comment letters for eleven of the proposed rules circulating for an additional public comment period. The Committee continued planning for the Statewide Ethics Symposium being held in Los Angeles on Friday, April 21, 2017.

COPRAC's next meeting is scheduled for March 3, 2017, and will be held in San Francisco. At this meeting, COPRAC will continue pre-public comment work on the following opinions: 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); 14-0004 (Witness Perjury); 16-0001 (Practice in Multiple Firms); 16-0002 (Lost or Stolen Laptop or Briefcase); and 16-0003 (Ancillary Business). The Committee will also continue planning for the 2017 Statewide Ethics Symposium.

As part of this Professional Competence year-end report, COPRAC has submitted its 2016 Annual Accomplishments Report. (See Enclosure 3: COPRAC 2016 Accomplishments Report.)

3. PROPOSED NEW AND AMENDED RULES OF PROFESSIONAL CONDUCT

Since the last Professional Competence status report submitted for the Board Committee's November 17, 2016 meeting, the Commission met on January 20, 2017 at the State Bar Office in San Francisco and on February 2, 2017 at the State Bar Office in Los Angeles to consider the public comments received during the 45-day public comment circulation of the 34 further revised proposed rules.

The 45-day public comment period for the 34 proposed rules materially revised after the initial 90-day public comment period ended on January 9, 2017. One hundred and eight (108) comments on discrete rule topics were received from twenty-seven (27) organizations and individuals.

At the Commission's January 20, 2017 meeting, they approved 33 rules for transmittal to the Board for adoption and made further substantive revisions to one rule, proposed Rule 1.7. At a special teleconference meeting of the Board Committee on Regulation and Discipline (RAD) on January 26, 2017, RAD acted to circulate proposed Rule 1.7 for an additional 30-day public comment period ending on March 6, 2017. The Commission will be meeting on March 7, 2017, following the close of the public comment period, to consider the comments received and act on proposed Rule 1.7. The post-public comment report with the Commission's recommendation for proposed Rule 1.7 will be added to the Board's agenda materials following the Commission's meeting.

At the Board of Trustees' March 9, 2017 meeting, the Commission is requesting that the remaining 34 proposed rules be approved for transmittal to the Supreme Court for adoption (see Board agenda item 701 MARCH 2017). All proposed rules adopted by the Board must be transmitted to the Supreme Court for approval as a comprehensive set of amendments by the March 31, 2017 deadline.

The Supreme Court petition requesting approval of proposed Rules 5-110 and 5-220 (Special Duties of Prosecutors), on an expedited basis, was filed with the Court on January 9, 2017.

Rules Revision Action Timeline

Nov. 21, 2016 – Jan. 9, 2017	45-day public comment period for proposed rules materially revised after the initial 90-day public comment period.
Jan. 20, 2017	RRC: Meeting to consider public comments received during the 45-day public comment period.
Feb. 2, 2017	RRC: Final meeting to consider public comments received during the 45-day public comment period.
Jan. 27 – March 6, 2017	30-day public comment period for proposed Rule 1.7 [Conflicts of Interests: Current Clients] that was substantively revised in response to the 45-day public comment period.
March 7, 2017	RRC: Meeting to consider public comments received during the 30-day public comment period for proposed Rule 1.7.
March 9, 2017	BOT: Final action on all rules returning from additional public comment circulation and adoption of 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.

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 2015/2016 report was filed with the legislature on July 28, 2016 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 2016.

ADA Letters Received-Referred to Enforcement in 2016

Month	Letters Received	Letters Referred To Enforcement
Jan.	6	6
Feb.	40	12
Mar.	68	4
Apr.	29	3
May	11	1
June	37	0
July	30	6
Aug.	37	31
Sept.	46	44
Oct.	8	7
Nov.	29	24
Dec.	7	6
TOTAL	348	144

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

2016 Compliance Issues Referred to Enforcement*

(Compared to 2013 - 2015)

Compliance Issue	No. of Issues in 2016	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	3	4	14	29	50
Failure to Copy the State Bar within 5 Business Days	3	2	12	20	37
Failure to Include Mandatory Advisory	54	56	10	43	163
Possible Prohibited Statement of Recipient's Specific Monetary Liability	17	5	7	15	44
Possible Prohibited Request/Demand for Money or Offer/Agreement to Accept Money	1	2	6	13	22
Failure to Include Verified Answer Form (new requirement effective on July 2016)	51	NA	NA	NA	51

(*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 10,860 times in 2016.

California Compendium on Professional Responsibility: Two-hundred and twenty-five copies of the 2015 Compendium update were sold in 2016. The 2016 Compendium update was completed and the Compendium index was posted online in November 2016. The 2017 Compendium update, with 2016 ethics authorities, is currently being compiled, and is due to be posted online in the 2nd quarter.

California Rules of Professional Conduct & State Bar (a.k.a Publication No. 250): An e-Reader version of Publication 250² is available at the Amazon Kindle store. A total of 286 e-books have been purchased to date. The 2016 e-Reader version is anticipated to be posted in the 1st quarter of the year. The 2017 e-Reader version is anticipated to be posted in the 2nd quarter of the year.

6. PROFESSIONAL COMPETENCE OUTREACH ACTIVITIES

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 2016 the brochure was a key outreach tool distributed at the following events: 2016 Solo Summit; 2016 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 2016 new admittees.

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 2016, the Mini Pub. 250 was distributed at the following events and programs: 2016 Solo Summit; 2016 Annual Meeting; and various COPRAC Bar Association outreach programs.

7. COMPETENCE RESOURCES AT CALBAR.CA.GOV

Year-end Web Activity: The State Bar tracks the web activity for all html website pages accessed.³ The chart below lists selected web pages administered by Professional Competence and the 2016 activity in terms of visits.

Professional Competence Web Resources – Activity Detail January – December, 2016	
Webpage	Approx. Number of Visits
Rules of Professional Conduct html web pages	539,140
The State Bar Act html web pages	25,130
Ethics Opinions html web pages	34,070
Ethics Information html web pages	166,950
Ethics & Technology html web pages	17,890
Client Trust Accounting Resources web pages	10,860
Senior Lawyer Ethics Resources web pages	10,950
Judicial Campaign Ethics html web page	2,680

² 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.

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

In 2016, the following updates were made to the Professional Competence information and resources maintained at the State Bar website, primarily located under the Ethics Information area of the site:

Ethics and Technology Resources

- *Avvo vs. Yelp: where do people want to find attorneys*, Lawyernomics blog, January 2016, Nika Kabiri
- *Scammers continue to target attorneys with check fraud*, California Bar Journal, March 2016, Amy Yarbrough
- *Scammers use real attorney IDs to cheat consumers*, California Bar Journal, June 2016, Amy Yarbrough
- Pennsylvania Bar Association Ethics Opinion 2014-200: Lawyer's Response to Client's Negative Online Review
- Texas Ethics Opinion 2015-02 (2015): Social Media and Attorneys
- Alaska Bar Association 2016-1: May a Lawyer Surreptitiously Track Emails and Other Documents Sent to Opposing Counsel

Civility & Professionalism Resources

- *Attorney Civility: When zealous advocacy crosses the line*, California Bar Journal, May 2016, Scott Garner
- *Litigation, Civility, and How Nice Guys Can Finish First*, Los Angeles Lawyer, April 2016, Jason D. Russell
- *Overview of the Guidelines of Civility and Professionalism*, Los Angeles Lawyer, April 2015, David B. Jonelis
- *Civility Among Lawyers: Nice Guys Don't Have to Finish Last*, Orange County Bar Association, March 2016, Scott Garner

Senior Lawyers Resources

- *A closer look at depression and cognitive decline in senior attorneys*, California Bar Journal, April 2016,
- *What are partners' duties when a colleague is impaired? Draft opinion calls for these steps*, ABA Journal, September 2016

Client Trust Accounting Resources

- Troubling Survey Results, California Bar Journal, April 2016

Judicial Ethics Resources

- Committee on Judicial Ethics Formal Opinion 2016-008 (2016): Attending Political Fundraising or Endorsement Events

Ethics Opinions

- Draft Formal Ethics Opinion Interim No. 12-0006 (Attorney Blogging) posted at Public Comment page for additional public comment.
- Draft Formal Ethics Opinion Interim No. 13-0005 (Publicly Available Confidential Information) posted at Public Comment page for an additional public comment period with a deadline of May 16, 2016.
- Formal Opinion No. 2016-195 (re Publicly Available Confidential Information) posted at the Ethics Opinions page.
- Formal Opinion No. 2016-196 (re Attorney Blogging) posted at the Ethics Opinions page.

COPRAC

- Meeting agenda posted for 10 COPRAC meetings (See also, Enclosure 3: COPRAC 2016 Accomplishments Report, for the list of meetings conducted)
- 2016 Annual Statewide Ethics Symposium program and registration information posted.
- The Harry B. Sondheim California Responsibility Award page was updated with information about the 2016 co-recipients of the award: Karen B. Goodman and Hon. Brian C. Walsh.

Rules Revision Commission Information

Numerous updates have been made to the Rules Revision Commission pages throughout the year as the rule revision project progressed, including: 1) posting of meeting agenda and materials for 8 Commission meetings (January 22 & 23, 2016; February 19 & 20, 2016; March 31 & April 1, 2016; May 6 & 7, 2016; June 2 & 3, 2016; August 26, September 30, and October 21 & 22); 2) posting of proposed rules tentatively approved by the Commission, following each Commission meeting; 3) posting of Commission's Reports and Recommendations to the Board of Trustees concerning proposed revised Rules 5-110 and 5-220 in October, 2016, and the comprehensive set of proposed new and amended rules in November, 2016; 3) public comment posting for proposed Rules 5-110 and 5-220; 4) public hearing notice for proposed revised Rules 5-110 and 5-220; 5) public comment posting for the 90-day public comment circulation of the comprehensive set of proposed rules of Professional Conduct; 6) public hearing notice for comprehensive set of proposed rules; and, 7) public comment posting for 34 proposed new and amended rules further revised following consideration of comments received during the first 90-day public comment circulation.

Publications

2016 Compendium Index posted at the Compendium on Professional Responsibility and Conduct page.

Enclosure 1: Ethics Hotline Activity Statistics

ETHICS HOTLINE ACTIVITY STATISTICS - 2016

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	19	1111	954	157	86%	14%	14	264
February	20	1134	944	190	83%	17%	20	240
March	22	1097	885	212	81%	19%	20	263
April	21	1135	946	189	83%	17%	4	242
May	21	1120	939	181	84%	16%	12	273
June	22	1088	907	181	83%	17%	14	232
July	20	955	790	165	83%	17%	7	208
August	23	1101	967	134	88%	12%	8	243
September	21	1048	893	155	85%	15%	12	230
October	20	891	731	160	82%	18%	9	203
November	19	865	746	119	86%	14%	12	196
December	19	805	637	168	79%	21%	8	155
Cumulative Totals	247	12,350	10,339	2,011	84%	16%	140	2,749

EXPLANATIONS

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

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

Left Messages: Member inquiries received 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 (through December 2016)

Daily: Incoming Calls: 50
Completed Calls: 42

Monthly: Incoming Calls: 1,029
Completed Calls: 862

Aggregate Outgoing Calls

Current Month: 1,192

Cumulative to Date: 17,186

This figure accounts for all calls placed by staff, including: Completed Calls, Left Messages and courtesy follow-up messages. Due to "telephone tag" with members, staff may place multiple calls and leave multiple messages prior to completing a call.

Enclosure 2: Ethics Hotline Satisfaction Survey Excerpts

Excerpt from Ethics Hotline Customer Satisfaction Surveys (Surveys Received for October, 2016 - December, 2016)

1. Received October 4, 2016

COMMENTS / SUGGESTIONS:

I use this service about once per year and am always impressed with how quickly the paralegal can give me on-point rules/opinions/citations. I find it to be an invaluable tool to help point my research in the right direction when I see or find myself approaching a new ethical "grey area."

I think it is really a great service that attorneys can get this kind of anonymous assistance. It was phenomenally helpful as a new attorney when I didn't know up from down.

2. Received October 7, 2016

COMMENTS/SUGGESTIONS:

Elbert lee took great care of me today. He is extremely professional, polite and knowledgeable. He quickly determined what reference would be helpful and never rushed me. He provided a statute and case law. I would welcome the opportunity to be helped by him in the future.

3. Received October 20, 2016

COMMENTS / SUGGESTIONS:

We do recommend this hotline to other attorneys because it is especially helpful in promoting collegiality among counsel.

4. Received December 7, 2016

COMMENTS / SUGGESTIONS:

Pam was friendly, professional and her research flawless and helpful. I really appreciated the help she was able to provide.

5. Received December 13, 2016

COMMENTS/SUGGESTIONS:

I forgot the gentleman's name I spoke with today (12.13.2016 at 9am – perhaps in 50's?). He was very kind, well spoken, and amazingly quick with his citation of opinions and the rules. I was amazed. Thank you very much.

6. Received December 21, 2016

COMMENTS / SUGGESTIONS:

Enclosure 2: Ethics Hotline Satisfaction Survey Excerpts

Paralegal Pamela Hill was excellent. She was knowledgeable, friendly and extremely easy to work with. I very much appreciated her professional demeanor and knowledge of the subject matter.

Enclosure 3: COPRAC 2016 Accomplishments Report

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

2016 Year End

Chair: Suzanne Burke Spencer
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 2016 activities and accomplishments.

1. Conducted 9 one-day meetings and 1 meeting via teleconference.
2. Published 2 proposed opinions for public comment.
3. Published 2 formal opinions approved by the Board of Trustees posted online at the State Bar's website, that will also be included in the next update to the *California Compendium on Professional Responsibility*.
4. Administered the 20th Annual Statewide Ethics Symposium at the University of San Francisco School of Law Downtown Campus.
5. Issued 67 public comment letters to the Rules Revision Commission ("RRC") regarding proposed changes to the California Rules of Professional Conduct in response to the initial public comment request on 68 rules.
6. Issued 19 public comment letters to the RRC regarding the subsequent request for additional public comment on 34 new and amended rule.
7. 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.
8. Participated in 15 CLE outreach programs including requests from local and specialty bar associations.
9. Published 9 California Bar Journal MCLE self-study articles on various ethics topics.
10. Presented 2 ethics programs at the California Solo and Small Firm Summit.

Enclosure 3: COPRAC 2016 Accomplishments Report

Performance Indicators and Actual Performance

1. **[Performance Indicator] Meetings – To carry out its charge, 9-10 day-long meetings will be held in FY 2016. 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 2016, COPRAC met for a total of 9 one-day meetings and held 1 meeting via teleconference. The 2016 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 2016, the Committee issued 2 opinions for public comment distribution: Interim Opinion Nos. 13-0005 (Publicly Available Confidential Information) and 12-0006 (Attorney Blogging). Both of these proposed opinions were subsequently submitted to the Board Committee on Regulation and Discipline Oversight for final publication in 2016 as State Bar Formal Opinion Nos. 2016-195 and 2016-196, respectively. The new formal opinions were posted online at the State Bar's website, and will also be included in the next update to the *California Compendium on Professional Responsibility*. A summary of the published opinions 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 2016, the Ethics Opinions homepage and its subpages were visited over 34,070 times.

3. **[Performance Indicator] Rules of Professional Conduct – COPRAC plans to work closely with the State Bar Commission for the Revision of the Rules of Professional Conduct. COPRAC will review and analyze proposals to amend the Rules of Professional Conduct and monitor and comment on the work of the State Bar's Commission for the Revision of the Rules of Professional Conduct.**

[Actual Performance] The COPRAC Rules Revision Commission Subcommittee members served as COPRAC liaisons to the Commission. Liaisons attended and monitored meetings as they were able and reported to the Committee all relevant developments. COPRAC reviewed all proposed or amended rules issued by the Commission for public comment in FY 2016.

COPRAC reviewed the comprehensive group of 68 proposed rules issued by the Commission for initial public comment. COPRAC submitted 67 comment letters to the Commission on these 68 rules.

In addition, COPRAC reviewed the subsequent group of 34 proposed rules issued by the Commission for additional public comment. COPRAC submitted 19 comment letters to the Commission on these 34 rules.

4. **[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 2016.

Enclosure 3: COPRAC 2016 Accomplishments Report

5. **[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 2016.

6. **[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 2016.

7. **[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 2016.

8. **[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 20th Annual Statewide Ethics Symposium was held on April 9, 2016 at the University of San Francisco School of Law, Downtown Campus in San Francisco. The theme of the Symposium was "Moving Forward, Looking Back: The 20th Anniversary Ethics Symposium." The panels presented included the following: 1995 Redux: Who's Running the Profession? The Future of Rules-Making and the Disciplinary Process; Strength in Numbers: Ethical Issues in Class and Mass Actions; Diminished Capacity Clients: Ethical Issues and Dilemmas; and, The Train Keeps A-Rollin: An Update on the Second Rules Revision Commission's Proposed Amendments to California's Rules of Professional Conduct. COPRAC Chair Merri Baldwin provided welcoming remarks. John Travisna, Dean of the University of San Francisco School of Law, provided additional opening remarks. State Bar President David Pasternak attended and presented the 2016 Harry B. Sondheim California Professional Responsibility Award to Karen M. Goodman and Hon. Brian C. Walsh. Ms. Goodman and Judge Walsh also delivered the Symposium's keynote address. There were 76 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)

9. **[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 2016 for programs presented at the Annual Meeting in the Fall of 2016).**

[Actual Performance] COPRAC conducted 4 programs at the State Bar Annual Meeting held in San Diego in September/October 2016. The programs were entitled "My Lips are Sealed: Client Secrets, Confidences, and the Attorney-Client Privilege;" "Ethics Update 2016: Significant Developments in the Law of Lawyering;" "Huffing, Puffing, and Bluffing: The Bounds of Legal Ethics in Negotiations;" and "Difficult Personalities Confronted by Lawyers." All four programs were selected for videotaping and are available as part of the State Bar's online CLE resources. Collectively, these programs had 757 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)

Enclosure 3: COPRAC 2016 Accomplishments Report

- 10. [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 2016, members of COPRAC represented the Committee as participants in 15 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 2016 is attached. (Attachment E)

- 11. [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 2016 committee members wrote 9 MCLE self-study articles for the California Bar Journal on the following ethics topics: advanced waivers; electronically stored information; attorney civility; differences between mandated and permissive withdrawal; accepting a corporate client's stock as payment; threatening administrative, criminal, or disciplinary charges; sanctions against attorneys; a hypothetical examining a broad array of ethical rules; and, a lawyer's duty to disclose mistakes.

In addition, COPRAC was invited to submit a proposal for a program to be offered at the 2016 California Solo and Small Firm Summit. Following acceptance of COPRAC's proposal, COPRAC members presented two CLE programs entitled "Let's Make a Deal: The Ethics of Negotiation;" and "It Takes All Kinds: The Ethics of Dealing with Difficult Personalities."

**Enclosure 3: COPRAC 2016 Accomplishments Report
ATTACHMENT A**

2016 SCHEDULE OF MEETINGS

COMMITTEE ON PROFESSIONAL RESPONSIBILITY AND CONDUCT

January 15, 2016

Los Angeles State Bar Office

February 26, 2016

San Francisco State Bar Office

April 8, 2016 (Meeting)

April 9, 2016 (Symposium)

San Francisco/University of San Francisco School of Law, Downtown Campus

May 20, 2016

Los Angeles State Bar Office

June 24, 2016

San Francisco State Bar Office

August 12, 2016

San Francisco State Bar Office

September 8, 2016

Via Teleconference

September 29, 2016

San Diego – State Bar Annual Meeting

November 4, 2016

Los Angeles State Bar Office

December 9, 2016

Los Angeles & San Francisco State Bar Office via videoconference

Enclosure 3: COPRAC 2016 Accomplishments Report
ATTACHMENT B

SUMMARY OF PUBLISHED OPINIONS (2016)

Officially Published Opinions

FORMAL OPINION NO. 2016-195 (Formerly Interim No. 13-0005)

ISSUE: 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?

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

FORMAL OPINION NO. 2016-196 (Formerly Interim 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^{1/} 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.

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS

Panel One: Redux: Who's Running the Profession?

(L. Doyle, D. Carr, R. Hawley, M. Tuft)

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

Overall Teaching Effectiveness: 4.46

Effectiveness of Teaching Methods: 4.44

Significant Current Intellectual or Practical Content: 4.65

(26 responses in 30 results)

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

- Great subject matter; "talking heads" format a bit stale; wanted to hear more from Mark Tuft.
- Enjoyed the diversity of topics.
- Very informative. Would have enjoyed longer discussions if time permitted.
- Interesting, but not especially coordinated among panelist. Could have used more structure - could have liked a discussion among panelists rather than 3 lectures.
- Very interesting and informative
- I would have appreciated more give and take among panelists, rather than 3 presentations presented seriatim. Otherwise, excellent content and refreshing views.
- Good materials.
- All of the speakers are excellent. I would have preferred more interaction among the panelists.
- Very interesting topic - enjoyed the talk. Wish there had been time for a question and answer period. Appreciated Mr. Hawley's frank comments.
- Mark Tuft is excellent
- Panel moderator's talk = too long; enjoyed Mr. Hawley's comments.

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS

Panel Two: Strength in Numbers: Ethical Issues in Class and Mass Actions

(M. Baldwin, M. Chavez, J. Davis, R. Zitrin)

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

Overall Teaching Effectiveness: 4.56

Effectiveness of Teaching Methods: 4.58

Significant Current Intellectual or Practical Content: 4.69

(26 responses in 30 results)

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

- Great interaction. Interesting.
- The ILG case! Wow.
- Great discussion on the conflict issues in the context of class action and mass action.
- Very good discussions. Needed more time for questions.
- Interesting and well structured. Panelists effectively interacted with each other while keeping presentation structured.
- Excellent; sometimes got a bit over my head.
- Would have appreciated hearing more about mass actions, but overall it was a good presentation.
- An outline would have helped.
- Merri is a superb moderator and should be required to chair a panel each year.
- Interesting issues, a little too much self promotion.
- Excellent panel and moderator. Enjoyed the participants' questions to the panel.
- Whole panel excellent.
- Excellent panel & moderator.

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS

Panel Three: Diminished Capacity Clients: Ethical Issues and Dilemmas g

(S. Spencer, B. Epstein, J. Fishkin, S. Garner)

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

Overall Teaching Effectiveness: 4.58

Effectiveness of Teaching Methods: 4.56

Significant Current Intellectual or Practical Content: 4.73

(26 responses in 30 results)

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

- Interesting; nice lively discussion.
- First rate, especially with audience Q&A.
- Great panel. Provided useful material.
- Interesting topic. Having Jerome Fishkin critique his own opinion was entertaining idea.
- Very practical and focused.
- I liked the disagreement among the panel; a very important topic. Suggestion for next year - Ethical Obligations of a Lawyer who suspects he or she may be losing capacity to practice law.
- The debate over representing an impaired client was fascinating.
- Good examples by Ms. Epstein. Great audience participation.
- Fine panel

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS

Panel Four: The Train Keeps A-Rollin: An Update on the Second Rules Revision Commission's Proposed Amendments to California's Rules of Professional Conduct

(A. Dilworth, S. Lamport, K. Mohr, J. Steele)

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

Overall Teaching Effectiveness: 4.20

Effectiveness of Teaching Methods: 4.26

Significant Current Intellectual or Practical Content: 4.50

(20 responses in 30 results)

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

- For all panels; time should be specifically set aside for questions.
- Panel clueless on Rule 2-400 and Rule 8.4.1. Was deeply disturbing. Diversity, please!! Lack of caring beyond stilted claims of being warned about discrimination, "but..."
- Note enough time. John Steele - great articulation of the issues.
- Well informed panel. Issues were very thought provoking, but there was insufficient time for audience questions and follow up discussion.
- Projection of rules being discussed could have been better - not sure it was of the drafts actually being discussed.
- Got stuck in the weeds a bit.
- This was extremely valuable and important.
- Is it appropriate for this topic to be presented by 4 white men?
- Love the give and take among the panel.
- Good participation.

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS
GENERAL/OVERALL 2015 ETHICS SYMPOSIUM EVALUATIONS

To what extent were your personal objectives satisfied? 4.70

(23 responses in 29 results)

- Very satisfied - informative discussions with comprehensive case law and examples.
- Excellent program. Good selection of issues.
- Some extent
- Wish there had been more time for a question & answer session in the 1st panel.

To what extent did the environment contribute to the learning experience? 4.61

(23 responses in 29 results)

- Very good facility and materials.
- Great space.
- Very good classroom; good sight lines, good screens for Panel 3 slides, good acoustics, good building (accessible facilities), oh, and the Embarcadero, too!
- No, bad audibility
- Microphones were a problem. The 2 "large" mics worked fine as long as pointed toward speaker. "Small thin" mics were inadequate.

To what extent did the materials contribute to the learning experience? 4.23

(22 responses in 29 results)

- Supplements experience to refer to.
- 650 pages were not necessary. Materials that were necessary should have been provided so that they could have been available during the activity.
- Good materials this year.
- Especially liked that Panel 3 provided an outline to use Power Point slides.
- Comprehensive, but delivered too late. Wednesday before does not really give enough time to review in advance.
- Materials were too long; it was too difficult to access all the materials online (admittedly, I'm a troglodyte); otherwise they were helpful to the extent I was able to refer to them during the presentation.
- Online accessibility was great; it would have been helpful if presenters explained why materials were included.

To what extent were the objectives stated in the promotional literature or those stated at the beginning of the activity satisfied? 4.76

(21 responses in 29 results)

- Objectives as stated were not terribly specific.
- Panel 1 exceeded expectations because I couldn't tell what it was going to be about beforehand. Panel 3 was excellent.

To what extent did the activity contain significant current intellectual or practical content? 4.73

(23 responses in 29 results)

- Very substantive. Materials were very dense with rules/case law, for future reference.
- To a great extent

ETHICS SYMPOSIUM ACTIVITY EVALUATION RESULTS

Please provide your suggestions for future symposium panel topics below.

- 1. Civility among opposing counsel.
- 2. Conflicts arising from joint representation of entity and entity insiders in derivative actions insofar as an insurer's duty to defend with separate counsel.
- See my comment to Panel 3. 'Ethical Obligations of a Lawyer Who Suspects He or She May Be Losing Capacity to Practice Law'
- Rules regarding multiple clients and disclosing potential conflicts; permissible potential conflict notices and waiver forms. (Once the rules are final)
- A deeper dive on discrimination is due. The symposium was excellent, but predominantly white and male. If 8.4.1 is approved, we need a full discussion of behavior being prohibited.
- multi jurisdictional practice.

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

PROGRAM #24 EVALUATIONS

My Lips are Sealed: Client Secrets, Confidences and the Attorney-Client Privilege

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

- | | |
|---|------|
| 1. The program met my educational objectives. | 4.26 |
| 2. The program contained significant current professional content. | 4.44 |
| 3. The instructional materials were beneficial in learning the topic. | 4.12 |
| 4. The promotional materials accurately described the program. | 4.24 |
| 5. Additional comments regarding this program: | |
| <ul style="list-style-type: none">• More rudimentary than I hoped but a good clear presentation. Did not touch on complex corporate priv. issues.• Terrible presentation. Monotone drones stuck in their seats.• Allowed questions to distend and therefore entire material not covered. Mouse moving on screen was too distracting.• I'm grateful for my coffee before this a.m session. The hypotheticals came too little too late.• All were quite knowledgeable; Andrew was exceptional.• Slow, dull start, but it improved.• Very good program!• Should have started hypotheticals earlier!• The youngest male lawyer had a sense of humor that made his contributions more interesting.• The subject matter is better understood when examples or hypos are given along with description of rules. Otherwise it is too dry. They fixed this later in the discussion but it would have been more cogent if they interlaced the hypos with the rules.• Ethics are always interesting.• Need printed doc, not disc. Program was useful and informative.• Hypes were the best part• More examples and less statutes.• Very dry and frankly, presented in a way that was uninteresting by all panelists.• Please keep hand off the mouse when not needed. Very difficult to watch this on a huge screen. And, keep slide on content being discussed!• Mouse cursor dancing on screen was visually distracting.• Very dry presentation | |

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

Speaker Name: J. DeCure

- | | |
|--|------|
| Overall Teaching Effectiveness | 4.24 |
| Speaker had Current Knowledge of Subject | 4.67 |
| Speaker was Enthusiastic and Spoke Clearly | 4.36 |
| Speaker Managed Class Time Well | 4.45 |
| Comments About This Speaker: | |
| <ul style="list-style-type: none">• Didn't participate enough to vote further.• Now I know where Bar Examiners get their info.• Very easy to follow and engaging.• Best of 4 - thanks• Good background and experience.• Knowledgeable• Disengaged with other speakers, hardly spoke. | |

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

Speaker Name: A. Dilworth

Overall Teaching Effectiveness	4.51
Speaker had Current Knowledge of Subject	4.64
Speaker was Enthusiastic and Spoke Clearly	4.56
Speaker Managed Class Time Well	4.58

Comments About This Speaker:

- Excellent Speaker
- Spoke in an engaging tone - not monotone.
- Good knowledge and enthusiasm. He was star of the show.
- Knowledgeable
- Playing with hands is disturbing.
- The best speaker and most enjoyed.

Speaker Name: L. Doyle

Overall Teaching Effectiveness	4.34
Speaker had Current Knowledge of Subject	4.63
Speaker was Enthusiastic and Spoke Clearly	4.34
Speaker Managed Class Time Well	4.44

Comments About This Speaker:

- All 5's but he distracted me with the mouse on the examples with a run away arrow.
- Stop playing with cursor. Terrible presentation on slide presentation. Take computer away from Larry!
- Too dry/monotone. Clear = yes, Enthusiastic = no.
- He needs to be more animated
- Very dry but appeared knowledgeable.
- A little rambling.

Speaker Name: U. Singh

Overall Teaching Effectiveness	3.60
Speaker had Current Knowledge of Subject	4.12
Speaker was Enthusiastic and Spoke Clearly	3.62
Speaker Managed Class Time Well	4.16

Comments About This Speaker:

- Hard to hear her, soft spoken but very knowledgeable.
- Not enthusiastic
- She needs to be more animated
- Seemed tongue-tied at times
- Sounded a bit nervous.
- Not the best speaker
- She had very little to say, minimal participation, would not have been missed if not there.
- Knows subject, but needs more speaking experience.
- Spoke very low and difficult to hear.

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

PROGRAM #35 EVALUATIONS
Ethics Update 2016: 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. | 4.82 |
| 2. The program contained significant current professional content. | 4.87 |
| 3. The instructional materials were beneficial in learning the topic. | 4.80 |
| 4. The promotional materials accurately described the program. | 4.81 |
| 5. Additional comments regarding this program: | |
| • Reminds me of why I used to do this work. | |
| • These guys had organized the topic well and worked together well. | |
| • Thank you for your presentation. | |
| • Great job by all speakers | |
| • All 3 terrific speakers; excellent coverage of important cases. | |
| • Excellent! | |
| • Explains why lawyers are despised by the public | |
| • Excellent practical presentation of cases. Lively presentation. | |
| • Excellent Program | |
| • Good though provoking discussion of relatively thick slate of ethics cases | |
| • A more practical dialogue as opposed to "case reviews" would have been a better approach. I think we can all review case law but what we can't get is YOUR INSIGHT and we did not get much of that. | |
| • Hard to hear speakers - sound system not good. | |
| • Very useful and interesting program | |
| • All speakers were articulate and knowledgeable about their area of ethics, respectively. | |
| • Great ethics session! | |

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

Speaker Name: S. Burke Spencer

- | | |
|--|------|
| Overall Teaching Effectiveness | 4.81 |
| Speaker had Current Knowledge of Subject | 4.89 |
| Speaker was Enthusiastic and Spoke Clearly | 4.76 |
| Speaker Managed Class Time Well | 4.83 |
| Comments About This Speaker: | |
| • Strong presentation | |
| • Excellent speaker | |
| • Showed well how ambiguities in facts could | |
| • Showed well how ambiguities in facts could turn case holdings. | |
| • Very good | |

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

Speaker Name: M. Baldwin

Overall Teaching Effectiveness	4.79
Speaker had Current Knowledge of Subject	4.90
Speaker was Enthusiastic and Spoke Clearly	4.84
Speaker Managed Class Time Well	4.80

Comments About This Speaker:

- Loved it.
- Well presented, articulate and informative.
- Waste of time: ask "show of hands" each class participation
- Good job showing why lawyers are hated.
- Good presenter
- Good job
- Was really effective and had audience engaged.
- Extremely knowledgeable

Speaker Name: S. Garner

Overall Teaching Effectiveness	4.77
Speaker had Current Knowledge of Subject	4.88
Speaker was Enthusiastic and Spoke Clearly	4.81
Speaker Managed Class Time Well	4.85

Comments About This Speaker:

- Articulate and valuable info.
- Very clear in explaining anti-slap cases.
- Concise
- Very good

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

PROGRAM #47 EVALUATIONS
Huffing, Puffing and Bluffing: The Bounds of Legal Ethics in Negotiations

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

- | | |
|--|------|
| 1. The program met my educational objectives. | 4.59 |
| 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. | 4.67 |
| 5. Additional comments regarding this program: | |
| • All spoke well on the topic and were engaged in the topic. | |
| • Could only hear the main moderator clearly | |
| • All were ok, but the hypos were long | |
| • Excellent forum. Very respectful of questions despite time constraints. All worked well together! | |
| • Too much audience interruptions. | |
| • great job engaging audience. | |
| • All 4 speakers participated. Interesting. | |
| • I wish the hypos had been included in the materials. | |
| • Microphone could have been a little louder. | |
| • Examples are somewhat muddled. No materials provided. | |
| • Great presentation. | |
| • Great presentation. | |
| • great interaction w/ audience. Please list all cases used in presentation in materials provided online to attendees. | |
| • Geez I feel like I know less now than I did before this session! | |
| • Very good format and pace. Panelists worked well together. | |
| • Excellent time/panel management by moderate. Well organized - well prepared panel. | |
| • Annoying that the slides were not provided, pdf materials did not include sides. Otherwise great panel!! | |
| • Excellent presentation! | |
| • Taking questions during the presentation breaks up the continuity of the presentation. Interesting though. | |
| • Really well done examples. | |
| • Great class - offer it every year. | |
| • Best program so far! Very stimulating. Thank you. | |
| • Still puzzled by this thorny area. Program materials left out the hypothetical and discussion/analysis of answers. Hard to grasp the facts of hypos. | |
| • Please use name cards to identify the panel members. Did not know identity of 3 male speakers despite one-time intro at beginning. Did not know one panelist, listed in printed program had been replaced by a substitute. | |
| • All speakers were good - the interplay between them was good. | |
| • Very interesting topic with great discussion. | |
| • Great panel, great energy. | |

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

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

Speaker Name: A. Bomse

Overall Teaching Effectiveness	4.68
Speaker had Current Knowledge of Subject	4.76
Speaker was Enthusiastic and Spoke Clearly	4.72
Speaker Managed Class Time Well	4.72
Comments About This Speaker:	
• She shouldn't interrupt people.	
• Excellent, smart, articulate	

Speaker Name: S. Bundy

Overall Teaching Effectiveness	4.63
Speaker had Current Knowledge of Subject	4.74
Speaker was Enthusiastic and Spoke Clearly	4.68
Speaker Managed Class Time Well	4.68
Comments About This Speaker:	
• Very sharp	

Speaker Name: A. Dilworth

Overall Teaching Effectiveness	4.64
Speaker had Current Knowledge of Subject	4.74
Speaker was Enthusiastic and Spoke Clearly	4.67
Speaker Managed Class Time Well	4.67
Comments About This Speaker:	
• Well moderated discussion.	

Speaker Name: J. Osman (substitute for E. Deitz)

Overall Teaching Effectiveness	4.61
Speaker had Current Knowledge of Subject	4.76
Speaker was Enthusiastic and Spoke Clearly	4.73
Speaker Managed Class Time Well	4.67
Comments About This Speaker:	
• Solid, smart	

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

PROGRAM # 94 EVALUATIONS
Difficult Personalities Confronted by Lawyers

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. | 4.58 |
| 3. The instructional materials were beneficial in learning the topic. | 4.43 |
| 4. The promotional materials accurately described the program. | 4.29 |
| 5. Additional comments regarding this program: | |
| • If folks in the rear of the room can't hear: the entire program is a waste. All speakers must be told to speak directly into the microphone. Sound system not good. | |
| • Not much useful info I'm afraid | |
| • Useful program. | |
| • Rooms too cold. | |
| • Thought it would be more client focused. | |
| • Uneven distribution of time among the panel | |
| • Uneven distribution of time among the panel | |
| • Honestly, this is subject with the potential to be very interesting. But this was kind of boring. A better format would probably include hypos & discussions by the panelists about how to handle different scenarios. A later afternoon class should probably be a bit interactive. Keep people from falling asleep or leaving early. | |
| • All speakers were excellent. Practical advice. | |
| • This was an awesome seminar. The panelists were excellent & provided real-world applications & recommended. The first part was a bit stranger than the second as the second part focused more on obligations instead of how to deal w/ the issues. | |
| • Dull, tedious presentation. | |
| • Description and title of class misrepresented content. Ironical this was an ethics class. | |
| • Explained ethics responsibilities well. | |
| • Excellent! Thank you. | |
| • Excellent! Thank you. | |
| • Time management issues. | |
| • No need to cram so much substance. People know how to read. Section of co-counsel could be eliminated. It would have been more effective and interesting. Allow audience questions; allow discussion. | |

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

Speaker Name: D. Majchrzak

- | | |
|--|------|
| Overall Teaching Effectiveness | 4.38 |
| Speaker had Current Knowledge of Subject | 4.72 |
| Speaker was Enthusiastic and Spoke Clearly | 4.56 |
| Speaker Managed Class Time Well | 4.19 |
| Comments About This Speaker: | |
| • Good job in keeping flow of presentation/discussion. | |
| • Spent too much time on pre-introduction. | |
| • He cut off a speaker in the middle of a sentence. | |

ATTACHMENT D
Enclosure 3: COPRAC 2016 Accomplishments Report
ANNUAL MEETING ACTIVITY EVALUATION RESULTS

Speaker Name: J. Osman

Overall Teaching Effectiveness	4.54
Speaker had Current Knowledge of Subject	4.87
Speaker was Enthusiastic and Spoke Clearly	4.74
Speaker Managed Class Time Well	4.68
Comments About This Speaker:	

Speaker Name: R. Simon

Overall Teaching Effectiveness	4.64
Speaker had Current Knowledge of Subject	4.96
Speaker was Enthusiastic and Spoke Clearly	4.83
Speaker Managed Class Time Well	4.78
Comments About This Speaker:	
<ul style="list-style-type: none">• great insights.• Would like more specific steps to take to defuse. Examples.	

Speaker Name: M. Trausch

Overall Teaching Effectiveness	4.50
Speaker had Current Knowledge of Subject	4.80
Speaker was Enthusiastic and Spoke Clearly	4.68
Speaker Managed Class Time Well	4.67
Comments About This Speaker:	
<ul style="list-style-type: none">• Did not have much to say - but her time to talk was at the end of program & time ran out.• Didn't participate in panel very much; didn't get sufficient time.	

**Enclosure 3: COPRAC 2016 Accomplishments Report
ATTACHMENT E**

2016 COPRAC Member Outreach Programs

	Date	Name	Host or Provider	Location
1.	01-05-2016	Joel Osman	Orange County Bar Association	Newport Beach, CA
2.	01-26-2016	Scott Garner	USC Gould School of Law Tax Institute	Los Angeles, CA
3.	01-26-2016	Scott Garner	Chapman University	Orange, CA
4.	02-04-2016	Scott Garner	Clear Law Institute Webinar	Irvine, CA
5.	02-05-2016	Joel Osman	Beverly Hills Bar Association	Beverly Hills, CA
6.	03-02-2016	Scott Garner	LMRM Conference	Chicago, IL
7.	04-12-2016	Scott Garner	Bloomberg BNA Webinar	Irvine, CA
8.	02-18-2016	Michele Trausch	San Mateo County Bar Association	San Mateo, CA
9.	07-20-2016	David Majchrzak	Equal Employment Opportunity Commission	San Francisco, CA
10.	07-20-2016	Scott Garner	Orange County Bar Association	Orange, CA
11.	09-17-2016	Scott Garner	California Political Attorneys Association	Las Vegas, NV
12.	10-19-2016	Scott Garner	Orange County Women Lawyers Association	Irvine, CA
13.	11-17-2016	Scott Garner	The Advocacy Group	Laguna Niguel, CA
14.	11-22-2016	Scott Garner	Orange County Bar Association	Irvine, CA
14.	12-05-2016	Larry Doyle	Sacramento County Bar Association	Sacramento, CA
15.	12-12-2016	Scott Garner	Orange County Bar Association	Irvine, CA

**ENCLOSURE 4: Professional Competence Budget Summary –
Authorized vs. Actuals**

**Professional Competence Budget Summary
Authorized vs. Actual**

Year-to-Date as of December 2016

Budget (Actual)	\$2,430,725
Budget (Authorized)	\$1,836,040
Variance	-\$594,685

Monthly (January thru December 2016)

	January	February	March	April	May	June
Budget (Actual)	\$118,736	\$125,139	\$139,508	\$114,732	\$135,860	\$128,927
Budget (Authorized)	\$143,026	\$143,026	\$143,026	\$143,026	\$143,026	\$143,026
Variance	\$24,290	\$17,887	\$3,518	\$28,294	\$7,166	\$14,099

	July	August	September	October	November	December¹
Budget (Actual)	\$185,860	\$117,249	\$121,624	\$130,162	\$126,475	\$986,453
Budget (Authorized)	\$202,890	\$143,026	\$143,026	\$143,026	\$143,026	\$202,890
Variance	\$17,030	\$25,777	\$21,402	\$12,864	\$16,551	-\$783,563

¹ In 2016, no indirect costs were budgeted to State Bar programs due to a change in budgeting methodology. For the Unconsolidated General Fund, indirect costs were budgeted at the fund level instead of the program level. As a result, the 2016 actuals capture indirect costs as well, with no corresponding budget. The resultant variance is not a factor in evaluating a program's performance. (Pursuant to February 21, 2017 email regarding 2017 Indirect Costs from David Wolf, Finance Manager, to State Bar program managers).