

Potential Ethics Symposium Panel Topics for 2019

- Post-Conviction Discovery (AB 1987)
https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1987
 - Deep Dive into File Retention and Release
- Future of Fee Arbitration at the State Bar (joint panel with MFA)
- California Advertising Rules 7.1-7.5
 - Include changes and restructuring of the ABA Model Rules on advertising
- Advising Clients When State and Federal Law Conflicts
 - Marijuana
 - Immigration/Sanctuary Cities

Panel Topics Suggested by Committee and Not Chosen in Previous Years

- In-House vs. Outside Counsel – communications between in-house GC and outside counsel, also when you have to disclose a mistake, set of obligations that arise
- Attorney competency (impairment, drug-alcohol issues)
- Government lawyer whistle blowing or termination like Sally Yates
- Screening – ethical walls, proposed rules
- CodeX Project (emphasis is on the research and development of computational law — the branch of legal informatics concerned with the automation and mechanization of legal analysis – legal document management, legal infrastructure, etc) or innovation of delivery of legal services
 - Fee-sharing issues for online rating and marketing services (4 ethics opinions from other states exist)
- Duties to Non-Clients (possibly talk about Proposed Rule 1.18)
- Cybersecurity (NY Times article)
- Executive Conflicts of Interest – Presidential Conflicts of Interest
- *Sheppard Mullin v. J-M Manufacturing*
- Cybercurrency
- Class Action Issues (settlement issues, conflicts, etc.)
- Attorney in dual capacities – lawyers functioning in house in dual roles, whether privilege applies when not acting as an attorney
- Stolen docs (toxic evidence)
- When government comes knocking? Government coming after lawyers under Sanctions type theories, consumer protect agency

Panel Topics Selected for 2018 Ethics Symposium:

- Ethics Update
- Joint Defense Agreements
- Law and Ethics of Attorney Mistakes
- Prohibited Discrimination and Sexual Harassment in the Legal Profession

Panel Topics Selected for 2017 Ethics Symposium:

- Rules Revision Commission Panel
- Evidence Code Section 958 and Beyond
- What is the “Heartland” of the Privilege? Recent Developments Concerning the Attorney-Client Privilege
- Ethics, Civility, and Professionalism in the Courtroom: A Disciplinary Context

Panel Topics Selected for 2016 Ethics Symposium:

- The Future of Rules-Making and the Disciplinary Process (old and new challenges facing the rule-making process and practice of law)
- Ethical Issues in Class and Mass Actions
- Diminished Capacity Clients: Ethical issues and Dilemmas
- An Update on the Second Rules Revision Commission’s Proposed Amendments to California’s Rules of Professional Conduct

Panel Topics Selected for 2015 Ethics Symposium:

- Law Firm Cybersecurity
- Rules Revision Commission Panel
- Alternative Litigation Funding
- Negotiation Ethics

Panel Topics Selected for 2014 Ethics Symposium:

- Defending a Charles Ponzi or Bernie Madoff (representing clients allegedly involved in fraud or illegal activities)
- Complex Conflicts Issues Deciphered (advance consents and non-waivable conflicts)
- Trial Ethics: Don’t risk your soul to win a point (dealing with witnesses, producing evidence, jury selection, etc.)
- Innovative Models of Providing Legal Services (outsourced legal services, virtual law practices, online legal forms)

Panel Topics Suggested by Committee and Not Chosen for 2014

- Class Action Issues (settlement issues, conflicts, etc.)
- Some other technology-related topic
- Insurance Issues (necessity for Cumis counsel, conflicts, etc.)
- Complex Issues Relating to the Attorney-Client Privilege

TOPICS SUGGESTED BY ATTENDEES ON EVALUATION FORMS

2017

- Ethics for attorneys in mediation.
- Substantial program on termination – *Manfredi*
- Advising clients actively involved in criminal activity, e.g. personal use of marijuana

2016

- Conflicts arising from joint representation of entity and entity insiders in derivative actions insofar as an insurer's duty to defend with separate counsel.
- 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. If 8.4.1 is approved, we need a full discussion of behavior being prohibited.
- Multi jurisdictional practice.

2015

- 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.

2014

- The best intake process for clients.
- Intersection of duty to client and duty to larger community - we do what we do only because that community has given us a license to do it. What do we owe that community.
- Environmental/land use/toxic torts

2013

- Drafting waivers of conflict interest. Best practices for avoiding conflicts and checking conflicts even if you do not have expensive technology. Drafting engagement agreements.
- Something international.
- Ethics international practice, ethic in negotiation/arbitration in business transactions ethics in plea bargaining.
- Ethical issues in working with paralegals and other non-lawyers educating them re confidentiality, UPL, etc.

2012 - None

2011

- Living range resolution or public protection: 1) by attorney education through internship 2) re-education through programmed peer pressure by others through civil servants. Use of mandatory "job rotation" @ OCTC to introduce pragmatism to a mechanical approach and discipline in order to better protect the public.
- Pro Bono services and conflicts arising from providing pro bono work, Rule 1-650 (especially in tough times - foreclose, mortgages)
- Legal aid and pro bono considerations?
- Tech issues/public internet topics
- Class action ethics

2010

- Client waiver of protections afforded by the Rules (e.g., (1) May a client waive the protection of Rule 1-400 and authorized any and all future direct solicitations for legal

services?; (2) May a client waive the right to give consent to fee splits under Rule 2-200?; (3) May a client waive the protection afforded under Rule 3-700 for due notice of a lawyer's permissive withdrawal?)

2009

- Elder law and ethics - Elder abuse and the attorney's duty to protect the elderly
- I would like an in-depth panel on screening
- A lecture on the ethical rules of lawyers advertising on the internet or utilizing a web-based internet address would be very interesting and helpful.
- Topics: 401k/ 403b plans. Arbitration--- Needs complete revision of current oppressive mandatory signing agreement practice. Slight inroads to consumer right of legal access, by recent case.
- 401 k /403b plans; another item = Arbitration---needs complete visibility of current circumvention of legal protection. small inroads have recently occurred for permitting single person recourse to over sided arbitrator's allegiance
- Insurance issues; identifying the client issues; complex conflicts questions. Multijurisdictional practice issues.
- Panel Segment on voir dire strategies impacted by ethics and codified boundaries. One panelist with jury selection consulting expertise, a prosecuting DA or DDA, and a judge.
- B&P 6068(a) and conduct warranting discipline that does not constitute moral turpitude.

Below is a list of eight (8) CMFA members interested in presenting at the 2019 COPRAC Symposium and their MFA panel topic proposals:

Lorraine Walsh, current CMFA Chair

Proposed Topic: Update the *Enforceable and Effective Fee Agreements* program that was presented at past Annual Meetings, featuring newly revised sample fee agreement documents and recent case law including Sheppard Mullin v. JM Manufacturing. Emphasize that if an attorney prepares an enforceable and effective fee agreement, it lessens the chance that s/he will be involved later in a fee dispute.

Kenneth Bacon, current Presiding Arbitrator for State Bar MFA Program and CMFA Member

Proposed Topic: I propose a program entitled something along the lines of Enforceable and Ethical Fee Agreements and Billing Practices. The program would cover B&P sections 6146-6148 and applicable Rules of Professional Conduct; drafting fee agreements; risk management issues to be addressed in fee agreements; fee agreement types/nuances (hourly, contingent, flat fee, hybrid, mediation and arbitration provisions, etc.); costs; changing rates during representation; best billing practices; and, practical tips to help attorneys avoid fee disputes and a discussion of case law affecting fee arrangements.

Clark Stone, current CMFA Vice Chair and current Assistant Presiding Arbitrator for State Bar MFA Program

Proposed Topics (3):

1. Attorney Time Entry: Avoiding Attorney-Client Fee Disputes
 - a. Statutory basis for time entry requirements (15 mins.)
 - b. Requirements and expectations (15 mins.)
 - c. "Block" versus "Task" billing (10 mins.)
 - d. Fee Arb perspectives (20 mins.)
 - e. Best practices (15 mins.)
 - f. Case study (10 mins.)
 - g. Conclusion (5 mins.)
2. Managing Client Expectations From First Contact Through End of Representation:
 - a. Introduction and Overview
 - b. Handling the First Contact
 - c. State Bar's Model Client Representation and Fee Agreements
 - d. Dos and Don'ts of Client Communications and Management
 - e. When and How to Disengage
 - f. Fee Arbitration Issues
 - g. Conclusion and Questions
3. Attorney-Client Fee Disputes and Fee Arbitration
 - a. Intro
 - b. California's Attorney-Client Fee Dispute System

- c. SCCBA Fee Arbitration Program
- d. The Fee Arbitration Process
- e. How Did I Get Into This?
- f. Avoiding and/or Handling Fee Disputes

Joel Mark, former CMFA Chair and former Presiding Arbitrator for State Bar MFA Program; CMFA Member

Proposed Topic: Ten (or more) Important Ethical Issues and Practice Tips to Survive MFA

George Duesdieker, CMFA Member

Proposed Topic: Fee Agreements: Compliance with B&P 6148(d)(3) and the consequences of failure to do so per B&P 6148(c).

John McDougall, CMFA Member

Proposed Topic: Ethical Dimensions to Fee Agreements and Billing (see attachment)

Nick Migliaccio, former CMFA Chair; CMFA Member

Proposed Topic: Avoid the Void (see attachment; was previously e-mailed to you on 12/21/18). This program was presented at past Annual Meetings three times.

Roy Zukerman, CMFA Member

Proposed Topic: Statutory Requirements and Best Practices for Fee Agreements (Demonstrated by the revised Sample Fee Agreement documents)