



# The State Bar *of California*

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## **OPEN SESSION**

### **AGENDA ITEM**

**54-115 JULY 2019**

### **BOARD EXECUTIVE COMMITTEE III.D**

**DATE:** July 11, 2019

**TO:** Members, Board Executive Committee  
Members, Board of Trustees

**FROM:** Mark Broughton, Appointments Liaison, Board Executive Committee  
Brandon Stallings, Appointments Liaison, Board Executive Committee

**SUBJECT:** Committee on Professional Responsibility and Conduct - Annual Appointment  
of Members, Officers, and Alternates

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## **EXECUTIVE SUMMARY**

This item presents the candidates recommended for appointment to the Committee on Professional Responsibility and Conduct ("COPRAC" or "the Committee") for the 2019-2020 committee year. Following the Board of Trustees ("Board") resolution in March 2019 to reduce the Committee's size through attrition from 16 members to 12, this item recommends an appointment of three members in order to begin the implementation of a reduced committee size. In addition, as part of the Board's Appendix I review, COPRAC was assigned some of the responsibilities previously conducted by Committee on Mandatory Fee Arbitration, which will sunset on June 30, 2019. To that end, this item recommends the appointment of two persons with a background in fee arbitration.

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## **BACKGROUND**

The Committee on Professional Responsibility and Conduct addresses matters involving professional ethics. The Committee helps educate and provide guidance to attorneys, judges, and the public about the ethical duties of an attorney. The Committee's work includes: (1) drafting advisory opinions on issues of professional ethics; (2) studying and recommending changes to the Rules of Professional Conduct; (3) conducting special studies and providing advice to the Board of Trustees on professional responsibility issues; and (4) engaging in educational and outreach programs on legal ethics topics, including conducting an annual ethics symposium.

In addition, beginning in the 2019-2020 committee year, COPRAC will be tasked with drafting arbitration advisories, developing training and education on mandatory fee arbitration, and other related tasks.

Currently, 16 individuals serve on the Committee which consists of 15 voting members and an Advisor. The Committee has three officers who each serve a one-year term of office: Chair; Vice-Chair; and Advisor. All other Committee members are serving a three-year term. Consistent with policy changes the Board has made to all sub-entities as part of the Appendix I review, the Committee will be retiring the Advisor position and, beginning this year, will appoint new members to a four-year term.

## **DISCUSSION**

This year, the terms of seven members of the Committee will end: five members, one Chair, and one Advisor. At the Board's March 2019 meeting, the Board resolved to reduce the size of the Committee from 16 members to 12 members through attrition. In order to begin the implementation of a reduced committee size, we recommend the appointment of three individuals to the Committee this year.

The individuals recommended for appointment will continue to provide a core of members with a strong background in legal ethics, which is critical to the Committee's ability to issue opinions, to develop educational programs, and to be responsive to the Board's request for analysis of professional responsibility initiatives. In addition, this recommendation includes two applicants who have a strong background in fee arbitration to assume a primary role in the Committee's new responsibilities related to issuing arbitration advisories, developing training and education on mandatory fee arbitration, and other related tasks.

## **PROPOSED NEW MEMBERS**

The State Bar received 14 applications. In order to fill three vacancies, we reviewed the applications, considered recommendations from committee leadership and from staff. We believe that the three individuals recommended for appointment are strong candidates who will serve COPRAC and the Board well. The criteria used to consider the applications included, in no particular order: (1) prior experience in the legal ethics field; (2) prior experience in fee arbitration; and (3) prior volunteer experience, particularly involvement in legal and other professional groups.

The three individuals recommended for appointment to COPRAC are: Kenneth Bacon; Sarah Banola; and Brandon Krueger. All three applicants were considered outstanding candidates for COPRAC.

Kenneth Bacon is the current Presiding Arbitrator for the State Bar's Mandatory Fee Arbitration Program and a former chair of the Committee on Mandatory Fee Arbitration. He is the current chair of the Sacramento County Bar Association Ethics Committee and a certified specialist in legal malpractice by the State Bar.

Sarah Banola is the immediate past chair of the Bar Association of San Francisco's legal ethics committee. She has a practice focused on professional responsibility, risk management, and legal ethics. As part of this practice, she provides advice on matters related to legal ethics, negligence, attorney-client fee disputes, professional discipline, and conflicts of interest, among other areas.

Brandon Krueger is the current vice chair of the Los Angeles County Bar Association Professional Responsibility and Ethics Committee. He is a former member of the Committee on Mandatory Fee Arbitration and a current arbitrator for the Orange County Bar Association Mandatory Fee Arbitration Program. His practice focuses on legal malpractice, breach of fiduciary duty, and attorney-client fee disputes.

Collectively, they offer the following attributes to the Committee: (1) practice in areas emphasizing the law governing lawyers (legal ethics and legal malpractice); (2) experience with the mandatory fee arbitration program and acting as a fee arbitrator; (3) experience in both prosecuting and defending civil cases relating to attorney conduct; (4) experience in presenting continuing legal education programs in legal ethics; and (5) experience in serving on State Bar, local bar, and other committees.

## **PROPOSED OFFICERS**

Previous appointment practice has provided that the current Vice-Chair is recommended as Chair for the upcoming committee year. We recommend retaining this practice and, as a result, we recommend Stephen Bundy be appointed as the next Chair of the Committee.

This year, two Committee members requested consideration for the Vice-Chair position. Both of these individuals are in their third year on the Committee and are eminently qualified to serve as Vice-Chair. After thoroughly reviewing their application materials, conducting a phone interview with each of them, and receiving input from the Committee's leadership and staff, we recommend Dena Roche for appointment as the Vice-Chair.

Dena Roche is currently serving her third year on the Committee. She has been an active member of the Committee, helping to draft several ethics opinions and engaging in multiple continuing legal education presentations as part of the Committee's outreach mission. Her practice is dedicated to providing legal advice and counseling on a wide variety of legal ethics and risk management issues. She is actively involved in the ABA's Association of Professional Responsibility Lawyers and other legal ethics organizations.

## **ALTERNATE MEMBERS**

In the event the Board Executive Committee or the Board do not agree with one or more of the recommendations for appointment, or should a vacancy occur within the Committee during the upcoming committee year, we recommend the following individuals as alternates: (1) Joel Mark; (2) Balpreet Paino; and (3) Gerald Knapton.

## **APPLICANTS NOT SELECTED**

The following is a list of applicants not currently recommended for appointment, listed alphabetically:

1. Ryan Blackney
2. Philip Crooker
3. George Duesdieker
4. Lydia Liberio
5. Nicola Migliaccio
6. Natalie Panossian-Bassler
7. Maria Riemer
8. Daniel XuLi

## **FISCAL/PERSONNEL IMPACT**

None

## **RULE AMENDMENTS**

None

## **BOARD BOOK AMENDMENTS**

None

## **STRATEGIC PLAN GOALS & OBJECTIVES**

Goal: None - core business operations

## **RECOMMENDATIONS**

**It is recommended that the Board Executive Committee and the Board of Trustees approve the following resolution:**

**RESOLVED**, that the Board of Trustees approve the appointment of the following new members and officers to serve on the Committee of Professional Responsibility and Conduct (COPRAC) beginning in the 2019-2020 committee year:

### Officers

Stephen Bundy, Chair (2020)  
Dena Roche, Vice-Chair (2020)

### Member Appointments

1. Kenneth Bacon
2. Sarah Banola
3. Brandon Krueger

### Alternate Member Appointments

1. Joel Mark
2. Balpreet Paino
3. Gerald Knapton

## **ATTACHMENT(S) LIST**

- A. Worksheet Presenting Executive Committee Liaisons' Recommendation



# The State Bar of California

## ATTACHMENT A

**Proposed: 2019-2020 Committee**  
**Committee on Professional Responsibility and Conduct**  
*(Appointed/Reappointed by the Board of Trustees, July 11, 2019)*

Officer and new member terms begin at the close of the September 2019 State Bar Board of Trustees meeting (September 19-20, 2019). Officer terms are one year and expire at the close of the September 2020 State Bar Board of Trustees meeting (September 17-18, 2020). *Member terms expire at the close of the State Bar Board of Trustees meeting in the year indicated below.*

<b>POSITION</b>	<b>MEMBER</b>	<b>CITY</b>	<b>TERM EXPIRATION</b>
<b>CHAIR/CONTINUING MEMBER</b>	Stephen M. Bundy	Berkeley	2020
<b>VICE-CHAIR/CONTINUING MEMBER</b>	Dena M. Roche	San Francisco	2020
<b>CONTINUING MEMBER</b>	Kendra L. Basner	San Francisco	2020
<b>CONTINUING MEMBER</b>	Justin J. Fields	San Francisco	2020
<b>CONTINUING MEMBER</b>	Marshall C. Whitney	Fresno	2020
<b>CONTINUING MEMBER</b>	David C. Carr	San Diego	2021
<b>CONTINUING MEMBER</b>	Tobi Inlender <b>(PM)*</b>	Sherman Oaks	2021
<b>CONTINUING MEMBER</b>	Adam M. Koss	San Mateo	2021
<b>CONTINUING MEMBER</b>	Si Eun Amber Lee	San Francisco	2021
<b>NEW MEMBER</b>	Kenneth E. Bacon	Sacramento	2023
<b>NEW MEMBER</b>	Sarah J. Banola	San Francisco	2023
<b>NEW MEMBER</b>	Brandon N. Krueger	Laguna Beach	2023

**\*Public Member**