



# The State Bar of California

**A.5. Action Summary**  
**07-26-19 Meeting**  
**Open Session**

**Committee on Professional Responsibility and Conduct**  
**Friday, July 26, 2019**  
**10:00 am – 4:30 pm**

**State Bar Office – Los Angeles**  
**845 S. Figueroa Street, Room 2CDE**  
**Los Angeles, CA 90017**

**Members Present:** Ms. Bomse (Chair), Ms. Basner, Prof. Bundy, Mr. Carr, Mr. Koss, Ms. Lee, Ms. Roche, Mr. Solomon, and Mr. Whitney.

**Not Present:** Mr. Deitz, Mr. Dilworth, Mr. Fields, Mr. Hodel, Ms. Inlender, and Dr. Sparta

**Others Present:** Elliott Bien, Ms. Lee, and Mr. Tuft (State Bar staff)

The order of business is approximate and subject to change.

Additional Location

4 Park Plaza Suite 640, Irvine, California 92614

To Join by Conference Call

Toll-Free Dial-In Number: 1-855-520-7605

Conference Code: 800-238-4427#

## **ACTION SUMMARY**

### **A. Remarks From the Chair**

1. Roll Call
2. Public Comment  
*Mr. Elliott Bean gave an oral public comment on request for ethics opinion addressing plagiarism.*
3. Announcements  
*None.*
4. Staff Report  
*Mr. Tuft reported that: (1) at the Board's July 11<sup>th</sup> meeting, 3 new members (Mr. Bacon, Mr. Krueger, and Ms. Banola) were appointed to COPRAC and Ms. Roche was appointed as Vice-Chair of CORAC for the 2019-2020 year; (2) ATILS has issued 16 proposed options which are circulating for public comment with a deadline of September 23rd; (3) 14-0003 was published on the State Bar's website as 2019-198; and (4) several opinions are currently circulating for public comment and are listed in section D. of the agenda.*

5. Approval of Open Session Action Summary from the June 7, 2019 Meeting  
*This item was carried over. Staff to revise the action summary.*

**B. Discussion of Draft Opinions Previously Circulated for Public Comment**

1. 13-0003 [re Ethical Obligations When Departing Firm]  
*Ms. Roche presented a revised opinion and gave an oral report. Following discussion, the Committee unanimously voted to approve the opinion for a 60-day public comment circulation (9-0-0).*

**C. Discussion and Possible Approval for Public Comment of Draft Opinions Not Yet Released for Public Comment**

1. 13-0002 [re Attorney with a Vulnerable Client]  
*This item was not discussed.*
2. 13-0004 [re Collecting Unpaid Fees]  
*Ms. Bomse gave an oral report on the history of this opinion and a brief summary. Staff will circulate the last draft for the next meeting.*
3. 14-0001 [re Colleague Impairment]  
*Mr. Bundy gave an oral report on his memo to the Committee. Following discussion, Mr. Bundy will conduct additional research before providing a revised draft.*
4. 14-0002 [re Alternative Litigation Funding]  
*Ms. Bomse presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*
5. 16-0002 [re Lost or Stolen Laptop or Briefcase]  
*Mr. Solomon presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*
6. 17-0003 [re Duty of Confidentiality to Prospective Client]  
*Mr. Whitney presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*

**D. Oral Report on Opinions Currently Circulating for Public Comment**

1. 12-0003 [re Attorney Directory and Rating Websites]  
*This item is circulating for public comment with a deadline of August 5, 2019.*
2. 14-0004 [re Witness Perjury]  
*This item is circulating for public comment with a deadline of September 3, 2019.*
3. 16-0003 [re Ancillary Business]  
*This item is circulating for public comment with a deadline of August 30, 2019.*
4. 17-0001 [re Advising a Marijuana Business]  
*This item is circulating for public comment with a deadline of October 18, 2019.*

**E. Discussion of New Opinion Topics**

1. Consideration of New Opinion Topics  
*Request 96 assigned to Ms. Lee, Request 86 & 95 assigned to Mr. Carr, Request 29 assigned to Mr. Koss, and Request 92 assigned to Mr. Fields. Staff to circulate sample issues outline to the drafters. Circulate the short list to everyone for volunteers.*

**F. Special Projects**

1. Outreach Working Group Report  
*This item was not discussed.*
2. AB 1987 Working Group Report  
*Mr. Tuft gave an oral report on AB1987 memorandum. Following discussion, the Committee unanimously approved the memorandum as revised (8-0-0).*
3. Rule 1.4.2 Disclosure of Professional Liability Insurance Working Group Report  
*This item was not discussed.*
4. ATILS Working Group Report  
*Ms. Bomse gave an oral report on the options for public comment. Mr. Carr, Ms. Roche, Ms. Basner, and Mr. Koss assigned to the Working Group. Committee is in support of Option 3.0 (use form letter). Mr. Bundy to do a draft letter for Option 3.3. Working group will prepare initial drafts of the letters by August 16 for circulation in order to solicit comments from the entire Committee.*

In compliance with the Americans with Disabilities Act, those requiring accommodations at this meeting should notify Lauren McCurdy at (415) 538-2107. Please provide notification at least 72 hours prior to the meeting to allow sufficient time to make arrangements for accommodations at this meeting.

The notice and agenda is available at: <http://board.calbar.ca.gov/Committees.aspx>.



# The State Bar of California

## Committee on Professional Responsibility and Conduct

Friday, June 7, 2019

10:00 am – 4:30 pm

State Bar Office – San Francisco

180 Howard Street, Room 4D-E

San Francisco, CA 94105

**Members Present:** Ms. Bomse (Chair), Ms. Basner, Prof. Bundy, Mr. Carr, Mr. Deitz, Mr. Dilworth, Mr. Fields, Mr. Hodel, Ms. Inlender, Mr. Koss, Ms. Roche, Ms. Schmid, Mr. Solomon, Dr. Sparta, and Mr. Whitney.

**Not Present:** Ms. Lee

**Others Present:** Ms. Marlaud, and Mr. Tuft (State Bar staff)

The order of business is approximate and subject to change.

### To Join by Conference Call

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## ACTION SUMMARY

### A. Remarks From the Chair

1. Roll Call
2. Public Comment  
*None.*
3. Announcements  
*None.*
4. Staff Report  
*Mr. Tuft reported that: (1) 12-0003 public comment deadline was May, 14, 2019. Three public comments were received; (2) 14-0003 public comment deadline was June 3, 2019. No public comments were received; (3) 13-0003 has a public comment deadline of June 17, 2019 and four public comments have been received thus far; (4) 16-0003 is currently circulating for public comment and has a deadline of August 30, 2019. No public comments received thus far; (5) the Task Force on Access Through Innovation in Legal Services next meets on June 28, 2019 where they will be voting on several options for consideration to be circulated for public comment. The options are being presented with the goal of increasing access to legal services while also protecting the public; and, (6) the Committee has voted out several opinions for formal publication and/or public comment. As a result, we should consider new opinion topics at the next meeting.*

5. Approval of Open Session Action Summary from the April 11, 2019 Meeting as amended  
*The Action Summary was approved unanimously (14-0-0).*

**B. Discussion of Draft Opinions Previously Circulated for Public Comment**

1. 14-0004 [re Witness Perjury]  
*Mr. Hodel gave an oral report and presented a revised opinion. Following discussion by the Committee, the Committee approved the opinion for an additional 60-day public comment circulation.*
2. 12-0003 [re Attorney Directory and Rating Websites]  
*Mr. Dilworth gave an oral report and presented a revised opinion. Following discussion by the Committee, the Committee approved the opinion for an additional 45-day public comment circulation.*
3. 14-0003 [re Settling Before Withdrawal]  
*Ms. Bomse gave an oral report and presented a revised opinion. Following discussion by the Committee, the Committee approved the opinion for publication.*

**C. Discussion and Possible Approval for Public Comment of Draft Opinions Not Yet Released for Public Comment**

1. 13-0002 [re Attorney with a Vulnerable Client]  
*This item was not discussed.*
2. 13-0004 [re Collecting Unpaid Fees]  
*This item was not discussed.*
3. 14-0001 [re Colleague Impairment]  
*This item was not discussed. This item will be discussed at the next meeting.*
4. 14-0002 [re Alternative Litigation Funding]  
*Ms. Bomse presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*
5. 16-0002 [re Lost or Stolen Laptop or Briefcase]  
*Mr. Solomon presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*
6. 17-0001 [re Advising a Marijuana Business]  
*Mr. Bundy presented a revised opinion and gave an oral report. Following discussion by the Committee, the Committee approved the opinion for a 90-day public comment circulation.*

7. 17-0003 [re Duty of Confidentiality to Prospective Client]  
*Mr. Whitney presented a revised opinion and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. This item will be discussed at the next meeting.*

**D. Oral Report on Opinions Currently Circulating for Public Comment**

1. 13-0003 [re Ethical Obligations When Departing Firm]  
*This item is circulating for public comment with a deadline of June 17, 2019.*
2. 16-0003 [re Ancillary Business]  
*This item is circulating for public comment with a deadline of August 30, 2019.*

**E. Special Projects**

1. Outreach Working Group Report  
*This item was not discussed.*
2. AB 1987 Working Group Report  
*Mr. Bundy gave an oral report on AB 1987. Following discussion by the Committee, Mr. Bundy and Mr. Hodel were asked to prepare a revised memo in accordance with the Committee's discussion.*

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