



# The State Bar of California

A.5. Action Summary  
02-28-20 Meeting  
Open Session

**Committee on Professional Responsibility and Conduct**  
**Friday, January 17, 2020**  
**10:00 am – 4:30 pm**

**The State Bar of California**  
**State Bar Office – Los Angeles**  
**845 S. Figueroa Street, Room 2FG**  
**Los Angeles, CA 90017**

**Members Present:** Mr. Bacon, Ms. Banola, Ms. Basner, Prof. Bundy, Mr. Carr, Mr. Fields (by telephone), Ms. Inlender, Mr. Koss, Mr. Krueger, Ms. Lee, Ms. Roche, and Mr. Whitney.

**Not Present:** None.

**Others Present:** Ms. Lee, Mr. Tuft (State Bar staff), Jose Casteneda, and James Blume.

The order of business is approximate and subject to change.

To Join by Conference Call  
Toll-Free Dial-In Number: 1-855-520-7605  
Conference Code: 800-238-4427#

Additional Locations  
One Market Plaza, Suite 2200, San Francisco, CA 94105-1127

## **ACTION SUMMARY**

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

1. Roll Call
2. Public Comment  
*Mr. Blume and Mr. Casteneda gave public comment.*
3. Announcements
4. Staff Report  
*Mr. Tuft reported that: (1) ATILS met on January 10 and voted on several recommendations including: (i) consideration of technology-driven practice of law reforms in a regulatory sandbox, (ii) a revised rule 5.4(a)(5) which would allow fee-sharing with non-profit legal services organizations absent court approval, (iii) consideration of a rule of professional conduct based on ABA Model Rule 5.7, (iv) consideration of revisions to the advertising rules in line with recent revisions to the ABA advertising and solicitation rules; and (v) a LLLT program; (2) ATILS report and presentation to the presentation is tentatively scheduled for March 12; (3) ATILS' next meeting will be on February 4th in Los Angeles; (4) Board has a planning session on January 23 in Los Angeles where they will consider a LLLT program; (5) 13-0003 and*

*the 2 revised rules related to AB1987 will go to the Board for consideration next week; and (6) deadline to submit applications to COPRAC for the 2020-2021 year is March 15, 2020.*

5. Approval of Open Session Action Summary from the December 6, 2019 Meeting  
*The Action Summary was approved (10-0-2).*

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

1. 14-0002 [re Alternative Litigation Funding]  
*Ms. Roche gave an oral report on the public comments received. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. Mr. Fields will be the lead drafter going forward.*

**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]  
*Prof. Bundy gave an oral report on the history of the opinion. Following discussion by the Committee, the drafting team was asked to prepare a revised opinion in accordance with the Committee's discussion. Drafting team: Ms. Inlender, Mr. Carr, Mr. Koss, and Mr. Bundy*
2. 13-0004 [re Collecting Unpaid Fees]  
*Prof. Bundy gave an oral report on the history of the opinion. Following discussion by the Committee, the Committee voted to abandon this opinion (9-3-0).*
3. 14-0001 [re Colleague Impairment]  
*Ms. Basner 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. Drafting team will present revised opinion at the April meeting.*
4. 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 outline in accordance with the Committee's discussion.*
5. 19-0003 [re Improper Contract Provisions]  
*Mr. Carr presented a revised issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion. Ms. Banola to join the drafting team.*
6. 19-0004 [re Client File Release and Retention Duties]  
*This item was not discussed.*

**D. Discussion and Possible Approval of Arbitration Advisories Not Yet Release for Public Comment**

1. 2019-0XA [re Arbitration Advisory on Awards of Interest by Arbitrator]  
*This item was not discussed.*
2. 2019-0XB [re Arbitration Advisory on Costs]  
*Mr. Bacon presented an issue outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a revised issue outline in accordance with the Committee's discussion. Drafting team will present revised opinion at the April meeting.*

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

1. 17-0001 [re Advising a Cannabis Business]  
*This item was not discussed.*
2. 16-0002 [re Data Breaches]  
*This item was not discussed.*

**F. Consideration of New Opinion Topics**

1. Consideration of New Opinion Requests  
*2 new opinion topics were selected:*
  - *Lawyer as Expert Witness (Lead drafter: Carr)*
  - *Succession Planning (Lead drafter: Roche)*

**G. Special Projects**

1. 2020 Annual Statewide Ethics Symposium Planning  
*This item was not discussed.*
2. Outreach Working Group Report  
*This item was not discussed.*
3. ATILS Working Group Report  
*This item was not discussed.*

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