



# The State Bar of California

G.2. Symposium Topics  
10-23-20 Meeting  
Open Session

## 24TH ANNUAL STATEWIDE ETHICS SYMPOSIUM THE STATE BAR OF CALIFORNIA – SAN FRANCISCO

*Presented by*  
The Committee on Professional Responsibility and Conduct

Friday, April 17, 2020  
9:30 a.m. to 4:15 p.m.

The State Bar of California – San Francisco Office  
180 Howard Street, 4th Floor  
San Francisco, California 94105

Register by April 6, 2020  
[www.calbar.ca.gov/ethics-symposium](http://www.calbar.ca.gov/ethics-symposium)

Total of 5 Hours of MCLE Credit as follows:  
4.0 Hours of Legal Ethics and 1.0 Hour in Competence Issues  
Approved for Legal Malpractice Legal Specialization credit  
by the State Bar of California  
*You can attend in-person or online via webcast.*

## 24TH ANNUAL STATEWIDE ETHICS SYMPOSIUM

**8:30–9:30 a.m.        REGISTRATION**

**9:30–9:45 a.m.**

### **Welcoming Remarks**

**Stephen M. Bundy:** Chair, Committee on Professional Responsibility and Conduct

**Alan K. Steinbrecher:** Chair, Board of Trustees, State Bar of California

**9:45–11:00 a.m.**

### **Hello, Goodbye: The Ethics of Law Firm Transitions**

Law firm transitions, whether anticipated or not, implicate a variety of legal ethics issues. Voluntary departures, ejections, dissolutions and mergers, retirement, disability, and death, are just some of the events that trigger attorney transitions. This panel will explore the many ethical issues arising out of attorney transitions and how California's Rules of Professional Conduct, COPRAC Formal Opinion 2020-201, and other relevant ethics opinions fit into this conversation. The panel will also discuss best practices for establishing policies to effectively manage these transitions and enhance client protections, including what role the firm's partnership agreement can play in minimizing potential disruptions from attorney departures.

**Dena M. Roche:** Moderator; Vice-Chair, Committee on Professional Responsibility and Conduct; Partner, O'Rielly & Roche LLP, San Francisco

**Merri A. Baldwin:** Shareholder, Rogers Joseph O'Donnell, San Francisco

**Allison M. Rhodes:** Deputy General Counsel, Sheppard Mullin LLP, San Francisco

**Daniel J. O'Rielly:** Partner, O'Rielly & Roche LLP, Los Angeles

**11:00–11:15 a.m.        BREAK**

**11:15 a.m.–12:30 p.m.**

### **Don't Let Me Down: Duties to Clients with Diminished Capacity**

This multidisciplinary panel will address the lawyer's obligations to a client with diminished capacity. For California lawyers, this already difficult problem has recently been rendered more difficult by the California Supreme Court's refusal, without explanation, to adopt proposed Rule of Professional Conduct 1.14, a disciplinary rule dealing with those obligations. The panel will deal with ethical standards and best practices that clearly survive the rejection of proposed rule 1.14, focusing on questions like: What is a lawyer's ethical obligation to evaluate client capacity? What is a lawyer's obligation to preserve a working client relationship with a client who suffers from diminished capacity? Under what circumstances may or must the lawyer take affirmative measures to protect an incapacitated client from harm and what measures are permissible? What planning devices can competent clients adopt to protect against harm resulting from future incapacity? How can lawyers and other knowledgeable professionals interact effectively around these issues?

**Stephen M. Bundy:** Moderator; Chair, Committee on Professional Responsibility and Conduct; Professor of Law Emeritus, University of California Berkeley School of Law, Berkeley

**Melissa C. Brown:** Director, Elder Law Clinic; Professor of Lawyering Skills, McGeorge School of Law University of the Pacific; Partner, Fraulob+Brown, Sacramento

**Dr. Gary W. Steinke:** Geriatrician, Valley Health Center, Moorpark, San Jose

**Peter S. Stern:** Attorney, Law Offices of Peter S. Stern, Palo Alto

**12:30–1:10 p.m. LUNCH**

**1:10 – 1:30 p.m.**

**Presentation of the 2019 California Lawyers Association  
Harry B. Sondheim Professional Responsibility Award**

Presented by Emilio E. Varanini: President, California Lawyers Association

This award will be presented to Richard A. Zitrin for his outstanding long-term contribution to the advancement of attorney professional standards in California.

**1:30–2:45 p.m.**

**Help! I Need Somebody: Dealing with Lawyer Impairment**

Lawyers are not relieved of their ethical duties as a result of their impairment. The California Rules of Professional Conduct specify that an impaired lawyer's colleagues may also be held responsible for an impaired lawyer's failure to comply with the rules. This panel will discuss California's ethics rules regarding attorney competence and the responsibilities of colleagues. It will also provide a comprehensive discussion of mental impairment, including: defining mental impairment; who it impacts and how; possible ways to avoid and/or mitigate such issues; and the unfortunate consequences if a lawyer's mental impairment is not timely addressed, including how a court must respond to an impaired lawyer's representation of a client. This panel will also explore some best practices to help minimize risk when trying to effectively balance the obligations owed to an impaired colleague while necessarily prioritizing the protection of the clients' interests.

**Kendra L. Basner:** Moderator; Member, Committee on Professional Responsibility and Conduct; Partner, O'Rielly & Roche LLP, San Francisco

**Dr. John G. Rosenberg:** Clinical Staff Member, Berkeley Therapy Institute, Berkeley

**Hon. Erica R. Yew:** Judge, Superior Court of California, Santa Clara

**2:45–3:00 p.m.**

**BREAK**

**3:00–4:15 p.m.**

**A Day in the Life: Attorney-Client Relationships from Beginning to End**

The beginning and end of an attorney-client relationship implicate ethical, business, and inter-personal considerations. This panel will explore both the rules and related best practices for navigating interactions with prospective clients and appropriate steps in ultimately entering into an attorney-client relationship, including duties owed to prospective and current clients, use and protection of confidential information, conflict checks, and screening. This panel will also explore considerations involved in declining or ending a representation, including when such a decision is mutually agreeable and when the lawyer unilaterally believes such a decision must be made.

**Justin J. Fields:** Moderator; Member, Committee on Professional Responsibility and Conduct; Partner, Duane Morris LLP, San Francisco

**Alison P. Buchanan:** Shareholder and Chair-Business Litigation, Hoge, Fenton, Jones & Appel, San Jose

**Andrew I. Dilworth:** Partner, Cooper, White & Cooper LLP, San Francisco

**John J. Steele:** Sole Practitioner, Palo Alto; Lecturer, University of California Berkeley School of Law, Berkeley

The Ethics Symposium will be available via In-Person Attendance and via Webcast.

Please visit the Ethics Symposium webpage

([www.calbar.ca.gov/ethics-symposium](http://www.calbar.ca.gov/ethics-symposium)) for more information.

**DEADLINE TO REGISTER IS APRIL 6, 2020.**

## REGISTRATION INFORMATION

Register for the 24th Annual Ethics Symposium no later than April 6, 2020. [Online registration](#) is preferred, however, registrants paying by check may submit their completed registration form with payment made to the State Bar of California by mail to:

State Bar of California  
Office of Professional Competence  
180 Howard Street, San Francisco CA, 94105

Onsite registration will be available, space permitting.

**NOTE:** All registrants (in-person and webcast) will receive the remote access instructions the week of the Symposium. If you registered for in-person attendance but choose to view the webcast instead, we ask that you provide a courtesy notice to Angela Marlaud ([angela.marlaud@calbar.ca.gov](mailto:angela.marlaud@calbar.ca.gov) or 415-538-2116) so that the catering can be adjusted for only those registrants who decide to attend in-person.

**MCLE CREDIT:** This program offers up to 5 hours of MCLE credit (4.0 hours of Legal Ethics MCLE and 1.0 hour of Competence Issues MCLE). The State Bar of California and the Committee on Professional Responsibility and Conduct are approved State Bar of California MCLE providers. This program has been approved for Legal Malpractice Legal Specialization credit by the State Bar of California.

## TRAVEL INFORMATION

**HOTEL INFORMATION:** No special block of rooms has been arranged for this one-day event. The following are hotels within walking distance: Harbor Court Hotel 415-882-1300, Hotel Griffon 415-495-2100, Hyatt Regency Embarcadero 415-788-1234, Hotel Vitale 415-278-3700.

**AIRPORT:** The State Bar's San Francisco office is located approximately 14 miles, or 20-30 minutes, from San Francisco International Airport (SFO) and 19 miles, or 30-40 minutes, from Oakland International Airport (OAK).

## DRIVING DIRECTIONS

### From the North Bay:

After crossing the Golden Gate Bridge, make a slight left onto Lombard Street. Turn right onto Gough Street. Turn left onto Broadway. Turn right onto The Embarcadero. Turn right onto Howard.

### From the South Bay:

Take Highway 101 Northbound. Take exit 2 for 4th Street. Turn left onto Bryant Street. Turn left onto Main Street. Make the first right onto Howard OR Take Highway 280 Northbound and take the last exit King Street. Continue onto Embarcadero. Turn left onto Howard.

### From the East Bay:

Take the Bay Bridge West to San Francisco. Take the Fremont Street exit (2C) and merge onto Fremont Street. Turn right onto Howard.

Get additional driving directions from [Google Maps](#).

## PUBLIC TRANSIT

The State Bar of California is located on Howard Street between Spear and Main Streets, one block from the Transbay Terminal at First and Mission Streets.

**BART:** Take any San Francisco bound train and exit at the Embarcadero station Spear Street stairs. Walk two blocks South on Spear and turn right on Howard. Entry is midblock.

**MUNI:** Take any of the Muni rail lines (F, J, K, L, M, N or KT) and exit at Embarcadero station. Walk one block North on Market Street, make a right onto Main Street and make a left onto Howard.

**CalTrain:** Take Caltrain to San Francisco Station. Walk to 4th and King Streets. Take the KT Ingleside/Third Muni Rail towards Balboa Park Station. Get off at Embarcadero and Folsom Street. Walk one block to Howard Street from The Embarcadero.

**Ferry:** See [Ferry Schedules](#) from the North Bay/Marin County or from the East Bay. All ferries arrive in San Francisco at the 1 Ferry Building near the Bay Bridge. Walk Southeast on Embarcadero and turn right onto Howard.

**VISITOR PARKING:** The State Bar of California does not have a dedicated parking lot. You can locate parking lot options for the downtown area at this website: <http://sanfrancisco.bestparking.com>.

**QUESTIONS:** For questions regarding registration, program content or requests for special assistance, please call 415-538-2116.

### **Past Topics Considered but Not Selected**

- Post-Conviction Discovery (AB 1987)  
[https://leginfo.ca.gov/faces/billTextClient.xhtml?bill\\_id=201720180AB1987](https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB1987)
  - Deep Dive into File Retention and Release
- California Advertising Rules 7.1-7.5
  - Include changes and restructuring of the ABA Model Rules on advertising
- 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
- 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**

#### **2019**

- Implicit Bias Training (pending bill requiring more training on the topic)

#### **2018**

- The State Bar is a regulatory agency. More focus on what disciplinary liability would be appreciated not to the exclusion of civil liability, but more.

## **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.





**ETHICS SYMPOSIUM  
TOPICS AND DESCRIPTIONS  
(1995 – 2014)**

<b>YEAR</b>	<b>PANEL 1</b>	<b>PANEL 2</b>	<b>PANEL 3</b>	<b>PANEL 4</b>	<b>PANEL 5</b>
<b>1995</b>  The Ritz Carlton (Marina Del Rey)  <b>Keynote:</b>  Justice Stanley Mosk	<b>Who's Running the Profession? The Future of Rules-Making and the Disciplinary Process</b> <i>Mark Tuft</i> <i>David Bell</i> <i>JoElla Julien</i> <i>Edward Kallgren</i>	<b>The Business of Ethics – The Profession's Next Evolution?</b> <i>Carol Langford</i> <i>Karen Betzner</i> <i>Raul Martinez</i> <i>Paul Vapnek</i>	<b>Teaching Students and Lawyers. Can We Make Ethics Meaningful and Accessible?</b> <i>Richard Zitrin</i> <i>Ellen Peck</i> <i>Rex Perschbacher</i> <i>Deborah Rhode</i>	<b>Discipline for Law Firms and Other Alternatives. Has the Time Arrived?</b> <i>Jill Peterson</i> <i>Judy Johnson</i> <i>Kurt Melchior</i> <i>Harry Sondheim</i>	<b>Conflicts of Interest – Targeting the Cutting Edge Issues.</b> <i>Stanley Lamport</i> <i>Erwin Chemerinsky</i> <i>Jerome Sapiro</i> <i>Howard Wiener</i>
<b>1996</b>  The Ana Hotel (SF)  <b>Keynote:</b>  Harriet Chiang (SF Chronicle)	<b>When does the Absolute Duty of Client Confidentiality Yield to the Public Interest – Articulating Explicit Exceptions to Business and Professions Code section 6068(e)</b> <i>Carol Langford</i> <i>Roger Cramton</i> <i>Rex Perschbacher</i> <i>Mark Tuft</i> <i>Fred Zacharias</i>	<b>Blasting off into Cyberspace – Surfing the 'Net's Ethical Issues</b> <i>Theodore Horton-Billard</i> <i>William Hornsby</i> <i>Stuart A. Forsyth</i> <i>Peter Krakaur</i> <i>Jonathan Rosenoer</i>	<b>Regulating Confidential Settlements – Are they a Necessary Evil or an Unethical Interference with the Public's Right to Know?</b> <i>Richard Zitrin</i> <i>Michael Brown</i> <i>Horace Green</i> <i>Dorothy Tucker</i>	<b>Changing the Conflicts Rules – Competing Views about Proposed Changes to Rule 3-310</b> <i>Stanley Lamport</i> <i>Ellen Pansky</i> <i>Paul Vapnek</i> <i>Robert Westberg</i>	<b>Still Marching to it's Own Drummer – California Ethics: Leader or Maverick?</b> <i>Robert Barrett</i> <i>Samuel Bufford</i> <i>Rory Little</i> <i>Ellen Peck</i>
<b>1997</b>  Los Angeles Airport Hilton & Towers  <b>Keynote:</b>  Hon. James Obrien	<b>Discipline for Law Firms and Other Alternatives. Has the Time Arrived?</b> <i>Jill Peterson</i> <i>Kurt Melchior</i> <i>Harry Sondheim</i>	<b>Conflicts of Interest – Targeting the Cutting Edge Issues</b> <i>Stanley Lamport</i> <i>Erwin Chernerinsky</i> <i>Jerome Sapiro</i> <i>Howard Wiener</i>	<b>Teaching Students and Lawyers. Can We Make Ethics Meaningful and Accessible?</b> <i>Ellen Peck</i> <i>Rex Perschbacher</i> <i>Deborah Rhode</i> <i>Richard Zitrin</i>	<b>Who's Running the Profession? The Future of Rules-Making and the Disciplinary Process</b> <i>Mark Tuft</i> <i>David Bell</i> <i>JoElla Julien</i> <i>Edward Kallgren</i>	<b>The Business of Ethics – The Profession's Next Evolution</b> <i>Carol Langford</i> <i>Karen Betzner</i> <i>Raul Martinez</i> <i>Paul Vapnek</i>

<p><b>2000</b></p> <p>Western State University, College of Law (Fullerton)</p> <p><b>No theme or keynote speaker</b></p>	<p><b>ABA ETHICS 2000: LAWYERS' DUTIES TO SOCIETY VS. LAWYERS' DUTIES TO CLIENTS PLENARY SESSION -</b></p> <p>After an overview of the ambitious Ethics 2000 project, we will discuss some of the key issues involved in this project to revise the Model Rules, particularly regarding client confidentiality. Should lawyers be permitted—or even required—to disclose a client's plan to commit a fraud or the client's prior use of the lawyer's services to commit fraud? Is California's client-protective approach to confidentiality bucking an important nationwide public protection trend? What are the implications of the ABA proposal on the role of lawyers and of lawyering in our society?</p> <p><b>Sean SeLegue Mark Helm Richard Zitrin</b></p>	<p><b>Civil Practice Breakout Rewards and Risks: Lawyer Investment in Clients</b></p> <p>Lawyer and law firm investment in a client's business; lawyers receiving stock in client or an interest in the client's business as part or all of their fees for legal services.</p> <p>-Should such transactions be prohibited? -Do they require compliance with rule 3-300 of the California Rules of Professional Conduct? -If so, what is the scope of the required disclosure? -Are there any other foreseeable risks in these acquisitions?</p> <p><b>Robert Kehr Paul Vapnek Joseph Troy Donald Bradley</b></p>	<p><b>Criminal Law Practice Breakout: Leading Issues for Prosecutors and Defense Counsel</b></p> <p>What are the ethical obligations of a criminal defense lawyer concerning advance fees/ Does a prosecutor have an ethical obligation to disclose the strength of a case during plea negotiations? What should a criminal defense lawyer do when a client is about to commit perjury? How can she avoid confronting this dilemma? Under what circumstances can a prosecutor or criminal defense lawyer contact a person represented by counsel?</p> <p><b>Harry Sondheim Mary McNamara Brent Romney Gigi Gordon</b></p>	<p><b>Screening</b></p> <p>"Cones of silence," "ethical walls" or "screening": no matter what you call them or how you build them – are they the right policy for California? Can screening adequately address the concerns about the effect of conflicts of interest on loyalty and confidentiality? What procedures are necessary to protect clients, the administration of justice and the integrity of the legal profession? What impact would multidisciplinary practices ("MDPs") have on the debate?</p> <p><b>Kevin Mohr Richard Flamm Diane Karpman Pamela Phillips</b></p>	<p><b>ADR Ethics</b></p> <p>This panel of active mediators and a retired judge will explore the ethical issues that are emerging in ADR. Should lawyer third party neutrals ("TPNs") be regulated by the State Bar professional standards for lawyers/ Should TPNs have their own professional standards? Should they apply to lawyer, non-lawyer and former judge TPNs alike? What entity should regulate TPNs?</p> <p><b>Palmer Madden L. Randolph Lowry Edward Wallin</b></p>
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<p><b>2001</b></p> <p>Western State University, College of Law (Fullerton)</p> <p><b>Theme:</b></p> <p>Assessing The California Law of Lawyering In Light of Recent, Local, State and National Developments</p> <p>No Keynote Speaker</p>	<p><b>Who Is the Lawyer's Client I: Conflicts of Interest in Representing the Insured</b></p> <p>After the 1999 California Court of Appeal decision in State Farm Mutual Automobile Insurance Co. v. Federal Insurance Co., 72 Cal. App. 4th 1422, Assembly Bill 2069 was enacted, directing the State Bar to conduct a study of "the legal and professional responsibility issues that may arise as a result of the relationship between an attorney and an insurer when the attorney is retained by the insurer to represent an insured and the attorney is subsequently retained to represent a party against another party insured by the insurer." A panel of members of the State Bar Joint Committee studying the issues will discuss California's unique tripartite system of insurance representation and their work to date.</p> <p><b>Sidnee Smolowitz Bruce Brusavich Karl Keener John Pierce</b></p>	<p><b>Who Is The Lawyer's Client II: Conflicts of Interest Within the Corporate Family – When Does (or Should) The Entire Corporate Family Become the Client?</b></p> <p>Two California Court of Appeal opinions have sent differing signals on how to determine when a law firm's representation of one corporate affiliate should be extended to encompass other affiliates, subsidiaries or the parent corporation itself. The panel will discuss the competing policies and attempt to identify the factors that a lawyer should be sensitive to in representing a corporation.</p> <p><b>Ellen Peck John Steele Robert Thomas</b></p>	<p><b>BEHIND THE BLUE LINE: What Are the Ethical Obligations of a Prosecutor Who Suspects A Police Officer Is Not Being Truthful?</b></p> <p>What degree of "suspicion" is required before a prosecutor should act? If the suspicion relates to a particular case, what impact should it have on other cases involving that officer? How should the "suspicion" be communicated within the prosecutor's office and to the police dept. that employs the officer? Is it ethical to blemish the career of an officer based on "suspicion?" If this suspicion is made known to defense attorneys, does it only lead to the officer being given desk assignments?</p> <p><b>Brent F. Romney Ronald E. Albers Gerald L. Chaleff</b></p>	<p><b>The Lawyer As Whistle-blower: A Reassessment of the Lawyer's Duty of Confidentiality under Business &amp; Professions Code § 6068(e)</b></p> <p>The panel will conduct a re-assessment of the lawyer's duty of confidentiality under § 6068(e) in light of the proposed revisions to Model Rule 1.6, the revisions to the Restatement of the Law Governing Lawyers and recent developments in California, including the State Bar's recent decision to forego disciplinary proceedings against a government lawyer whistle-blower.</p> <p><b>Kevin Mohr Donald Gray Robert Hawley Stanley Lamport Richard Zitrin</b></p>	<p><b>Scaling Ethical Walls (Reprise): a Reassessment of the Limits of Non-consensual Screening in California</b></p> <p>For the second straight year, a symposium panel will consider the feasibility of non-consensual ethical screens in California. Among other things, the panel will address whether the recent revisions to the Restatement, the proposed revisions to the Model Rules and recent decisions in California and federal courts warrant a change in California's approach to non-consensual ethical screens for private lawyers. In particular, the panel will try to answer whether screening can adequately address concerns about the effect of non-consensual screening on client confidence in lawyers and on the lawyer's duties of confidentiality and loyalty.</p> <p><b>Robert Kehr Pamela Phillips Jerome Sapiro Ross Simmons</b></p>
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<p><b>2002</b></p> <p>Practicing Law Institute (SF)</p> <p><b>Theme:</b></p> <p>The Evolving Legal Profession: The Role of Lawyers in the 21st Century</p> <p><b>Keynote:</b></p> <p>Assoc. Justice Carlos Morena</p>	<p><b>STATUS REPORT OF THE COMMISSION FOR THE REVISION OF THE CALIFORNIA RULES OF PROFESSIONAL CONDUCT</b></p> <p>The Commission has been reactivated to review comprehensively and recommend amendments to the California Rules of Professional Conduct. It has been specifically charged to review the California Rules in light of the recent amendments to the ABA's Model Rules, the Restatement of the Law Governing Lawyers, and local and national developments relating to other issues in the law of lawyering, including multijurisdictional practice, multidisciplinary practice and the discrete task representation (unbundling). Members of the Commission will present an overview of their mission and report on the current status of the Commission's efforts.</p> <p><b>Harry Sondheim</b></p>	<p><b>OPEN FORUM "TOWN HALL" MEETING: COMMISSION FOR THE REVISION OF THE CALIFORNIA RULES OF PROFESSIONAL CONDUCT</b></p> <p>Members of the Commission will host a Town Hall Meeting at which Symposium participants will have the opportunity to provide input on what amendments to the Rules might warrant consideration and study.</p> <p><b>Robert Westberg</b>  <b>Harry Sondheim</b>  <b>COPRAC Members</b></p>	<p><b>UNBUNDLING LEGAL SERVICES – THE ETHICAL IMPLICATIONS OF LIMITING THE SCOPE OF REPRESENTATION ON THE ACCESS TO JUSTICE AND THE APPORTIONMENT OF LEGAL FEES</b></p> <p>The practice of delivering limited scope legal services, also known as "unbundled" legal services, promises to increase the availability of competent legal representation to people who otherwise cannot afford it. Beyond improving access to justice, unbundling can also have an impact on everyday practice concerns, including the division of fees among lawyers. Using the October 2001 State Bar report on unbundling as a springboard, the panel will discuss the ethical implications of providing limited scope representation in a variety of contexts. Possible topics for discussion will include unbundling's implications for the duty of competent representation, the duty of confidentiality, potential conflicts of interest and disclosure requirements owed the unbundled client.</p> <p><b>Dominique M. Snyder</b>  <b>Bonnie R. Hough</b>  <b>Tom Surh</b>  <b>Sue Talia</b>  <b>Scott Wylie</b></p>	<p><b>CRIMINAL LAW PRACTICE BREAKOUT</b></p> <p><b>PEOPLE V. DANG &amp; THE ETHICAL IMPLICATIONS OF LAWYERS TESTIFYING AGAINST THEIR CRIMINAL DEFENDANT CLIENTS: DO CALIFORNIA LAWYERS HAVE TARASOFF DUTIES?</b></p> <p>California lawyers have the strictest duty of confidentiality in the United States. The recently-decided California Appellate court case, <i>People v. Dang</i> (2001) 93 Cal.App.4th 1293, 113 Cal.Rptr.2d 763, however, has raised the possibility that lawyers in California may have a duty to disclose confidential client information in order to prevent life-threatening criminal activity by their clients. The panel will take the form of a mock appellate argument that will address whether California lawyers may make – or even may be obligated to make – such disclosures.</p> <p>David E. Boyd  Hon. David S. Wesley  Donald H. Heller  Michael G. Millman</p>	<p><b>CIVIL PRACTICE BREAKOUT</b></p> <p><b>LAWYERS ON THE MOVE</b></p> <p>Lawyers change law firms at an accelerating pace. Whether the change occurs because firms dissolve or merge, a lawyer leaves one firm to join another, a firm hires a "contract attorney" for discrete tasks, or by some other event, such movement can cause a conflict for the lawyer and the firm. The problem is frequent and pervasive, resulting in motions to disqualify, in suits to disgorge fees, and in malpractice actions. The panel will consider two solutions that have been proposed – pre-conflict waivers and post-employment screening – and whether California should pursue either, or both of the solutions.</p> <p><b>Leslie A. Minkus</b>  <b>David M. M. Bell</b>  <b>Demetrios Dimitriou</b>  <b>Paul W. Vapnek</b>  <b>Helena S. Younossi</b></p>
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<p><b>2003</b></p> <p>Whittier Law School (Costa Mesa)</p> <p><b>Theme:</b></p> <p>Specialized Ethics for Specialized Practices?</p> <p><b>Keynote:</b></p> <p>James Herman</p>	<p><b>Privilege and Confidentiality in the Federal Arena – Recent Developments and Policy Implications</b></p> <p>The federal government is increasingly entering the business of lawyer regulation, most recently and dramatically with the Sarbanes-Oxley Act and related SEC regulations. This panel will explore the new challenges to confidentiality in the federal arena, including the Department of Justice's stance toward privilege waiver in criminal prosecutions, and whether the general principle of having one set of ethics rules for all lawyers retains its influence.</p> <p><b>John Steele</b>  <b>Jackie Chooljian</b>  <b>Gary Williams</b></p>	<p><b>Criminal Law Practice Breakout – Trying your Case to the Press?</b></p> <p>The appropriate scope of trial publicity remains controversial in criminal cases. This panel explores the tension between fair trials and free speech, addressing the ethical and constitutional implications of trial publicity, and considering whether current ethical rules can be refined to better balance the interests involved.</p> <p><b>Ariadne Simmons</b>  <b>Wendy Patrick</b>  <b>Charles Sevilla</b>  <b>Harry Sondheim</b></p>	<p><b>Civil Law Practice Breakout – Special Ethics Issues in Alternative Dispute Resolution: An Ethics Roadmap</b></p> <p>The ABA's Ethics 2000 Commission declined to comprehensively chart the ethical considerations of lawyers serving as third party neutrals, and a California federal district court recently held that the Judicial Council's Ethics Standards for Neutral Arbitrators in Contractual Arbitration were preempted by federal law. With reference to this regulatory landscape, the panel will present some of the more compelling ethics issues that confront neutrals as well as lawyers whose clients participate in alternative dispute resolution, and discuss ways in which ADR participants should address those issues.</p> <p><b>JoAnne Robbins</b>  <b>Richard Chernick</b>  <b>Richard Davidoff</b>  <b>James Jackman</b></p>	<p><b>Advanced Topic on Conflicts of Interest and Other Ethics Issues in Class Action/Mass Tort Litigation</b></p> <p>Are existing rules adequate to address ethics problems facing counsel, both plaintiff and defense, in class action/mass tort litigation? The panel will explore a myriad of issues, including conflicts of interest, financing the case, communication with class members (both pre- and post-certification), the aggregate settlement rule, and confidentiality agreements.</p> <p><b>Gerald Markle</b>  <b>Sean SeLegue</b>  <b>Robert Kehr</b>  <b>Leonard Simon</b></p>	<p><b>Special Issues in Family Law, Elder Law and Estate Planning</b></p> <p>This expert panel will discuss issues that cross the practice spectrum but which have particular resonance for lawyers practicing in family law, elder law and estate planning, including conflicts of interest and waivers, limiting the scope of representation, and the ethics of accommodating a client with diminished capacity.</p> <p><b>Kvin Mohr</b>  <b>Fay Blix</b>  <b>Judith Copeland</b>  <b>Eleanor tegmeier</b>  <b>Sindee Smolowitz</b></p>
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<p><b>2004</b></p> <p>Practicing Law Institute (SF)</p> <p><b>Theme:</b></p> <p>The Attorney-Client Relationship: A New Paradigm?</p> <p><b>Keynote:</b></p> <p>Hon. Candice Cooper</p>	<p><b>Setting the Stage: A Brief History of the Attorney-Client Relationship</b></p> <p>This presentation will survey the evolution of the attorney-client relationship from the Roman empire to American case law. The presenters will explore the nuances of this unique relationship that, although created by contract and bearing marks of agency, has traditionally been distinguished by tensions between the client's autonomy and the lawyer's expertise and judgment, as well as a balancing of the lawyer's duties to his or her client versus the court and third parties. The presentation will also consider the extent to which the constitutional guarantees of the Fifth and Sixth Amendments undergird the current conception of the attorney-client relationship.</p> <p><b>Jerome Sapiro</b> <b>Mark Tuft</b></p>	<p><b>Sarbanes-Oxley in the Real World: Practical Approaches for California Lawyers</b></p> <p>Do the new Sarbanes-Oxley Act rules, which permit corporate lawyers to disclose client information about alleged wrongdoing without consent, conflict with California confidentiality law, placing California lawyers at risk? Are California lawyers insulated from liability and discipline if they comply with the federal law? A panel of corporate and government lawyers will discuss the seeming clash between the SEC rules and California law, the arguments for and against federal preemption, and practical approaches for California lawyers impacted by the SEC rules.</p> <p><b>John Amberg</b> <b>Keith Bishop</b> <b>Marc Fagel</b> <b>Peter Mixon</b> <b>Marshall Small</b></p>	<p><b>New Duties on the Horizon? A Discussion with the Commission for the Revision of the Rules of Professional Conduct</b></p> <p>Should lawyers have a duty, enforceable by State Bar discipline, to keep accurate billing records? A duty to advise clients of the availability of alternative dispute resolution mechanisms? Should acts of "moral turpitude" still provide a basis for discipline? These are some of the issues with which the Rules Revision Commission has been confronted during recent meetings. A panel of Commission members will present the pros and cons of these and other issues and engage the audience in what promises to be a lively debate.</p> <p><b>Dominique Snyder</b> <b>Harry Sondheim</b> <b>Paul Vapnek</b> <b>Ignazio Ruvo</b> <b>Anthony Voogd</b></p>	<p><b>AB 1101's New Death or Serious Bodily Injury Exception to Confidentiality: Has Tarasoff Come to the Legal Profession?</b></p> <p>AB 1101, which created an exception to Business and Professions Code section 6068(e)'s duty of confidentiality for life-threatening criminal acts takes effect July 1, 2004. A panel of confidentiality experts, including members of the AB 1101 Advisory Task Force that is currently drafting a rule of professional conduct to parallel the statutory exception, will discuss the ethical implications of this first express exception to California's 130 year-old confidentiality statute. The panel will also suggest ways to grapple with the ethical dilemmas inherent in situations within the new exception to confidentiality, including guidance about when and how lawyers should make disclosures under the new authority AB 1101 will grant to them.</p> <p><b>Taylor Carey</b> <b>Mark Tuft</b> <b>Gerald Uelman</b> <b>Richard Zitrin</b></p>	<p><b>U.S. Department of Justice Policies on Eavesdropping, Charging Decisions and Waiver of Attorney-Client Privilege: Impairment or Necessary Redefinition of the Attorney-Client Relationship?</b></p> <p>Do present threats to national security justify monitoring attorney-client communications? Are current guidelines sufficient to limit monitoring to appropriate cases? Is it possible to allow monitoring while preserving attorney-client privilege? Does the Justice Department policy on prosecution of business organizations coerce waivers of the attorney-client privilege? A panel of prosecutors and defense attorneys will discuss these and other questions relating to the effect of current policy on the attorney client relationship.</p> <p><b>Rory Little</b> <b>James Brosnahan</b> <b>Mary MacMamara</b> <b>Patrick Robbins</b></p>
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<p><b>2005</b></p> <p>Loyola Law School (Los Angeles)</p> <p><b>Theme:</b></p> <p>Expanding Ethical Responsibilities: Duties to Clients, Former Clients and Non-Clients</p> <p><b>Keynote:</b></p> <p>Hon. Ignazio Ruvolo</p>	<p><b>Attorney-Client Fee Agreements and Conflicts of Interest</b></p> <p>When attorneys and clients negotiate their financial relationship, their interests are not aligned. Yet, conflict of interest rules generally have not applied to the negotiation of fee agreements. Have the decisions of the California Supreme Court in Fletcher v. Davis and the United States Supreme Court in Commissioner of Internal Revenue v. Banks changed the landscape? The panel will lead a discussion regarding the import of these decisions, and will specifically address (1) whether every contingency fee contract creates an adverse interest requiring compliance with Rule 3-300, (2) the scope of an attorney's duty to inform and advise existing clients regarding changes in the law that affect the parties' financial arrangements and expectations, and (3) whether any modification of the parties' financial arrangement constitutes a business transaction subject to Rule 3-300.</p> <p><b>Steven Lewis</b>  <b>Geoffery Hazard Jr.</b>  <b>Lise Pearlman</b>  <b>Arnold Siegel</b></p>	<p><b>Lawyer Mobility and Conflicts of Interest</b></p> <p>The panel will focus on current issues that arise when lawyers switch law firms or move between the public and private sectors, including when conflicts occur, the duties that are violated, whether a different standard should apply to public sector lawyers, disqualification and exposure to malpractice, the California Supreme Court's failure to authorize screening, and other protective measures.</p> <p><b>John Amberg</b>  <b>David Jargiello</b>  <b>Rondald Mallen</b>  <b>Ann Ravel</b></p>	<p><b>Conflicts and Duties to Non-Clients</b></p> <p>The panel will explore the recent decisions affecting an attorney's duties to third persons – an area of hidden risk and increasing liability. The topics will include (1) liability to adverse parties in transactional matters v. litigation matters, (2) Zamos v. Stroud and the conflicts between the duty to withdraw and the inclination of courts to move cases to trial, and (3) liability to intended beneficiaries.</p> <p><b>Dominique Snyder</b>  <b>Merri Baldwin</b>  <b>Edith Matthai</b>  <b>Kevin Mohr</b></p>	<p><b>Rules Revision Commission – A Dialogue About Current Issues</b></p> <p>Join three members of the Rules Revision Commission for a lively discussion of current issues the Commission is considering. The panel will cover three current topics, one of which will be selected by the audience at the beginning of the program. Audience participation is encouraged and attendees will be invited to submit their views on the topics discussed on a short form to be provided at the site.</p> <p><b>Sean SeLegue</b>  <b>Harry Sondheim</b>  <b>Stanley Lamport</b>  <b>Ellen Peck</b></p>	
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<p><b>2006</b></p> <p>Santa Clara University, School of Law</p> <p><b>Theme:</b></p> <p>Protecting and Using Confidential Information</p> <p><b>Keynote:</b></p> <p>Hon. Jeremy Fogel</p>	<p><b>Preserving Confidentiality in a Technological Age</b></p> <p>This panel will explore the brave new world of confidentiality, including discussions about metadata and embedded data, and will explore how new technologies and services (such as virtual deal rooms) pose new threats to client confidences.</p> <p><b>John J. Steele</b>  <b>Nellis L. Freeman</b>  <b>James E. Towery</b>  <b>Roberta S. Hayashi</b></p>	<p><b>Inadvertent Disclosure: The Linking of Ethics and Evidence?</b></p> <p>Since the early 1990's, the question of an attorney's ethical obligation on receipt of inadvertently disclosed material has been addressed on several occasions. The answer usually turns on whether the ethical obligation is, or should be, linked to the law of evidence. At one end of the spectrum, ethics and evidence are closely linked, with the attorney's ethical obligation based on the status of the inadvertently disclosed material as subject to the attorney-client privilege or the attorney work-product doctrine. At the other end, ethics and evidence are not linked at all, with the attorney's ethical obligation based on the mere fact that the material was disclosed inadvertently. A close linking of ethics and evidence entails a complex assessment by both the attorney and any tribunal that might subsequently pass on whether the attorney's assessment was sound. While the absence of any linking of ethics and evidence makes the assessment much easier, it also undermines the normative foundation of the ethical obligation. The issue, currently under consideration by the California Supreme Court, will soon be decided.</p> <p><b>Dennis Peter Maio</b>  <b>Dominique Snyder</b>  <b>Alan W. Schefflin</b>  <b>Regina A. Petty</b></p>	<p><b>Using Client Secrets - Reconciling the Duty of Confidentiality with a Lawyer's Right to Defend Himself or Others</b></p> <p>This panel will examine the limits of the duty of confidentiality vis-a-vis an attorney's right to defend against claims by clients or others. Panelists will discuss the existence and scope of the self-defense exception for privileged communications, client confidences and client secrets, including its limits before a claim against the lawyer is made, during the pendency of such a claim and after such a claim is resolved or settled. The panel will also consider the ethical risks of consulting with in-house general counsel about handling a problem with a client while still representing the client and the perils of internal communications at law firms.</p> <p><b>David Jargiello</b>  <b>Robert Sall</b>  <b>Donald Bradley</b>  <b>Frances O'Meara</b>  <b>David Parker</b></p>	<p><b>ABA Presidential Task Force on Attorney-Client Privilege</b></p> <p>In 2004, the ABA created a special task force to help federal regulators and policymakers gain a clear understanding of the public policy underpinnings of the attorney-client privilege, and to assure that regulatory initiatives impacting the privilege strike the right public protection balance. An update on the important work of this task force will be presented.</p> <p><b>Steven Hazen</b></p>	<p><b>Rules Revision Update</b></p> <p>Join members of the Rules Revision Commission for a spirited discussion of some of the most controversial issues facing the Commission.</p> <p><b>Sean SeLegue</b>  <b>Paul Vapnek</b>  <b>Robert Kehr</b>  <b>Ellen Peck</b></p>
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<p><b>2007</b></p> <p><b>Southwestern Law School (Los Angeles)</b></p> <p><b>Theme:</b></p> <p>Ethics Around the Edges</p> <p><b>Keynote:</b></p> <p>Dean Bryant Garth, Southwestern Law School</p>	<p><b>Ethics and the Modern Transactional Lawyer</b></p> <p>Is the transactional lawyer increasingly seen as having duties to “the market,” to opposing parties, investors, and creditors, and to the goal of regulatory compliance? The panelists – a “main street” practitioner, a lawyer who works on mega-deals, and a professor of law – discuss the issue and explore what old and new problems face the transactional specialist.</p> <p><b>John Steele</b> <b>John Bonn</b> <b>Adam Winkler</b></p>	<p><b>Ethics at the Edges of Family Law</b></p> <p>The panel will address ethical issues in limited scope representation, private judging, the Society of Matrimonial Lawyers’ Bounds of Advocacy, collaborative family law and family law mediation.</p> <p><b>Carole Buckner</b> <b>Leslee Newman</b> <b>M. Sue Talia</b> <b>Peter Walzer</b> <b>Donna Beck Weaver</b></p>	<p><b>Can a Non-Deceiver be a Good Lawyer?</b></p> <p>Deception is law's orphan. Lawyers often engage in deception when representing the interests of their client, but the profession, at the same time, generally condemns its use. The panel will examine how lawyers should navigate through the shoals of deception. The panel will do this through a series of hypothetical problems.</p> <p><b>James Fischer</b> <b>Rory Little</b> <b>Manuel Ramos</b> <b>Richard Zitrin</b></p>	<p><b>Corporate Counsel as Counselor, Gatekeeper and Confidant</b></p> <p>In-house counsel often have to balance on a high-wire: getting employees to “open up” about problems and gaining their trust, while having to be ever mindful that the client is the entity, not its individuals. Sarbanes-Oxley’s obligations make this high-wire act even more difficult. The panel will explore numerous scenarios in which corporate lawyers struggle with balancing their various duties and goals, and will also discuss tensions between their duty of confidentiality and their role as compliance “gatekeeper” under Sarbanes-Oxley.</p> <p><b>Pamela Phillips</b> <b>Janet Craycroft</b> <b>Sarah Good</b> <b>Rosalind Tyson</b></p>	<p><b>Rules Revision Update</b></p> <p>Join members of the Rules Revision Commission for a spirited discussion of some of the most controversial issues facing the Commission.</p> <p><b>Dominique Snyder</b> <b>Kevin Mohr</b> <b>Ellen Peck</b> <b>Sean SeLegue</b></p>
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<p><b>2008</b></p> <p><b>USF, School of Law (San Francisco)</b></p> <p><b>Theme:</b></p> <p>NOTORIETY – When the Spotlight Is on Ethics</p> <p><b>Keynote:</b></p> <p>Prof. Geoffrey Hazard</p>	<p><b>Public Lawyers in the Political Maelstrom</b></p> <p>Does the public attorney have an ethical obligation to the public, and if so, how does that obligation relate to the obligation to the elected governing body, to the individual employees of the public agency, and to the court? The panelists, elected City Attorneys, and appointed County Counsels, will discuss and explore the issues facing public lawyers in an increasingly complex political environment.</p> <p><b>Ann Ravel</b>  <b>Michael Aguirre</b>  <b>Dennis Herrera</b>  <b>Michael Murphy</b></p>	<p><b>Ethical Issues in Class Actions and Derivative Litigation</b></p> <p>From the cloakrooms of Congress, to the press rooms, to the courtrooms, to the screening rooms, class actions and the lawyers on both sides are in the public glare. This panel will deal with ethical quagmires faced by lawyers who prosecute and defend representative actions--both class actions and derivative actions--given the paucity of express ethics rules in the class and derivative context, variable ethics rules across state lines, and criminalization of ethics standards, all in the context of the legislative hurdles created in the name of "tort reform", greater judicial scrutiny, cut throat competition among class counsel, and potential exposure to class malpractice claims. Whether the matter is just beginning and the search for class representatives is on, or it is coming to an end through negotiation and court approval of a settlement, ethical issues are lurking for the class and derivative action practitioner in California.</p> <p><b>David Parker</b>  <b>Shawn Harpen</b>  <b>Diane Karpman</b></p>	<p><b>Prosecutorial Misconduct: Epidemic or Aberration?</b></p> <p>Recent headlines and pending cases have thrust prosecutorial misconduct into the spotlight. Media and disciplinary scrutiny of Mike Nifong's conduct have provoked debate in ethics circles and the criminal bar. Is Nifong's conduct an isolated aberration, or is prosecutorial misconduct more widespread? Two recent California cases, <i>Hollywood v. Superior Court</i> and <i>Haraguchi v. Superior Court</i>, address the propriety of prosecutors writing books and making movies based on their cases. This panel will provide contrasting perspectives on the prosecutor's ethical duties.</p> <p><b>Carole Buckner</b>  <b>George Cardona</b>  <b>Mark Garegos</b></p>	<p><b>[In]Advertent Disclosure: For Whose Eyes Only?</b></p> <p>This panel will explore the perilous temptations of exploring the adversary's inadvertent and advertent disclosures, the allures of metadata, and the metaphysics of the waiver of attorney-client privilege and work product. The panel will also review recent case law, ethics opinions, commentary, and legislative proposals germane to the topic..</p> <p><b>Prof. James Fischer</b>  <b>Prof. Josh Davis</b>  <b>Ellen Peck</b></p>	<p><b>Rules Revision Update</b></p> <p>Join members of the Rules Revision Commission for a spirited discussion of some of the most controversial issues facing the Commission.</p> <p><b>Suzanne Mellard</b>  <b>Mark Tuft</b>  <b>Paul Vapnek</b></p>
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<p><b>2009</b> <b>USD, School of Law (San Diego)</b></p> <p><b>Theme:</b> Attorney Responsibilities: The Client and Beyond</p> <p><b>Keynote:</b> Prof. Erwin Chemerinsky</p>	<p><b>Drawing The Line – Where Does Zealous Representation End And Unethical Conduct Begin?</b></p> <p>Dealing with demanding clients and difficult matters within the ethical boundaries of the practice of law can present certain challenges for attorneys. How do you handle a client who demands that you take certain positions or actions that may be considered improper or impact your credibility? How do you address less than desirable factual situations, such as when it appears documents have been destroyed? Are some lawyers so worried about maintaining client relationships that they may not push back when the client insists on a questionable approach? This panel will consider these issues from private practice, judicial and disciplinary perspectives. <b>Shawn Harpen</b> <b>Dennis Peter Maio</b> <b>Honorable Kevin A. Enright</b> <b>Scott Drexel</b></p>	<p><b>Trial Publicity: Beyond The Headlines -- What Can You Ethically Say About Your Big Case?</b></p> <p>High profile cases highlight the evening news and the headlines of the morning paper. Lawyers handling such cases must be aware of the unique issues generated by media attention, and often must be prepared to speak to the media on a moment's notice. This program will address the specific legal and ethical rules that govern what lawyers can legally and ethically say to the press about their big case. It will cover permissible statements in and out of the courtroom, and how you may respond to unfair adverse publicity. Our all-star panel of presenters will discuss the issues through the perspective of both the lawyers, and the media. <b>Wendy Mazzarella</b> <b>Mark Geragos</b> <b>Laurie Levenson</b> <b>Linda Deutsch</b></p>	<p><b>Advance Absolution: 10 Deadly Sins In Attorney-Client Engagement Agreements, And How To Avoid Them</b></p> <p>Form legal engagement letters abound, but are they suited to every representation? Should an attorney delegate to a non-attorney negotiation and preparation of engagement agreements? Do attorneys repeatedly make errors in engagement agreements that could come back to haunt them, yet are avoidable? What provisions should be in every engagement letter? Even if an attorney can include certain things in an engagement agreement (such as arbitration, interest, or attorney fee clauses), should such provisions always be included? Four experienced private practitioners will provide advice and analysis concerning these and other questions so that those attending may go forth and sin no more. <b>David Parker</b> <b>Dan Carroll</b> <b>Heather Rosing</b> <b>David Carr</b></p>	<p><b>Re-Forming The California Rules Of Professional Conduct</b></p> <p>Join members of the Rules Revision Commission for a spirited discussion of some of the most controversial issues facing the Commission, including proposed rules on attorneys' fees, confidentiality (and its exceptions), the scope of screening, the duty of candor, duties of prosecutors, and whether lawyers should be required to report the misconduct of other lawyers. <b>Carole Buckner</b> <b>Harry Sondheim</b> <b>Robert Kehr</b> <b>Jerome Sapiro, Jr.</b></p>	
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<p><b>2010</b> <b>Practicing Law Institute (SF)</b></p> <p><b>Theme:</b> A New Decade – A New Set of Ethical Standards</p> <p><b>Keynote:</b> Michael Traynor</p>	<p><b>REELING FROM THE RECESSION: KEEPING FAITH WITH ETHICS OF THE PROFESSION DURING TURBULENT TIMES</b></p> <p>Nearly every legal publication has been focused on the same story for more than a year -- the economic downturn of 2008's impact on the legal profession. The foreclosure crisis and countless bank failures were just the beginning of a tightening financial market that has led to business cutbacks or closures, firm break ups, attorney layoffs, migrating lawyers, insurance issues and a push for alternative fee arrangements. This panel will address how these issues have affected a lawyer's ethical and professional responsibilities, and whether these changes are here to stay. <b>David Parker</b> <b>Suzan Anderson</b> <b>Karen Johnson-McKewan</b> <b>Ronald Mallen</b> <b>Lynn O'Leary</b></p>	<p><b>SOCIAL NETWORKING AND PROFESSIONAL RESPONSIBILITY: CAN THEY CO-EXIST?</b></p> <p>In an age of electronic communication and social networking, lawyers must be aware of their ethical and professional responsibilities and how they apply within the increasingly public realm of modern electronic communication. This panel will discuss the mechanics of popular social networking sites such as Facebook, Twitter, and LinkedIn, and how the use of such services both professionally and personally can raise issues relating to client confidentiality, the attorney-client privilege, contact with represented parties, ethical attorney advertising, and more. <b>Wendy Patrick</b> <b>Mitchell Dembin</b> <b>Antone Johnson</b></p>	<p><b>SCREENING IN CALIFORNIA: THE EVOLVING DEBATE</b></p> <p>The law of screening has evolved through the years, no more dramatically than in California, which has historically resisted its implementation. In recent months, the Model Rule approach of allowing screening has come head-to-head with California's historical reluctance to permit screening, as the Rules Revision Commission redrafts the Rules of Professional Conduct to conform more closely to the Model Rules. Join us as we explore this issue with viewpoints from all sides of the debate. Our panelists will tackle core issues surrounding the implementation of screening in different types of practice consistent with an attorney's duty to safeguard confidentiality, with a focus on the ultimate question: Does California need a screening rule at all? <b>Wendy Wen Yun Chang:</b> <b>Stanley Lamport</b> <b>Prof. Deborah Rhode</b> <b>James Towery</b></p>	<p><b>RULES REVISION COMMISSION: NEW RULES FOR A NEW DECADE?</b></p> <p>The State Bar's project to revise the Rules of Professional Conduct is in its final stages. Join members of the Rules Revision Commission for an informative discussion of key rule changes under consideration by the Commission, including proposed rules on: confidentiality of client information; fees for legal services; conflicts of interest; law firms and associations; misconduct and discipline; and advocacy &amp; representation. The Commission Chair will begin the presentation with a summary of the status of the rules revision project and important information on how lawyers may voice their opinion on the rule revisions before they are submitted to the Board of Governors. <b>Shawn Harpen</b> <b>Harry Sondheim</b> <b>Linda Foy</b> <b>Prof. Kevin Mohr</b> <b>Mark Tuft</b> <b>Paul Vapnek</b></p>	
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<p><b>2011</b>  <b>UC Irvine,  School of Law  (Irvine)</b></p> <p><b>Theme:</b>  Ethics Across the  Profession</p> <p><b>Keynote:</b>  Prof.  Chemerinsky</p>	<p><b>ETHICS ON THE  OUTSIDE: ELECTRONIC  COMMUNICATION AND  PROFESSIONAL  RESPONSIBILITY -- CAN  THEY COEXIST?</b></p> <p>In an age of electronic communication and social networking, lawyers must be aware of their ethical and professional responsibilities and how they apply within the increasingly public realm of modern electronic communication. This panel will discuss common modern uses of technology in the practice of law such as Cloud Computing, the Virtual Law Office, and issues surrounding the use of e mail and text messaging with clients. Panelists will also discuss popular social networking sites such as Facebook, Twitter, and LinkedIn, and how the use of such services both professionally and personally can raise issues relating to client confidentiality, the attorney-client privilege, contact with represented parties, ethical attorney advertising, and more.</p> <p><b>Moderator:</b>  Ed McIntyre  <b>Panelists:</b>  Tanya L. Forsheit  Browning Marean  Wendy Patrick</p>	<p><b>ETHICS ON THE INSIDE</b></p> <p>This panel will explore the ethical issues faced by in-house attorneys. While the same rules that govern attorneys in private practice apply to the in-house attorney, the application of certain of those rules in-house may be surprising and pose some unique challenges. Topics will include identity of client and conflicts of interest, business transactions with client/employer, the attorney-client privilege, the duty of competence, unauthorized practice of law, the "no contact" rule, and sexual relations with client.</p> <p><b>Moderator:</b>  Neil Wertlieb  <b>Panelists:</b>  Bryant Danner  Aimee Weisner  Jason Weintraub</p>	<p><b>ETHICS, INNOCENCE  AND PROSECUTORIAL  MISCONDUCT</b></p> <p>The panel will examine the Innocence Project Report and prosecutorial misconduct, and consider the responses of criminal prosecutors and of the State Bar to the Report. Panelists will debate the necessity and wisdom of changes in applicable ethics rules, including Proposed Rule of Professional Conduct 3.8, applicable judicial and attorney reporting requirements, and the adequacy of training programs.</p> <p><b>Moderator:</b>  Carole Buckner  <b>Panelists:</b>  Cydney Batchelor  James Fox  Maurice Possley</p>	<p><b>ETHICS IN LIMBO:  PRACTICAL ISSUES FOR  LAWYERS AS CHANGES  IN THE LAW  REGULATING LAWYERS  CONTINUE</b></p> <p>New lawyer conduct rules are in the process of being submitted to the California Supreme Court soon. The process continues. The timing of approval and substance of the final rules as adopted by the Supreme Court remain unknown. Using the examples of ethical screening, advance conflict consent, the "no-contact" rule, and transactions with clients, two long-time practitioners of the law of lawyering and members of the Rules Revision Commission will discuss the challenges that face practicing lawyers and those advising them during this interim period of transition, as the current rules remain in place, uncertainty continues to surround the proposed new rules, and case law marches on.</p> <p><b>Moderator:</b>  Dan Carroll  <b>Panelists:</b>  Ellen Peck  Mark Tuft</p>	
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<p><b>2012</b> <b>UC Hastings School of the Law (SF)</b></p> <p><b>Theme:</b> Evolution of Ethics in an Electronic Age</p> <p><b>Keynote:</b> Chancellor and Dean Frank Wu</p>	<p><b>THE NO CONTACT RULE: UP CLOSE AND PERSONAL THE NO CONTACT RULE: UP CLOSE AND PERSONAL</b></p> <p>In light of the recent COPRAC opinion on Rule 2-100 of the California Rules of Professional Conduct, when might consent be implied under the No Contact Rule and under what circumstances? This panel will explore what types of communications are covered by the Rule (including communications through social media), when consent is required, and in what manner consent may be given. This panel will focus on a series of hypothetical examples, and audience members will have the opportunity to express their views as well.</p> <p><b>Moderator:</b> Neil Wertlieb</p> <p><b>Panelists:</b> Robert Kehr John Steele Michael Tenenbaum</p>	<p><b>MAINTAINING CONFIDENCES AND COMPETENCE IN AN ESI WORLD</b></p> <p>A panel drawn from the Bench and Bar discusses emerging ethical perils of inadvertent disclosure and attorney competence in the new environment of paperless communication and electronic discovery. Topics on inadvertent disclosure will include attorney use of email, open WiFi, and other technology issues, and what can and should be done to protect client interests during that use. Inadvertent disclosure during discovery of Electronically Stored Information (ESI) will also be addressed. Finally, the panel will discuss whether eDiscovery rules in federal court and in California's recent Electronic Discovery Act add to a lawyer's ethical competency duties in litigation.</p> <p><b>Moderator:</b> Jim Friedhofer</p> <p><b>Panelists:</b> Merri Baldwin Tanya Forsheit Hon. Barbara McAuliffe</p>	<p><b>WITH "FRIENDS" LIKE THESE—THE NEW "FACE" OF LEGAL PRACTICE: ETHICAL IMPLICATIONS IN CYBERSPACE AND SOCIAL MEDIA</b></p> <p>In an age of electronic communication and social networking, lawyers must be aware of their ethical and professional responsibilities and how they apply within the increasingly public realm of modern electronic communication. This program will discuss the mechanics of popular social networking sites such as Facebook, Twitter, and LinkedIn, and how the use of such services both professionally and personally can raise issues relating to client confidentiality, the attorney-client privilege, contact with represented parties, ethical attorney advertising, and more!</p> <p><b>Moderator:</b> Wendy Patrick</p> <p><b>Panelists:</b> Hon. Mitchell Dembin: Antone Johnson: Browning Marean</p>	<p><b>THE ETHICAL AND PRACTICAL IMPLICATIONS OF SHARED CLIENT REPRESENTATIONS</b></p> <p>In modern legal practice, we are seeing an increasing trend towards down-sourcing and disaggregation, which can result in multiple independent lawyers or firms representing the same client in a single legal matter. In these situations, complex issues can arise that include but are not limited to conflicts of interest, scope of representation issues, fee sharing issues, the duty of competence, the duty to communicate, the duty of confidentiality and the duty to coordinate and avoid duplication of effort and overbilling. This panel will examine trends, best practices and problems from both ethical and hands-on practical perspectives.</p> <p><b>Moderator:</b> Wendy Chang</p> <p><b>Panelists:</b> Joan D'Ambrosio David Parker Eliza Rodrigues</p>	
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<p><b>2013</b></p> <p><b>UCLA, School of Law</b></p> <p><b>Theme:</b> Ethics 2013: Doing Good, Being Bad, Going Public, Being Sad</p> <p><b>Keynote:</b> Paul Vapnek</p> <p>Harry B. Sondheim Award Presented to Paul Vapnek</p>	<p><b>DOING GOOD MADE EASY (OR AT LEAST EASIER): ETHICAL ISSUES ARISING IN PRO BONO REPRESENTATIONS</b></p> <p>This panel will examine the ethical issues that arise when lawyers “do good,” by assisting needy clients on a pro bono basis. This distinguished panel of pro bono professionals will discuss ethical issues that often arise in pro bono representations, such as conflicts of interest, competency, communication, supervision and confidentiality. The panel will also explore sensitive client issues, such as diminished capacity, managing client expectations, and withdrawal.</p> <p><b>Moderator:</b> Neil Wertlieb</p> <p><b>Panelists:</b> Scott Cummings Amos Harston Toby J. Rothschild</p>	<p><b>BREAKING UP IS HARD TO DO: ETHICAL ISSUES ARISING IN LAW FIRM DISSOLUTIONS AND PARTNER WITHDRAWALS</b></p> <p>This panel will examine thorny issues that arise when lawyers and law firms “break up”; when partners leave their firms, and when law firms dissolve. The experienced practitioners on the panel will discuss the ethical limitations that govern what lawyers can and cannot do when they leave a firm, including notifications to clients and others, “grabbing” clients and matters, retrieving work product, and handling client files. The panel will also consider the complex ethical issues that arise when law firms dissolve, including the impact of law firm bankruptcies and the implications on a lawyer’s ability to meet their duties to their clients.</p> <p><b>Moderator:</b> Merri Baldwin</p> <p><b>Panelists:</b> Scott B. Garner Pamela Phillips Matthew C. Heyn</p>	<p><b>STICKS AND STONES MAY BREAK YOUR BONES, BUT YOUR OWN WORDS (AND CONDUCT) MIGHT REALLY HURT YOU</b></p> <p>This panel will examine the ethical issues that arise when lawyers cross the line from aggressive lawyering to uncivil or unprofessional conduct resulting in sanctions, contempt orders, reporting to the Bar, and more. This distinguished panel of ethics attorneys and two Los Angeles Superior Court trial judges will discuss these issues from an ethics perspective and will look at real-life recent instances of courts taking steps to address attorneys’ lack of civility and professionalism.</p> <p><b>Moderator:</b> Wendy Wen Yun Chang Alison Buchanan</p> <p><b>Panelists:</b> Hon. Lawrence H. Cho Hon. Holly Fujie Ellen Pansky</p>	<p><b>LOOSE LIPS SINK SHIPS: MEDIA, CONFIDENTIALITY AND TRIAL PUBLICITY</b></p> <p>This panel will address the specific legal and ethical rules that govern what lawyers can legally and ethically say to the press about a big case. They will cover permissible statements in and out of the courtroom, and the ethical recourse you may have in responding to unfair adverse publicity. Gag orders, due process issues, and both the California Rules of Professional Conduct and the ABA Model Rules will be addressed. This panel will also consider the practical reality of how ethical dilemmas involving trial publicity commonly arise, how to see them coming, and how they can be addressed.</p> <p><b>Moderator:</b> Wendy Patrick</p> <p><b>Panelists:</b> Hon. Judith C. Chirlin, Ret. Mark Geragos Prof. Laurie L. Levenson</p>	
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<p><b>2014</b></p> <p><b>Golden Gate University, School of Law</b></p> <p><b>Theme:</b></p> <p>Keeping Pace in a Constantly Changing Legal Environment</p> <p><b>Keynote:</b></p> <p>James J. Brosnahan</p>	<p><b>Defending A Charles Ponzi Or Bernie Madoff</b></p> <p>This panel explores ethical issues that arise when lawyers represent clients alleged to be involved in financial fraud or other illegal behavior. Panel attorneys litigate actions brought against lawyers accused of participating in or aiding and abetting their clients' activities. Ethical issues include client confidentiality, the duty to withdraw, options to report up or out, and conflicts between individuals acting for the client.</p> <p><b>Moderator:</b> Scott B. Garner</p> <p><b>Panelists:</b> Jennifer A. Becker Joy A. Kruse Elliot A. Peters John R. Sheller</p>	<p><b>Complex Conflicts Issues Deciphered</b></p> <p>This panel will examine complicated questions confronting lawyers in scenarios involving advance consents and non-waivable conflicts. Both subjects arise in various contexts, including conflict clearance in obtaining and retaining clients, potential discipline, disqualification, and claims for malpractice or breach of fiduciary duty, and require thoughtful and deliberate navigation.</p> <p><b>Moderator:</b> William K. Mills</p> <p><b>Panelists:</b> Dan L. Carroll Robert K. Sall Michele K. Trausch</p>	<p><b>Trial Ethics: Don't Risk Your Soul To Win A Point</b></p> <p>This panel of seasoned trial attorneys will examine ethics issues that are unique to trial. Those issues include identifying the sometimes fuzzy line between ethical and not when: dealing with witnesses; producing (or not producing) evidence; jury selection (including discrimination and the use of social media); references to non-existent or inadmissible evidence; asserting an unsupported position; client perjury; appealing to the jury's passions and prejudices and other issues for closing argument; and communicating with jurors before, during and after trial.</p> <p><b>Moderator:</b> Alison P. Buchanan</p> <p><b>Panelists:</b> Wendy Wen Yun Chang James J. Brosnahan Hon. Peter H. Kirwan Allen J. Ruby</p>	<p><b>"Disruptive" Ethics? Innovative Models Of Providing Legal Services</b></p> <p>This panel will examine the ethical issues that arise as the practice of law takes new forms and expands traditional boundaries. Innovative models for providing legal services blur the lines between law firms and their clients, or challenge the very idea of what a law firm is and how legal services should be provided. Outsourced legal services, national virtual law practices, companies offering online legal forms and "panel attorney" consultations, and online crowd-sourced legal directories that match up potential clients and lawyers all pose new ethical questions for lawyers to consider and issues to deal with.</p> <p><b>Moderator:</b> Merri A. Baldwin</p> <p><b>Panelists:</b> Chas Rampenthal R. Amani Smathers John J. Steele</p>
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<p><b>2015</b></p> <p><b>Thomas Jefferson School of Law</b></p> <p><b>Theme:</b></p> <p>Brave New World: Legal Ethics for Today</p>	<p><b>The Net: Law Firm Cybersecurity</b></p> <p>This panel explores the ethical obligations attorneys have in the context of cybersecurity arising out of the increased use of technology in modern law practice. The ethical practitioner must address a vast array of issues, including awareness of the nature and manifestation of the evolving threats to law firms and what the ethical rules require to combat against them. The panel will focus on some of the particulars, and discuss the anatomy of a law firm data breach, how law firms can pro-actively manage the risks, and how to plan for and respond to a data breach if/when proactive efforts are thwarted.</p> <p><b>Moderator:</b> Wendy Wen Yun Chang</p> <p><b>Panelists:</b> Richard T. Egger Tanya L. Forsheit Scott B. Garner Wesley L. Hsu</p>	<p><b>Déjà vu All Over Again: Brainstorming the New California Rules Project</b></p> <p>A panel of experienced ethics experts will consider aspects of the task ahead for the new Rules Revision Commission and will engage in a roundtable discussion about the various functions of the rules including public protection, attorney discipline, and ethical guidance. The panel will brainstorm specific rules, and whether and how they should be revised, including whether to adopt the ABA Model Rules on those issues, continue with the California framework, or move to some other formulation.</p> <p><b>Moderator:</b> Merri A. Baldwin</p> <p><b>Panelists:</b> Carole J. Buckner Kevin E. Mohr Richard A. Zitrin</p>	<p><b>The Color of Money: Alternative Litigation Funding</b></p> <p>Creative financing, once reserved for technology or other new economy ventures, has entered the legal profession. Alternative Litigation Funding [ALF] – also known as Third Party Litigation Funding or Financing, or Third Party Funding or Financing – is limited only by the creativity of the parties. Along with traditional sources of funding, claim funding, where repayment is contingent on the outcome of the case, is now offered by hedge funds, commercial banks, investment banks, and specialty companies dedicated to the claim funding industry. This panel promises a lively debate about the ethical issues in ALF, whether they can be solved, and, if so, how to solve them.</p> <p><b>Moderator:</b> Jennifer A. Becker</p> <p><b>Panelists:</b> Peter H. Benzian Carol M. Langford Maya Steinitz</p>	<p><b>Liar, Liar: Negotiation Ethics</b></p> <p>Does anyone really expect anything a lawyer says in negotiation to be truthful? Does that expectation impact an attorney's ethical duties, including the duty of honesty? May an attorney ethically “gild the lily” in settlement negotiations? This dynamic panel will explore these issues, focusing on the contours of the ethical duty of honesty and how that duty fare in the context of negotiation, where “puffery,” posturing and overstatement are often used and, in fact, expected. This panel will explore where the ethical line lies in negotiation and when it is crossed.</p> <p><b>Moderator:</b> Suzanne Burke Spencer</p> <p><b>Panelists:</b> Edward J. McIntyre David F. McGowan Hon. John Leo Wagner, Ret.</p>
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<p><b>2016</b></p> <p><b>University of San Francisco, School of Law</b></p> <p><b>Theme:</b></p> <p>Moving Forward, Looking Back: The 20<sup>th</sup> Anniversary Ethics Symposium</p> <p><b>Keynote:</b></p> <p>2016 Harry B. Sondheim Award Recipients</p> <p>Karen Goodman</p> <p>Hon. Brian C. Walsh</p>	<p><b>1995 Redux: Who's Running the Profession? The Future of Rules-Making and the Disciplinary Process</b></p> <p>At the first Ethics Symposium in 1995, a distinguished panel addressed the question of "Who's Running the Profession? The Future of Rules-Making and the Disciplinary Process." Among other things, the 1995 panel considered problems attendant to the rule-making process; complications resulting from the Legislature's involvement in establishing ethical standards for the legal profession; and what form the regulation of the legal profession should and would take in the immediate future in the face of an effort to replace the integrated State Bar with a state regulatory agency and voluntary trade association. Two decades later, many of the same issues have re-emerged to confront the legal profession and change the practice of law. This panel will consider the old and new challenges facing the rule-making process and practice of law today, drawing appropriate comparisons to and lessons from the past.</p> <p><b>Moderator:</b> Larry D. Doyle</p> <p><b>Panelists:</b> David C. Carr Robert A. Hawley Mark L. Tuft</p>	<p><b>Strength in Numbers: Ethical Issues in Class and Mass Actions</b></p> <p>Lawyers representing plaintiffs in class actions and in mass tort actions face unique ethical issues at each stage of representation from contact with potential clients all the way through to settlement. This panel will examine these issues, most of which are not adequately addressed by the ethics rules, including conflicts of interest among class members or mass tort plaintiffs; settlement disclosures and the aggregate settlement rule; and ethical responsibilities to nonsettling plaintiffs or class members.</p> <p><b>Moderator:</b> Merri A. Baldwin</p> <p><b>Panelists:</b> Mark A. Chavez Joshua P. Davis Richard A. Zitrin</p>	<p><b>Diminished Capacity Clients: Ethical Issues and Dilemmas</b></p> <p>As our population ages and life expectancies increase, attorneys in all practice areas from civil litigation to tax planning are faced with issues more traditionally associated with trusts and estates practice: How to obtain consent or client instructions from clients with diminished or diminishing capacity? What, if anything, can a lawyer do if she suspects her client is the victim of elder abuse or requires protection because of capacity issues? How do diminishing capacity issues impact the lawyer's ability to be paid or enter into retainer agreements? This panel will discuss these and other ethical issues that arise when representing clients with diminished or diminishing capacity.</p> <p><b>Moderator:</b> Suzanne Burke Spencer</p> <p><b>Panelists:</b> Bette B. Epstein Jerome Fishkin Scott B. Garner</p>	<p><b>The Train Keeps A-Rollin: An Update on the Second Rules Revision Commission's Proposed Amendments to California's Rules of Professional Conduct</b></p> <p>California's Rules Revision Commission is now eleven months into its tenure. That period has already seen expedited consideration of certain proposed amendments to the rules, tentative approval by the Commission of amendments to approximately twenty-three existing rules and proposed adoption of eight new rules. The process so far has involved significant debate and revealed a diversity of perspectives regarding the future course of California's rules of professional conduct. This panel will provide an update on the status of the Commission's work. It will consider some of the significant developments and rules that have already been addressed by the Commission, as well as some of the more controversial proposals that have been made. And it will look forward to important rules to be considered in the near future that are certain to elicit a variety of viewpoints and significant debate.</p> <p><b>Moderator:</b> Andrew I. Dilworth</p> <p><b>Panelists:</b> Stanley W. Lamport Kevin E. Mohr John J. Steele</p>
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<p><b>2017 (21<sup>st</sup> Annual)</b> <b>Loyola Law School,</b> <b>Los Angeles</b></p> <p><b>Theme:</b> <b>NA</b></p> <p><b>Rule Revision</b> <b>Commission Award</b> <b>Presentation:</b> <b>Jim Fox</b></p> <p><b>Keynote:</b> <b>None</b></p>	<p><b>What You Don't Know, But Should, About the New Proposed Rules</b></p> <p>The Bar has proposed to the California Supreme Court a new set of Rules of Professional Conduct. If adopted, some of these new proposed rules will result in little change in the day-to-day practice for California lawyers or the advice given by ethicists to their lawyer and law firm clients. However, some of the proposed rules will require more significant changes in the practice of California lawyers and the counsel given by those who ethically advise them. This panel will cover a few of the more significant changes made by the proposed rules, including a discussion of the proposed rules on conflicts, screening, fees, supervision, and clients with diminished capacity.</p> <p><b>Moderator:</b> <b>Prof. Robert D. Brain</b> <b>Panelists:</b> <b>Merri A. Baldwin</b> <b>Wendy Chang</b> <b>Robert L. Kehr</b></p>	<p><b>What is the "Heartland" of the Privilege? Recent Developments Concerning the Attorney-Client Privilege</b></p> <p>The attorney-client privilege is a cornerstone of American jurisprudence and of the attorney-client relationship. But last year, at least one decision seemed to examine it in a new light, potentially eroding the privilege. The California Supreme Court's decision, <i>Los Angeles County Board of Supervisors v. Superior Court</i>, caused many to wonder if the privilege is no longer sacrosanct. This panel will discuss how broadly the decision will be interpreted and its practical impact. The panel will also discuss issues that arise when an in-house attorney turns whistleblower, when an employer retains counsel to investigate an employment claim, and when the privilege will provide protection for a party's bad conduct.</p> <p><b>Moderator:</b> <b>Michele K. Trausch</b> <b>Panelists:</b> <b>Jennifer A. Becker</b> <b>Scott B. Garner</b> <b>Alison Turner</b></p>	<p><b>Evidence Code Section 958 and Beyond</b></p> <p>This panel will focus on the vexed and very real question of what a lawyer may reveal of his confidential client communications when those communications are relevant to a claim being asserted against the lawyer or a claim that the lawyer needs to assert. We will consider this issue in the context of malpractice litigation, fee cases, sanctions motions and claims brought by third parties. Our discussion will focus on the scope and limits of Evidence Code 958, how that law interfaces with the duty of confidentiality (which on its face brooks few exceptions), measures that can be crafted by parties or courts to protect clients and without unfairly gagging lawyers who find themselves accused. Real life examples from the trenches of attorney liability claims will be shared, reflected upon and argued about by experienced lawyers with long careers representing clients and lawyers. Judge Peter Wilson of the Orange County Superior Court will provide further thoughts including how these issues are addressed and managed by courts.</p> <p><b>Moderator:</b> <b>Amy Bomse</b> <b>Panelists:</b> <b>Jonathan B. Cole</b> <b>Robert K. Sall</b> <b>Hon. Peter J. Wilson</b></p>	<p><b>Ethics, Civility, and Professionalism in the Courtroom: A Disciplinary Perspective</b></p> <p>The practice of law is more competitive than ever, and hard-charging attorneys with winner-take-all attitudes seem ever-present – even in the courtroom, where civility and decorum once ruled. This panel, all with experience in attorney discipline, will discuss several key questions involving the disciplinary ramifications of over-the-top courtroom lawyering. Where lies the dividing line between zealous advocacy and sanctionable conduct? Is rudeness protected speech? When is patently unprofessional behavior tantamount to failure to perform a lawyer's duties competently – or even moral turpitude? These vital topics and more will be explored in an animated, conversational format.</p> <p><b>Moderator:</b> <b>John DeCure:</b> <b>Panelists:</b> <b>Hon. Gail Andler</b> <b>Murray Greenberg</b> <b>Hon. David Milton</b></p>
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<p><b>2018 (22nd Annual)</b>  <b>State Bar of California,</b>  <b>San Francisco</b></p> <p><b>Friday, April 6, 2018</b></p>	<p><b>Ethics Update – What You Need to Know</b></p> <p>Learn about recent developments involving core ethical principles affecting the day-to-day practice of lawyers. This panel will discuss several important decisions impacting how lawyers represent clients while fulfilling their professional obligations. Issues will include developments regarding the attorney-client privilege and confidentiality, disqualification and imputation, lawyer liability, and other fundamental principles related to the law governing lawyers.</p> <p><b>Drew Dilworth (Moderator)</b>  <b>Amy Bomse</b>  <b>Suzanne Burke Spencer</b></p>	<p><b>Joint Defense Agreements: Intertwined Ethical and Strategic Considerations</b></p> <p>Joint defense agreements are useful tools. They allow parties with common interests to work collaboratively in civil and criminal litigation as well as transactional matters to strategize together to further their mutual goals. But these agreements raise numerous ethical and strategic issues that must be carefully navigated. During this roundtable conversation, this lively panel of experienced trial lawyers and ethics experts will discuss the ethical issues and strategic considerations that arise when working jointly with parties sharing a common interest, including those that arise if those parties' interests begin to diverge.</p> <p><b>Ujvala Singh (Moderator)</b>  <b>James Brosnahan</b>  <b>Karen Goodman</b>  <b>Mary McNamara</b>          :</p>	<p><b>The Law and Ethics of Attorney Mistakes</b></p> <p>This panel will address the legal and ethical issues that arise when a lawyer or law firm suspects that it may have made a harmful mistake. Among the questions that the panel will discuss are: What counts as a mistake? What may or must a lawyer do when she is concerned that a mistake may have occurred? When does a lawyer have a duty to tell the client that a mistake has been made and what should be said? When can a lawyer continue to represent a client after a mistake has been made? And how do these issues intersect with the law firm's duty of loyalty to the client, its obligations to its insurer, and the law of attorney-client privilege?</p> <p><b>Stephen Bundy (Moderator)</b>  <b>Merri Baldwin</b>  <b>Ernest Galvan</b>  <b>Tyler Gerking</b></p>	<p><b>Prohibited Discrimination and Sexual Harassment in the Legal Profession</b></p> <p>In the era of #metoo, renewed scrutiny is being placed on sexual harassment claims, as we see more and more people speaking out about experiences with sexual harassment and discrimination. Will this movement cross into the legal profession, and if so, are there implications of that beyond employment litigation? Often criticized as the only profession without strong anti-discrimination and anti-harassment rules on the books, the California Rules Revision Commission recommended a stronger rule in proposed Rule of Professional Conduct Rule 8.4.1, which is pending before the California Supreme Court. This panel will explore the current Rule of Professional Conduct 2-400, analyze proposed rule 8.4.1, and discuss the role of the Rules of Professional Conduct in addressing prohibited discrimination and sexual harassment in the modern legal practice. This course offers 1.25 hours of MCLE credit in Recognition and Elimination of Bias.</p> <p><b>Joel Osman (Moderator)</b>  <b>Carole Buckner</b>  <b>Wendy Wen Yun Chang</b></p>
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<p><b>2019 (23rd Annual)</b>  <b>State Bar of California,</b>  <b>Los Angeles</b></p> <p><b>Friday, April 12, 2019</b></p>	<p><b>Recent Developments in Unauthorized Practice of Law</b></p> <p>The practice of law is rapidly evolving and it's a challenge for the rules governing lawyers to keep up with the pace of that change, especially the rules related to the unauthorized practice of law. California may be on the precipice of changes for the rules governing how and what is considered to be the unauthorized practice of law ("UPL") in California? This panel will explore the changes to modern legal practice that implicate these rules, limitations of the current rules in this modern technological era, and how those rules can or should evolve and the challenges to doing so while ensuring consumer protections. The efforts of ATILS which is charged with identifying possible regulatory changes to enhance the delivery of, and access to, legal services through the use of technology, including artificial intelligence and online legal service delivery models will also be discussed.</p> <p><b>Dena Roche (Moderator)</b>  <b>Toby Rothschild</b>  <b>Joshua Walker</b>  <b>Bridget Gramme</b></p>	<p><b>Ethical Considerations When Laws Conflict</b></p> <p>This program will cover timely topics related to the ethics of advising clients when federal, state and local law conflict. This program will also discuss how the Rules of Professional Conduct affect California lawyers' duties when advising clients in the marijuana industry and regarding sanctuary city laws.</p> <p><b>Eric Deitz (Moderator)</b>  <b>Richard Solomon</b>  <b>Sahar Ayinehsazian</b>  <b>Liliana Campos</b>  <b>Julia Sylva</b></p>	<p><b>Emerging Ethical Challenges to Fee Agreements and Fee Claims</b></p> <p>This panel will address emerging challenges to the validity and enforcement of fee agreements in light of recent developments in the law and the revised Rules of Professional Conduct. The panelists will explore innovative fee structures and payment arrangements, equity participation, hybrid fee structures, contingency or flat fees, value or progress billing, and special problems in prosecuting and defending fee claims. The discussion will cover best practices, the impact of the newly promulgated Rules of Professional Conduct and recent case law.</p> <p><b>Matthew Hodel (Moderator)</b>  <b>Joel Mark</b>  <b>Robert Sall</b>  <b>Lorraine Walsh</b></p>	<p><b>Ethics Update—What You Need to Know</b></p> <p>Learn about recent developments involving core ethical principles affecting the day-to-day practice of lawyers. This panel will discuss important court decisions impacting how lawyers represent clients while fulfilling their professional obligations. Issues will include conflicts of interest, advance waivers, impact of conflicts on engagement agreement enforceability, causation standard in breach of fiduciary duty, lawyers as whistleblowers and more.</p> <p><b>Amy Bomse (Moderator)</b>  <b>Stephen Bundy</b>  <b>Andrew Dilworth</b></p>
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