



# The State Bar of California

A.5. Action Summary  
02-26-21 Meeting  
Open Session

**Committee on Professional Responsibility and Conduct**  
**Friday, January 8, 2021**  
**10:00 am – 4:30 pm**

## TELECONFERENCE

**Members Present:** Ms. Roche (Chair), Mr. Bacon, Ms. Banola, Prof. Bundy (Advisor), Mr. Carr, Mr. Fields, Ms. Inlender, Mr. Koss, Mr. Krueger, Ms. Lee, Mr. Mark, Ms. Rowe, and Mr. Starr.

**Not Present:** None.

**Others Present:** Ms. Lee (State Bar staff), Mr. Tuft (State Bar staff), Mr. Difuntorum (State Bar staff), Stephanie Li and Morry Waksberg.

The order of business is approximate and subject to change.

Members of the public may access this meeting as follows:

Zoom: <https://calbar.zoom.us/j/92348018903>

Call-In Numbers:

669-900-9128

Meeting ID: 923 4801 8903

## ACTION SUMMARY

### A. Remarks from the Chair

1. Roll Call

2. Public Comment

*None.*

3. Announcements

*The Chair welcomed the Committee and wished them a happy New Year. The Chair also wanted to thank the Committee for all the hard work completed in 2020.*

4. Staff Report

*Mr. Tuft reported that: (1) December 11 State Bar filed rule amendments 1.1 and 5.4 with the Supreme Court; (2) 13-0002 is circulating for a 90-day public comment period with a deadline of February 16, 2021; (3) Arbitration Advisory 2020-0XB is circulating for a 90-day public comment period with a deadline of February 22, 2020; (4) 17-0003 returned from public comment with a deadline of January 4; and, (5) the Committee should encourage qualified individuals to apply for COPRAC.*

5. Approval of Open Session Action Summary from the December 4, 2020 Meeting

*The Action Summary was approved (10-0-0).*

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

1. 14-0001 [re Colleague Impairment]  
*Ms. Banola gave an oral report on the public comments received and presented a revised opinion. Following discussion by the Committee, the Committee approved the opinion for an additional 60-day public comment (10-0-1).*
2. 17-0003 [re Duty of Confidentiality to Prospective Client]  
*Mr. Bundy gave an oral report on the public comments received and presented a revised opinion. Following discussion by the Committee, the Committee approved the opinion for an additional 60-day public comment (12-0-0).*

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

1. 19-0003 [re Improper Contract Provisions]  
*Mr. Carr 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.*
2. 19-0004 [re Client File Release and Retention Duties]  
*Ms. Lee 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.*
3. 20-0001 [re Lawyer as Expert Witness]  
*This item was not discussed.*
4. 20-0002 [re Succession Planning]  
*This item was not discussed. Mr. Mark added to the drafting team.*
5. 20-0003 [re Flat Fees and Termination]  
*Mr. Bacon presented a revised issues outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare an opinion outline in accordance with the Committee's discussion.*
6. 20-0004 [re Ethical Obligations when Working Remotely]  
*Ms. Banola presented a revised issues outline and gave an oral report. Following discussion by the Committee, the drafting team was asked to prepare a draft opinion in accordance with the Committee's discussion. Ms. Lee added to the drafting team.*
7. 20-0005 [re Contingency Fee Agreements and Earning an Hourly Rate When Terminated]  
*This item was not discussed.*

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

1. 13-0002 [re Attorney with a Vulnerable Client]  
*This item was not discussed. Public Comment deadline is: February 16, 2021.*

**E. Oral Report on Arbitration Advisories Currently Circulating for Public Comment**

1. 2020-0XB [re Arbitration Advisory on Costs]  
*This item was not discussed. Public Comment deadline is: February 22, 2021.*

**F. Discussion of Special Projects**

1. Ethics Symposium Planning  
*Mr. Tuft gave an oral report on the planning updates. The topics that were selected at the last meeting were: Lawyer Impairment (Moderator: Kendra Basner (tentative)); Ethics of Practicing Remotely (Moderator: Amber Lee); Beginning of the Attorney-Client Relationship (Co-moderators: David Carr and Adam Koss); and Recent Developments with a Focus on COPRAC Opinions (Panel: Dena Roche, Justin Fields, Steve Bundy). If Kendra is unavailable, Mr. Carr volunteered to moderate the Lawyer Impairment panel.*
2. Outreach 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>.