



The State Bar of California

A.5. Action Summary
06-03-22 Meeting
Open Session

Committee on Professional Responsibility and Conduct

Friday, May 13, 2022

10:00 am – 4:30 pm

TELECONFERENCE

Questions regarding any agenda item should be directed to the Committee Coordinator, Mimi Lee at 415-538-2162, 180 Howard Street, San Francisco, CA 94105, or Chair, Justin Fields at 415-538-2162. Committee members are requested to notify the Committee Coordinator as early as possible in advance of the meeting if they wish to remove any item/s from the consent agenda.

Committee Members Present: Mr. Fields (Chair), Mr. Bacon, Ms. Banola, Ms. Bradley, Ms. Chivers, Ms. Inlender, Mr. Krueger, Mr. Mark, Mr. Munoz, Ms. Roche (Advisor), Ms. Rowe, and Mr. Starr.

Committee Members Not Present: Ms. Mercado

Others Present: Mr. Difuntorum, Ms. Doherty, Ms. Gramme, Ms. Hemati, Ms. Lee, and Ms. Marlaud.

The order of business is approximate and subject to change.

Members of the public may access this meeting as follows:

Toll-Free Dial-In Number: 1-669-900-9128

Meeting ID: 990 4157 9410

Zoom: <https://calbar.zoom.us/j/99041579410>

Additional Locations:

180 Howard Street, San Francisco, CA 94105

845 S. Figueroa St., Los Angeles, CA 90017

1912 I Street, Sacramento, CA 95811

2301 Rosecrans Ave., Suite 3180, El Segundo, CA 90245

32351 Coast Highway, Laguna Beach, CA 92651

919 Box Canyon Trail, Palm Desert, CA 92211

900 San Ysidro Ln., Montecito, Ca 93108

555 University Ave., Suite 294, Sacramento, CA 95825

333 West San Carlos Street, San Jose, CA 95110 (Room 4B)

ACTION SUMMARY

A. Remarks From the Chair

1. Roll Call

2. Public Comment
3. Announcements
4. Staff Report
Mr. Difuntorum reported that: (1) Ms. Leighton has been hired as the new managing attorney in the Office of Professional Competence and will be the new COPRAC staff attorney; and (2) staff is continuing to monitor any developments involving Bagley-Keene.
5. Approval of Open Session Action Summary from the February 18, 2022 Meeting
The open session action summary from the February 18, 2022 meeting was approved (8-0-0).

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

1. **19-0004 [re Client File Release and Retention Duties]**
Ms. Roche presented a revised opinion and gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the committee's discussion for the June meeting.
2. **19-0003 [re Illegal Contract Provisions]**
Ms. Banola presented a revised opinion and gave an oral report. Following discussion, the committee voted to approve the opinion for publication (8-2-1) subject to the addition of a new footnote to be drafted by Ms. Banola and approval by the Board of Trustees.
3. **20-0004 [re Ethical Obligations when Working Remotely]**
Ms. Banola presented public comments received and gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the committee's discussion for the June meeting.

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

1. **20-0001 [re Lawyer as Expert Witness]**
Ms. Banola presented a revised opinion and gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the committee's discussion for the July meeting. Mr. Mark was added to the drafting team.
2. **20-0002 [re Succession Planning]**
Ms. Roche presented a revised opinion and gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the

committee's discussion for the July Meeting. Mr. Bacon and Ms. Inlender were added to the drafting team.

3. **20-0003 [re Flat Fees and Termination]**

Mr. Bacon gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the committee's discussion for the June meeting.

4. **20-0005 [re Contingency Fee Agreements and Earning an Hourly Rate When Terminated]**

Mr. Krueger presented a revised opinion and gave an oral report. Following discussion, the drafting team was asked to prepare a revised opinion in accordance with the committee's discussion for the June meeting.

5. **21-0002 [re Attorney as Advocate]**

This item was not discussed.

6. **21-0003 [re Ethics of In-House Counsel]**

This item was carried over and will be discussed at the July meeting. Ms. Rowe was added to the drafting team.

7. **21-0004 [re Ethical Obligation of a Deportation Attorney]**

This item was not discussed.

8. **21-0007 [re Cryptocurrency]**

This item was not discussed.

D. Special Projects

1. **Discussion on Proposed Amendments to the Rules of Professional Conduct by the Civility Task Force**

Mr. Difuntorum presented the Board report from the April meeting and gave an oral report. Following discussion, the working group was assigned to meet and prepare an oral report for the July meeting. Ms. Banola, Mr. Starr, Mr. Munoz, Ms. Chivers, Ms. Inlender, and Mr. Fields (A) were added to the drafting team.

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

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