



The State Bar of California

A.4. Meeting Minutes
12-02-22 Meeting
Open Session

Committee on Professional Responsibility and Conduct In Person & Teleconference

Open Session Minutes
Friday, October 14, 2022
10:00 a.m.–4:30 p.m.

The State Bar of California
845 South Figueroa Street
Boardroom, 2nd Floor
Los Angeles, CA 90017

Time Meeting Commenced: The Committee on Professional Responsibility and Conduct meeting commenced in open session at 10:03 a.m.
Time Meeting Adjourned: 4:30 p.m.
Chair: Sarah Banola
Committee Coordinator: Erika Doherty
Members Present: Ken Bacon, Sarah Banola, Elizabeth Bradley, Raquel Brigham Brown, Cassidy Chivers, Justin Fields, Brandon Krueger, Joel Mark, Elanor Mercado, William Munoz, Dan O’Rielly, Kyla Rowe, Hunter Starr
Members Absent: [Names in alpha order; if no members are absent, state “None”]

OPEN SESSION

A. Remarks From the Chair

1. Call to Order
The Committee on Professional Responsibility and Conduct was called to order by Chair Banola.
2. Roll Call
Roll call was taken and a quorum was established.
3. Call for Public Comment
Chair Banola called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item. [Click or tap here to enter text.](#)
 - a. Isabella Lee, Law Student, UCLA

- Why is the opinion 19-0003 taking so long to be published. It extends protections to employees.
 - b. Jimmy Degen, Law Student, UCLA
 - Expressed same comment as Isabella Lee.
 - c. Terri Gerstein
 - Expressed same comment as Isabella Lee.
 - d. Carson McKinney, Law Student
 - Confused as to why 19-0003 is still on the agenda if it's not on the agenda for today. Concerned with the ethical implications.
 - e. Neil Wertlieb, Former Chair of COPRAC
 - Right venue to discuss the allowance of noncompetes in a contract is with the California legislature. Until its made clear its an illegal provision on the part of the employer,
4. Approval of Open Session Minutes: September 9, 2022

Moved by Banola, seconded by Bacon.

Ayes – (8) Ken Bacon, Sarah Banola, Elizabeth Bradley, Cassidy Chivers, Brandon Krueger, Joel Mark, Elanor Mercado, and Kyla Rowe

Noes – (0)

Abstain – (4) Raquel Brigham Brown, William Munoz, Dan O’Rielly, and Hunter Starr

Absent – (0)

Motion carries.

5. Report of the Chair
Chair Banola provided an oral report.
6. Strategic Plan
Ms. Wilson provided an oral report.
7. Report of the Committee Coordinator
Ms. Doherty provided an oral report.

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

1. 19-0003 [re Illegal Contract Provisions]

This item was withdrawn.

2. 19-0004 [re Client File Release and Retention Duties]

No recommendation. Discussion only.

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

1. 20-0001 [re Lawyer as Expert Witness]

This item was withdrawn.

2. 20-0002 [re Succession Planning]

This item was withdrawn.

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

This item was carried over.

4. 21-0002 [re Attorney as Advocate]

This item was withdrawn.

5. 21-0003 [re Ethics of In-House Counsel]

No recommendation. Discussion only.

6. 21-0004 [re Ethical Obligation of a Deportation Attorney]

This item was withdrawn.

7. 21-0007 [re Cryptocurrency]

No recommendation. Discussion only.

8. 22-0001 [re Attorney as Expert Witness and Handling of Retainers and Fees]

This item was carried over.

D. Discussion and Possible Approval of Draft Advisories Not Yet Circulated for Public Comment

1. 2022-0XA (formerly 1993-02) [re Standard of Review in Fee Disputes Where There Is a Written Fee Agreement]

This item was carried over.

2. 2022-0XB (formerly 1998-03) [re Determination of a ‘Reasonable’ Fee]

This item was withdrawn.

E. Oral Report on Opinions Currently Circulating for Public Comment

1. 20-0005 [re Conversion Clauses in Contingency Fee Agreements]

Opinion is circulating for a 90-day public comment period. Public comment deadline:
November 17, 2022

F. Special Projects

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

RESOLVED, that the Committee on Professional Responsibility and Conduct approves State Bar staff revising the memo to reflect that the committee recommends option 1 (revisions to the Comment of rule 1.2, Comment of rule 8.4 (clarifying the meaning of (d), and no other changes to any other rules) to address civility). The memo will also present an alternative, option 2, which recommends the creation of a standalone rule. The memo will also present a 3rd option which is not recommended but is provided to show the committee’s recommended edits to the revised rules.

Moved by Banola, seconded by Choose name.

Ayes – (12) Ken Bacon, Sarah Banola, Elizabeth Bradley, Raquel Brigham Brown, Cassidy Chivers, Brandon Krueger, Joel Mark, Elanor Mercado, William Munoz, Dan O’Rielly, Kyla Rowe, Hunter Starr

Noes – (0)

Abstain – (0)

Absent – (0)

Motion carries.

ADJOURN