



The State Bar of California

A.4. 12-02-02 Minutes
01-13-23 Meeting
Open Session

Committee on Professional Responsibility and Conduct Teleconference

Open Session Minutes
Friday, December 2, 2022
10:03 a.m.–4:30 p.m.

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, Raquel Brigham Brown, Cassidy Chivers, Justin Fields, Brandon Krueger, Joel Mark, William Munoz, Dan O’Rielly

Members Absent: Elizabeth Bradley, Elanor Mercado, Hunter Starr

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.
 - a. Anthony Lewis
 - Followed up on his written comment and believed the committee’s interpretation of an ethical conversion clause is limited.
 - b. Deborah Wolfe, Consumer Attorneys of San Diego
 - There is an access to justice issue for people who cannot pay attorneys by the hour.

c. NC Carlson

- Followed up on her written comment and to include convoluted contracts in contract provisions.

4. Approval of Open Session Minutes: October 14, 2022

Moved by Munoz, seconded by Bacon.

*Ayes – (7) Bacon, Brown, Krueger, Mark, Munoz, O’Rielly, Banola
Noes – (0)*

Abstain – (0)

Absent – (3) Bradley, Mercado, Starr

Motion carries.

5. Report of the Chair

Chair Banola provided an oral report.

6. 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This item was withdrawn.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]

This item was withdrawn.

3. 20-0005 [re Conversion Clauses in Contingency Fee Agreements]

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This item was withdrawn.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]

No recommendation. Discussion only.

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

No recommendation. Discussion only.

4. 21-0002 [re Attorney as Advocate]

No recommendation. Discussion only.

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

No recommendation. Discussion only. Brown and O’Rielly to join the drafting team.?

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

This item was withdrawn.

7. 21-0007 [re Cryptocurrency]

No recommendation. Discussion only.

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 withdrawn.

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

This item was withdrawn.

E. Special Projects

1. Consideration of Proposed New Rule of Professional Conduct 8.3 (Munoz, Mark, Krueger, Chivers)

No recommendation. Discussion only.

2. Consideration of ABA Formal Opinion 503

This item was withdrawn.

3. Consideration of New Opinion and Arbitration Advisory Topics (mimi to circulate the 9-26-22 letter and NC Carlson email on 7.2 along with last arbitration advisory)

No recommendation. Discussion only.

ADJOURN