

**Panelists:** Cassidy Chivers, Erika Doherty (State Bar Staff) Brandon, Krueger, Mimi Lee (State Bar Staff) Joel Mark, Angela Marlaud (State Bar Staff) William Munoz, Hunter Starr

**Speakers:** Reverend Frank, Nancy Carlson, Richard Oberto, Diana Christian, Amber Gallaway

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WEBVTT

1

00:00:02.990 --> 00:00:04.220

Brandon Krueger: Good morning.

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00:00:04.710 --> 00:00:11.980

It's about 10 am. On Wednesday, February 1520 23, and we will begin a public hearing

3

00:00:12.050 --> 00:00:18.940

Brandon Krueger: of the state bar of California to receive public comment on proposed new rule. Professional conduct. 8.3.

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00:00:19.240 --> 00:00:30.890

Brandon Krueger: My name is Brandon Krieger. I serve as the Vice chair of the State Bars Committee on Professional Responsibility and Conduct, known as Co. The rules of Professional conduct.

5

00:00:31.060 --> 00:00:36.520

Brandon Krueger: our professional responsibility standards, the violation of which will subject an attorney to discipline.

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00:00:36.960 --> 00:00:47.830

Brandon Krueger: pursuant to business and professionals Code 6 0 7 7. The State bar is charged with developing and adopting amendments to the rules of professional responsibility professional conduct

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00:00:47.880 --> 00:00:57.820

Brandon Krueger: for approval by the California Supreme Court. In furtherance of this responsibility, the chair of the State Bar Board of Trustees assigned

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00:00:58.010 --> 00:01:05.850

Brandon Krueger: to prepare a proposal for a new rule of professional conduct. Addressing a lawyer's duty to report the misconduct of another lawyer.

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00:01:06.530 --> 00:01:08.580

Brandon Krueger: Col. Pr. Was asked to consider

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00:01:08.640 --> 00:01:12.160

American Bar Association model Rule 8.3,

11

00:01:12.280 --> 00:01:24.000

Brandon Krueger: and variations of that rule adopted in other jurisdictions, as well as past considerations of model rule. 8.3 by the State Bar rules, Revision Commission and drafting its proposed rule.

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00:01:25.160 --> 00:01:32.660

Brandon Krueger: The State Bar staff has caused notice of this hearing to be issued by several methods, including including a posting of the State Bar website

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00:01:32.760 --> 00:01:43.070

Brandon Krueger: email notifications to interested persons and social media posts. This public hearing is being recorded and has been authorized by the Board of Trustees which oversees the work of the committee.

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00:01:43.390 --> 00:01:47.650

Brandon Krueger: The recording of this public hearing will be made available to the members of the Board.

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00:01:48.110 --> 00:02:05.720

Brandon Krueger: We will begin with those who will pre registered to speak, using the online sign up form, and then we will move on to those who have virtually raised their hands in zoom for those of for those who are participating by zoom video, you may virtually raise your hand by clicking on the hand icon that appears

16

00:02:05.780 --> 00:02:15.690

Brandon Krueger: at the bottom center of your screen for those who are participating by phone, you may virtually raise your hand by pressing Star 9. That is the star key. Then the Number 9

17

00:02:16.810 --> 00:02:26.090

Brandon Krueger: again doing so will alert staff that you would like to make a comment and state our staff will call on you in order to unmute your microphones, so you can address the committee.

18

00:02:27.450 --> 00:02:28.870

Brandon Krueger: Please speak clearly.

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00:02:29.060 --> 00:02:38.690

Brandon Krueger: Begin by stating, and then spelling your name. This is important for 2 reasons. It helps to assure that your comment is properly attributed to you, and also as a sound check

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00:02:39.080 --> 00:02:47.680

Brandon Krueger: due to time restrictions. We cannot allow more than 2 min for each speaker. Please note that staff will be timing all attendees during the duration of your public comment.

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00:02:47.840 --> 00:02:52.190

Brandon Krueger: The timer's 2 min countdown will begin as soon as you start your comment

22

00:02:52.310 --> 00:02:55.550

Brandon Krueger: and you will be verbally alerted once you have 30 s remaining.

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00:02:55.970 --> 00:03:07.690

Brandon Krueger: If you have written materials that you have not previously submitted, please email them to Miss marlowe@angela.marlowe at Calg. We will provide her email address in the chat as well.

24

00:03:07.950 --> 00:03:11.600

Brandon Krueger: Supporting written materials will become part of the public record of this proceeding.

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00:03:12.080 --> 00:03:20.410

Brandon Krueger: In addition to this public hearing a 30 day period to receive public comment on the proposed rules, has been authorized by the board and the deadline.

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00:03:20.540 --> 00:03:25.640

Brandon Krueger: or a submission of written public comment, is February the seventeenth, 2,023.

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00:03:25.990 --> 00:03:30.970

Brandon Krueger: We'll begin by introducing the committee member panelists, Cassidy Chivers.

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00:03:31.280 --> 00:03:33.700

Brandon Krueger: You can so it all right.

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00:03:33.710 --> 00:03:35.270

Joel, Mark

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00:03:36.300 --> 00:03:38.290

Brandon Krueger: and Hunter Star.

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00:03:38.730 --> 00:03:42.240

We have one more who may or may not be joining us. William Munoz

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00:03:42.310 --> 00:03:45.430

Brandon Krueger: Angela, you can call the first speaker, please.

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00:03:45.800 --> 00:03:55.730

Angela Marlaud (State Bar Staff): First speaker on the list is identified as Speaker 8 8 7 6. If you can raise your hand or press Star 9 to identify yourself.

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00:03:56.370 --> 00:03:57.890

Angela Marlaud (State Bar Staff): That would be appreciated.

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00:04:06.760 --> 00:04:15.370

Angela Marlaud (State Bar Staff): Okay, they are not there, so I will move down the list. Richard Oberto. Please raise your hand or use the Star 9 function.

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00:04:25.920 --> 00:04:34.330

Angela Marlaud (State Bar Staff): Richard is not here. Next, we have Todd Hill. Tod. Please use the race hand function to identify yourself.

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00:04:43.990 --> 00:04:51.490

Angela Marlaud (State Bar Staff): Okay, Todd is not here, and lastly, on the sign. And she, we have Kevin, Mota Kevin. Please use the race hand function.

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00:05:00.360 --> 00:05:04.660

Angela Marlaud (State Bar Staff): Okay, I don't have Kevin. So I will proceed by

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00:05:05.860 --> 00:05:07.280

Angela Marlaud (State Bar Staff): going down

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00:05:07.550 --> 00:05:12.890

Angela Marlaud (State Bar Staff): people who are here. The first speaker is, Reverend Frank.

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00:05:13.980 --> 00:05:21.060

Angela Marlaud (State Bar Staff): reverend. Your Mike has been unmuted. Please state and spell your name for the record, and then you'll have 2 min to provide your public comment.

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00:05:21.100 --> 00:05:26.820

Reverend Frank: All right. It's, reverend, that R. E, e, r, e, n D. Frank, or a. N. K.

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00:05:27.470 --> 00:05:28.210

Question. I

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00:05:29.990 --> 00:05:32.400

Reverend Frank: point 3 under a

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00:05:32.630 --> 00:05:39.760

Reverend Frank: it, says a lawyer that knows, and that his lawyers committed a violation of the

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00:05:40.020 --> 00:05:44.480

Reverend Frank: Have you guys

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00:05:44.570 --> 00:05:45.520

16?

48

00:05:46.220 --> 00:06:01.110

Reverend Frank: Because that leaves a lot of regular room. Anybody to say. Well, I didn't think it really raised that much of the the thing that we see with lawyers and laughs lately is, they leave themselves open to interpretation to where

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00:06:01.580 --> 00:06:05.410

Reverend Frank: you say we want to deal with them today, but tomorrow

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00:06:05.430 --> 00:06:12.500

Reverend Frank: we're going to ignore it, because it doesn't raise substantial. Have you guys defined what is substantial?

51

00:06:13.320 --> 00:06:33.440

Reverend Frank: One of my problem with the State bar is, I have reported that Vanessa Holton committed a felony as the General Council of the State of California. It has been ignored by Leo Wilson.



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If you go to the vessel, hilton.com. I have laid out everything. I have a State park and Link filed on the 20 s.

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00:06:33.450 --> 00:06:44.290

Reverend Frank: I have the police report that they say Vanessa filed on the 20 third. I have 4 Of these calls I the 26 and 26 recording from officer

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00:06:44.380 --> 00:06:55.330

Reverend Frank: to take down my first and then right to a free speech website. and then Larry just blurred out what is his name? Larry? The guy that is prosecuting John right now

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00:06:55.570 --> 00:06:58.390

Reverend Frank: he has to be brought in to the

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00:06:59.300 --> 00:07:00.800

Angela Marlaud (State Bar Staff): 30 s.

56

00:07:01.710 --> 00:07:08.230

Reverend Frank: If I report this to you guys here now, are you guys going to be required to do something about it.

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00:07:08.670 --> 00:07:23.320

Reverend Frank: especially against the state part employee. What are your plans for prosecuting state for employees? Again. Ring complaints like this. or just gonna be ignored like you guys are doing a lot of other things that we've been sending over the past couple of years

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00:07:23.980 --> 00:07:28.850

Reverend Frank: with the Michael Ivan. Not either Joe or the Okay.

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00:07:29.100 --> 00:07:29.780

Okay.

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00:07:30.180 --> 00:07:32.630

Angela Marlaud (State Bar Staff): thank you. When that is time.

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00:07:34.820 --> 00:07:43.510

Angela Marlaud (State Bar Staff): The next speaker is Nc. Carlson. and see, your mic has been a muted, please state, and still your name for the record, and you'll have 2 min.

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00:07:43.700 --> 00:07:51.620

NC Carlson: Nancy Carlson. the N. A. And C. Y. C. A. R. L. S. O. N.

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00:07:51.810 --> 00:07:55.970

Erica. I did submit something by email. Did you get it?

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00:07:56.160 --> 00:07:57.150

NC Carlson: The written

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00:07:57.590 --> 00:07:59.830

NC Carlson: by chance I did receive it.

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00:07:59.830 --> 00:08:20.700

NC Carlson: Okay, Would you prefer you just submit that in the the written form? So I don't have to take a time for for other attendees.

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00:08:21.940 --> 00:08:23.060

NC Carlson: Does that make sense?

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00:08:24.350 --> 00:08:25.010

Erika Doherty (State Bar Staff): Yes.

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00:08:25.040 --> 00:08:27.870

Angela Marlaud (State Bar Staff): okay, Great thanks.

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00:08:30.110 --> 00:08:34.049

Angela Marlaud (State Bar Staff): Our next public speaker is Richard Oberto.

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00:08:34.960 --> 00:08:39.770

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Angela Marlaud (State Bar Staff): Richard, and your mic has been unmuted. Please state and school your name for the record, and then you'll have 2 min.

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00:08:40.590 --> 00:08:52.490

Thank you. Richard Alberto R. I. C. A. Our. D. OP. Erto. I want to let you know. I tried to tune in by a phone, and I was raising my hand, using the star 9 function and it was not working. I noticed that

73

00:08:52.520 --> 00:08:58.810

Richard Oberto: nobody who was scheduled to speak by phone was able to to speak, and

74

00:08:58.920 --> 00:09:00.540

in my case

75

00:09:00.550 --> 00:09:12.140

Richard Oberto: that was because of the technology is not functioning properly and wasn't transmitting to you. I submitted a written statement posing this proposed rule.

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00:09:12.200 --> 00:09:15.270

Richard Oberto: I mean it would turn the State bar into

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00:09:15.410 --> 00:09:26.350

Richard Oberto: like a court for for a bunch of reports that are not worthy of a police report. If there's a real crime happening when it's happened, a person will report it to the police.

78

00:09:26.450 --> 00:09:31.180

Richard Oberto: This would require lawyers. There's some kind of innuend0 Or rumor

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00:09:31.370 --> 00:09:42.050

Richard Oberto: this falls well short of something that a person would report to the police that a person would still have to report that to the bar. This is going to create a great big mess.

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00:09:42.240 --> 00:09:53.570

Richard Oberto: and is going to make the State bar a clearing house for, like petty claims involving room or innuendo. And it's going to make a tremendous hassle. Well, it's going to make a

81

00:09:53.660 --> 00:09:56.360

Richard Oberto: create tremendous problems, for people.

82

00:09:56.510 --> 00:10:03.180

Richard Oberto: and I think that the State bars should rely on the criminal justice system to adjudicate

83

00:10:03.300 --> 00:10:09.900

Richard Oberto: crimes, and the State bar should not be some kind of lesser Criminal Court for something that's not worthy

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00:10:09.990 --> 00:10:13.780

Richard Oberto: of presentation, and Da's office Police department

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00:10:13.820 --> 00:10:15.210

Richard Oberto: or a courtroom.

86

00:10:15.430 --> 00:10:22.800

Richard Oberto: Well, that that was it. I hope I hope you guys figure out as well what's happening with the phone lines? Because

87

00:10:22.980 --> 00:10:26.580

Richard Oberto: that was a problem for me and some other people were not able to tune in that way.

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00:10:26.650 --> 00:10:28.670

Richard Oberto: so i'll submit on that in my written statement.

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00:10:30.940 --> 00:10:32.190

Angela Marlaud (State Bar Staff): Thank you, Richard.

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00:10:32.320 --> 00:10:36.950

Angela Marlaud (State Bar Staff): Is there anybody else who would like to give public comments? Please use the raise hand function.

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00:10:49.610 --> 00:10:52.820

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Angela Marlaud (State Bar Staff): Brandon. I don't have any more raise hands at this time.

92

00:10:55.830 --> 00:10:58.790

Brandon Krueger: So if that's all the public comment, do we conclude the hearing them?

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00:10:59.730 --> 00:11:03.230

Erika Doherty (State Bar Staff): We would likely take a recess to see if anyone else would like to attend.

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00:11:03.430 --> 00:11:04.220

Brandon Krueger: Okay.

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00:11:05.670 --> 00:11:13.430

Brandon Krueger: It is now 11 min after 10. All persons who are present to provide public comment have been given an opportunity to speak.

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00:11:13.630 --> 00:11:21.420

Brandon Krueger: and we will be taking a 10 min break to see if anyone else wishes to, so to speak. We will resume at 1022,

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00:11:33.930 --> 00:11:34.680

Angela Marlaud (State Bar Staff): Yes.

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00:11:36.200 --> 00:11:37.080

Brandon Krueger: hello!

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00:11:37.130 --> 00:11:42.390

Brandon Krueger: We are back for the public hearing on the proposed rule of professional conduct. 8.3.

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00:11:42.530 --> 00:11:52.480

Brandon Krueger: We've been waiting approximately 10 min to see if anybody else is interested in making any public comments. Angela and Erica. Do we have any other public commenters?

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00:11:53.050 --> 00:11:57.940

Angela Marlaud (State Bar Staff): If there's anyone who'd like to give a public comment. Please use the raise hand function at this time.

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00:11:59.950 --> 00:12:03.610

Angela Marlaud (State Bar Staff): Okay, we do have one Diane

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00:12:04.090 --> 00:12:10.100

Angela Marlaud (State Bar Staff): Christian Diana. Your mic has been muted. Please state. Install your name for the record, and then you'll have 2 min.

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00:12:11.010 --> 00:12:19.310

Diana Christian: Hello! My name is Diana Christian. That's D. I, a. N. A. C. H. R. I. S. T. I. A. N.



105

00:12:19.670 --> 00:12:22.570

I'm. An attorney in California.

106

00:12:22.620 --> 00:12:31.670

Diana Christian: and I saw the notes regarding this proposed rule. I think

107

00:12:32.160 --> 00:12:38.730

Diana Christian: you know I had some hesitation, because the the last comment was a good, a very good point about.

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00:12:38.810 --> 00:12:40.810

you know. Maybe

109

00:12:41.340 --> 00:12:43.700

Diana Christian: concern about wild goose chases

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00:12:43.780 --> 00:12:46.970

for potential criminal conduct.

111

00:12:47.070 --> 00:12:48.710

Diana Christian: But

112

00:12:48.800 --> 00:12:58.690

Diana Christian: I think that the rule provides kind of a protection there, because it states that you have to have personal knowledge

113

00:12:58.790 --> 00:13:06.570

Diana Christian: of the put the alleged criminal act so. If it's something that you heard.

114

00:13:06.620 --> 00:13:08.540

Diana Christian: you know that that

115

00:13:08.890 --> 00:13:12.390

Diana Christian: would be someone that I wouldn't have personal knowledge.

116

00:13:12.500 --> 00:13:20.910

Diana Christian: I think there's a lot of instances where attorneys are, if not required to

117

00:13:21.170 --> 00:13:31.540

Diana Christian: report criminal conduct. there may be reluctance, especially if it, you know, wouldn't violate another role of professional responsibility.

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00:13:31.580 --> 00:13:41.610

Diana Christian: This would be an avenue that you know. What if it's concerning your business partners, a situation that

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00:13:41.800 --> 00:13:44.950

Diana Christian: you wouldn't necessarily want to

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00:13:45.200 --> 00:13:54.510

Diana Christian: be, you know kind of a whistleblower. But if this way you'd be forced to, because

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00:13:56.100 --> 00:14:05.660

Diana Christian: and that's something, I think, that should be considered, because along with the wild goose chases, there are also some very legitimate

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00:14:06.250 --> 00:14:12.840

Diana Christian: concerns and criminal conduct that may not otherwise be reported. That should be.

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00:14:15.550 --> 00:14:16.800

Angela Marlaud (State Bar Staff): Thank you, Diana.

124

00:14:17.840 --> 00:14:25.610

Angela Marlaud (State Bar Staff): The next speaker we have is Ag Ag. Your mic has been unmuted. Please state and smell your name for the record, and you'll have 2 min.

125

00:14:33.510 --> 00:14:40.570

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AG: Hi, hi! My name is Amber Galloway, a. M. B. E, R. G. A. L. L. A. W. A. Y.

126

00:14:40.690 --> 00:14:44.940

I'm. One of the 4 majority Keys clients. I was

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00:14:45.140 --> 00:14:55.940

AG: one of the my family was one of the last before it was shut down. And I appreciate you guys doing this. I've I've presented.

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00:14:56.130 --> 00:15:01.510

AG: This is a change that I was hoping to get made a year ago, and I know

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00:15:01.580 --> 00:15:07.030

AG: how slow it it is to actually see things through. But I really appreciate you guys doing this.

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00:15:07.040 --> 00:15:10.990

AG: It came to my attention through the whole Gerardi keys

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00:15:11.160 --> 00:15:21.360

AG: unfolding. That California was one of the only States that does not have this rule, and that was shocking, and that's been one of the things that we've been up against.

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00:15:21.500 --> 00:15:24.360

we still don't have counsel.

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00:15:25.000 --> 00:15:26.250

AG: even though

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00:15:26.380 --> 00:15:38.660

AG: it's been publicized widely about how agreed to. The misconduct was at that firm. A lot of people will hear us out, but it won't help us. And then

135

00:15:38.990 --> 00:15:45.800

AG: at the end of the conversation we'll end it by telling us how they're friends with so and so.

136

00:15:46.720 --> 00:15:47.710

AG: and

137

00:15:48.690 --> 00:16:04.220

AG: it's just it's it's shocking to to see the conduct carry on still today, where everybody is just protecting each other, and on that note it also came to my attention how this committee has

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00:16:04.220 --> 00:16:10.130

AG: a member that is part of a firm that's representing one of the majority Keys attorneys

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00:16:10.150 --> 00:16:17.250

AG: that is under investigation right now. 30 s.

140

00:16:17.730 --> 00:16:33.720

AG: Make note that i'm the comment for the proposed rule under number 2. It says this rule does not apply to a lawyer who is consulted about, or routine to represent a lawyer whose conduct is in question that seems like a huge loophole to me, and I can see

141

00:16:33.780 --> 00:16:42.570

AG: that being in place and everybody just like talking to each other, so that rule applies to them in this Gerardi network.

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00:16:44.900 --> 00:16:45.690

Angela Marlaud (State Bar Staff): Thank you.

143

00:16:48.810 --> 00:16:52.970

Angela Marlaud (State Bar Staff): Is there anybody else who would like to give public comments? Please use the raise hand function?

144

00:17:02.380 --> 00:17:03.840

Brandon Krueger: NO One else, Angela.

145

00:17:04.140 --> 00:17:05.500

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Angela Marlaud (State Bar Staff): no nobody else.

146

00:17:05.770 --> 00:17:11.560

Brandon Krueger: unless anyone else would like to speak. I'm going to adjourn our public hearing.

147

00:17:13.560 --> 00:17:18.540

Brandon Krueger: We will adjourn the public hearing as a reminder there is still time to submit written public comment

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00:17:18.609 --> 00:17:29.890

Brandon Krueger: on the proposed rules. The deadline for submission of written comment is February seventeenth. 2023. I'd like to thank all of the speakers and other attendees.

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00:17:30.140 --> 00:17:36.720

Brandon Krueger: It is now 1028 am. This public hearing is adjourned, and I wish everyone a good day.