



# The State Bar of California

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A.4. 03-03-23 Minutes  
05-12-23 Meeting  
Open Session

## Committee on Professional Responsibility and Conduct Teleconference

Open Session Minutes  
Friday, March 3, 2023  
10:00 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:** 4:36 p.m.

**Chair:** Sarah Banola

**Committee Coordinator:** Erika Doherty

**Members Present:** Sarah Banola, Raquel Bringham Brown, Cassidy Chivers, Justin Fields, Brandon Krueger, Joel Mark, Eleanor Mercado, William Munoz, Dan O’Rielly, Vikita Poindexter, Hunter Starr

**Members Absent:** Elizabeth Bradley

## 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. The following comment was provided to COPRAC:
  - a. Laurie Taylor
    - Commented on Rule 8.3.
  - b. Reverand Frank
    - Commented on Rule 8.3.

- c. Andrew Tuft
    - Commented on 19-0003 Illegal Contract Provisions.
  - d. Mary McNamara
    - Commented on Rule 8.3.
  - e. KK
    - Commented on Rule 8.3.
  - f. Angela Grijalva
    - Commented on Rule 8.3.
  - g. Maria Grijalva
    - Commented on Rule 8.3.
4. Approval of Open Session Minutes: January 13, 2023

*Moved by Krueger, seconded by Munoz.*

*Ayes – (8)*

*Noes – (0)*

*Abstain – (2)*

*Absent – (2) Bradley, Poindexter*

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

**RESOLVED**, that the Committee on Professional Responsibility and Conduct move forward with Option B, “A lawyer shall inform the State Bar when the lawyer knows\* of credible evidence that another lawyer has committed a criminal act that is a felony, or a misdemeanor when the misdemeanor is committed in the course of the practice of law,” subject to further revisions.

*Moved by Mark, seconded by Munoz.*

*Ayes – (3) Mark, Mercado, Munoz*

*Naes – (6) Bacon, Brown, Chivers, Krueger, Starr, Banola*

*Abstain – (0)*

*Absent – (3) Bradley, O’Rielly, Poindexter*

**RESOLVED**, that the Committee on Professional Responsibility and Conduct move forward with Option A, “A lawyer shall inform the State Bar when the lawyer knows\* of credible evidence that another lawyer has committed a criminal act that raises a substantial question as to that lawyer’s honesty, trustworthiness, or fitness as a lawyer in other respects as prohibited by rule 8.4(b),” subject to further revisions.

*Moved by Starr, seconded by Kruger.*

*Ayes – (6) Bacon, Chivers, Krueger, Mercado, Starr, Banola*

*Naes – (2) Brown, Munoz*

*Abstain – (1) Mark*

*Absent – (3) Bradley, O’Rielly, Poindexter*

**RESOLVED**, that the Committee on Professional Responsibility and Conduct approves proposed Rule of Professional Conduct 8.3 for submission to the Board of Trustees, allowing staff to make minor formatting adjustments, and requesting that the Board also consider an exemption to the duty to report where a lawyer knows the conduct has already been reported to the State Bar publication subject to Board approval.

*Moved by Brown, seconded by Bacon.*

*Ayes – (8) Bacon, Brown, Chivers, Mercado, Munoz, O’Reilly, Starr, Banola*

*Naes – (0)*

*Abstain – (0)*

*Absent – (4) Bradley, Krueger, Mark, Poindexter*

*Motion carries.*

**C. 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]

*This item was withdrawn.*

**D. 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 withdrawn.*

4. 21-0002 [re Attorney as Advocate]

*This item was withdrawn.*

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

*This item was withdrawn.*

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

*This item was withdrawn.*

7. 21-0007 [re Cryptocurrency]

*This item was withdrawn.*

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

*This item was withdrawn.*

**E. 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.*

**F. Discussion of New Opinion and Arbitration Advisory Topics**

1. New Opinion and Arbitration Advisory Topics

*This item was withdrawn.*

**G. Discussion and Possible Approval of Special Projects**

1. Ethics Symposium Planning Update

*No recommendation. Discussion only.*

2. State Bar Strategic Plan

*This item was withdrawn.*

3. Consideration of ABA Formal Opinion 503

*This item was withdrawn.*

4. Consideration of New Opinion and Arbitration Advisory Topics

*This item was withdrawn.*

**ADJOURN**