



The State Bar of California

Legal Services Trust Fund Commission Rules Committee Teleconference

Open Session Minutes
Thursday, April 27, 2023
12:00 p.m.–3:00 p.m.

Time Meeting Commenced: The Legal Services Trust Fund Commission (LSTFC) meeting commenced in open session at 12:01 p.m.

Time Meeting Adjourned: 2:16 p.m.

Chair: Erica Connolly

Committee Coordinator: Doan Nguyen

Members Present: Louise Bayles-Fightmaster, William Boschelli, Venetta Campbell, Jim Meeker

Members Absent: Amin Al-Sarraf, Catherine Blakemore, Jason Galkin

Liaisons Present: Salena Copeland (Legal Aid Association of California), Laura Brown (Judicial Council of California), Melanie Snider (Judicial Council of California)

OPEN SESSION

1. Call to Order

The Rules Committee was called to order by Chair Connolly.

2. Roll Call and Call for Public Comment

Roll call was taken and a quorum was established.

Chair Connolly called for public comment, inquiring as to whether there were person(s) who wished to comment on any agenda item.

A. Gary Smith

- Gary Smith, Executive Director of Legal Services of Northern California, addressed the definition of fee-generating cases, particularly in the context of the Legal Services Corporation's similar rule and interpretation regarding fee-shifting cases.

3. Approval of Minutes

3.1 Open Session Minutes: March 29, 2022

Chair Connolly noted that her votes were not recorded in the prior minutes and requested that her affirmative votes be added to the minutes. The committee voted on the minutes as amended.

Moved by Meeker, seconded by Campbell.

Ayes – (5) Bayles-Fightmaster, Boschelli, Campbell, Connolly, Meeker

Noes – (0)

Abstain – (0)

Absent – (3) Al-Sarraf, Blakemore, Galkin

Motion carries.

4. Discussion and Action Items

4.1 Discuss Improvements to Intake Process and Client Outreach at Legal Aid Organizations

Presenter: William Boschelli, Member, Rules Committee

Presentation and discussion only.

Boschelli presented a case study as an example of seeking free legal assistance in a rural area of the state and the multiple barriers and delays that prevented meaningful access to services. This led to discussion among the committee, staff, and liaisons about factors contributing to these access issues and how to measure the level of unmet need. The committee also considered ways that the Legal Services Trust Fund Commission and State Bar may address these concerns through monitoring visits and criteria for discretionary grant selection, among other things. Some of the questions raised will likely be addressed through future codification topics.

4.2 Approve Recommendations Regarding Fee Generating Work and Contingency Fee Arrangements

Presenters: Raul Duran, Office of General Counsel
Brady Dewar, Office of General Counsel

Duran presented the statutory framework regarding fee-generating work and the requirements as they pertain to use of State Bar funds. He also walked the committee through the statutory exemptions and the ways in which the statute and rules parallel Legal Services Corporation regulations. Feedback received during the rule revision process was discussed, including the idea that the original proposal was too broad and burdensome, and the committee took comment and questions from current grantee organizations during discussion.

The updated rule will clarify the current definition to only apply to funds from an “award,” ask grantees to self-certify that their cases are exempt, and clarify the rule to ensure that recovery of attorneys’ fees in cases funded by State Bar funds will only be used to provide free civil legal services to the indigent.

Discussion primarily centered on the scope of the rule, how the self-certification requirement will be implemented, and what will be expected of grantees. It appeared some grantees would like more guidance whereas others believe there should be flexibility in demonstrating their analysis and how they meet the exemption. The committee determined that there might be opportunity for minor updates or modifications but agreed with the rule change overall, which will be presented to the Legal Services Trust Fund Commission at its next meeting.

RESOLVED, that the Rules Committee of the Legal Services Trust Fund Commission approves the proposed modification to State Bar Rule 3.673 as discussed and recorded at the meeting on April 27, 2023, with potential modification following additional consideration and community feedback.

Moved by Meeker, seconded by Boschelli.

Ayes – (5) Bayles-Fightmaster, Boschelli, Campbell, Connolly, Meeker

Noes – (0)

Abstain – (0)

Absent – (3) Al-Sarraf, Blakemore, Galkin

Motion carries.

5. Adjourn