

OPINION REQUESTS FOR CONSIDERATION AT PRESENT

G.1. New Opn. Topics
06-23-23 Meeting
Open Session

Number	Requestor/ Date	Issue / Disposition
2	Attorney (10-03-22)	<p>Re: Can California lawyers aid out-of-state pregnant individuals with seeking abortion care in or involving states that permit abortion access?</p> <p>Status:</p> <p>Disposition:</p>
5	Attorney (01-26-23)	<p>Re: What are the security risks of current AI technologies and can guidelines for AI developers be created to safeguard confidential information</p> <p>Status:</p> <p>Disposition:</p>
6	Attorney (8-22-22)	<p>Re: Amendment to Rule 7.2 “Advertising” with bolded language:</p> <p>"This rule permits public dissemination of accurate information concerning a lawyer and the lawyer's services, including for example.....; .and other information that might invite the attention of those seeking legal assistance; when advertising or reporting results, cite client actual results net of fees and costs. This rule also prohibits the dissemination of false or misleading information, for example, an advertisement that sets forth a specific fee or range of fees for a particular service where, in fact, the lawyer charges or intends to charge a greater fee than that stated in the advertisement or, for example, that guarantees results.</p> <p>Status:</p> <p>Disposition:</p>
110	Out-of-State Attorney 08-09-21	<p>Re: What are the deportation attorney’s ethical duties in relation in admitting or denying the deportation allegations? Should the deportation attorney explain to the client the right to admit or deny? Where the deportation attorney waives the advisals, does not explain [to] the client the right to admit or deny, and admits everything, does the attorney acts [sic] unethically?</p> <p>Where the attorney waives, does not inform his client the right to challenge the alienage allegations, and waives the defense, doesn’t the attorney act unethically or ineffectively?</p> <p>Status: Hold for future consideration. 12-2-22</p> <p>Disposition:</p>
111	COPRAC	<p>Re: <i>People vs. Meredith</i>. What a defense lawyers obligations in respect to evidence in a case. Investigator took evidence, lawyer should turn it over and disclose where it was found. Criminal defense attorneys on how to investigate</p>

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		and the process of turning it over. Status: Hold for future consideration. 12-2-22 Disposition:
112 (AA)	Staff	Re: How to handle mediation confidentiality (<i>Cassell</i> case) Status: Hold for future consideration. 12-2-22 Disposition:
113	COPRAC	Re: Lawyers soliciting favorable online reviews from clients. Similar but a different context to 2019-199. Can you ask clients to post a favorable review for you and issues related to that? Status: Hold for future consideration. 12-2-22 Disposition:
100	COPRAC	Re: Gifts to indigent clients Status: Hold for future consideration. 12-2-22 Disposition:
101	COPRAC	Re: Office sharing with people not part of the law firm and the ethical implications involved. Status: Hold for future consideration. 12-2-22 Disposition:
102	COPRAC	Re: Can a departing attorney take their work-product with them? Status: Hold for future consideration. 12-2-22 Disposition:

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104	Attorney 02-28-18	<p>Re: Request an ethics opinion stating that the rule articulated in <i>Moeller v. Sup. Ct.</i> (1997) 16 Cal.4th 1124, may not be waived, that attorneys may not seek to impose its waiver, and that any attempted or purported waiver is invalid and unenforceable.</p> <p>Bank was acting as trustee and trust beneficiaries desired its removal. Bank agreed to resign as trustee in favor of beneficiaries nominated successor, but only on terms of a settlement agreement that Bank would prepare. The settlement agreement gave Bank a full release and covenant not to sue, which the beneficiaries signed. The agreement also contained provisions which required the beneficiaries and all interested persons to waive the rule of the <i>Moeller</i> case which held that the person who currently serves in the position of trustee is the holder of the attorney-client privilege (Evid. Code § 950 <i>et seq.</i>). Under this rule, a successor trustee can demand that a prior trustee turn over communications with its counsel because, upon succession, the prior trustee is no longer the holder of the privilege.</p> <p>Status: Hold for future consideration. 7-26-19</p> <p>Disposition:</p> <p>Andrew's Note: see also, <i>Morgan v. Superior Court</i> (2018) 23 Cal.App.5th 1026 – “trust provision stating trustee was free of any duty to disclose communications with legal counsel to successor trustee was void as against public policy; and former trustee was not entitled to withhold communications with trust’s former counsel on ground of attorney-client privilege.”</p>
106	COPRAC Request	<p>Re: If client comes to you but you have a conflict, can you refer the client to another lawyer without violating your duties?</p> <p>Status: Hold for future consideration. 6-2-17</p> <p>Disposition:</p>
XXX	COPRAC (12/02/22)	<p>Re:</p> <p>Status:</p> <p>Disposition:</p>

IN PROGRESS

Number	Requestor/ Date	Issue / Disposition
2	COPRAC	<p>Re: In light of the recent case of <i>Pech v. Morgan</i> (2021) 61 Cal.5th 841, Advisory 1993-02 really should be updated to include a discussion of the points where the <u>Pech</u> case makes some of the Advisory's advice "just a little off.</p> <p>Status:</p> <p>Disposition: In Progress (meeting date)</p>
3	Attorney 08-11-22	<p>Re: Whether a lawyer needs to put expert witness retainers and advance fees in the trust account</p> <p>Status:</p> <p>Disposition: In Progress (meeting date) move off of list</p>
109	COPRAC (12/02/22)	<p>Re: Scope of mediation privilege and what use can be made of information that only comes from mediation and other proceedings such as a State Bar Complaint.</p> <p>Status: Hold for future consideration. 12-2-22</p> <p>Disposition: ACCEPTED</p>
105	Attorney 05-08-19	<p>Re: Lawyer is in-house counsel and negotiates his own employment, and writes them, which are written in a confusing manner and include a provision that extends his severance to 16 years. Is there a rule 1.8.1 obligation for in-house lawyers?</p> <p>Lawyer commits bad acts against his client, a company, for whom lawyer is acting as in-house counsel. Is Lawyer entitled to severance compensation under the employment agreement as a contract provision, as opposed to a disgorgement of attorney's fees for performing services in violation of the rules of professional conduct?</p> <p>See, <i>Chism v. Tri-State Construction</i> (Washington, 2016) – "Following a month-long jury trial, attorney Geoffrey Chism was awarded \$750,000 for breach of two compensation contracts by his former employer, Tri-State Construction, Inc., and exemplary damages for unlawful wage withholding. The trial court then dramatically reduced Chism's recovery, premised on findings that Chism violated Washington's Rules of Professional Conduct (RPCs) during his time as Tri-State's in-house general counsel. By ordering disgorgement of Chism's wages based on novel interpretations of several RPCs, the trial court exceeded the disciplinary authority delegated to it by our Supreme Court. Moreover, the trial court disregarded the strong legislative policy preference in favor of payment of earned wages by failing to even acknowledge that, unsupported by precedent, it was ordering disgorgement of an attorney's wages, as opposed to an attorney's fee.</p>

IN PROGRESS

Number	Requestor/ Date	Issue / Disposition
		<p>Accordingly, we reverse the trial court's challenged rulings and remand the cause for entry of judgment consistent with the jury's verdict.”</p> <p>Status:</p> <p>Disposition at 7/26/2019 meeting: In Progress (21-0003) remove</p>
103	Attorney 07-08-19	<p>Re: An opinion on Bitcoin, Libra, or other cryptocurrencies. Some of the issues include: when does the value of the Bitcoin set? Who keeps the gain if it shoots up in a week? Can a lawyer take it and hold it and put his own cash in the trust account to ride the Bitcoin tide?</p> <p>Status:</p> <p>Disposition at 7/26/2017 meeting: In Progress (meeting date) remove</p>

DECLINE TO OPINE

Number	Requestor/ Date	Issue / Disposition
##	Attorney (Name) Date	Re: Status: Disposition at 7/26/19 meeting: DECLINE TO OPINE
3	Attorney (01-26-23)	Re: If Party A makes the submission that the arbitration cannot be completed in 4 hours, and if the arbitration panel agrees, and the other party (Party B) believes that the arbitration will not take longer than 4 hours to complete, and refuses to pay the compensation to the panel; has Party B failed to participate as required under the Rules and therefore is deprived of his right to arbitration? Or, alternatively, if Party A pays for the compensation of all arbitration panel members in order to proceed with the arbitration, does Party B's share of the compensation merely become part of the calculations for the Award? Does the panel have jurisdiction to make such an Award. Status: Disposition: 5/12/23 meeting DECLINE TO OPINE
5	Attorney (4-3-23)	Re: Is an attorney acting within ethical guidelines if he discloses information learned through the representation of a deceased client, a convicted murderer, in order to prevent the ongoing hard and wrongful execution of a death row inmate, whose conviction and death judgment resulted from a murder potentially committed by the deceased client and/or aided by her false testimony at his trial? Status: Disposition: 5/12/23 meeting DECLINE TO OPINE
1	Attorney (09-26-22)	Re: If a mechanism for allocating overhead charges in a written fee agreement is arbitrary, in that the mechanism is not rationally related to the actual overhead incurred by an attorney, is it unethical to include that mechanism in a fee agreement, even if the fee agreement is agreed to beforehand by a client? Status: Disposition: 5/12/23 meeting DECLINE TO OPINE

3 OCTOBER 2022

[REDACTED]

[REDACTED]

We, the [REDACTED] a project sponsored and directed by [REDACTED] [REDACTED] are seeking an advisory opinion (on shortened time) so that California lawyers can aid out-of-state pregnant individuals with seeking abortion care in or involving states which permit abortion access.

In the aftermath of the U.S. Supreme Court's June 24, 2022 opinion, *Dobbs v. Jackson Women's Health Organization*, 597 U.S. ___, 142 S. Ct. 2228 (2022), and *Whole Women's Health v. Jackson*, 594 U.S. ___, 141 S. Ct. 2228 (2021) (S.B. 8 litigation), in which the U.S. Supreme Court allowed a Texas law to stand effectively banning abortion by permitting private causes of action against people assisting residents of Texas with seeking abortion care, we ask that the State Bar issue the following advisory opinion:

As a result of and in response to the U.S. Supreme Court cases Dobbs v. Jackson Women's Health Organization and Whole Women's Health v. Jackson (S.B. 8 litigation), a California lawyer

who engages in conduct that is legal in California, specifically that of seeking an abortion, or facilitating or aiding and abetting a person seeking abortion care or other reproductive health care access to secure that care, in a state where that care is legal, whether or not that facilitation or care is legal or authorized in another state, the California attorney will not face discipline (original or reciprocal) from the California Bar. Aiding a person who seeks abortion care is not considered an act of moral turpitude, nor does it affect the lawyer's fitness to practice law.

RATIONALE FOR THE REQUEST:

(i) California Lawyers

California Model Rule 1.2.1(a) states that:

A lawyer shall not counsel a client to engage, or assist a client in conduct that the lawyer knows is criminal, fraudulent, or a violation of any law, rule, or ruling of a tribunal.

California Model Rule 8.4(b) which states that:

It is professional misconduct for a lawyer to: (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

California Model Rule 8.2 Comment [4] which states that:

A lawyer may be disciplined under Business and Professions Code section 6106 for acts involving moral turpitude, dishonesty, or corruption, whether intentional, reckless, or grossly negligent.

The above opinion contemplates these six scenarios:

1. An attorney who is a member of the California Bar is domiciled in a restrictive state, such as Texas, working in an in-house counsel position at a national company, and helps a woman travel to another state to seek abortion care. Absent this opinion, the attorney would be subject

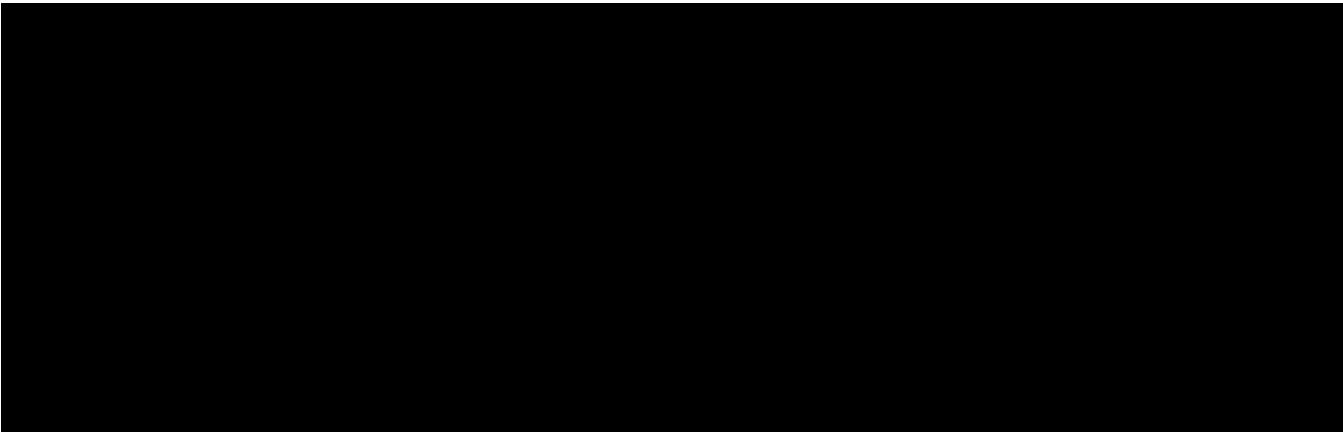
to discipline by the California bar for breaking a Texas law (due to choice of law).

2. An attorney who is a member of the California Bar in California has a client domiciled in a restrictive state such as Texas, who has retained the attorney on another matter. Through privileged or non-privileged communications, the attorney learns the client needs abortion care and helps the client in that pursuit.
3. An attorney who is a member of the California Bar helps a non-client domiciled in a restrictive state such as Texas seek an abortion in California (or another more protective state) in violation of state law.
4. An attorney who is a member of the California Bar engages in digital communications with a client or non-client in a restrictive state, such as Texas, in furtherance of seeking abortion care.
5. An attorney who is a member of the California Bar is disciplined by the Bar of another state due to violating anti-aiding and abetting statutes in a restrictive state.
6. An attorney who is a member of the California Bar represents a corporation or entity with employees in a restrictive state such as Texas and provides legal advice regarding his/her/their client's intention to provide health care benefits to those employees that include abortion care and/or funds to facilitate travel to procure abortion care.

We look forward to your formal opinion on this matter.

Sincerely,

A solid black rectangular box used to redact the signature and name of the sender.



CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good afternoon,

I am an attorney and technology enthusiast, and I reaching out because I am concerned about the rapid development of artificial intelligence and the potential for issues that may harm the legal profession, based on widespread misunderstanding of the technology.

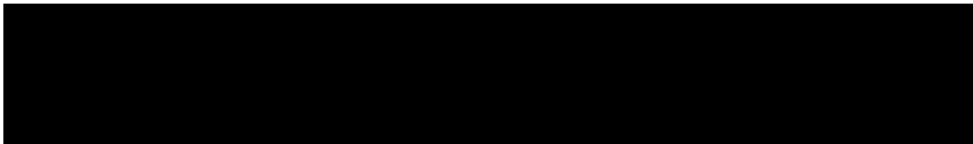
In particular, AI tools such as ChatGPT have garnered considerable attention recently--becoming one of the fastest growing technologies in history. Additionally, Microsoft has announced the rolling out of AI tools using similar algorithms that would be compatible with Microsoft Outlook and Microsoft Word.

Yet there are very few guardrails as of today that would protect confidentiality, as required to meet our obligations as a profession. In fact, recent studies have shown that after a series of prompts by users of ChatGPT that it is possible to--without even knowing how to code--convince the AI tool to provide confidential information entered by other users. This is because currently available AI tools consolidate information from all users, and add it to a collective database that all future users can potentially access.

Accordingly, I would request that the California State Bar take steps to inform the members of our profession of the security risks of current AI technologies, and to request feedback from the members of the state bar in the creation of guidelines for AI developers to develop technologies that are approved for use by members of the legal profession, that would safeguard confidential information.

Thank you and best regards,





Thank you for providing me the redacted/ amended proposed Rule 7.2 on Advertising proposed for the Rule of Professional Conduct.

The proposed rule pending amendment still appears lacking.
This recommends inclusion of the following.

This hereby submits the following Public Comment for COPRAC.

Public Comment

Amendment to Rule 7.2 "Advertising"

"Comment Section"

Amended "Item [1]" **(Additions in Bold)**

"This rule permits public dissemination of accurate information concerning a lawyer and the lawyer's services, including for example.....; and other information that might invite the attention of those seeking legal assistance; **when advertising or reporting results, cite client actual results net of fees and costs. This rule also prohibits** the dissemination of false or misleading information, for example, an advertisement that sets forth a specific fee or range of fees for a particular service where, in fact, the lawyer charges or intends to charge a greater fee than that stated in the advertisement **or, for example, that guarantees results.**

Discussion

The exhibits supporting the amending the Rule provided this committee exemplifying multiple high profile law firm advertisements supporting the necessity for including the above provisions. The advertising examples evidence attorneys soliciting employment advertising gross and inflated client recoveries and going so far as guaranteeing "twice the results for half the cost".

Respectfully Submitted

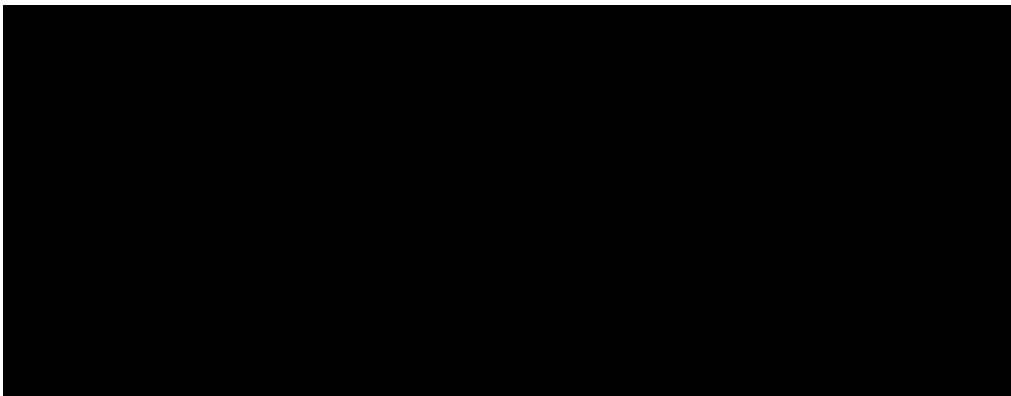
-----Original Message-----



Good afternoon,

Your email was directed to my attention regarding proposed amendments to former rule 1-400 of the Rules of Professional Conduct. Linked is the updated, current rule, [rule 7.1](#), which along with [rules 7.2-7.5](#) address attorney advertising. I've reviewed your proposed changes to the former rule, and believe that the current rule's text may address some of your recommendations.

If you'd like to recommend additional revisions, please submit those changes to my attention and they can be provided to the State Bar's [Committee on Professional Responsibility and Conduct](#) (COPRAC), which is tasked with addressing proposed amendments to the Rules of Professional Conduct.



Working to protect the public in support of the mission of the State Bar of California.

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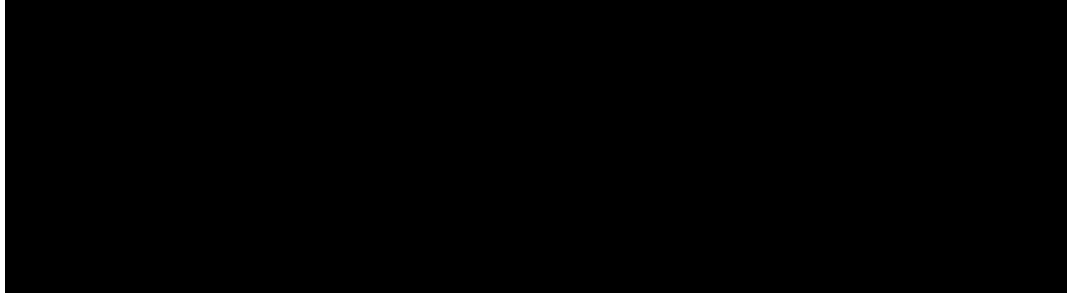
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This requests confirmation the attached rules recommendation was submitted to the rules committee submitted April 8, 2022.

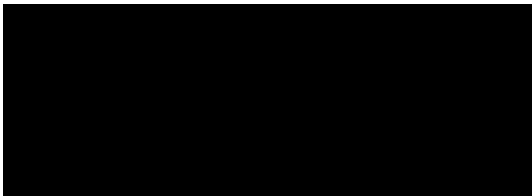
This requests the schedule of future meetings and agenda for the rules committee be provided.



Please direct the attached:

Recommendation to Amend Rule 1-400
governing Professional Conduct
to the rules committee for their
consideration.

Please confirm.





Attn: State Bar of California Committee on Rules

Distribution: Center for Public Interest Law

PUBLIC COMMENT

RECOMMENDATION TO AMEND RULE 1-400

Subject: Advertising by Attorneys and Law Firms

Rule: Rules of Professional Conduct
Rule 1-400 - Advertising and Solicitation

Proposed: **The Real Result Rule**

Amend Rule 1-400, Item (D)(2) as follows:

“Contain any matter, or present or arrange any matter in a manner or format which is false, deceptive, or which tends to confuse, deceive, or mislead the public; **states the gross recovery but fails to state the real and actual net result realized by client(s) from a matter cited or advertised, success rate, or ...”**

Issue

The current advertising and communication rule permits and allows advertising and solicitations that serves to confuse, deceive and mislead the public and considering and potential litigants.

There is a need to revise provisions of the Rule 1-400 regarding advertising and methods of solicitation increasingly used by attorneys in their communications and multi-media advertising including but not limited to client testimonial and other evidence that exclusively cites gross monetary results but fails to specify the actual or “the real result” attained by the client and fails to state the percent of actions handled by the attorney or law firm resulting in a net monetary result to the client.

Discussion

It is now standard practice for attorneys and law firms to actively, even heavily solicit the public promoting legal services and actions in communications. multi media advertising, making representations in advertising and on web pages representing huge results but which advertising, communications and solicitations altogether fail to give an accurate picture nor discloses the real actual results achieved by the client arising from the action. That is, the net amount the client actually realized after all fees and costs were deducted, the net amount after the court reduced or entered statutory verdicts, the net amount after post verdict settlements or appeals. The client's real result. Such information is important to a party considering representation or deciding to undertake litigation.

Current Examples of Attorney Advertising Abuse and Misleading Practices

1. Attorney uses fake checks in advertising representing this amount is client's result. [Exhibit A]
2. Client states in attorney's advertising the gross recovery as the result. [Exhibit B]
3. Attorney's advertising and web page citing grossly misleading actual results. [Exhibit B-1]

Reference: Current Rule

Rule 1-400 Advertising and Solicitation

(A) For purposes of this rule, "communication" means any message or offer made by or on behalf of a member concerning the availability for professional employment of a member or a law firm directed to any former, present, or prospective client, including but not limited to the following:

- 1) Any use of firm name, trade name, fictitious name, or other professional designation of such member or law firm; or
- 2) Any stationery, letterhead, business card, sign, brochure, or other comparable written material describing such member, law firm, or lawyers; or
- (3) Any advertisement (regardless of medium) of such member or law firm directed to the general public or any substantial portion thereof; or

(4) Any unsolicited correspondence from a member or law firm directed to any person or entity.

(B) For purposes of this rule, a "solicitation" means any communication:

- (1) Concerning the availability for professional employment of a member or a law firm in which a significant motive is pecuniary gain; and
- (2) Which is:
 - (a) delivered in person or by telephone, or
 - (b) directed by any means to a person known to the sender to be represented by counsel in a matter which is a subject of the communication.

(C) A solicitation shall not be made by or on behalf of a member or law firm to a prospective client with whom the member or law firm has no family or prior professional relationship, unless the solicitation is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California. A solicitation to a former or present client in the discharge of a member's or law firm's professional duties is not prohibited.

(D) A communication or a solicitation (as defined herein) shall not:

- (1) Contain any untrue statement; or
- (2) Contain any matter, or present or arrange any matter in a manner or format which is false, deceptive, or which tends to confuse, deceive, or mislead the public; or
- (3) Omit to state any fact necessary to make the statements made, in the light of circumstances under which they are made, not misleading to the public; or
- (4) Fail to indicate clearly, expressly, or by context, that it is a communication or solicitation, as the case may be; or
- (5) Be transmitted in any manner which involves intrusion, coercion, duress, compulsion, intimidation, threats, or vexatious or harassing conduct.

(6) State that a member is a "certified specialist" unless the member holds a current certificate as a specialist issued by the Board of Legal Specialization, or any other entity accredited by the State Bar to designate specialists pursuant to standards adopted by the Board of Governors, and states the complete name of the entity which granted certification.

(E) The Board of Governors of the State Bar shall formulate and adopt standards as to communications which will be presumed to violate this rule 1-400. The standards shall only be used as presumptions affecting the burden of proof in disciplinary proceedings involving alleged violations of these rules. "presumption affecting the burden of proof" means that presumption defined in Evidence Code sections 605 and 606. Such standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on all members.

(F) A member shall retain for two years a true and correct copy or recording of any communication made by written or electronic media. Upon written request, the member shall make any such copy or recording available to the State Bar, and, if requested, shall provide to the State Bar evidence to support any factual or objective claim contained in the communication.

///

Advertising & Solicitation

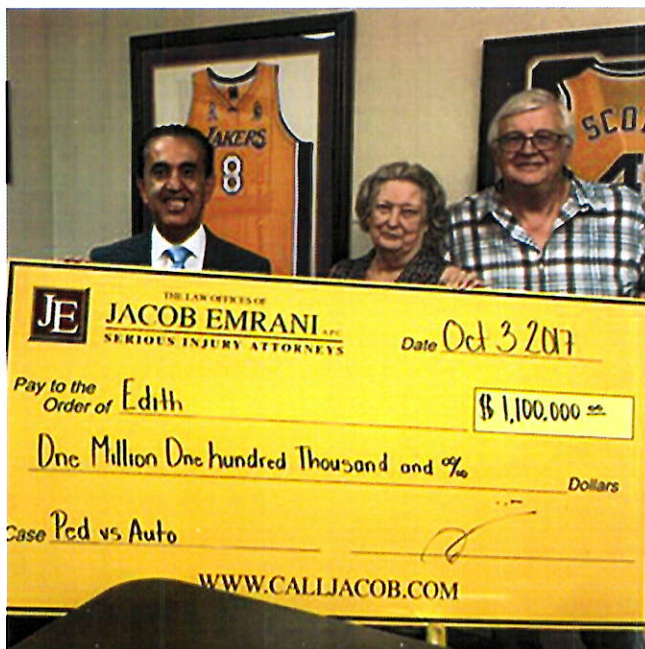


EXHIBIT A

TO AG
FLI

Attorney: Daniel J. Callahan, Managing Partner
Law Office of Callahan and Blaine

1. Callahan advertises he is California's "**Premier Business Litigation Firm**".
Not supported.
2. Callahan advertises "**Twice the Results at Half the Cost**".
Not supported.
3. Callahan advertises "*Beckman Coulter vs Flextronic's a \$ 934,000,000.00.*"
Actual Result, before attorneys fees, \$ 23 million. Exhibit 1.

Attorney Callahan statement to the press: *"It was pretty obvious that verdict was either going to be thrown out or chopped down to a few million bucks at best"*.

4. Callahan advertises "*Plaintiff vs Richo Electronics*" defense verdict saved his client millions. The case, "*Halluck vs Richo Electronics*" verdict was appealed, Court of Appeals overturned the verdict, Callahan appealed to Supreme Court who cited attorney Callahan behaved unethically in court and upheld the Court of Appeal ruling. Exhibit 2
5. Callahan clients filed a class action citing unethical conduct. "*Roldan vs Callahan*". Claims included their attorney illegally and unethically claimed senior citizen clients mentally incompetent asserting control and over decision-making. Plaintiffs prevailed and were awarded costs. New case law protecting clients resulted. Exhibit 3

Ex. B

to fix the cars before we shipped them to the dealers."

Rivera said Hyundai's long-term plan is to install Blue Link technology in all of its cars. Nearly half get the software now.

Until then, it wants to use data it receives from connected cars to help inform audit practices on nonconnected vehicles in order to create efficiencies, not just for its engineers but also for the departments it provides reports to, such as manufacturing, design, and research and development.

"Our focus is to get ahead of the issue as much as possible—let's contain it before it gets to the dealer," Rivera said, explaining that the idea is to save the customer time.

"It's also being able to pre-diagnose the vehicles before they show up at the dealer for service. If you know why they're coming in, you can check if [the dealer] has the right part, the right technicians with the right training before they get to the dealer."

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Rivera (far right) shows Hyundai's Blue Link technology for better quality ranking

Orange County's Premier Business Litigation Firm

Experience Matters - 30 Senior Litigation Attorneys

Business Litigation

Beckman Coulter vs. Flextronics
\$934,000,000

Largest Jury Verdict in OC History

Business Fraud

Manufacturer vs. Distributor
\$45,000,000

International Business Dispute

Insurance

Manufacturer vs. Farmers Insurance
\$58,000,000

Largest Insurance Bad faith Judgment in OC History

Employment Dispute

Plaintiff vs. Technology Co.
Defense Verdict

C&B Wins Again

Product Defect

Wolfgang Puck Distributor vs. Manufacturer
\$9,400,000

Complex Business Dispute

Discrimination Suit

Plaintiffs vs. Ricoh Electronics
Defense Verdict

Saved Ricoh Millions

- Representing Leading California Corporations For Over 33 Years
- Top 100 Southern California Super Lawyers - 2010 to 2017
- All 30 C&B Attorneys Have at Least 10 Years Litigation Experience

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Twice the Results at Half the Cost



ing the rank- comes as the plan to reorgan- flagging sales. share touched an year. help turn the tide is working to revamp its management system, software and analyze data on vehicles

this department analyzes every vehicle, "from cradle to grave," to es are quickly and properly fixed, ature designs cater to customer re-

"We're the voice of the customer," he said. We're the ones who collect all the information (what the customer likes and may dislike, what appens in the field and in the development regies, and we report that information to Korea r the responsible teams to improve those prod- cts [and] deploy counter measures to contain any issues."

J.D. Power

J.D. Power said its survey is based on responses of more than 75,000 buyers and lessees of new 2013 vehicles from February through May of this year. It looks at a vehicle's exterior and interior, and safety and performance in eight rated categories.

The study also ranks car, truck and SUV models of domestic and international automakers. Hyundai Motor Group models that won their segments based on size are Kia's Rio and Sorento, Hyundai's Tucson, and Genesis G90.

Other OC automakers received plaudits. Irvine-based Mazda Motor of America Inc. was cited as the most-improved brand over last year. Mitsubishi Motors North America Inc. a Cypress was also found to have improved its vehicles but ranked in the bottom five out of the 31 rated brands, U.K.-based Land Rover ranking the worst.

Overall, the study showed new-vehicle quality improved for the fourth consecutive year, up 4% from last year.

J.D. Power Vice President of Global Automotive Dave Sargent said automakers are listening to consumers but warned that some buyers are still finding problems.

"As vehicles become more complex and automated, it's critical that consumers have complete confidence in automakers' ability to deliver fault-free vehicles," he said in a statement.

Rivera said Hyundai has gotten more efficient at spotting red flags in its vehicles, thanks to technology advances. It can be alerted of prob-

EXHIBIT 1

YOU ARE HERE: LAT Home → Collections

Advertisement

Hotels.com

Up to \$100
 Rebate



FROM THE ARCHIVES

Beckman Coulter's earnings climb

August 2, 2007

Beckman Coulter Inc.,

February 1, 2000

Beckman Coulter Agrees to a Huge Cut in Judgment

A U.S. Supreme Court case in April that limited punitive damages leads the firm to settle its suit.

November 27, 2003 | Lisa Girion | Times Staff Writer

Conceding that the days of massive punitive damage awards may be over, Beckman Coulter Inc. on Wednesday settled its fraud and breach-of-contract lawsuit against Flextronics International Ltd. for \$23 million, a far cry from the \$934 million it was awarded by a jury.

The settlement is the latest fallout from a U.S. Supreme Court decision in April that is being interpreted by lower courts as limiting punitive damages to no more than nine times actual damages. On Tuesday, a California appeals court slashed a \$290-million verdict against Ford Motor Co. more than 90%.

"You don't have to be a weatherman to know which way the wind is blowing," Daniel J. Callahan, a lawyer for Fullerton-based Beckman Coulter, said, paraphrasing Bob Dylan. "It was pretty obvious to us that our verdict was either going to be thrown out or chopped down to a few million bucks at best."

Flextronics said in a statement that it had agreed to pay far more than appellate courts might have allowed in order to get the case out of the way and get on with business. "Although the settlement remains larger than we believe the law would have allowed, it relieves the company of the significant burden and distraction that the original verdict imposed," Flextronics Chief Executive Michael E. Marks said in a statement.

Beckman, which sells test equipment to medical labs and drug companies, claims it was defrauded when Flextronics broke a contract to supply circuit boards for medical testing devices.

An Orange County jury decided in late September that Flextronics had engaged in fraud and broke its contract to provide the circuit boards, and awarded Beckman \$498,000 in compensatory damages and \$931 million in punitive damages.

The state appellate court in Santa Ana recently interpreted April's U.S. Supreme Court decision for the first time, reducing punitive damages to four times compensatory damages in a case called *Diamond Woodworks vs. Argonaut Insurance*. That court, the 4th District Court of Appeal, would have reviewed the Beckman Coulter award had the settlement not been reached.

Instead of risking a huge reduction, Beckman Coulter took the settlement, which amounts to about 40 times compensatory damages.

"The jury gave us \$934 million based upon the potential damages that Beckman Coulter could have faced," Callahan said. "Using potential damages, the multiplier was 2.5 to 1. However, on the actual damages we have \$498,000, and we were given \$931 million, so that's a pretty high multiplier."

Callahan said the reduction in the Ford verdict Tuesday brought a quick close to two months of settlement negotiations.

We were already staring down the gun barrel of Diamond Woodworks, and then you have [the Ford opinion] where three people were killed in a car crash -- and the appellate court likened it to manslaughter -- and all they got was \$23 million in punitive damages," he said. "We didn't have personal injury. All we had was economic loss."

The settlement will result in third-quarter costs of 3 cents a share, Flextronics said in its statement.

"This is a positive event from Flextronics' point of view," said Avi Benus, a bond analyst at J.P. Morgan Securities Inc. in New York. "It's more like a disaster averted, as opposed to a big win."

Shares of Flextronics, which is based in Singapore but has administrative offices in San Jose, rose 45 cents to \$15.84 on Nasdaq. Beckman dropped 50 cents to \$50.61 on the New York Stock Exchange.

*

Bloomberg News was used in compiling this report.

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HALUCK v. RICOH ELECTRONICS

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Haluck et al. v. Ricoh Electronics, Inc. et al.
Case Number G035681



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Illustration by Lars Leetaru

My father, who was a trial judge and then an appellate court judge for many years, loved to tell jokes in court. His tipstaff, the courtroom deputies and most of the gallery would laugh, and then he would come home and tell us what he said. My family thought the so-called jokes were not funny. We eventually realized that anytime a judge tells a joke, everyone has to laugh. I learned this lesson, literally at my father's knee: Judges tell stories they think are funny. Laugh. And then get on with the case.

Whatever you do, don't try to match the judge joke for joke. You are not at a comedy club. And you might find yourself torpedoing your client's case. In *Haluck v. Ricoh Electronics*, a defense lawyer and the judge seemed to egg each other on to ever more frivolous comments. The 30-day trial ended with a defense verdict. The transcript included so many indecorous comments, I'll just give you the appellate court's summary, as it ordered a new trial:

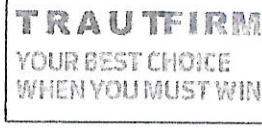
"[The judge] allowed, indeed helped create, a circus atmosphere, giving defendants' lawyer free rein to deride and make snide remarks at will and at the expense of plaintiffs and their lawyer. ... It is obvious that much of the judge's conduct was not malicious but rather a misguided attempt to be humorous; and defendants' lawyer played into it, often acting as the straight man. But a courtroom is not the Improv and the presider's role model is not Judge Judy."

So my advice to you is: Don't be funny. Your clients' problems are serious, at least to them.


This article originally appeared in the November 2015 issue of the ABA Journal with this headline: "Don't Be Funny: Litigation is no laughing matter to your clients."



*Janet S. Kole is a retired trial lawyer from Philadelphia and the author of numerous books, including *Avoiding Bad Depositions: A Simple Guide to Complex Issues* and the murder mystery *Suggestion of Death*.*



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Court of Appeal, Fourth District, California.

James HALUCK et al., Plaintiffs and Appellants, v. RICOH ELECTRONICS, INC., et al., Defendants and Appellants.

No. G035681.

Decided: June 01, 2007

Law Offices of Michelle A. Reinglass, Michelle A. Reinglass, Laguna Hills; Law Offices of Marjorie G. Fuller and Marjorie G. Fuller, Fullerton, for Plaintiffs and Appellants. Callahan & Blaine and Jim P. Mahacek, Santa Ana, for Defendants and Appellants.

OPINION

Plaintiffs James Haluck and Michael Litton appeal from a judgment in favor of defendants Ricoh Electronics, Inc., Larry Vaughn, Haruo Uesaka, Yoji Ide, Yoshihiro Nomura, and Houssam El Jurdi on their complaint for employment discrimination on the ground the trial judge's misconduct so infected the proceedings they were deprived of a fair trial. Defendants filed a protective cross-appeal, claiming the trial court erred by denying their motions for summary judgment and summary adjudication on the ground the action was barred by a United States treaty with Japan. Defendants also filed a motion for sanctions against plaintiffs and their counsel, claiming the appeal is frivolous.

We conclude the trial judge's conduct was sufficiently egregious and pervasive that a reasonable person could doubt whether the trial was fair and impartial and reverse on that ground. On remand, the case shall be assigned to a different judge. Because we reverse, the motion for sanctions is denied. As to defendants' cross-appeal, the court properly found the treaty did not bar the action and thus we affirm its ruling.

FACTS

Based on the nature of this appeal, few of the underlying facts are relevant. Plaintiffs were employed by defendant Ricoh. They sued Ricoh and certain of its employees for damages for statutory and common law discriminatory employment practices, claiming they were passed over for promotions, and Litton ultimately wrongfully terminated, because they were Caucasian and complained about racial discrimination. After a 30-day plus trial, the jury returned a defense verdict.

THE MISCONDUCT

We recite only the most egregious instances of the judicial misconduct cited by plaintiffs.

Ricoh sought to introduce a video it used for training or public relations purposes. (Characterization by the trial court.) Plaintiffs' lawyer contended, among other reasons for

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