CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY

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Discussion with client prior to employment
Rule 5-104(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Expenses of trial
on contingent contract
LA 76 (1934)
SF 1985-2
Explaining prohibitions of rule 5-104 to client
Rule 5-104(C), Rules of Professional Conduct (operative until May 26, 1989); Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Loan
to client
-upon promise to repay
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
--in writing
Rule 5-104(A)(2), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Misappropriation of advanced fees and costs not maintained in trust account
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
Reimburse client
for damages recovered by opposing party
LA 76 (1934)
Reimbursement
from client's fund
LA 48 (1927)
Third parties
paying or agreeing to pay from funds collected or to be collected
Rule 5-104(A)(1), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

ADVERTISING [See Academic degrees. Broadcasting, legal directory. Business activity. Letterhead. Political activity. Publication. Solicitation of business. Substitution. Withdrawal from employment.]
[Note: Authorities decided prior to 1977 must be reviewed to determine their continued viability in light of Bates v. State Bar of Arizona (1977) 433 U.S. 350, etc. and new rule 1-400, Rules of Professional Conduct.]
Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Business and Professions Code section 6157
Advising inquirers through media
seminars
-conducted for existing clients
SD 1969-8
Announcement to clients
of association of firm specializing in tax matters
LA 119 (1938)
of former firm, announcement of new partnership
-non-legal
Moss, Adams & Co. v. Shilling (1986) 179 Cal.App.3d 124 [224 Cal.Rptr. 456]
of former firm, of transfer of associate to new firm
CAL 1985-86
SD 1975-11
Assumed or misleading name
Jacoby v. State Bar (1977) 19 Cal.3d 359 [738 Cal.Rptr. 77, 562 P.2d 1326]
Johnson v. State Bar (1935) 4 Cal.2d. 744, 752 [52 P.2d 928]
Attorneys not partners nor associates share office space
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90
Bar membership number
pleadings
Rule 201, California Rules of Court (Superior Ct.)
Rule 501(e)(1), California Rules of Court (Muni Ct.)
Biography of lawyer, sale of book
SD 1973-4
Books relating to practice of law
LA 446 (1987)
Broadcasting
Radio or television, use of
Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]
Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
educational television
LA(I) 1970-8
program on law
CAL 1972-29, LA 318 (1970), LA 186 (1957), LA(I) 1975-7, LA(I) 1970-12, LA(I) 1964-7
televised trial
LA 404 (1983)
Brochures, random distribution of
LA 419 (1983)
Business activity
LA 446 (1987), LA 335 (1973), LA 214 (1953), LA(I) 1976-5, LA(I) 1931-4
SD 1975-2
business, acquainting public with services offered by lawyers
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
investment/portfolio manager
CAL 1999-154
lawyer or judge identified on
LA 286 (1965)
lawyer-officer identified on
LA 286 (1965), LA 256 (1959), LA 241 (1957)
management consulting company run by attorney
LA 446 (1987)
tax work
Libarian v. State Bar (1944) 25 Cal.2d 314, 315 [153 P.2d 739]
use of terms “accountants” and “accounting”
Moore v. California State Board of Accountancy (1990) 222 Cal.App.3d 919 [272 Cal.Rptr. 108]
Business and Professions Code section 6157
By bar association
for lawyers to serve as guardians of minors
SD 1975-8
Card, professional
LA 419 (1983)
deceased partner
-use of name of
LA 123 (1939)
degrees on
CAL 1999-154, SD 1969-5
delivered to accident victim at scene of accident
SD 2000-1
lay employee noted on
Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 122]
LA 381 (1979)
limitation of practice noted on
LA 168 (1948)

published in newspaper
-periodical
--mail
LA 404 (1982)
--random distribution
LA 419 (1983)
Change in the form of practice
LA(I) 1971-11
Check, profession shown on
LA(I) 1970-3
Class action
communication with potential class members prior to certification
Gulf Oil Company v. Bernard (1981) 101 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
Client's
counsel identified on
LA 286 (1965), LA 241 (1957), LA(I) 1971-1
SD 1973-5
Communication and solicitation distinguished
SD 2000-1
Communications concerning the availability for professional employment
LA 494 (1998)
SD 2000-1
Controversial cause, espousal of
LA(I) 1970-7
Correspondent firm
LA 430 (1984)
Direct mail solicitation
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
CAL 1995-142, CAL 1988-105
SD 1992-3
OR 93-001
Dissolution of law firm
CAL 1985-86
"Do-it-yourself" clinics
Howard v. Superior Court (1975) 52 Cal.App.3d 722
Donation of legal services as prize
LA 434 (1984)
Donation of legal services contingent upon bequest to certain organization
CAL 1982-65
Dramatization
Rule 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)
Dual practice/occupation
CAL 1982-69
LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1926), LA 349 (1925)
Educational activity
CAL 1972-29
LA 221 (1954)
SD 1974-21
Electronic media
CAL 2001-155
SD 1977-4
Employment offered
SD 1975-8, SD 1975-5
Employment wanted
LA 319 (1970), LA(I) 1972-13
corporate counsel
LA 319 (1970)
Endorsement [See Political activity.]
Rule 1-400, std. 2, Rules of Professional Conduct (operative September 14, 1992)
commercial product
Valentine v. Chrestensen (1942) 316 U.S. 52
constitutional analysis v. State Bar policy
Belli v. State Bar (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]
Facsimile transmissions
Business & Professions Code section 17538.4
Fees
Business and Professions Code section 6157
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
free service
LA(I) 1979-3
low rates
LA(I) 1979-3
"no fees if no recovery"
Rule 1-400, std. 14, California Rules of Professional Conduct (operative May 11, 1994)
OR 93-001
routine
CAL 1982-67
Fictitious name
Rule 1-400, stds. 6, 7, and 9, California Rules of Professional Conduct (operative September 14, 1992)
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
CAL 1982-66
"Of Counsel" non-partner in name
LA 421 (1983)
Firm name
CAL 1997-150, CAL 1986-90
LA 413 (1983), LA 385, LA 325 (1972)
SD 1985-1
former partner's name
CAL 1986-90
of law office comprised of separate sole practitioners
CAL 1986-90
SD 1985-1
First Amendment protections
44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
Florida Bar v. Went for It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Central Hudson Gas & Electric v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Belli v. State Bar (1974) 10 Cal.3d 824, 833 [112 Cal.Rptr. 527]
LA 494 (1998), LA 474
Foreign attorney
LA 156 (1945)
General guidelines
SD 1977-4
mail
SD 1983-5
target, direct mail solicitation
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
CAL 1995-142, CAL 1988-105, SD 1992-3, OR 93-001
Group legal services
LA(I) 1979-3, LA(I) 1978-2
SD 1978-2, SD 1976-11
Guardians, for lawyers to serve as
SD 1975-8
In-person delivery of business card
SD 2000-1

Insurance company
in-house law division
CAL 1987-91
Internet
CAL 2001-155
Laudatory reference
journal advertisement
LA 25 (1923)
newspaper
-series of articles on tax problems written by attorney
LA 87 (1935)
statements
Bushman v. State Bar (1974) 11 Cal.3d 558, 568
Belli v. State Bar (1974) 10 Cal.3d 824, 837 [112 Cal.Rptr. 527]
Johnson v. State Bar (1935) 4 Cal.2d 744, 752
CAL 1972-29
Law
name of partnership
LA 310 (1969)
Law practice
deceased partner
-use of name of
LA 123 (1939)
SD 1969-4
former partner
-use of name of
CAL 1986-90
withdrawal of attorney from firm
CAL 1985-86
Lawyer referral service
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565
Lawyers to serve as guardians of minors
SD 1975-8
Lectures
LA 286 (1965), LA(I) 1964-7
announcement
Belli v. State Bar (1974) 10 Cal.3d 824, 835 [112 Cal.Rptr. 527, 519 P.2d 575]
-degrees listed on
LA 349 (1925)
cable television
CAL 1972-29
law to non-lawyers
CAL 1967-12
Legal aid agency
SD 1974-9
Legal document [See Publication.]
annual report of business
LA(I) 1971-1
business prospectus
CAL 1969-19
LA(I) 1971-1
stockholder's report
LA(I) 1971-1
Legal services connected with senior citizen membership
SD 1976-11
Legal work for lawyers
LA 65 (1931)
Legal work from bar
LA 167 (1948)
Letter
In re Primus (1977) 436 U.S. 412, 422
Belli v. State Bar (1974) 10 Cal.3d 824, 838 [112 Cal.Rptr. 527, 519 P.2d 575]
Johnson v. State Bar (1935) 4 Cal.2d 746, 747
CAL 1982-67, CAL 1981-61, CAL 1980-54
LA 404 (1982)
SD 1983-5
SF 1979-1
advising creditors of claims when creditors are unaware of existence
-offering to represent on percentage basis
LA 122 (1939)
honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
CAL 1999-154
other attorneys
-describing qualifications
CAL 1981-61
-offering to represent in other jurisdictions
CAL 1981-61
-requesting referrals
SF 1970-2
target, direct mail solicitation to particular potential clients allowed
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
CAL 1995-142, CAL 1988-105, SD 1992-3
OR 93-001
Letterhead
affiliation with an out-of-state law firm
LA 392 (1983)
affiliation with "correspondent firm" in another county
LA 430 (1984)
attorney
-use of by non-lawyer
LA 16 (1922)
corporation
-name of attorney on
LA 16 (1922)
deceased partner and/or former partner
-use of name of
CAL 1993-129, CAL 1986-90
LA 123 (1939)
distinguish partners from non-partners
SF 1973-18
"Of Counsel" on
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
CAL 1993-129
LA 421 (1983)
other jurisdictions
-address of offices in
SD 1975-16
Mail [See Solicitation.]
CAL 1983-75
LA 404 (1983)
general guidelines
SD 1983-5
lawyers
CAL 1981-61
other attorneys
-requesting referrals
CAL 1981-61
owners
SF 1979-1
target, direct mail solicitation to particular potential clients allowed
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
CAL 1995-142, CAL 1988-105, SD 1992-3
OR 93-001
to non-clients
SD 1983-5

to prospective clients
-announcement of law office opening
LA 128 (1940)
-mass mailing to income property owners
SF 1979-1
to realtors by mass mailing
CAL 1983-75
Mail announcement [See Advertising, announcement. Law office, opening. Partnership.]
clients of former partner or employer
CAL 1985-86
LA 281 (1963)
mailing of bulletins or briefs discussing laws or decisions
LA 494 (1998)
to members of the bar concerning availability for employment
LA(I) 1970-4
SF 1970-2
Management consulting company run by attorney
LA 446 (1987)
Military service
exit from
LA 161 (1946)
Misleading
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 381
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620] People People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
CAL 1997-148
attorneys not partners nor associates share office space
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90
class action
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
fees, costs
Business and Professions Code section 6157
Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
Newsletter
charitable organization
-offering free will service
LA 428 (1984)
Newspaper
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 354
LA 8 (1917)
article
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
articles on tax problems, series of
LA 87 (1935)
legal column
LA 354 (1976)
misleading to the public
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1173
specialization – approval of
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172-1173
Non-legal services
CAL 1999-154
"Of Counsel"
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
CAL 1993-129
LA 421 (1983)
other jurisdictions
-address of offices in
SD 1975-16
Pamphlets relating to the practice of law
LA 419 (1983)
distribution to clients
CAL 1967-10
Partnership
changes in personnel
CAL 1986-90, CAL 1985-86
LA 247 (1957)
formation of
LA 331 (1973)
Potential members of class action
prior to class certification
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
Presentation
use of a living trust marketer to solicit clients for the attorney
CAL 1997-148
use of a medical liaison to give a presentation containing promotional messages to a group of doctors who might recommend patients to the lawyer
CAL 1995-143
Prohibited forms
44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 383
Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
LA 494 (1998)
SD 2000-1
management consulting firm incorporated by attorney to act as agent in solicitation of legal business
LA 446 (1987)
Publication [See Advertising, newspaper; journal.]
books relating to practice of law
LA 446 (1987)
charitable or religious body or organization
LA 256 (1959)
directory
-biographical
LA(I) 1947-4
-organization
--fraternal
LA 184 (1951)
--trade, business, etc.
LA 345 (1975)
distribution of
LA 244 (1957), LA(I) 1948-5, LA(I) 1948-4
-pamphlets
Palmquist v. State Bar (1954) 43 Cal.2d 428
--published by State Bar
CAL 1967-10
experiences of lawyer
-as public interest story
SD 1975-3
journal
-legal
LA 247 (1957), LA 156 (1945)
-trade
LA 158 (1945), LA(I) 1955-4
newsletter
-charitable organization
--offering free will service
LA 428 (1984)
newspaper
LA 45 (1927)
-legal
LA(I) 1976-8

-trade and business
LA(I) 1955-4
notice of specialized service
LA 124 (1939)
pamphlet
-attorney as author of
LA 307 (1968)
promotion of
LA 349 (1975)
SD 1973-4
prospectus
-name of counsel giving opinion re tax benefits required by Corporations Commission
CAL 1969-19
quality
-experience
LA 319 (1970)
-expertise
LA 319 (1970)
-inclusion in list of "approved" practitioners
LA(I) 1964-3
-self-laudatory advertisement
SD 1977-4
Qualifications
CAL 1982-67, CAL 1981-61
Radio or television
Belli v. State Bar (1974) 10 Cal.3d 824, 835
Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
participation by attorney in radio program
-answering questions on law
LA 299 (1966)
-identification as lawyer
LA 299 (1966)
Random solicitation
LA 419 (1983)
Return to practice [See Inactive lawyers.]
LA 161 (1946), LA 156 (1945)
Routine services, fees
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
CAL 1982-67
Seminars
LA 494 (1998)
Share office space with attorneys
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90, SD 1985-1
Sign
Jacoby v. State Bar (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77, 562 P.2d 1326]
branch office
LA(I) 1973-2
location
-where there is no office
LA 134 (1940)
shared with business
LA 198 (1952)
use of words "legal clinic" instead of "law office" deemed not misleading
Jacoby v. State Bar (1977) 19 Cal.3d 359, 366
LA 145 (1943)
Specialization
Rule 1-400(E), standard no. 11, Rules of Professional Conduct (operative until May 31, 1997)
Rule 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
absolute prohibition may violate constitutional rights
Peel v. Attorney Reg. & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
application
In the Matter of Mudge (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 536
LA(I) 1972-13
bar
CAL 1981-61
LA 156 (1945), LA(I) 1970-4
disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees
Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 12]
notice to profession
-to apprise of specialized services
LA 110 (1937)
public
LA 168 (1948), LA 45 (1927)
Target mail solicitation
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
CAL 1995-142, CAL 1988-105
SD 1992-3, OR 93-001
Telephone
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
CAL 1988-105
offer to conduct seminars
LA 494 (1998)
Telephone directory
listing in
79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
-another city
CAL 1967-7
SD 1975-9
more than one line
LA(I) 1948-6
multiple listings
LA(I) 1963-7, LA(I) 1956-3
-under spelling variations
LA(I) 1963-7
name changed
LA(I) 1956-3
out-of-town
CAL 1967-7
partnership
-members or associates listed individually
SD 1975-9
patent agent
-employed by law firm
CAL 1970-20
patent attorney
CAL 1970-20
seminars conducted for existing clients
SD 1969-8
Workers' Compensation
Labor Code sections 5430-5434
79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799
Testimonial
Rule 1-400, std. 2, California Rules of Professional Conduct (operative September 14, 1992)
Trade name
practice law under by attorney or law firm
Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77, 562 P.2d 1326]
CAL 1982-66, LA 413 (1983)
Violation of Rules of Professional Conduct waiver by client
CAL 1988-105
Workers' Compensation
Labor Code sections 5430-5434
79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
Tillman v. Miller (N.D. GA 1995) 917 F.Supp 799

ADVISING INQUIRERS THROUGH MEDIA
Rule 2-105, Rules of Professional Conduct [repealed effective February 20, 1985; former rule 18]
Generally
LA 191 (1952), LA 181 (1951), LA 148 (1944), LA 8 (1920)
Newspaper
tax problems
-series of articles on, authored by attorney
LA 87 (1935)
Radio show
attorney answers legal questions submitted by listeners
LA 299 (1966)
attorney participating in
-audience may talk with attorney over airwaves
CAL 1969-17
Tax problems
series of articles on, in newspaper
LA 87 (1935)

ADVISING VIOLATION OF LAW
Rule 7-101, Rules of Professional Conduct [former rule 11] (operative until May 26, 1989)
Rule 3-210, Rules of Professional Conduct (operative as of May 27, 1989)
Goldman v. State Bar (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447, 570 P.2d 463]
Snyder v. State Bar (1976) 18 Cal.3d 286, 288 [133 Cal.Rptr. 864, 555 P.2d 1104]
Paonessa v. State Bar (1954) 43 Cal.2d 222, 223-227 [272 P.2d 510]
Townsend v. State Bar (1948) 32 Cal.2d 592, 593-598
Waterman v. State Bar (1937) 8 Cal.2d 17 [63 P.2d 1133]
In re Jones (1929) 208 Cal. 240, 241-243 [280 P. 964]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108 [116 Cal.Rptr. 713] cert. den. 421 U.S. 1012
Hoffman v. Municipal Court (1970) 3 Cal.App.3d 621, 628-629 [83 Cal.Rptr. 747]
[See 40 A.L.R. 3d 175n, 19 A.L.R. 3d 403s, 96 A.L.R. 2d 739, 71 A.L.R. 2d 875, 114 A.L.R. 175, 50 S.Cl.L.Rev. 817, 7 Sw.R. 619.]
CAL 1996-146, SD 1993-1
Judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Negotiation of private agreement not to prosecute a crime
CAL 1986-89
Negotiation of private agreement to compromise civil claim arising from crime
CAL 1986-89

ALCOHOL ABUSE
Alcohol and drug addiction brought under control
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
For confidential assistance, contact:
Center for Human Resources/West
Telephone: (415) 502-7290
For information about program, contact:
Office of Professional Competence, Planning & Development
Telephone: (415) 538-2107

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY
Can be of assistance where California has not spoken
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal.1992) 809 F.Supp. 1383
Paul E. Iacono Structural Engineering, Inc. v. Humphrey (9th Cir. 1983) 722 F.2d 435, 438
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [174 Cal.Rptr. 716]

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LA 348 (1975)
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Business dealings with client must be fair and reasonable
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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Business transaction with former client with funds obtained by the representation
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
Client acts in reliance on advice of attorney
Melorich Builders, Inc. v. Superior Court (1984) 160 Cal.App.3d 931, 936-937

Client as beneficiary, attorney as trustee
Probate Code sections 16002 and 16004
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*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
Client as co-counsel
People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]
payment to client
LA 437 (1985)
Client has right to discharge
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
absolute right with or without cause in California
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
exception when attorney has a present and co-existing interest in the object of the representation
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
should not be tied to attorney after losing faith
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
Client's choice of attorney
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
automatic vicarious disqualification of a firm would reduce the right of the client to choose an attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
client's interests are paramount in any consideration of the relationship between attorney and client
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
must yield to considerations of ethics
Comden v. Superior Court (1978) 20 Cal.3d 906, 915 [145 Cal.Rptr. 9, 576 P.2d 971]
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Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
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-notice to client
LA 125 (1940)
-protect client's position in litigation
LA 125 (1940)
Client's rights may not be deprived because of attorney neglect
County of San Diego v. Magri (1984) 156 Cal.App.3d 641
pro bono client
Segal v. State Bar (1988) 44 Cal.3d 1007 [245 Cal.Rptr. 404]
Communications
between attorney and inmate client
-prison officials opening mail
Wolff v. McDonnell (1974) 418 U.S. 539 [94 S.Ct. 2963]
Mann v. Adams (9th Cir. 1988) 846 F.2d 589
with a minor client in ways consistent with minor's age, language skills, intelligence, experience, maturity, and mental condition
LA 504 (2000)
Competence of the client
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Competent representation at time of representation
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Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
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*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
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none exists when trustee is also creditor
Vivitar Corp. v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
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attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
Consultation with, prima facie case of existence of
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
CAL 1984-84, LA 465 (1991), SD 1977-6
attorney's duty to communicate includes the duty to advise people who reasonably believe they are clients that they are, in fact, not clients
Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]
Rallis v. Cassady (2000) 84 Cal.App.4th 285 [100 Cal.Rptr.2d 763]
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Ferrara v. LaSalla (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
constructive attorney-client relationship not formed between a conservatee and her conservator's designated attorney
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
contract formality is not required
Gulf Insurance Co. v. Berger, Kahn, et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
district attorney assigned to enforce a child support order did not establish attorney-client relationship re a malpractice action brought by the parent entitled to payment
Jager v. County of Alameda (1992) 8 Cal.App.4th 294
duty of confidentiality extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
LA 506
established by contract
Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
no duty to advise rejected client of limitations period in contemplated suit targeting attorney's existing client
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
"on-going relationship" between attorney and client based on periodic visits by client to the attorney's office seeking legal assistance
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
relationship with individual attorney not with firm in general based on client's direct dealings with the individual attorney
Bernstein v. State Bar (1990) 50 Cal.3d 221
Contract for contingent fees
Waters v. Bourhis (1983) 142 Cal.App.3d 235 [190 Cal.Rptr. 833]
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Contract for employment
attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement
LA 505 (2000)
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LA 371 (1977)
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Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397, 664 P.2d 542]
Contractual
Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
Corporation as client
attorney for corporation does not represent shareholders
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
-implied-in-fact contract may create an attorney-client relationship between the corporation's attorney and directors, officers, or shareholders as individuals
Rallis v. Cassady (2000) 84 Cal.App.4th 285 [100 Cal.Rptr.2d 763]
outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons used by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
parent/subsidiary considered single entity for conflict purposes
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
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prima facie case of fraud required to waive relationship
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In re Joyleaf W. (1984) 150 Cal.App.3d 865, 868
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against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
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Court appointed for criminal defendant for a civil action
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Responsible Citizens v. Superior Court (1993) 16 Cal.App. 4th 1717 [20 Cal.Rptr.2d 756]
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formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
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mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
payment of attorney fees alone not determinative, only a factor
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
specially appearing attorney forms an attorney-client relationship with the litigant
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Defendant must make knowing and intelligent waiver of counsel
People v. Mellor (1984) 161 Cal.App.3d 32
Defined
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Disqualification of attorney
attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
former personal involvement with opposing party
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-specially appearing attorney owes a duty of care to the litigant
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to make files available to client on withdrawal
CAL 1994-134, LA 493 (1998), SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1
to represent client until withdrawal or substitution
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
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to represent client zealously
People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
to take all actions necessary to protect his client's rights may not be sanctioned
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [91 Cal.Rptr. 735]
to take reasonable measures to determine law at time of actions
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*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
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-results in dismissal of criminal accused's case
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establishes an implied attorney-client relationship with the co-defendant
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LA 132 (1940)
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Ricotta v. State Bar of California (S.D. Ca. 1998) 4 F.Supp.2d 961, 987-988
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Prison officials may not read mail, only open it
People v. Poe (1983) 145 Cal.App.3d 574 [193 Cal.Rptr. 479]
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People ex rel Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Privilege [See Confidences of the Client, privilege]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
Mitchell v. Superior Court (1984) 152 Cal.App.3d 1212, 1225
does not protect third party information unless third party is an agent of client
In re Polos (1984) 154 Cal.App.3d 448, 456 [200 Cal.Rptr. 749]
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Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
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Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577
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-concerning representation of criminal defendant
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-attorney furnishes information and material
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LA 287 (1965)
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LA 433 (1984)
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Reasonable measures must be taken to determine the law at time of actions
*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
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Shannon v. Superior Court (1990) 217 Cal.App.3d 986
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Reliance on counsel's advice is only one single factor in determining whether a trustee has breached a fiduciary duty
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*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
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Assistants' actions do not create official policy
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Attorney-client relationship not formed between prosecutor enforcing child support & parent entitled to payment
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People v. Brown (1981) 29 Cal.3d 150 [172 Cal.Rptr. 478]
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Child support modification and enforcement activities do not create an attorney-client relationship with any parent
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80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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Conservatorship of Early (1983) 35 Cal.3d 244, 255
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80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr 476, 561 P.2d 1164]
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*People v. Eubanks (1996) 14 Cal.4th 580
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-district attorney acted as state official when deciding whether to prosecute individual for criminal defense
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-fabricating evidence, filing false crime report, comments made to the media, and investigating crime against attorney may not be protected by absolute immunity
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Pitts v. County of Kern (1996) 49 Cal.App.4th 1430 [57 Cal.Rptr.2d 471]
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*Fletcher v. Kalina (9th Cir. 1996) 93 F.3d 653
absolute immunity may not be available where prosecutor gives advice to the police
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Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]
authorized by law to communicate with parties represented by counsel
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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LA 429 (1984)
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for purposes of section 1983 claim, California county district attorney acted as state official when deciding whether to prosecute individual for criminal defense
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Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]; mod. at 31 Cal.App.4th 746f
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Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
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-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
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-three strikes cases
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79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
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80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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When an attorney leaves employment of one firm
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In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
Charging lien
common law
-not recognized in California
Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]
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Weiss v. Marcus (1975) 51 Cal.App.3d 590, 598 [124 Cal.Rptr. 297]
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check issued only to client, but delivered to attorney who has a lien
OR 99-002
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Holding client's funds
coerce fee payment
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Baker v. Boxx (1991) 226 Cal.App.3d 1303
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11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry (BPP)
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]
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In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29
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In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]
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In re Shorb (9th Cir. BAP 1989) 101 B.R. 185
attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract
In re LCO Enterprises, Inc. (9th Cir. 1995) 180 B.R. 567
-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

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Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
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In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
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-debtor's attorney may receive professional fees from bankruptcy estate for post-petition services
In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
-must benefit the estate
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-must file detailed proof of time spent in each role to receive fee award for services as trustee
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In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
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Attorney acting as guarantor
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Guarantor of
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-attorney acting as
CAL 1981-55
Indemnity
counsel for indemnity company acts against assured by way of subrogation
LA(I) 1966-1
counsel for indemnity company represents assured in defense of bond
LA(I) 1966-1
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LA 224 (1955)
-on sign
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LA 216 (1953)
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Agent, attorney acting as
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LA 98 (1936)
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*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
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Stipulated order of foreign court does not modify prior California child support when modification issue not raised or ruled on
In re Marriage of Ward (1994) 29 Cal.App.4th 1452
CHOSES OF ACTION
Buying of
with intent to bring suit on
Business and Professions Code section 6129
Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim
LA 500 (1999)
CLASS ACTION
Absent class members not liable for employer's attorney's fees in overtime dispute
Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
Attorney fee awards in federal securities fraud actions must be reasonable in relation to the plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
Attorney's fees
awarded pursuant to Civil Code section 1717
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
for securities class action suits should be based on individual case risk
In re Quantum Health Resourcs, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
lodestar adjustment based on benefit conferred on class by class counsel
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
lodestar multiplier reduction is justified where amount of time attorney spent on case was unreasonable and duplicative
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
should be adequate to promote
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271
standing to appeal award of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
under Code of Civil Procedure section 916
-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]
Communication with potential members of class [See Advertising. Solicitation of business.]
Gulf Oil Company v. Bernard (1981) 101 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
LA(I) 1966-7, LA(I) 1974-2
Conflict of interest
class counsel offers to dismiss case if defendant makes multi-million dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service Inc. (1997) 52 Cal.App.4th 1
defendant agrees to hire class counsel to monitor the proposed settlement agreement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234
duty of class counsel runs to the class and, in the event of conflicts, withdrawal is the appropriate course to take
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
Duty to communicate with members of class to correct erroneous impression
LA(I) 1966-13
Federal Rule of Procedure 23
LA 481
no per se rule that continued participation by previous class counsel, whose conflict of interest led to denial of class certification, constitutes inadequate representation
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
Former member who opted out of class is not class representative and has no right to the class action papers
LA 481
Organization of [See Solicitation of business, communicate information about claims or actions in law to parties; by lay entity, group representation.]
client solicits participation
LA(I) 1971-13
lawyer solicits participation
LA(I) 1966-7
Procedure for class action
LA 481
Standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323
Unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
CLIENT [See Attorney-client relationship. Candor. Confidences of the client. Conflict of interest, client.]
Defined
Evidence Code section 951
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648
CLIENT SECURITY FUND
Business and Professions Code section 6140.5
Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367]
Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 483-484 [219 Cal.Rptr. 52]
In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56
CLIENTS' TRUST ACCOUNT
Business and Professions Code section 6210 et seq.
Code of Civil Procedure sections 283, par. 2, 1518
Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
State Bar of California. Legal Services Trust Fund Program
[See also Handbook on Client Trust Accounting For California Attorneys]

Accounting
- Business and Professions Code section 6091
- failure to keep adequate records
  - Friedman v. State Bar (1990) 50 Cal.3d 235
  - Matthew v. State Bar (1989) 49 Cal.3d 784
  - Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
  - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
  - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
  - In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- failure to make to client
  - Friedman v. State Bar (1990) 50 Cal.3d 235
  - Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
  - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
  - Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
  - Monroe v. State Bar (1961) 55 Cal.2d 145, 147-149 [10 Cal.Rptr. 257, 358 P.2d 529]
  - Egan v. State Bar (1956) 46 Cal.2d 370, 371-373 [294 P.2d 949]
  - Clark v. State Bar (1952) 39 Cal.2d 161, 169 [246 P.2d 1]
  - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
  - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
  - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
  - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
  - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
  - In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
  - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
  - In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
  - In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
  - In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
  - In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
  - -attorney claims monies are non-refundable retainer
    - Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432, 702 P.2d 590]
    - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
  - -attorneys claims oral permission to invest client's funds
    - Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]
  - -duty to inform client that he has been named as a defendant due to attorney's accounting
    - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
  - -failure to answer repeated client demands
    - Jackson v. State Bar (1979) 25 Cal.3d 398 [158 Cal.Rptr. 869, 600 P.2d 1326]
  - -failure to report and transmit to clients checks from insurance company
    - Most v. State Bar (1967) 67 Cal.2d 589 [63 Cal.Rptr. 265, 432 P.2d 953]
  - -funds collected with repeated failure to notify client
    - In re Smith (1967) 67 Cal.2d 460 [62 Cal.Rptr. 615, 432 P.2d 231]
  - -habitual failure to account to clients results in disbarment
    - Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301, 479 P.2d 661]
  - -misappropriation and moral turpitude found when attorney fails to answer client inquiries
    - Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 667, 709 P.2d 480]
  - -misappropriation and moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability
    - In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
  - -obtaining and converting settlement proceeds without client's knowledge
    - Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921, 591 P.2d 19]
  - -prior violation's effect on petition to reinstate disbarred attorney
    - Tardiff v. State Bar (1980) 27 Cal.3d 395 [165 Cal.Rptr. 829, 612 P.2d 919]
  - -receipt of settlement check not reported to client
    - Phillips v. State Bar (1975) 14 Cal.3d 492 [121 Cal.Rptr. 605, 535 P.2d 733]
  - -restitution as appropriate sanction for failure to report receipt of settlement check
    - Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]
  - -sanctions
    - --disbarment
      - Ridley v. State Bar (1972) 6 Cal.3d 551, 560-561 [99 Cal.Rptr. 873, 493 P.2d 105]
      - Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
      - Narlian v. State Bar (1943) 21 Cal.2d 876 [136 P.2d 553]
    - --public reprimand
      - Black v. State Bar (1962) 57 Cal.2d 219 [18 Cal.Rptr. 518, 368 P.2d 118]
    - --suspension
      - McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
      - Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
      - Sunderlin v. State Bar (1944) 33 Cal.2d 785 [205 P.2d 382]
  - -services not performed for monies advanced
    - Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873, 493 P.2d 105]
  - -timeliness of account when attorney's office is struck by a fire
    - In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
  - -trust account never established since attorney claims all monies as non-refundable retainer
    - Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
  - -trust accounts with no records kept as deemed a "sham"
    - Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]
  - -violation occurs when non-segregated funds loose their separate character
    - Black v. State Bar (1962) 57 Cal.2d 219
  - -warrants discipline even if no financial loss to client
    - McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
- fiduciary duty to inform client
  - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- notice to client of receipt of funds on client's behalf
  - Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
  - Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
  - In re Smith (1967) 67 Cal.2d 460, 463

Advance deposit
- Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

Advance for legal fees
T & R Foods,Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Katz v. Workers' Comp. Appeals Bd. (1981) 30 Cal.3d 353,356 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]
advance payment retainer distinguished from true retainer
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
distinguished from retainer fee
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1
failure to return unearned portion
Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700(D)(2), Rules of Professional Conduct (operative as of May 27, 1989)
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Matthew v. State Bar (1989) 49 Cal.3d 784
Pineda v. State Bar (1989) 49 Cal.3d 753
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
Finch v. State Bar (1981) 28 Cal.3d 659,664 [170 Cal.Rptr. 629, 621 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225, 551 P.2d 841]
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1
Attachment of
Finance Code section 17410
Authorized withdrawal of client funds and subsequent revocation of consent
LA(I) 1980-3
Bank charges
deposit of $121.00 of attorney's personal funds in client trust account for bank charges is not unreasonable
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
permissible as long as the funds held bear a reasonable relationship to the bank service charges incurred for the general operation of the account and do not serve as a buffer against potential overdrafts
LA 485 (1995)
Bank's action to improperly debit trust account
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
Billing
clients must understand and consent to billing practices
Severson & Werson v. Bollinger (1991) 235 Cal.App.3d 1569, mod. at 1 Cal.App.4th 417a
CAL 1996-147
clients should have an opportunity to review a bill before the attorney seeks authorization to make payment out of the client's recovery
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
costs and expenses
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
"double billing"
CAL 1996-147
flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
improper billing and retention of funds out of a client's lien reduction involves moral turpitude
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
"over-billing"
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
Cashier's check
holding clients funds in
Vaughn v. State Bar (1972) 6 Cal.3d 847, 854 [100 Cal.Rptr. 713, 494 P.2d 1257]
Black v. State Bar (1962) 57 Cal.2d 219, 227 [18 Cal.Rptr. 518, 368 P.2d 118]
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
Check
profession shown on
LA(I) 1970-3
settlement check issued only to client, but delivered to attorney who has a lien
OR 99-002
stop payment of settlement check
LA(I) 1966-5
Checks issued with insufficient funds
Lipson v. State Bar (1991) 53 Cal.3d 1010
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
Porter v. State Bar (1990) 52 Cal.3d 518
Client cannot be located
Code of Civil Procedure section 1518
attorney holding funds for the benefit of client
CAL 1975-36, LA(I) 1976-2
Client's use and control of
suspension
Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
Commingling
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009a
Lebbos v. State Bar (1991) 53 Cal.3d 37
Bowles v. State Bar (1989) 48 Cal.3d 100 [256 Cal.Rptr. 381, 768 P.2d 1058]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
attorney's unauthorized use or withholding of client's funds
-alcoholic client requests funds be held by attorney and attorney claims a right to use such funds for own purposes
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 570-572 [119 Cal.Rptr. 335, 531 P.2d 1119]
-attorney claims funds are a loan from client but court determines funds are held in trust
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
-bar membership fees are paid by checks drawn upon client trust account
Hamilton v. State Bar (1979) 23 Cal.3d 868, 874-876 [153 Cal.Rptr. 602, 591 P.2d 1254]

-collection agency receives funds on behalf of client but funds are used for attorney's benefit
McGregor v. State Bar (1944) 24 Cal.2d 283, 284-288 [148 P.2d 865]
-failure to promptly disburse settlement funds from trust account
Blair v. State Bar (1980) 27 Cal.3d 407, 409-410 [165 Cal.Rptr. 834, 612 P.2d 924]
-money collected on a promissory note is not turned over to client
Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal. Rptr. 729, 535 P.2d 1185]
-right to retain funds pursuant to a fee agreement is disputed by client
Prime v. State Bar (1941) 18 Cal.2d 56, 59
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
-wife of attorney acts as bookkeeper and attorney tells her that personal use of trust funds is permissible
Burns v. State Bar (1955) 45 Cal.2d 296, 300
-willful commingling and conversion with no showing of mitigation can result in disbarment
Rogers v. State Bar (1980) 28 Cal.3d 654, 655-657 [170 Cal.Rptr. 482, 620 P.2d 1030]
dangers of offense realized even if violation is technically not committed
Clark v. State Bar (1952) 39 Cal.2d 161, 168
disbursement of funds held for client and adverse party
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
failure to keep attorney's and clients' funds separate
-advanced fee payment is distinguished from true retainer fee
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn.4 [154 Cal.Rptr. 752]
SF 1980-1
-advance payment retainer distinguished from true retainer
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
-allowing a friend to use the account for business
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
-an attorney who uses a single account for both personal and client funds is subject to discipline
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
Seavey v. State Bar (1953) 4 Cal.2d 73, 74-77 [47 P.2d 281]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
-attorney's funds placed in trust account
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal. Rptr. 266]
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
--commingling occurs when an attorney opens a purported trust account but in fact uses it as a personal account
Brody v. State Bar (1974) 11 Cal.3d 347, 349 [113 Cal.Rptr. 371, 495 P.2d 1290]
--employee's salary and other business expenses paid by checks drawn on the client trust account
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
--funds reasonable sufficient to pay bank charges
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
-client's funds placed in attorney's account
--advanced costs improperly deposited in attorney's account
Aronin v. State Bar (1990) 52 Cal.3d 276
--attorney admits to commingling client's funds in personal checking account
Rock v. State Bar (1961) 55 Cal.2d 724 [12 Cal.Rptr. 808]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
--attorney deposit settlement check in his personal account
Chasteen v. State Bar (1985) 40 Cal.3d 586, 590 [220 Cal.Rptr. 842, 709 P.2d 861]
--attorney misleads clients into allowing client funds to be deposited into attorney's personal account
Bernstein v. State Bar (1972) 6 Cal.3d 909, 918 [101 Cal.Rptr. 369, 495 P.2d 1289]
--bankruptcy papers not filed and advanced funds not deposited in a trust account
Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121Cal.Rptr.729]
--client's corporation funds controlled by attorney who places them in personal account
Hatch v. State Bar (1961) 55 Cal.2d 127, 128-138 [9 Cal.Rptr. 808, 357 P.2d 1064]
--client's funds eventually misappropriated
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
--estate's distribution check to beneficiaries is deposited in attorney's payroll account
Palomo v. State Bar (1984) 36 Cal.3d 785, 790 [205 Cal.Rptr. 834]
--expert witness fees inadvertently kept in general account pending an on-going fee dispute
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
--habitual practice of depositing client funds into personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 127-133 [338 P.2d 897]
--probate monies in an account under attorney's name
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]
--proceeds from sale of home placed with attorney's funds
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009A
--unilateral determination and deposit of attorney fees in personal account is a violation
Silver v. State Bar (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]
-client transacts business with his attorney and attorney keeps transaction funds on his person with his own money
Bennett v. State Bar (1945) 27 Cal.2d 31, 35-36 [162 P.2d 5]
-disbarment upheld due to multiple offenses including failure to place advances for fees and costs in client trust account
In re Smith (1967) 67 Cal.2d 460, 463-464 [62 Cal.Rptr. 615, 432 P.2d 231]
-earned fees received from clients deposited in trust account
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
-failure to maintain funds in trust account when attorney is unable to pay doctor bills because doctor refuses payment
Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-865 [100 Cal.Rptr. 713, 494 P.2d 1257]

inadequate management of trust account
-aberrational failure of elaborate bookkeeping system
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
-allowing a friend to use the account for business
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
-checks issued to clients from commingled accounts with insufficient funds
Alkow v. State Bar (1952) 38 Cal.2d 257, 259-261 [239 P.2d 871]
-duty to deliver escrow funds to client before taking fees for services
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
-failure to establish and supervise a proper trust account procedure
Gassman v. State Bar (1976) 18 Cal.3d 125, 129-130 [132 Cal.Rptr. 675]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
-failure to keep adequate records
Friedman v. State Bar (1990) 50 Cal.3d 235
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 694]
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
-failure to notify client of receipt of funds from insurance company
Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
-failure to notify workers' compensation board that an advance of attorney's fees was received from a claimant
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
-failure to oversee office manager's record keeping and control over clients' funds
Palomo v. State Bar (1984) 36 Cal.3d 785, 796 [205 Cal.Rptr. 834, 685 P.2d 1185]
-layperson signatory okay if attorney ultimately responsible for integrity of account
CAL 1988-97
-negligent banking practices
Kelly v. State Bar (1991) 53 Cal.3d 509
-secretary blamed by attorney when clients' funds are deposited in attorney's office account
Wells v. State Bar (1975) 15 Cal.3d 367 [124 Cal.Rptr. 218, 540 P.2d 58]
-secretary's misdeposit of client's funds into attorney's operating account did not amount to misappropriation
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
-trust account established but attorney fails to use it
Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]
-where attorney uses personal account for clients' funds, mere bookkeeping entries will not be a sufficient protection of clients
Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
-wife of attorney acts as bookkeeper and is told personal use of clients' funds is okay
Burns v. State Bar (1955) 45 Cal.2d 296, 300 [288 P.2d 514]
mitigation and restitution efforts by attorney
-actual financial detriment to a client is not an element and neither good faith nor restitution is a defense to commingling
Heavey v. State Bar (1976) 17 Cal.3d 553, 559 [131 Cal.Rptr. 406, 551 P.2d 1238]
-little weight is given to an attorney's restitution of client funds when it is done under pressure and as a matter of expediency
Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
-violation found even when all parties involved ultimately received every cent to which they were entitled
Ring v. State Bar (1933) 218 Cal. 747, 752 [24 P.2d 821]
moral turpitude
-abdication of responsibility for proper maintenance of client trust account
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
-moral turpitude not necessarily involved if client's money is always available and not endangered
Peck v. State Bar (1932) 217 Cal. 47, 51 [17 P.2d 112]
-willful commingling not moral turpitude
Spindell v. State Bar (1975) 13 Cal.3d 253, 256 fn.1 [118 Cal.Rptr. 480, 530 P.2d 168]
negligent commingling
-found when attorney fails to transmit support funds to client's former wife
Schultz v. State Bar (1975) 15 Cal.3d 799, 802 [126 Cal.Rptr. 232, 543 P.2d 600]
sanctions
-disbarment
Resner v. State Bar (1960) 53 Cal.2d 615 [2 Cal.Rptr. 461, 349 P.2d 67]
Sturr v. State Bar (1959) 52 Cal.2d 125, 134 [338 P.2d 897]
McGregor v. State Bar (1944) 24 Cal.2d 283, 289 [148 P.2d 865]
suspension
Rock v. State Bar (1961) 55 Cal.2d 724,727 [12 Cal.Rptr. 857, 361 P.2d 585]
Burns v. State Bar (1955) 45 Cal.2d 296, 303
Alkow v. State Bar (1952) 38 Cal.2d 257, 264
Bennett v. State Bar (1945) 27 Cal.2d 31 36-37
Griffith v. State Bar (1945) 26 Cal.2d 273, 278
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
trust account never established
-practice of designating accounts as "trust accounts" but not using them as such is a violation
Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
trust account not established or maintained
Mrakich v. State Bar (1973) 8 Cal.3d 896, 899-902 [106 Cal.Rptr. 497, 506 P.2d 633]
violation found when attorney's procedure for disbursing client's funds does not utilize a client trust account
Resner v. State Bar (1960) 53 Cal.2d 605, 607-612 [2 Cal.Rptr. 461, 349 P.2d 67]
Control may be given to non-members of the State Bar
LA 454 (1988)
Costs advanced
status as trust funds
Aronin v. State Bar (1990) 52 Cal.3d 276
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
Currency
holding client's funds in
Monroe v. State Bar (1962) 55 Cal.2d 145, 152 [10 Cal.Rptr. 257, 358 P.2d 529]
Damages to a client is not necessary for a finding of commingling or a failure to manage trust funds
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976
Alberton v. State Bar (1984) 37 Cal.3d 1, 13
Disclosure
harboring a fugitive
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
Internal Revenue Code section 6050(I)
-any person engaged in a trade or business must report to the IRS the receipt in any year of $10,000 or more in cash payments from any one person
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Duty
of succeeding attorney
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
to co-counsel
LA 454
to keep accurate records
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
to supervise lay signatory on client trust account
CAL 1988-97
Embezzlement
criminal proceeding against attorney
-inadmissible as evidence
People v. Stein (1979) 94 Cal.App.3d 235
Endorsement of client check
Palomo v. State Bar (1984) 36 Cal.3d 785
attorney's authority to sign client's name in retainer agreement
Howard v. State Bar (1990) 51 Cal.3d 215 [793 P.2d 62]
settlement check without authorization
Silver v. State Bar (1974) 13 Cal.3d 134, 144
Montalto v. State Bar (1974) 11 Cal.3d 231, 235
Himmel v. State Bar (1971) 4 Cal.3d 786, 798
Tardiff v. State Bar (1971) 3 Cal.3d 903, 904
successor attorney authorizes an employee to simulate the prior attorney's signature
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
Entitlement of client to receive prompt receipt of settlement funds based upon client signing release
In the Matter of Respondent F (Review Dept. 1992) 2 Cal.State Bar Ct. Rptr. 17
Escrow account
compliance with rule 4-100 not required where funds to be used to pay attorney's fees are placed in escrow account and are never received or held by the lawyer
CAL 2002-159
Failure to disburse client funds promptly [upon request]
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
Edwards v. State Bar (1990) 52 Cal.3d 28
Bates v. State Bar (1990) 51 Cal.3d 1056
Friedman v. State Bar (1990) 50 Cal.3d 235
Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834,612 P.2d 924]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
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In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
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LA 438 (1985)
Failure to establish
Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]
Failure to notify clients of receipt of funds
McKnight v. State Bar (1991) 53 Cal.3d 1025
Chasteen v. State Bar (1985) 40 Cal.3d 586, 592
Murray v. State Bar (1985) 40 Cal.3d 575, 580-584 [220 Cal.Rptr. 677]
Bambic v. State Bar (1985) 40 Cal.3d 314
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
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Failure to place client funds in
McKnight v. State Bar (1991) 53 Cal.3d 1025
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Chasteen v. State Bar (1985) 40 Cal.3d 586, 592 [220 Cal.Rptr. 842]
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-855 [100 Cal.Rptr. 713, 494 P.2d 1257]
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Failure to properly manage trust account
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
Failure to release client funds
Friedman v. State Bar (1990) 50 Cal.3d 235
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 752, 749 P.2d 1807]
Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
Failure to return unearned advance fees
Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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Slavkin v. State Bar (1989) 49 Cal.3d 894
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Pineda v. State Bar (1989) 49 Cal.3d 753
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]
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In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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Failure to return unused advanced costs
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
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Fiduciary obligation to non-clients as "clients" to maintain records, render appropriate accounts, and make prompt disbursements
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979 [239 Cal.Rptr. 675]
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
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In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 693

Fixed rate for legal fees
SF 1980-1

Flat rate for legal fees
SF 1980-1

Garnishment
counsel discloses his possession of client's money in a garnishment proceeding
LA(I) 1954-4

Interest bearing accounts
compliance provisions for
-establishment of interest bearing trust account pursuant to Business and Professions Code section 6211 (a)
Business and Professions Code section 6212
duty of lawyer to place client funds in
Business and Professions Code section 6211
IOLTA interest income is private property of owner of principle for purposes of Takings Clause
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
nominal funds in
Business and Professions Code section 6211(a)
Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
on deposit for a short period of time
Business and Professions Code section 6211(a)
Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
CAL 1988-97
trustee savings versus trustee checking
SF 1970-3
use of, and ownership of interest accrued
Business and Professions Code section 6211(a)-(b)
Greenbaum v. State Bar (1976) 15 Cal.3d 893 [126 Cal.Rptr. 675, 544 P.2d 721]
LA 388 (1981), SF 1970-3, LA(I) 1961-7

Levy on
Financial Code section 17410

Lay employee on
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Maintain at an adequate level
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Maintained outside of California
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In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
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Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753
Weller v. State Bar (1989) 49 Cal.3d 670
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
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advances for expenses in connection with a foreclosure proceeding re withdrawn by attorney but not used to pay expenses
Monroe v. State Bar (1969) 70 Cal.2d 301, 308-309 [74 Cal.Rptr. 733, 450 P.2d 53]
assets collected for client are converted for attorney's personal benefit
Hatch v. State Bar (1961) 55 Cal.2d 127, 128 [9 Cal.Rptr. 808, 357 P.2d 1064]
attorney as broker or financial advisor is held to professional standards and is subject to discipline for violations arising from such a relationship
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
attorney as guardian commingles estate funds and makes improper investments
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
Tatlow v. State Bar (1936) 5 Cal.2d 520, 521-524 [55 P.2d 214]
attorney claims money is loan from client but court says money in trust cannot be used for personal benefit
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
attorney converts client money kept in a personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 129 [338 P.2d 897]
attorney's wife uses client funds for personal use
Burns v. State Bar (1955) 45 Cal.2d 296,302 [288 P.2d 514]
attorney's petition for reinstatement, after disbarment for misappropriation, is denied
Tardiff v. State Bar (1980) 27 Cal.3d 395, 404-405 [165 Cal.Rptr. 829, 612 P.2d 919]
attorney's repeated conversion of client money without client consent or knowledge
In re Urias (1966) 65 Cal.2d 258, 260-262
bad faith and/or evil intent need not be shown
Murray v. State Bar (1985) 40 Cal.3d 575, 581-582 [220 Cal.Rptr. 677, 709 P.2d 480]
bad faith found when attorney fails to make restitution
Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr 324, 770 P.2d 736]
Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]
bail bond money entrusted to attorney by third party, non-client, is converted
Lefner v. State Bar (1966) 64 Cal.2d 189, 194-195 [49 Cal.Rptr. 296, 410 P.2d 832]
breach of fiduciary duty
Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
checks issued with insufficient funds
Chasteen v. State Bar (1985) 40 Cal.3d 586, 588-589 [220 Cal.Rptr. 842]
In the Matter of Heiser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47
client's name forged on draft and proceeds are converted
Demain v. State Bar (1970) 3 Cal.3d 381 [90 Cal.Rptr. 420, 475 P.2d 652]
combined with other misconduct
-deceit and overreaching of a client who had limited English-speaking ability
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
-false statements to bar aggravates misappropriation violations
Doyle v. State Bar (1982) 32 Cal.3d 12, 23 [184 Cal.Rptr. 720, 648 P.2d 942]
-forgery on settlement check and failure to return advances
Porter v. State Bar (1990) 52 Cal.3d 518
Montalto v. State Bar (1974) 11 Cal.3d 231, 232-235 [113 Cal.Rptr. 97, 520 P.2d 721]
-grand theft as crime of moral turpitude with misappropriation by deceit on client
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
Ambrose v. State Bar (1982) 31 Cal.3d 184, 191 [181 Cal.Rptr. 903, 643 P.2d 486]
In re Abbot (1977) 19 Cal.3d 249, 251-252 [137 Cal.Rptr. 195, 561 P.2d 285]
-misappropriation of partnership funds
Kaplan v. State Bar (1991) 52 Cal.3d 1067
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
-misappropriation together with fraud, commingling, and grand theft
In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr 392, 768 P.2d 1069]
In re Wright (1973) 10 Cal.3d 374, 382 [110 Cal.Rptr. 348, 515 P.2d 292]
-moral turpitude merits disbarment
Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
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-refusal to make restitution
Grim v. State Bar (1991) 53 Cal.3d 21
-repeated and persistent misconduct in multiple cases
Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]
-violation in numerous separate instances accompanied with other dishonest acts
Bambic v. State Bar (1985) 40 Cal.3d 314, 323-326 [219 Cal.Rptr. 489, 707 P.2d 862]
-violation of rule 7-103
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
continuing course of serious misconduct
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]
court orders attorney to reimburse client for legal expenses incurred in client's action to recover misappropriated funds
Cutler v. State Bar (1967) 66 Cal.2d 861, 862 [59 Cal.Rptr. 425, 428 P.2d 289]
disbarment warranted in absence of extenuating circumstances
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
discipline imposed even if no financial loss to client
Bernstein v. State Bar (1972) 6 Cal.3d 909, 919 [101 Cal.Rptr. 369, 495 P.2d 1289]
doctor refuses payment of medical bills and attorney puts funds to personal use
Vaughn v. State Bar (1972) 6 Cal.3d 847, 851
entire proceeds of client settlement is converted
Hyland v. State Bar (1963) 59 Cal.2d 765, 769
escrow funds unjustifiably withheld by attorney
Crooks v. State Bar (1970) 3 Cal.3d 346, 357-358 [90 Cal.Rptr. 600, 475 P.2d 872]
evil intent need not be shown for finding of moral turpitude
Lipson v. State Bar (1991) 53 Cal.3d 1010
failure to pay funds as designated by bankruptcy court
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
failure to properly dispose of fees in dispute by client
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal. Rptr. 675]
Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302, 688 P.2d 911]
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In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
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-attorney did not take appropriate steps to resolve competing claims
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
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failure to refund unearned funds advanced by client
Dixon v. State Bar (1985) 39 Cal.3d 335, 340-341 [216 Cal.Rptr. 432, 702 P.2d 590]
failure to use funds for designated purpose
Baca v. State Bar (1990) 52 Cal.3d 294
Copren v. State Bar (1944) 25 Cal.2d 129
fee agreement modification from hourly to contingent is raised as a defense but not supported by documentary evidence
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
five separate counts of misappropriation is serious misconduct warranting disbarment
Finch v. State Bar (1981) 28 Cal.3d 659, 655
for personal use
Bernstein v. State Bar (1972) 6 Cal.3d 909, 917
funds designated for bail are converted to attorney's personal use
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 81, [141 Cal.Rptr. 169, 569 P.2d 763]
grand theft
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
Ambrose v. State Bar (1982) 31 Cal.App.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]
-estates
In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]
gravity of present violation shows unacceptable potential for future breach of trust
Rimel v. State Bar (1983) 34 Cal.3d 128, 132 [192 Cal.Rptr. 866, 665 P.2d 956]
gross negligence in the handling of client trust funds may involve moral turpitude
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
habitual misuse of client's funds
Tardiff v. State Bar (1971) 3 Cal.3d 903, 904-908 [92 Cal.Rptr. 30, 479 P.2d 661]
improbable explanations and a failure to account for client funds is sufficient to find a violation
Codiga v. State Bar (1978) 20 Cal.3d 788,794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
improper practice of depositing attorney funds in trust account and using the account for personal use
Jackson v. State Bar (1979) 25 Cal.3d 398, 404 [158 Cal.Rptr. 869, 600 P.2d 1326]
in level of account
Jackson v. State Bar (1979) 23 Cal.3d 509, 512 [153 Cal.Rptr. 24, 591 P.2d 47]
inadequate supervision by attorney
-attorney blames violation on a secretarial error
Sugarman v. State Bar (1990) 51 Cal.3d 609
Wells v. State Bar (1975) 15 Cal.3d 367, 369-370 [124 Cal.Rptr. 218, 540 P.2d 58]
-duty of attorney to supervise employee's control of trust account
Gassman v. State Bar (1976) 18 Cal.3d 125, 129 [132 Cal.Rptr. 785, 544 P.2d 58]
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
-negligent, unintentional violation due to poor supervision of office and financial affairs
Waysman v. State Bar (1986) 41 Cal.3d 452, 458 [224 Cal.Rptr. 101, 714 P.2d 1239]
inference of intentional violation from attorney's willful failure to use a trust account
Walter v. State Bar (1970) 2 Cal.3d 880, 885-890 [87 Cal.Rptr. 833, 471 P.2d 481]
installments on client settlement converted
Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
liability for acts of partner in law practice
Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194, 463 P.2d 418]
misappropriation is a grievous breach of trust and endangers public confidence
Rogers v. State Bar (1980) 28 Cal.3d 654, 658 [170 Cal.Rptr. 482, 620 P.2d 1030]
mitigation and restitution efforts by attorney
-absence of harm to attorney's client or others
Kelly v. State Bar (1991) 53 Cal.3d 509
-attorney's restitution began long before disciplinary proceeding was mitigating
Benson v. State Bar (1971) 5 Cal.3d 382,387-388 [96 Cal.Rptr. 30, 486 P.2d 1230]
-cooperation and candor with State Bar undermined by failure to make restitution
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
-extenuating circumstances insufficient to lessen discipline
Smith v. State Bar (1984) 37 Cal.3d 17, 22-26 [206 Cal.Rptr. 545, 687 P.2d 259]
Grossman v. State Bar (1983) 34 Cal.3d 73, 79 [192 Cal.Rptr. 397, 664 P.2d 542]
-lack of intentional or premeditated conduct
Schultz v. State Bar (1975) 15 Cal.3d 799, 803-804 [126 Cal.Rptr. 232, 243 P.2d 600]
-lenient discipline imposed
Anderson v. State Bar (1941) 17 Cal.2d 375, 378 [110 P.2d 1]
-manic-depressive condition at time of improprieties
McKnight v. State Bar (1991) 53 Cal.3d 1025
-mitigation not found from mere fact that attorney did not lie
Edmondson v. State Bar (1981) 29 Cal.3d 339, 344 [172 Cal.Rptr. 899, 625 P.2d 812]
-no financial loss to client is asserted by attorney
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]
-restitution in full is of no effect when made under pressure of litigation and discipline
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
-restitution works no special magic and the weight given is determined by actual attitude and financial ability of the attorney
In re Andreani (1939) 14 Cal.2d 736, 750 [97 P.2d 456]
-youth and inexperience not factors in favor of mitigation
Amante v. State Bar (1990) 50 Cal.3d 247
multiple unauthorized withdrawals
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
necessity and urgent financial difficulties is not a defense to a violation
Cane v. State Bar (1939) 14 Cal.2d 597, 601 [95 P.2d 934]
no violation found
-when attorney merely fails to supervise records regarding disbursement of settlement funds
Steiner v. State Bar (1968) 68 Cal.2d 707, 714 [68 Cal.Rptr. 729, 441 P.2d 289]

-when client instructs attorney to give money to a third person and attorney, having power of attorney from third person, deposits the money in his own account
Russill v. State Bar (1941) 18 Cal.2d 321, 328
-when notice to show cause does not use term "misappropriation"
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
office procedures
Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]
part of recovery allocated for hospital bills is put to attorney's personal use
Fielding v. State Bar (1973) 9 Cal.3d 446, 450 [107 Cal.Rptr. 561, 509 P.2d 193]
past conduct may be used in determining discipline
Hennessy v. State Bar (1941) 18 Cal.2d 685, 687 [117 P.2d 336]
pattern of deliberate and willful misconduct
Inniss v. State Bar (1978) 20 Cal.3d 552, 556 [143 Cal.Rptr. 408, 573 P.2d 852]
persistent refusal to account for
Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]
records and accounting problems
-balance in trust account drops below amount entrusted to attorney
Lowe v. State Bar (1953) 40 Cal.2d 564, 566
-inadequate account records evidencing a violation
Dreyfus v. State Bar (1960) 54 Cal.2d 799, 804-806 [8 Cal.Rptr. 356]
-mere fact that the balance in a trust account is below amount of deposits will support a violation
Lipson v. State Bar (1991) 53 Cal.3d 1010
Edwards v. State Bar (1990) 52 Cal.3d 28
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 474 [169 Cal.Rptr. 581, 619 P.2d 1005]
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
-office procedures inadequate
Lipson v. State Bar (1991) 53 Cal.3d 1010
-trust account showing funds less than amount due to clients will support a violation
Black v. State Bar (1972) 7 Cal.3d 676, 691 [103 Cal.Rptr. 288, 499 P.2d 968]
-violation by establishing trust account but using as general business account
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]
repossession proceeds converted by attorney
Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
sanctions
-disbarment
Kaplan v. State Bar (1991) 52 Cal.3d 1067
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Bercovich v. State Bar (1990) 50 Cal.3d 116
Walker v. State Bar (1989) 49 Cal.3d 1107
Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]
Weber v. State Bar (1988) 47 Cal.3d 492
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]
Ambrose v. State Bar (1982) 31 Cal.3d 184, 192-196 [181 Cal.Rptr. 903, 643 P.2d 486]
Rogers v. State Bar (1980) 28 Cal.3d 654, 657-658 [170 Cal.Rptr. 482, 620 P.2d 1030]
Tardiff v. State Bar (1980) 27 Cal.3d 395, 403-405 [165 Cal.Rptr. 829, 612 P.2d 919]
Cain v. State Bar (1979) 25 Cal.3d 956,961-962 [160 Cal.Rptr. 362, 603 P.2d 464]
Jackson v. State Bar (1979) 25 Cal.3d 398, 404-405 [158 Cal.Rptr. 869, 600 P.2d 1326]
Weir v. State Bar (1979) 23 Cal.3d 564, 574-577 [152 Cal.Rptr. 921, 591 P.2d 19]
Worth v. State Bar (1978) 22 Cal.3d 707, 710-711 [150 Cal.Rptr. 273, 586 P.2d 588]
Allen v. State Bar (1977) 20 Cal.3d 172, 179 [141 Cal.Rptr. 808, 570 P.2d 1226]
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 86-89 [141 Cal.Rptr. 169, 569 P.2d 763]
In re Abbott (1977) 19 Cal.3d 249, 253-254 [137 Cal.Rptr. 195, 561 P.2d 285]
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 575-580 [119 Cal.Rptr. 335, 531 P.2d 1119]
In re Wright (1973) 10 Cal.3d 374, 381-382 [110 Cal.Rptr. 348, 515 P.2d 292]
Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
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Cutler v. State Bar (1969) 71 Cal.2d 241, 253-254 [78 Cal.Rptr. 172, 455 P.2d 108]
Monroe v. State Bar (1969) 70 Cal.2d 301, 309-310 [74 Cal.Rptr. 733, 450 P.2d 53]
Lefner v. State Bar (1966) 64 Cal.2d 189, 193-199 [49 Cal.Rptr. 296, 410 P.2d 832]
Hyland v. State Bar (1963) 59 Cal.2d 765, 774-775 [31 Cal.Rptr. 329, 382 P.2d 369]
Dreyfus v. State Bar (1960) 54 Cal.2d 799 [8 Cal.Rptr. 356 P.2d 213]
Resner v. State Bar (1960) 53 Cal.2d 605 [2 Cal.Rptr. 461, 349 P.2d 67]
Sturr v. State Bar (1959) 52 Cal.2d 125 [338 P.2d 897]
Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
In re Andreani (1939) 14 Cal.2d 736 [97 P.2d 456]
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In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
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-public reproval
Vaughn v. State Bar (1972) 6 Cal.3d 847, 858-859 [100 Cal. Rptr. 713, 494 P.2d 1257]
Crooks v. State Bar (1970) 3 Cal.3d 346, 358 [90 Cal.Rptr. 600, 475 P.2d 872]
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-suspension
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Snyder v. State Bar (1990) 49 Cal.3d 1302
Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549]
Edmondson v. State Bar (1981) 29 Cal.3d 339, 343-344 [172 Cal.Rptr. 899, 625 P.2d 812]
Finch v. State Bar (1981) 28 Cal.3d 659, 665-667 [170 Cal.Rptr. 629, 621 P.2d 253]
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472-475 [169 Cal.Rptr. 581, 619 P.2d 1005]
Blair v. State Bar (1980) 27 Cal.3d 407, 411-413 [165 Cal.Rptr. 834, 612 P.2d 924]
Codiga v. State Bar (1978) 20 Cal.3d 788, 796-797 [144 Cal.Rptr. 404, 575 P.2d 1186]
Inniss v. State Bar (1978) 20 Cal.3d 552, 556-559 [143 Cal.Rptr. 408, 573 P.2d 852]
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Gassman v. State Bar (1976) 18 Cal.3d 125, 130-133 [132 Cal.Rptr. 675, 553 P.2d 1147]
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 904-906 [126 Cal.Rptr. 785, 544 P.2d 921]
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Wells v. State Bar (1975) 15 Cal.3d 367, 371 [124 Cal.Rptr. 218, 540 P.2d 58]
Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
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Bradpiece v. State Bar (1974) 10 Cal.3d 742, 747-749 [111 Cal.Rptr. 905, 518 P.2d 337]
Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
Fielding v. State Bar (1973) 9 Cal.3d 446, 451-453 [107 Cal.Rptr. 561, 509 P.2d 193]
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Black v. State Bar (1972) 7 Cal.3d 676, 694 [103 Cal.Rptr. 288, 499 P.2d 968]
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Benson v. State Bar (1971) 5 Cal.3d 382, 388 [96 Cal.Rptr. 30, 486 P.2d 1230]
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Simmons v. State Bar (1969) 70 Cal.2d 361, 366-368 [74 Cal.Rptr. 915, 450 P.2d 291]
Cutler v. State Bar (1967) 66 Cal.2d 861, 862-863 [59 Cal.Rptr. 425, 428 P.2d 289]
Simmons v. State Bar (1966) 65 Cal.2d 281, 287 [54 Cal.Rptr. 97, 419 P.2d 161]
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
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Burns v. State Bar (1955) 45 Cal.2d 296 [288 P.2d 514]
Lowe v. State Bar (1953) 40 Cal.2d 564, 570-571 [254 P.2d 506]
Copren v. State Bar (1944) 25 Cal.2d 129 [152 P.2d 729]
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-suspension/probation
Most v. State Bar (1967) 67 Cal.2d 589, [63 Cal.Rptr. 265, 432 P.2d 953]
In re Urias (1966) 65 Cal.2d 258 [53 Cal.Rptr. 881, 418 P.2d 849]

settlement check cashed by attorney, clients do not receive their share
Simmons v. State Bar (1966) 65 Cal.2d 281, 286 [54 Cal.Rptr. 97, 410 P.2d 617]

settlement of case and conversion of proceeds without client knowledge or consent
Weir v. State Bar (1979) 23 Cal.3d 564, 573 [152 Cal.Rptr. 921, 591 P.2d 19]

settlement proceeds never transmitted to client
Worth v. State Bar (1978) 22 Cal.3d 707, 708-709 [150 Cal.Rptr. 273, 586 P.2d 588]

settlement received for client is deposited in attorney's business account
Resner v. State Bar (1960) 53 Cal.2d 605, 608 [2 Cal.Rptr. 461, 349 P.2d 67]

third parties involved
-attorney for defendant delays in transmitting funds to plaintiff
Kelly v. State Bar (1991) 53 Cal.3d 509
-bank not paid as requested by client
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
-by attorney's failure to pay client's medical lien
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
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-failure to use advanced funds to purchase hearing transcript
In the Matter of Nunez (Review Dept.1992) 2 Cal. State Bar Ct. Rptr. 196
-conversion of funds belonging to others may be act of moral turpitude
Baca v. State Bar (1990) 52 Cal.3d 294
-deliberate misuse of a client's funds to impress a prospective client warrants disbarment
Pearlin v. State Bar (1941) 18 Cal.2d 682, 683 [117 P.2d 341]
-duty not to convert funds designated to pay prior attorney
Baca v. State Bar (1990) 52 Cal.3d 294
-duty to not convert funds entrusted by non-client third parties
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
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-estate funds are loaned out to other clients
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-funds retained to pay medical liens
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-third parties' lien interest on a client's settlement is converted by attorney
Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
-unauthorized settlement of case and conversion of proceeds
Bodisco v. State Bar (1962) 58 Cal.2d 495, 496-497 [24 Cal.Rptr. 835, 374 P.2d 803]

to repay debt owed attorney by client
SD 1976-5

unilateral determination of attorneys' fees
-agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-an attorney may not unilaterally determine fees without client knowledge or consent
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LA 496 (1998)
-client's funds deposited in attorney's personal account and used for personal benefit claimed as fees
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
-disputed fee may not be withdrawn without client consent or judicial determination
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
LA 438
-prohibited even if attorney is entitled to reimbursement for service already rendered
McKnight v. State Bar (1991) 53 Cal.3d 1025
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In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
-retaining funds without authority involves moral turpitude
Petersen v. State Bar (1943) 21 Cal.2d 866, 867-870 [136 P.2d 561]
-supports a finding of intentional conversion
Himmel v. State Bar (1973) 9 Cal.3d 16, 19 [106 Cal.Rptr. 638, 506 P.2d 1014]
-"willful" requirement
Brockway v. State Bar (1991) 53 Cal.3d 51
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
-withdrawing funds held in trust to offset a personal loan debt owed by the client to the attorney
SD 1976-6
-withdrawing part of funds designated to pay creditor after creditor refuses payment
In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 652
unilateral withholding of interest on a loan from client as security for fees improper
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willful failure to disburse client funds
Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
Mishandling of client funds
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Non-refundable retainer
defined
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liability of
-for misappropriation
Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560 [83 Cal.Rptr. 194, 463 P.2d 418]
Physician's liens
CAL 1988-101, LA 478 (1994), LA 368 (1977), LA 357 (1976)
Restoration of funds wrongfully withdrawn from a trust account is not "commingling" of attorney and client funds
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Retainer
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Rule 8-101
[See 96 A.L.R.3d 830; 96 A.L.R.3d 739;95 A.L.R.3d 738; 94 A.L.R.3d 854; 93 A.L.R.3d 1089; 91 A.L.R.3d 977; 80 A.L.R.3d 1260; 35 A.L.R.3d 674; 17 A.L.R.3d 835; 6 A.L.R.3d 1446; 1 A.L.R.2d 1116; 63 Ops. Cal. Atty. Gen. 12 (1/10/80; No. 79-902)]
Supervise client trust account
LA 488 (1996)
allow client to use and control trust account to commit fraud
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Third party, receipt by attorney of funds on behalf of
Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
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attorney not liable to insurance company for failing to turn over portions of third-party recoveries made on behalf of clients
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Unclaimed client funds
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client cannot be located
CAL 1989-111, CAL 1975-36
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Withdrawal of client funds to pay disputed fee
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Withholding funds of client
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sanctions
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McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1]
Withholding of client trust funds to satisfy attorney fees incurred in prior unrelated matters
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CODE OF JUDICIAL CONDUCT, CALIFORNIA [The full text of the California Code of Judicial Conduct is reprinted in part IV B of this Compendium.]

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-offering to represent on percentage basis
LA 122 (1939)
Agency
attorney operation of when acts as counsel
LA 124 (1939)
-as dummy corporation
LA 124 (1939)
-under fictitious name
LA 124 (1939)
-under nominal head
LA 124 (1939)
mailing of attorney form letter may be an Unfair Collection Practice
Masuda v. Thomas Richards & Co. (1991) 759 F.Supp. 1456
operated by attorney's spouse
LA 120 (1938)
As business
LA(I) 1971-12, LA(I) 1967-7, LA(I) 1966-11, LA(I) 1965-6, LA(I) 1965-3, LA(I) 1952-1
Assignment of clients' claims or accounts to lawyer for
LA 7 (1918)
Billing service, use of
LA 413 (1983), LA 374 (1978)
Collection agency, use of
LA 373 (1978)
Collection letters
computer print collection letters, use of
LA 338 (1973)
Conduct of debt collector
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Business & Professions Code section 6077.5
Confidences divulged in collection action
LA 452 (1988)
Default
against client without consulting
LA 174 (1950)
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SD 1969-3
Division of fees
LA 35 (1927)
Dual profession
operating law practice and licensed collection agency in same office
-cards, professional
LA 70 (1933)
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In re Levander (9th Cir. 1999) 180 F.3d 1114
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contingent upon
-percentage of amount charged creditor
LA 4 (1917)
Investigator
employed by attorney
-on contingent basis
--to collect judgments of creditors
LA 89 (1936)
Lending name of attorney to non-lawyer
in collection of claims
CAL 1982-68
LA 61 (1930)
lay personnel, use of
LA 338 (1973)
Letter
computerized
LA 338 (1973)
counsel for corporation writes letters for
LA(I) 1968-3
form letter
-signed by lawyer
LA 338 (1973)
Letterhead
attorney letterhead used
CAL 1982-68
used by client
LA(I) 1968-3
Misleading debtor by letters
LA 19 (1922)
Seek payment by
curtailing debtor's banking privileges
LA 373 (1978)
Solicitation
by letter
-advising potential clients of claims of which unaware
--offering to represent upon
LA 122 (1939)
COMMINGLING [See Clients' trust account.]
COMMISSION
Counsel for buyer or seller receives part of broker's
SD 1992-1, LA(I) 1972-23
Estate
executor shares with lay person
-from the sale of property
LA 317 (1970)
Real estate transaction
SD 1992-1, CAL 1982-69, LA 317 (1970)
COMMUNICATE WRITTEN SETTLEMENT OFFER TO CLIENT
Business and Professions Code section 6103.5
Rule of Professional Conduct 5-105 (operative until May 26, 1989)
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COMMUNICATION
Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)
Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)
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Sturr v. State Bar (1959) 52 Cal.2d 125, 132-133 [338 P.2d 897)
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Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
Lyydikainen v. Ind. Acc. Com. (1939) 36 Cal.App.2d 298, 301 [97 P.2d 993]
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CAL 1965-3, LA 411 (1983)
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SD 1978-6
Advise on law
LA 350 (1975)
Advised
of possible malpractice by counsel of
LA 326 (1972)
After final decision on appeal
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SD 1976-14
Agent of attorney, physician
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Amicable solution suggested to
LA 334 (1973)
Attorney-client privilege [See Confidences of the client, privilege]

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McMunn v. Lehrke (1915) 29 Cal.App. 298, 308
Authorized by law
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
authority of government prosecutors and investigators to conduct criminal investigations
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
lawyer who receives attorney-client material that was inadvertently provided by another must notify the party entitled to the privilege of that fact
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
notice of rejection served directly on claimant's attorney is a permissible contract to Probate Code section 9250
Merrill v. Finberg (1992) 4 Cal.App.4th 1443 [6 Cal.Rptr.2d 434]
Bankruptcy trustee
CAL 1989-110
By client
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
LA 375 (1978), LA(I) 1966-16
SD 1983-2, SF 1973-25
need not attempt to prevent client's effort to reach direct settlement with adverse party
CAL 1993-131, LA 375 (1978)
By employee of attorney
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
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Client negotiating directly with opposing party
CAL 1993-131, SF(I) 1985-1, LA 375 (1978)
Client of adverse party when party is counsel of said client
LA 213 (1954)
Communicate written settlement offer to client
Business and Professions Code section 6103.5
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Consent of employer required
LA 389 (1981)
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communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
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Contact adverse party through client
Abeles v. State Bar (1973) 9 Cal.3d 603, 609 [108 Cal.Rptr. 359, 510 P.2d 719]
CAL 1993-131
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Contact former expert witness of adverse party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
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LA(I) 1958-3
Copy of letter to counsel of adverse party sent to opposing party
LA 490 (1997), LA 350 (1975), LA(I) 1958-3
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LA 397 (1982)
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Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131
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-by government informant
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Civil Code section 1788.13(b)
in name of attorney
Civil Code section 1788.13(c)
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Civil Code section 1788.13(c)
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Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
District attorney's authority as prosecutor to conduct criminal investigations
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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regulation which permitted government contact with employee of represented organization if that employee was not "controlling individual" was not authorized
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LA 350 (1975)
Insurer of
LA 508 (2002), LA 442 (1988), SD 1978-8
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LA 376 (1978)
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LA 315 (1970)
criminal investigator
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Lineup by district attorney without notifying attorney of record
People v. Sharp (1983) 150 Cal.App.3d 13, 18 [197 Cal.Rptr. 436]
Matter of adverse interest, defined
Turner v. State Bar (1950) 36 Cal.2d 155, 158 [222 P.2d 857]
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SD 1978-9
Minor client
duty to communicate in ways consistent with the minor's age, language skills, intelligence, experience, maturity, and mental condition
LA 504 (2000)
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Noble v. Sears, Roebuck & Co. (1973) 33 Cal.App.3d 654, 658-659 [109 Cal.Rptr. 269]
Not applicable to witnesses in a criminal proceeding
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-court chooses not to speak on ethical issues
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-permitted when a party is seeking to hire new counsel or obtain a second opinion
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
-permitted when not representing a party in the matter for the sole purpose of advising person of the competence of representation
LA 487 (1996)
-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
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In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
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In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
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In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
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Accepting legal employment without sufficient time, resources or ability to perform the services with competence
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-enrollment as inactive member
Business and Professions Code section 6007 (b)
-jurisdiction of the courts
Business and Professions Code sections 6190-6190.6
-unfinished client business due to
Business and Professions Code section 6190
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Telephone: (415) 502-7290
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-knowledge of former client's property and property rights involved in action
LA 31 (1925)
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CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
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LA 132 (1940)
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LA 456, LA 389 (1981)
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-intention of deceased client affecting
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Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
Mitchell v. Superior Court (1984) 152 Cal.App.3d 1212 [200 Cal.Rptr. 57]
-attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
-communications related to issues raised in litigation
Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047, 1052-1053
-communications with expert witness for opposing party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
-not limited to litigation communications
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
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-city attorney's written opinion to council on pending matter subject to attorney-client privilege
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-mere fact that information may appear in public domain does not affect the privileged status of the information
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In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
Electro Scientific Industries, Inc. v. General Scanning, Inc. (1997) 175 F.R.D. 539
Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337
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Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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-agreement requires disclosure
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Mitchell v. Superior Court (1984) 152 Cal.App.3d 1212, 1226-1227
-court must hold hearing before ruling on waiver of attorney-client privilege
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
-forced waiver not an authorized sanction for failure to file a privilege log
Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]
-found when attorney did not specifically reference objections to individual items in discovery request for production of documents
Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]
-found when claiming ineffective assistance of counsel
McDowell v. Calderon (1999) 173 F.3d 1186
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-found when party claiming privilege uses non-disclosure as both a sword and a shield
United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
-inadvertent, accidental disclosure by attorney not waiver by client
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
-inadvertent disclosure absent client's waiver does not destroy privilege
KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
-insured employer of claimant may not waive attorney-client privilege that insurer is entitled to assert under Labor Code section 3762
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
-I.R.S., voluntary disclosure by client
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-trustee's reporting duties do not trump the attorney-client privilege and does not constitute a waiver
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
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-privilege does not extend to memorandum disclosing the existence of
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State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
-absolute privilege not applicable when attorney merely acts as a business agent receiving or conveying messages
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-attorney/client privilege distinguished from work product rule
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PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
-excluded from discovery
*Olson v. Superior Court (1984) 157 Cal.App.3d 780
-limited to work done for client and communications with the client for that purpose
Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 476

-need not be revealed to enable the court to rule on privilege
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793-794 [204 Cal.Rptr. 234]
-privilege does not extend to memorandum disclosing the existence of
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LA 378 (1978)
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In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
-no violation found if no financial gain and not a party to the transaction
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-not found where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
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-where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
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People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
Adjuster, former acts against former employer
LA 216 (1953)
act for both parties
Civil Code section 225(m)
counsel for adopting parents advises natural parents
Civil Code section 225m
represent one party in, after advising the other
LA(I) 1958-6
written consent
Civil Code section 225(m)
Adoption
Civil Code section 225(m)
LA 407 (1982)

representation of natural parent and proposed adopting parents
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Adverse interest
LA 418 (1983)
attorney acting as receiver for corporation and acting as attorney against same corporation
LA 74 (1934)
attorney both partner in partnership arrangement and counsel to partnership and another party
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]
attorney for defendant accusing client of being in collusion with plaintiff
Pennix v. Winton (1943) 61 Cal.App.2d 761, 769-777 [143 P.2d 940]
attorney for estate attempts to purchase property of beneficiary for substantially less than the true value
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
attorney involvement in fee dispute with client and prior attorney over fees not arising out of current representation
Jackson v. State Bar (1975) 15 Cal.3d 372 [124 Cal.Rptr. 185, 540 P.2d 25]
attorney retained by a party to recover monies owed subsequently becomes involved with opposing party to detriment of original client
Lee v. State Bar (1970) 2 Cal.3d 927 [88 Cal.Rptr. 361, 472 P.2d 449]
authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
confession of judgment deemed detrimental to client
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152, 503 P.2d 608]
county counsel with private practice may not represent district organized under Municipal Water District Act of 1911
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
defined
LA 496 (1998), SF 1997-1
disclosure and consent per rule 3-300 not a cure when matter is governed by probate code
SD 1989-2
executor hiring attorney
Estate of Effron (1981) 117 Cal.App.3d 915, 928 [173 Cal.Rptr. 93]
financial interest in the subject matter of the representation
-accepting compensation from broker for referring client
SD 1989-2
-accepting compensation from doctor for client referral
LA 443 (1987)
-accepting compensation from insurance agent for client referral
CAL 1995-140
-accepting compensation form investment manager for client referral
CAL 1999-154
-in corporation about which client desires legal advice
LA 57 (1928)
former client
LA 2 (1917)
-in litigation
Gendron v. State Bar (1983) 35 Cal.3d 409
LA 30 (1925)
SD 1976-10
former corporate counsel now counsel for stockholders in derivative suit
Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]
injury to former client due to representation of current client
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Big Bear Municipal Water District v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]
insurance company and insured [See Insurance.]
Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
-and other party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
in litigation
-against former client
--concerning subject about which lawyer given legal advice
LA 27 (1925)
-with client regarding management of suit
SD 1978-1
litigation continued after contrary instructions from client
Johnson v. State Bar (1935) 4 Cal.2d 744, 759 [52 P.2d 928]
loaning money received on behalf of estate to other clients without approval of administratrix
Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]
pecuniary interests adverse to client
-subject to CRPC 3-300 if attorney can extinguish the client's property interest without judicial scrutiny
SF 1997-1
pending litigation
-attorney may post and guarantee fidelity bond for out-of-country client
SF 1973-16
promissory note as security for fees
CAL 1981-62, SF 1997-1, LA 492 (1998)
property purchased by wife of attorney subject matter of original client consultation
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 914-915 [86 Cal.Rptr. 387]
publication of article regarding client's case
-no conflict found
LA 451 (1988)
purchase of property by attorney at a foreclosure sale
LA 455
represent city in prosecution of actions and represent city employee against city
-in unrelated matters
LA 77 (1934)
represent client before arbitrator while simultaneously representing arbitrator on unrelated matter
LA 415 (1983)
represent defendant client and attorney who represents plaintiff
-in unrelated matters
SD 1975-19
sale of real property by attorney to a client necessitates full disclosure of ownership interests
Gallagher v. State Bar (1981) 28 Cal.3d 832, 835-838 [171 Cal.Rptr. 325, 622 P.2d 421]
structured settlement, use of
CAL 1987-94
when trustee is also creditor
Vivitar Corporation v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
Adverse party
communication with unrepresented party
CAL 1996-145, LA 334 (1973)
compelled to communicate directly with party
Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
disclosure of relationship between attorney and family members as adverse parties to client
Codiga v. State Bar (1978) 20 Cal.3d 788, 792 [144 Cal.Rptr. 404, 575 P.2d 1186]
failure to disclose relationship with
Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]

fraudulent conduct of reported
SF 1975-2
instruct client with respect to communications with opposing party
CAL 1993-131, SD 1983-2
insurance cases, company and insured [See Insurance.]
plaintiffs' class counsel offered employment by defendant
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
previously consulted attorney on another matter
CAL 1984-84
LA 406 (1982)
relationship with opposing counsel not considered a relationship with adverse party
SD 1989-4, SD 1976-12, CAL 1984-83
represent city in prosecution of actions and represent city employee against city
-in unrelated matters
LA 77 (1934)
representation in related matter against former client
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
representation of
-after obtaining information from
LA 193 (1952)
-one against the other after investigation
LA 223 (1954)
-related matter
LA 223 (1954), LA 141 (1943)
-unrelated action
--against client
LA 6 (1918)
representation of, in unrelated matter against existing client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
represented
-by former partner
CAL 1981-57
social relationship; attorney and opposing party
-club membership of attorney as impacts representation of client against club
Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 261-262 [142 Cal.Rptr. 759]
DeLong v. Miller (1955) 133 Cal.App.2d 175 [283 P.2d 762]
Adverse position
attorney for criminal defendant adopted position in direct opposition to that of his client
People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
All affected clients consent
applies to current not former clients
LA 463 (1990)
Appeal
disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
from pre-trial order denying motion to disqualify counsel for conflict of interest
-standard requires showing on appeal that order affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
order denying motion to disqualify not an immediately appealable final order
Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
Appearance of conflict
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141, 148 [193 Cal.Rptr. 148, 666 P.2d 5]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
Appearance of impropriety
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
In re Georgetown Park Apartments (9th Cir. BAP 1992) 143 B.R. 557
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1467
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]
People v. Lopez (1984) 155 Cal.App.3d 813, 823-824 [202 Cal.Rptr. 333]
*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
CAL 1981-63
LA 363 (1979)
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
standard has never been used by a California court as the sole basis for disqualification
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
Arising from relationship with non-client
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Arising out of formation of partnership with out-of-state law firm
LA 392 (1981)
Assignee
represent
-against former client's assignee in matter in which acted for client
LA(I) 1961-2
Associate
city attorney's
-practice by
LA(I) 1975-4
city council member's, practice by
CAL 1977-46
LA(I) 1975-4
moving to opposing side – now representing opposing party
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
LA 363 (1976)
practice by employer when associate
-is prosecutor
LA 377 (1978)
Attorney acting as arbitrator
improper for an attorney appearing before him to represent him
LA 415 (1983)
Attorney general
withdrawing from representation of one party then suing the same clients on the identical controversy
People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]

Attorney-client relationship
Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
existence of
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]
In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
Kraus v. Davis (1970) 6 Cal.App.3d 484, 490-491 [85 Cal.Rptr. 846]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 101]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
CAL 1977-47
-arising out of a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
-fiduciary relationship exists in absence of fee agreement
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
-for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
-former client
--exists when transaction involves funds obtained by representation
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
--law firm acquires former client's collection business
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
-minor and guardian
Evidence Code section 951
CAL 1988-96
-"on-going relationship" between attorney and client based on periodic visits to attorney's office seeking legal assistance
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
-preparing answer for in propria persona defendant creates relationship
LA 432 (1984)
-purchaser of client's assets
LA 433 (1984)
-telephone "hotline" providing legal advice to callers
LA 449 (1988)
for purposes of disqualification, attorney representing insured is also representing insurance company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
substantial attorney-client relationship must be shown
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
without separate relationship, there can be no conflict of interest between governmental entity and constituent entity
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

Avoiding adverse interests
Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
Avoiding representation of adverse interests
Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
Bankruptcy [See Conflict of interest, receiver.]
In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Banbkr.Ct.Dec. 1229]
attorney for bankrupt estate not inherently in conflict if represent estate creditors against others in a separate action
Vivitar Corp. v. Broidy (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
represent
-bankrupt/creditor
LA 50 (1927)
-receiver
--party in divorce and
LA 51 (1927)
-receiver/general creditor
LA 74 (1934)
Bond
indemnity company counsel acts against assured by way of subrogation
LA(I) 1966-1
Bonus program for public agency attorneys tied to savings by agency
SD 1997-2
Breach of fiduciary duty
attorney acting as counsel for both sides in leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]
business dealings between attorney and client subject to scrutiny
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 915
disbursements from community property assets in dissolution matter without consent of parties
Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
disclose to court representation of related trust
Potter v. Moran (1966) 239 Cal.App.3d 873 [49 Cal.Rptr. 229]
duty component defined
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
misrepresentation and undue influence induce client to sell real property to attorney
Hicks v. Clayton (1977) 67 Cal.App.3d 251
to former client
-law firm acquires former client's collection business
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884
Business activity
recommend own to client
LA(I) 1971-16
represent
-customers of own
LA 205 (1953), LA(I) 1976-7

Business or financial transactions with clients
In re Tallant (9th Cir. 1998) 218 B.R. 58
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
SF 1997-1
advice of independent counsel
In re Tallant (9th Cir. 1998) 218 B.R. 58
Connor v. State Bar (1990) 50 Cal.3d 1047
Hawk v. State Bar (1988) 45 Cal.3d 589
Ritter v. State Bar (1985) 40 Cal.3d 595
Beery v. State Bar (1987) 43 Cal.3d 802, 813
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
SD 1992-1
-partner not an independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
burden of proof on attorney that dealings fair and reasonable
Rodgers v. State Bar (1989) 48 Cal.3d 300
Hunniecutt v. State Bar (1988) 44 Cal.3d 362
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
SD 1992-1
deed of trust to secure fees
Read v. State Bar (1991) 53 Cal.3d 394
Hawk v. State Bar (1988) 45 Cal.3d 589
LA 492 (1998)
duty to disclose interest
Rosenthal v. State Bar (1987) 43 Cal.3d 612
full disclosure required
Beery v. State Bar (1987) 43 Cal.3d 802
Frazer v. State Bar (1987) 43 Cal.3d 564
Passante v. McWilliam (1997) 53 Cal.App.4th 1240
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
moral turpitude found
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
no violation found if no financial gain and not a party to the transaction
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
CAL 2002-159
overreaching and/or undue influence, presumption of
Ritter v. State Bar (1985) 40 Cal.3d 595
Giovanazzi v. State Bar (1980) 28 Cal.3d 465
stock promise to attorney is unenforceable
Passante v. McWilliam (1997) 53 Cal.App.4th 1240
strictly scrutinized for fairness
Rodgers v. State Bar (1989) 48 Cal.3d 300
Beery v. State Bar (1987) 43 Cal.3d 802
Passante v. McWilliam (1997) 53 Cal.App.4th 1240
Business transaction with former client
using funds obtained in the representation
-attorney-client relationship continues to exist
Hunniecutt v. State Bar (1988) 44 Cal.3d 362
Child custody proceeding, disclosure to court, improper
-conflict between client and child
--suggest appointment of separate counsel for child
CAL 1976-37
Circumstances of case evidence, reasonable possibility that district attorney's office may not act in even-handed manner
People v. Conner (1983) 34 Cal.3d 141, 148
City
act against while representing insurance carrier of
SD 1974-22
advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]
assist in representation of actions and represent city employee against city in unrelated matter
LA 77 (1934)
associate of
-practice by
LA(I) 1975-4
attorney
46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)
city attorney/county counsel
Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)
61 Ops. Cal. Atty. Gen. 18, 22-23 (1/5/78; No. CV 77-118)
-partner
--appointed as county counsel may contract with own firm to assist in the performance of duties
74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)
--practice by
LA(I) 1975-4
-partner represents
--in criminal matters
LA 242 (1957), LA(I) 1975-4
-practice by
--associate of
LA(I) 1975-4
-private attorney as attorney of government agency under contract with that agency
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
-recusal of
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
-simultaneously acts as a member of Coastal Regional Commission which votes on matters relating to the city
SD 1977-1
CAL 2001-156
city council member
-defense attorney in criminal matter
People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
-practice by
CAL 1977-46
-practice by partners of
CAL 1981-63, CAL 1977-46
SD 1976-12, LA(I) 1975-4
-represent tort claimants against city
CAL 1981-63

-represents
--civil litigants
CAL 1977-46
--criminal defendants
CAL 1977-46
--in ordinance violations
SD 1969-1, LA 273 (1962)
--in traffic cases
SD 1969-1
fee, contingency contract with government agency
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
Client [This heading is used for fact situations that do not easily fit under other, less abstract headings. Most conflict of interest matters involving clients are indexed under various other headings.]
act against
LA(I) 1972-15
SD 1976-10
-in related matter
LA 448 (1987), LA(I) 1974-13, LA(I) 1971-7
-in unrelated matter
LA 266 (1959), LA(I) 1975-2, LA(I) 1971-7, LA(I) 1965-2
SD 1974-14
-witness
--against present client
---in criminal proceedings
CAL 1979-49
of associate
-represent client in claim against
CAL 1981-57
SD 1972-15
-witness
--against present client
CAL 1980-52
former
-act against
LA(I) 1972-5
--in related matter
LA(I) 1977-1, LA(I) 1972-7, LA(I) 1971-7, LA(I) 1969-2
SD 1970-2
--in unrelated matter
LA(I) 1971-7, LA(I) 1969-2, LA(I) 1964-6, SD 1974-14, SD 1974-12, SD 1970-2
holder of the privilege
Evidence Code section 962
initiation of conservatorship proceedings against
CAL 1989-112
LA 450 (1988), SD 1978-1
multiple clients
Evidence Code section 962
represent
-despite client malpractice suit against attorney's former law corporation
SD 1978-10
-self and
LA 39 (1927)
Class action
duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
Class actions
class counsel offers to dismiss case if defendant makes multimillion dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service, Inc. (1997) 52 Cal.App.4th 1
defendant agreed to hire class counsel to monitor the proposed settlement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
Communication with treating physician
SD 1983-9
Cone of silence
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Condemnation
assist governmental body, former employer, when clients of partnership involved in the matter
LA 246 (1957)
Confidential information
People ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
CAL 1976-37
LA 435 (1985), LA 418 (1983)
SD 1976-10, SD 1974-12, SD 1970-2
SF 1973-6, SF 1973-19
acquisition of by virtue of employment as associate in law firm
Kraus v. Davis (1970) 6 Cal.App.3d 484, 491 [85 Cal.Rptr. 846]
-associate switches sides
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
LA 501 (1999), LA 363 (1976)
actual versus potential disclosure
-actual use or misuse not determinative – possibility of breach of confidence controls
Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934
-associate switches sides
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
LA 501 (1999), LA 363 (1976)
-where former attorney in substantially same matter is now prosecutor
People v. Johnson (1980) 105 Cal.App.3d 884, 890-891 [164 Cal.Rptr. 746]
attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
attorney for several clients involved in business enterprise later represents one of those clients against former associates
*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]
"Chinese wall"
-burden to show presence of screening is on the party sought to be disqualified
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
-cone of silence
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

-elements of
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
-"ethical wall" failed to prevent district attorney from discussing case with the press
People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]
-former court commissioner now associate in firm
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
-former government attorney now associate in law firm
LA 246 (1957)
-general analysis
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
-retired judge subsequently represents one of the parties in the same matter
Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
-screening of law clerk hired by law firm while clerk worked for judge before whom law firm was appearing in pending matter
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
-screening procedures must be put in place before the "tainted" attorney is brought on board
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
-separation between Public Defender and Alternate Public Defenders' offices
People v. Christian (1994) 41 Cal.App.4th 986
CAL 2002-158
-steps which must be taken to set up an effective screen
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Armstrong v. McAlpin (2nd Cir. 1980) 625 F.2d 433
-vicarious disqualification not required
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-vicarious disqualification of a firm denied because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
-vicarious disqualification of entire firm where no attempt to screen
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Klein v. Superior Court (1988) 198 Cal.App.3d 894
-vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
-when attorney is screened from participation in the matter to the satisfaction of adverse party
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
LA 501 (1999)
client and witness for co-defendant represented by same law firm
Leversen v. Superior Court (1983) 34 Cal.3d 530 [194 Cal.Rptr. 448, 668 P.2d 755]
commonly known facts deemed not given in confidence
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
county counsel representation of both parties
Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
detrimental use based on adverse positions as attorney for insurance company and counsel for opposing party
Anderson v. Eaton (1930) 211 Cal. 113, 116 [293 P. 788]
disclosure
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]
disclosure of, based on prior relationship with former client now opposing party
Allen v. Academic Games League (1993) 831 F. Supp. 785
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619-624 [120 Cal.Rptr. 253]
LA 501 (1999)
disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure
Cornish v. Superior Court (1989) 209 Cal.App.3d 467
Allegaert v. Perot (9th Cir. 1977) 565 F.2d 246
disqualification of attorney from representing debtor is not attributable to his firm under Bankruptcy Code
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
disqualification of attorney not required where substantial relationship is not shown and actual confidences of the former client are not breached
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445
dissemination of information to counsel for adversary by a third party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443 [212 Cal.Rptr. 497]
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]
duty to protect continues after formal attorney-client relationship ends
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934
existence of in multiple representation situations
Arden v. State Bar (1959) 52 Cal.2d 310, 319-320 [341 P.2d 6]
former counsel for opposing party
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Big Bear Mun. Water Dist. v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]

former law clerk/student in firm involved in litigation against former firm's client
Allen v. Academic Games League (1993) 831 F.Supp. 785
former state-employed attorney in firm involved in litigation against state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
franchise group
-franchisee law firms of franchise group obtaining confidences
LA 423 (1983)
impute knowledge to co-counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
LA 501 (1999)
-to all in firm
CAL 1998-152, LA 377 (1978)
imputed knowledge not found
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
imputed knowledge theory holds that knowledge by any member of a law firm is knowledge by all of the attorneys, partners, and associates
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D.Cal. 1992) 809 F.Supp. 1383
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
CAL 1998-152, LA 501 (1999)
"joint-client" exception to lawyer-client privilege
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
material to new representation
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
LA 501 (1999)
"materiality" of confidential information may be lost through passage of time
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
multiple representation
SF 1973-10
obtained from non-client and useful in representation in an action on behalf of a client
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Raley v. Superior Court (1983) 149 Cal.App.3d 1042, 1047
obtaining during course of representation of opposing party in previous lawsuit
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 573-574
"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
possession of as impetus to representation of client against former client
Shaeffer v. State Bar (1934) 220 Cal. 681 [32 P.2d 140]
potential disclosure
Galbraith v. State Bar (1933) 218 Cal. 329, 332-333 [23 P.2d 291]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
-in criminal case
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 675 [153 Cal.Rptr. 295]
-representation under Joint Powers Act
Government Code section 6500, et seq.
60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
presumption of possession
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109, 114 [14 Cal.Rptr.2d 184]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
Elliott v. McFarland Unified School Dist. (1985) 165 Cal.App.3d 562, 569 [211 Cal.Rptr. 802]
Civil Service Comm. v. Superior Court (1985) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489 [192 Cal.Rptr. 609]
-attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
-rebuttable presumption of shared confidential information when a non-lawyer changes employment from one law firm to another
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
prior association with opposing party counsel by attorney for defendant
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
prior relationship with opposing party
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
prior representation of co-defendant
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
public defender may not set up separate division within office to represent criminal defendant
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)

relationship with opposing party in unrelated litigation
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
Rule 3-310(E) requires court determination that a "member" has obtained confidential information for purpose of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
settlement confidentiality agreement
-attorney disqualified for seeking to call former clients as witnesses in pending action who were subject to
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
-confidentiality clause could not prevent former client from testifying in pending matter as to the facts and circumstances he witnessed
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
switching sides in same matter
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Sheffield v. State Bar (1943) 22 Cal.2d 627, 630 [140 P.2d 376]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
CAL 1998-152, LA 363 (1976), LA(I) 1962-2
-associate switches sides
LA 363 (1976)
-defense attorney to prosecutor's office
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
telephone "hotline" taking legal inquiries from callers
LA 449 (1988)
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Conflicting offices
concurrently holding
4 Ops. Cal. Atty. Gen. 261 (10/11/44; No. NS-5643)
3 Ops. Cal. Atty. Gen. 18 (1/20/44; No. NS-5288)
2 Ops. Cal. Atty. Gen. 177 (8/30/43; No. NS-5077)
potential conflict
SD 1977-1
Consent
associate switches sides
LA 363 (1976)
attorney/arbitrator hiring counsel of party appearing before him requires written consent to continue arbitration
LA 415 (1983)
authority of attorney to consent to conflict without client's personal waiver
People v. Brown (1992) 5 Cal.App.4th 950
blanket waiver
CAL 1989-115
class representative's authority to make decisions concerning conflicts of interest for the entire class
Pettway v. American Cast Iron Pipe Company (5th Cir. 1978) 576 F.2d 1157
client's consent to forbidden act insufficient
Ames v. State Bar (1973) 8 Cal.3d 910, 915 [106 Cal.Rptr. 489, 506 P.2d 625]
CAL 1988-105
conservatorship proceedings
OR 95-002, SF 1999-2
failure to object in a timely manner deemed to be a waiver
Trust Corporation of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87-88
failure to object to district attorney as prosecutor when former counsel in action based on same facts; deemed to be waiver
People v. Johnson (1980) 105 Cal.App.3d 884, 891-892 [164 Cal.Rptr. 746]
franchise law firms of franchise group representing adverse or multiple clients
LA 423 (1983)
from buyer and seller where attorney is broker for both, but attorney to only one
LA 413 (1983)
implied
Blecher & Collins, P.C. v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Health Maintenance Network v. Blue Cross of So. California (1988) 202 Cal.App.3d 1043
loaning money received on behalf of estate to other clients without consent of administratrix
Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]
may not be sufficient in dual representation situations where actual, present, existing conflict
Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 898 [142 Cal.Rptr. 509]
CAL 1993-133
LA 471 (1992), LA 432 (1984), LA 427 (1984)
-must withdraw
CAL 1988-96
LA 471 (1992), LA 395 (1982)
minor may not have legal capacity
LA 459 (1990)
necessity for full disclosure of representation of adverse party
Ishmael v. Millington (1966) 241 Cal.App.2d 520, 526 [50 Cal.Rptr. 592]
necessity for written consent
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 500
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Dixon v. State Bar (1982) 32 Cal.3d 728, 733 [187 Cal.Rptr. 30, 653 P.2d 321]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 537 [140 Cal.Rptr. 806]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
+In the Matter of Aguiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
CAL 1998-152
-after disclosure of former representation of adverse party
CAL 1998-152, LA 406 (1982)
-by appropriate constituent of organization other than the constituent to be represented
CAL 1999-153

-by wife, where attorney represented husband and wife jointly on estate plans, later represents husband on Marvin Agreement with another woman
LA 448 (1987)
-potential conflict waived, attorney as scrivener to marriage settlement agreement
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
necessity of
Lee v. State Bar (1970) 2 Cal.3d 927, 941-942 [88 Cal.Rptr. 361, 472 P.2d 449]
People v Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
of client
-after disclosure of former representation of adverse party
LA 406 (1982)
-attorney's relationship with courtroom personnel
CAL 1987-93
-by appropriate constituent of organization other than the constituent to be represented
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
-corporation and board of directors in derivative suit
LA 397 (1982)
-representation of adverse party
--in unrelated action
LA 6 (1918)
LA 406 (1982)
-witness is former colleague of attorney
CAL 1987-93
of opposing party
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 705 [61 Cal.Rptr. 386]
parties pursuant to Joint Powers Act
Government Code section 6500, et seq.
60 Ops. Cal. Atty. Gen. 206 (7/7/77; No. CV 76-14)
representation of more than one party
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
-to continued representation
--of multiple parties
CAL 1975-35
LA 427 (1984), LA 22 (1923)
required for full disclosure
Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
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61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
Conservatorship proceedings
CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
Contingent fee from insurer, based on percentage of medical expenses recovered, for protecting insurer's lien on recovery of expenses
LA 352 (1976)
Contract
draft
-for both parties
SF 1973-26
-for own son and other party
SF 1973-26
re-negotiation of fee contract with client while case is pending
CAL 1989-116
Corporations
Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Sidco (1993) 162 B.R. 299
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
*Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
acting as agent for and construing contracts for potential clients of corporation
CAL 1968-13
acting as both receiver for and attorney against corporation
LA 74 (1934)
attorney (employee) sues employer/client
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
corporate director/attorney representing client in transaction with corporation
CAL 1993-132
counsel for
-corporation and CEO as individual
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
-former represents against
LA(I) 1973-5
SD 1970-2
-in-house counsel for corporate client represents outside company in merger with client
LA 353 (1976)
former attorney for corporation representing parties in litigation against corporation covering time period of previous employment
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
organization as client
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr. 756]
LA 353 (1976)
parent /subsidiary considered single entity for conflicts purposes
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113
representation of corporation and board of directors in derivative action
LA 397 (1982)
representation of corporation and corporate director as co-defendants
CAL 1999-153, LA 471 (1992)
representation of corporation and directors is impermissible, but attorney can represent one party
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
representation of corporation deemed not representation of corporate officers personally
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 290 [301 P.2d 101]
representation of former shareholders against former corporate client in related matters requires disqualification because of duty of loyalty and confidentiality
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
representation of minority shareholder and director in proxy fight by former corporate general counsel
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]

represents
-corporation against director
LA(I) 1966-14
-corporation and board of directors in derivative suit
LA 397 (1982)
-director of represents stockholder against
LA(I) 1955-2
-incorporate
--later represent against one incorporator
SD 1974-13
shareholders derivative action
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
stockholder
-director of corporation represents stockholder against corporation
LA(I) 1955-2
County counsel
attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
collective bargaining by government attorneys
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
conflict of interest rules do not bar county counsel from suing county where no breach of duties of loyalty or confidentiality
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
conflict exists when county counsel represents both minor and county department of social services
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
outside counsel represents county in tort liability also may represent parties in actions against county if unrelated matter
61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
representation of both child and Department of Children Services
LA 459 (1990)
representation of both Sheriff's Department and Employment Appeals Board places burden on county to show effective screening or be disqualified
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
representation of county improper after prior representation of county commission in same matter
Civil Service Comm. v. Superior Court (1984) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
representation of district organized under Municipal Water District Act of 1911 incompatible with duties as county counsel, notwithstanding provision allowing outside private law practice
30 Ops. Cal. Atty. Gen. 86, 88 (8/23/57; No. 57-149)
representation of social services department and of public conservator by separate branches of the county counsel office may not be a conflict of interest
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
Creating a conflict
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Creditor
counsel for represents debtor in resolving financial problems of
LA(I) 1969-5
counsel for uses assets of debtor in his possession to satisfy creditor's claim
LA(I) 1969-5
represent creditor of former client against former client
SD 1974-12
Criminal proceedings
active representation of conflicting interests deprives defendant of effective assistance of counsel
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
attorney's conflict of interest violates Sixth Amendment right to effective counsel (former representation of co-defendant in earlier trial)
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
Fitzpatrick v. McCormick (9th Cir. 1989) 869 F.2d 1247
city attorney disqualified from prosecuting misdemeanor where probable future representation of city to defend actions brought by same criminal defendants
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
client
-witness
--against present client
CAL 1979-49
court has duty to inquire into possibility of conflict of interest on part of defense counsel
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
People v. Cook (1975) 13 Cal.3d 663 [119 Cal.Rptr. 500]
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
People v. Owen (1989) 210 Cal.App.3d 561 [258 Cal.Rptr. 535]
death penalty confirmed in spite of defense counsel's alleged conflict of interest (similar representation of defendant and witness)
People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)
defense counsel and district attorney involved in personal relationship
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
defense counsel married to bailiff
CAL 1987-93
defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
disqualification
-ineffective representation in covering attorney's conduct in failing to file timely notice of appeal
In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]
-recusal of entire D.A.'s Office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 172
-when former co-defendant under a joint defense agreement is prosecution witness
United States v. Henke (9th Cir. 2000) 222 F.3d 633

former client
-now co-defendant
--disqualification
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
-now witness
--against present client
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
CAL 1980-52
habeas relief
client entitled to, when trial attorney's conflict of interest results in failure of attorney to file direct appeal
Manning v. Foster (9th Cir. D ID 2000) 224 F.3d 1129
limited conflict does not taint defense counsel's entire representation of defendant
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
post-indictment subpoena on target's counsel creates possibility of conflict of interest but is insufficient to disturb conviction
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
private attorney now district attorney prosecuting former client in a related matter
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
representation of co-defendants
-by same attorney
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-potential conflict between
CAL 1975-35, CAL 1970-22
representation of criminal defendant by member of firm acting as city prosecutor
LA 453 (1989)
representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
representation of subordinate
-superior, head of criminal organization pays legal fees
CAL 1975-35
right to counsel includes right to waive potential conflict
People v. Burrows (1990) 220 Cal.App.3d 116 [269 Cal.Rptr. 206]
three strikes cases
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
SD 1995-1
waiver of
-by defendant
Alocer v. Superior Court (1988) 206 Cal.App.3d 951
People v. Pastrano (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 620]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
--denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr. 173]
-no valid waiver found
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
withdrawal
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
witness for prosecution former client of public defender's office
People v. Pennington (1991) 228 Cal.App.3d 959
witness for prosecution former colleague and friend of defense counsel
CAL 1987-93
Criminal prosecution
conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
defendant entitled to counsel free of conflict
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
dual representation of co-defendants
-by appointed counsel
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-by private counsel
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
program where volunteer attorneys staff prosecutor's office on part-time basis
LA 377 (1978)
-active representation of conflicting interests deprives defendant of effective assistance of counsel
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
representation of criminal defendant by member of firm acting as city prosecutor
LA 453
representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
waiver of
-by defendant
--denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
Dating/Social Relationships
34 Santa Clara L. Rev. 1157 (1994)
criminal defense lawyer dating prosecutor at time of trial
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
married to bailiff
CAL 1987-93
plaintiff attorney dating secretary of law firm representing defendant
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
social contacts and dating conflicts of interest
34 Santa Clara L. Rev. 1157 (1994)
Discharge of attorney
rights and obligations of client
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]

Disclosure
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
confidences of the client, basis for disqualification
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1577-1578
disqualification denied where full disclosure of reasonably foreseeable adverse effects in testifying
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
disqualification proper remedy for failure to disclose reasonably foreseeable adverse effects
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
of attorney's interest
-in proceedings involving minors or incompetents
California Rules of Court, Rule 241(b), Rule 529(b)
requires full consent
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
to buyer and seller where attorney is broker for both, but attorney to only one
LA 413 (1983)
to client
-arguments made by attorney on opposite sides of a controverted issue in different cases
CAL 1989-108
-attorney's relationship with courtroom personnel
CAL 1987-93
-former representation of adverse party
Allen v. Academic Games League (1993) 831 F.Supp. 785
LA 406 (1982)
-insurance cases
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
-witness is former colleague of attorney
CAL 1987-93
to court
-attorney's relationship with courtroom personnel
CAL 1987-93
-in child custody proceedings
--conflict between client and interests of child
CAL 1976-37
-in welfare proceeding
--conflict between child and state
CAL 1977-45
-inform of representation of related trust
Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
to former client
LA 6 (1918)
Disqualification of counsel
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
appeal
-disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
-from pre-trial order denying motion to disqualify counsel for conflict of interest
--standard requires showing on appeal that order affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
attorney-client relationship
-disqualification despite technicality of no attorney-client relationship
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
-disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
attorney general – denied
Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
attorney's former joint representation of parties justified disqualification from representing one against the other
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
based on incidental social contacts and completely unrelated business transaction
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631
based on receipt of confidential information from a non-client
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr. 2d 425]
burden on client
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
"case-by-case" approach must be used by trial courts
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
city attorney
-criminal prosecution and defense of city arising out of same incident
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
city councilman as defense counsel in criminal action
*People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714, 716-720 [138 Cal.Rptr. 235]
CAL 1981-63
co-counsel
-case law does not support "double imputation" when lawyer is two steps removed from attorney who has confidential information about a client
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
-imputed knowledge to
Panduit Corp. v. All States Plastic Mfg. Co. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
--to all in firm
LA 377 (1978)
confidential information delivered to opposing party's counsel
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]
conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633

conflicting liabilities between insurers and insured
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
consultation with an independent attorney regarding the client's case may prevent the consulted attorney from representing the party adverse to the client
SD 1996-1
county counsel not in conflict of interest when separate branches of the office represents potentially adverse interests
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
criminal proceeding
CAL 1980-52, CAL 1979-49
Cumis counsel does not have attorney-client relationship with insurer for purpose of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [39 Cal.Rptr.2d 25]
denied following attorney's waiver of interest in case
Bell v. 20th Century Insurance Co. (1989) 212 Cal.App.3d 194 [260 Cal.Rptr. 489]
denied when the persons who are personally interested in the conflict filed written declarations waiving the conflict
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
discussion with party concerned fees only
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure
Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
disqualification of attorney not required where client never imparted confidential information to attorney – now representing adverse party in same matter
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
disqualification of attorney not required where attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
disqualification when the misconduct or status has a continuing effect on judicial proceedings
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
district attorney
Penal Code section 1424
-based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-financial assistance to prosecutor's office did not disqualify district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-financial assistance to prosecutor's office disqualified district attorney
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
-prosecution of defendant for crimes not precluded by virtue of representation of defendant's child re ward of court status
People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515, 520-522 [159 Cal.Rptr. 625]
-recusal denied when motion is solely based on public perception that prosecutor seeks death penalty to fulfill a campaign promise
People v. Neely (1999) 70 Cal.App.4th 767 [82 Cal.Rptr.2d 886]
-recusal of entire office
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
People v. Merritt (1993) 19 Cal.App.4th 1573
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
-recusal of entire office due to prior association with defense firm by assistant district attorney
People v. Lopez (1984) 155 Cal.App.3d 813, 821-822 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 892, 894-897 [144 Cal.Rptr. 34]
-recusal of entire office due to prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685
-recusal of entire office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 1376
duty of loyalty requires
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
entire firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Paul E. Iacono Structural Engineer, Inc. v. Humphrey (1983) 722 F.2d 435
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Klein v. Superior Court (1988) 198 Cal.App.3d 894
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
CAL 1998-152, LA 501 (1999)

-disqualification of attorney from representing debtor is not attributable to his firm under bankruptcy code
*In re S.S. Retail Stores Corp. (9th Cir. 1997) 211 B.R. 699
-not required when attorney at law firm covered depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
-not required when attorney, while at another firm, represented current firm's opposing party's insurer and effectively screened from involvement in the current litigation
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
-presumption of shared confidences rebutted by evidence of the timely and effective screening of the tainted attorney
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failure to file notice of appeal and subsequent defense of that action
In re Fountain (1977) 74 Cal.App.3d 715, 719
former clients, subject to confidential settlement, as witnesses in pending action
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
former state-employed attorney in law firm employed by plaintiff to sue state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
mediator is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
mere exposure to confidences of an adversary does not, standing alone, warrant disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590 [147 Cal.Rptr. 915]
-prior representation of opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
non-lawyer employee "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
not required when only "blue sky" work done by underwriter's counsel, no attorney-client relationship created
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
prior relationship with opposing party
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
prior representation of co-defendant
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
-in related matter
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
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Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer,Inc.v.Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F. Supp. 495, 499
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30 [32 Cal.Rptr. 188]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
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-associate switches sides
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
LA 363 (1976)
-in matter relating to same transaction
Cord v. Smith (9th Cir. 1964) 338 F.2d 516
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
-representation of attorney/client against former attorney/client
LA 418 (1983), SD 1984-1
-substantial relationship to current matter not found
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
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In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
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Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
-vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
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Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 707-710 [61 Cal.Rptr. 386]
trial court must determine if there is a substantial relationship between the prior and current representation based on facts, legal issues, and the nature and extent of the attorney's involvement
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
trial court's power
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
unrelated matter
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Jeffry v. Pounds (1977) 67 Cal.App.3d 6,11
vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
withdrawal from representation of one client in the course of concurrent representation of adverse clients in separate matters may not avoid disqualification sought by the ousted client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
District attorney
common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
conflict of interest requires a showing that the district attorney's discretionary decision making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
former
-represents
--in criminal matters
Business and Professions Code section 6131
LA(I) 1958-9
former attorney now district attorney and issue based on same facts as prior proceeding
People v. Johnson (1980) 105 Cal.App.3d 884 [164 Cal.Rptr. 746]
formerly employed as private counsel for co-defendant
In re Charles L. (1976) 63 Cal.App.3d 760, 765 [132 Cal.Rptr. 840]
formerly represented defendant as private counsel
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
married to bailiff
CAL 1987-93
personal animosity of district attorney towards co-defendant
*People v. Battin (1978) 77 Cal.App.3d 635, 670-672 [143 Cal.Rptr. 731]
police officer assigned to the district attorney's office related to informant
People v. McPartland (1988) 243 Cal.Rptr. 752
proceedings to have child of defendant in criminal case declared ward of court
People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515 [159 Cal.Rptr. 625]
recusal of entire office
Penal Code section 1424
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 892 [144 Cal.Rptr. 34]
-based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial
People v. McPartland (1988) 243 Cal.Rptr. 752
-not necessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 1376
relative of crime victim employed in district attorney's office
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
representation of county and private citizen
Dettamanti v. Lompoc Union School District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
representation of county by district attorney at welfare hearing permitted even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942 [280 Cal.Rptr. 785]
representation of criminal defendant by member of firm acting as city prosecutor
LA 453

retired district attorney wishing to associate with law firm holding county contract to act as public defender
62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
CAL 1977-45
Divorce
community property, contingent fee
CAL 1983-72
represent
-both parties
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
--after consulting with other about divorce
SD 1975-1
--client's spouse in
LA 207 (1953), LA 192 (1952)
--former client's spouse in
LA(I) 1971-8
--later other in related action
LA 231 (1955)
--one party
---after acting for marital union
LA(I) 1958-5, LA(I) 1947-1
---after consulting with both about divorce
LA(I) 1947-1
--party in and receiver
LA 51 (1927)
--settlement
SD 1984-2
--successive wives of same husband
LA(I) 1963-6
-prior representation of family corporation
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
-prior representation of other spouse
SD 1984-2
Draft, military, member of selective service appeal board represents appellants before other boards
LA(I) 1969-8
Dual capacity
attorney acting as Federal Rule 30(b)(6) spokesperson
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Lobbyist and legal counsel for a state agency may be permissible
78 Opns. Cal. Atty. Gen. 322 (11/8/ 95; No. 95-616)
Dual professions
CAL 1982-69
LA 446 (1987), LA 413 (1983), LA 384 (1980)
SD 1992-1
Dual representation
absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]
co-defendants in criminal case
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
attorney acts as both advocate and advisor to decision maker
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
buyer and seller in real estate transaction
CAL 1982-69
LA 413 (1983), LA 384 (1980)
SF 1973-22
by counsel
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]
clients each demand the original file
LA 493 (1998)
concurrent representation of adverse parties in separate matters is not cured by ending relationship with previous client
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
consent to potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
corporation and board of directors in derivative suit
LA 397 (1982)
corporation and director of corporation as co-defendants
CAL 1999-153, LA 471 (1992)
corporation and directors
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
corporation and officers
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
franchisee law firms of franchisor group representing multiple clients
LA 471 (1992), LA 423 (1983)
insurance company
-and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278, 91 Cal.Rptr.2d 453
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Unigard Ins. Group v. O'Flaherty & Belgum (1997) 38 Cal.App.4th 1229
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
LA 424 (1984), LA 352 (1976)
-and party adverse to insurer
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
CAL 1975-35, CAL 1970-22
LA 397 (1982)
--Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
joint defense agreement establishes an implied attorney-client relationship with the co-defendant
United States v. Henke (9th Cir. 2000) 222 F.3d 633

living trust marketer and participant
CAL 1997-148
minor and guardian
CAL 1988-96
mortgagee and mortgagor
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
of general and limited partners in partnership
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
of potential conflicting interests
LA 471 (1992), LA 427 (1984)
preparing answer for in propria persona defendant while representing plaintiff on same matter
LA 432 (1984)
Duty of loyalty
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 611
ineffectiveness claim based on divided loyalty in criminal matter does not require showing of prejudice as a result of defense counsel's actual conflict
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
LA 506
Duty to both insured and insurer
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]
-Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
-extends to uninsured courtesy defense client
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
LA 439 (1986), LA 427 (1984), LA 424 (1984), LA 395 1982), LA 344 (1974)
Duty to client
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
conflicting claims of two clients
McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d 718]
Duty to disclose attorney acting as trustee for client
-duty to disclose self-involvement in trust
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P. 500]
-discovery of conflicting duties to multiple clients
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
CAL 1970-22, CAL 1975-35
-prior representation of opposing party in unrelated matter
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
-to both clients in multiple representation
LA 471 (1992), LA 427 (1984), LA 395 (1982), LA 344 (1974)
Duty to withdraw
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
-timeliness
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]
Pennix v. Winton (1943) 61 Cal.App.2d 761, 773-775 [145 P.2d 561]
CAL 1980-52, CAL 1979-49
LA 395 (1982)
Effect of mere prior professional relationship
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
Effect of time lapse
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
Escrow
agent
-represents
--against grantor
LA 266 (1959)
--one party in dispute over escrow between parties
LA(I) 1955-6
Estate(s)
attorney as beneficiary of trust
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
attorney for
-buys estate property
LA 238 (1956)
-charges personal representative personally for services performed
CAL 1993-130
LA 347 (1975)
-claimant in bankruptcy proceeding, then later purchases property in foreclosure sale held by claimant
LA 455
-personal representative and real estate broker
SD 1992-1
-removal of beneficiary's request/demand
Estate of Effron (1981) 117 Cal.App.3d 915, 928-930 [173 Cal.Rptr. 93]
-represents
--administrator
--as contestant in probate
LA 193 (1952)
--as real estate broker for the sale of estate property
LA 470 (1992)
--as such and as heir
CAL 1976-41
LA 237 (1956)
LA 193 (1952), LA 144 (1943) LA(I) 1967-6

--takes assignment of administrator's interest in estate to secure loan
LA 228 (1955)
--deceased attorney's client
Estate of Linnick (1985) 171 Cal.App.3d 752, 758 [217 Cal.Rptr. 552]
--plaintiffs in wrongful death action against estate
LA 341 (1973)
attorney representing both heir hunter and estate beneficiary has insurmountable conflict
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
estate executor
-attorney for
--beneficiary under will
Probate Code section 21350 et seq.
LA 219 (1954)
--commission for sale of estate property
LA 317 (1970)
--duty to executor and beneficiaries
Estate of Effron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
--fees from executor and statutory fees
CAL 1993-130
--finders fee from purchaser of estate property
LA 317
--offers to prepare claims for creditors of state for fee
LA(I) 1961-6
--own partnership
LA 219 (1954)
--referral fee from broker listing estate property
SD 1989-2
--represents
---person in determination of heirship
LA(I) 1965-8
---reopened estate against
LA 269 (1960)
-beneficiary as
LA 219 (1954)
--beneficiaries in contest over heirship
LA(I) 1958-2
partnership represents
-member, trustee
LA 219 (1954)
trustee
-beneficiary as
LA 219 (1954)
False arrest cases on retainer for police officers/represent clients who might raise issue of false arrest
SD 1972-2
Fee
apportioning fees where conflict between insurer and insured
LA 424
attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27
Day v. Rosenthal (1985) 170 Cal.App.3d 1125, 1162
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
Goldstein v. Lees (1975) 46 Cal.App.3d 614
conflict of interest
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
Day v. Rosenthal (1985) 170 Cal.App.3d 1125, 1162 [217 Cal.Rptr. 89, 113]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
paid by third party
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr. 2d 506]
CAL 1992-126, CAL 1975-35
LA 471 (1992), LA 439 (1986)
-by corporation to minority shareholder's attorney
Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
-by insurer of cient
LA 439 (1986), LA 352 (1976)
-estate attorney charging personal representative personally for services performed
LA 347 (1975)
-public agency attorney participation in a bonus program tied to savings by the agency
SD 1997-2
referral
-paid to an attorney by client in an unrelated matter
SD 1987-2
represent
-in settlement when fee paid out of settlement
SD 1975-4
-self and co-counsel re contingent fee
SD 1972-1
when in client's best interest to settle although no recovery of fees
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct.1531]
Fiduciary duty
attorney as executor of estate
Probate Code section 10804
-substitution into litigation
Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 259 [142 Cal.Rptr. 759]
attorney represents estates and deceased attorney's former client
Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
breach of
-taking business clientele of a former client
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
can exist even absent express attorney-client relationship
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
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CAL 1993-132, CAL 1981-63
presumption of undue influence
Ball v. Posey (1986) 176 Cal.App.3d 1209 [222 Cal.Rptr. 746]
self-dealing of attorney/trustee
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P.2d 500]
Financial advice
46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)
Financial interest
of lawyer
-in corporation
--about which the client desires legal advice
LA 57 (1928)
Foreclosure
represent
-plaintiff's purchase real property involved
LA 282 (1963)
Former client
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

acceptance of employment
-adverse to
Arm v. State Bar (1990) 50 Cal.3d 763, 769
--knowledge of former clients' property and property rights involved in action
LA 31 (1925)
adverse interest to
-in litigation
LA 30 (1925)
co-defendant in present criminal proceeding
-disqualification
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
estate plan for husband and wife, and subsequent agreement for husband
LA 448 (1987)
insurer of current opposing party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
taking business clientele from
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
witness against
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087 [206 Cal.Rptr. 45]
-attorney as
LA 75 (1934)
-present client
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
People v. Pennington (1991) 228 Cal.App.3d 959
CAL 1980-52
-witness in related case
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Former office represents client
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
Franchisee law firms of franchise group
LA 423 (1983)
Gifts to attorney
attorney/beneficiary drafts gift instrument
Probate Code sections 15687, 21350 et seq.
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]
Grand jury
Sixth Amendment right to counsel of one's choice does not apply
-disqualification order not appealable
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
Guardian
attorney for
-also deemed to represent minor
CAL 1988-96
-former represents against as counsel for wife of deceased ward
LA(I) 1962-5
Homeowner's association – where attorney is member of association and represents plaintiffs against association
LA 397 (1982)
Impropriety, appearance of
*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
can exist even absent express attorney-client relationship
CAL 1981-63
Insurance cases
Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Golden Eagle Insurance Co. v. Foremost Insurance Co. (1993) 20 Cal.App.4th 1372, 1395-1396
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McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]
LA 501 (1999)
-obligation of counsel to exchange information does not sanction disclosure of client confidences
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
-statute partially changed the rule of the Cumis case
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
apportioning fees where conflict between insurer and insured
LA 424 (1984)
attorney's duty to act competently requires that decision making control over client's litigation be given to client despite contrary instructions from client's insurer
CAL 1995-139, LA 464 (1991)
Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
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Cumis representation is based on ethical standards, not insurance concepts
Moser v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
dispute between insurer and insured as to policy coverage entitles insured to obtain counsel for third party claim at insurer's expense
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
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LA 501 (1999), LA 439 (1986)
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MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
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Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
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Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
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LA 345 (1982), LA 344 (1974), SD 1987-1
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-insurer's ability to recover from insured
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
for independent counsel to be required, the conflict of interest must be significant and actual
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
full disclosure of conflict of interests required in representation of insurer and insureds by same attorney
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
CAL 1988-96, CAL 1987-92
LA 395 (1982), LA 344 (1974)
-insured's right to be informed of conflict of interest
Manzanita Park, Inc. v. I.N.A. (9th Cir. 1988) 857 F.2d 549
independent counsel's ability to represent insureds interest against insurer in coverage actions
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-failure to use
SD 1974-21
insurance company attorney
-former
--acts against company in related matter
LA 217 (1953)
-represents
--assured
---and company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
LA 336 (1973)
insurance company attorney represents insurance company
-and criminal defendant against insured
SD 1972-2
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State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
SD 1978-5
insured's counsel interjecting issue of collusion between defendant insured and plaintiff raises conflict of interest
Price v. Giles (1987) 196 Cal.App.3d 1469
insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
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-the right to control the defense includes what measures are cost effective provided there is no actual conflict of interest
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
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Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
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Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
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Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573
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-insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
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Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
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California Civil Code section 2860
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Rockwell International Corp. v. Superior Court (1994) 26 Cal.App.4th 1255
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
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-insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
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-insurer's control over insured's selected counsel
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-insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
CRPC 3-310 requires informed consent for continued representation of all clients
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
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SD 1987-1
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CAL 1989-108
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Government Code section 6500, et seq.
Elliott v. McFarland Unified School District (1985) 165 Cal.App.3d 562 [211 Cal.Rptr. 802]
60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
Joint representation of clients in the same matter
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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LA 471 (1992)
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LA 412 (1983)
Judge
attorney appearing before judge is also the personal counsel of the judge
In re Georgetown Park Apartments (9th Cir.1992) 143 B.R. 557
failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Literary rights
LA 451, LA 409 (1983)
actual conflict of interest required to establish violation of 6th Amendment rights when attorney contracts to write book re trial
United States v. Hearst (1981) 638 F.2d 1190
attorney contract for publication rights about trial
United States v. Hearst (N.D. Cal. 1978) 466 F. Supp. 1068
attorney's literary rights to trial adverse to client's interests
People v. Corona (1978) 80 Cal.App.3d 684, 720 [145 Cal.Rptr. 894]
"life story" fee agreement all right if accused knowingly and intelligently waives potential conflicts
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]
literary rights agreement not found neither prior to or during actual trial
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
Lobbying firm
Dual capacity of a lobbyist and legal counsel for a state agency may be permissible
78 Ops. Cal. Atty. Gen. 322 (11/8/95; No. 95-616)
Maintaining independence of professional judgment
Rule 1-600, Rules of Professional Conduct
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LA 500 (1999)
Marvin agreement
representation of husband and wife on estate plan, later husband on Marvin agreement with another woman
LA 448 (1987)
May arise from an attorney relationship with a non-client if attorney owes duty of fidelity
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]
CAL 1993-132
Mediator
attorney who mediates one case is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
Multiple representation
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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LA 471 (1992), LA 427 (1984)
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actual v. potential conflict
LA 471 (1992), LA 427 (1984)
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
mortgagee and mortgagor
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
assistant district attorney representing county and private citizen
Dettamanti v. Lompoc Unions District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
attorney for former business associates later represents one of those clients against the others in a matter directly related to earlier representation
*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]
attorney partner in a partnership arrangement acting as counsel for both sides in a leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
attorney representing conflicting issues in litigation
McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d, 718]
attorney represents two insureds with potentially divergent interests
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
LA 395 (1982)
attorney's former joint representation of parties justified disqualification from representing one against the other
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
attorney's former joint representation of parties did not require disqualification where valid waiver found
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
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-when attorney is partner in business
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LA 493 (1998)
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*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
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State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
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Image Technical Services v. Eastman Kodak Co. (N.D. Cal. 1993) 820 F.Supp. 1212
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+In the Matter of Aguiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
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[See Attorney-Client Relationship, Consultation with, prima facia case of existence of.]
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Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
CAL 1999-153
corporation and officers
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
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In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
LA 459 (1990)
corporate director/attorney representing client in transaction with corporation
CAL 1993-132
corporation and board of directors on derivative suit
LA 397 (1982)
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Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
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59 Ops. Cal. Atty. Gen.27, 28 (1/15/76; No. CV 72-278)
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People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
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-co-defendants entitled to separate representation
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-privately retained counsel representing co-defendants
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
Dependency Court Legal Services may represent multiple parties with adverse interests
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
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In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
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-party and receiver appointed in same action
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LA 465 (1991)
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LA 423 (1983)
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State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
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--attorney who is director subject to same conflicting interests as attorney for carrier
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-and party adverse to insurer
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--insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
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-in individual capacity against co-executor
LA 72 (1934)
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In re Cliffton B. (2000) 81 Cal.App.4th 415 [96 Cal.Rptr.2d 778]
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LA 432 (1984)
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Evidence Code section 962
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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LA 23 (1923)
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LA 23 (1923)
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SF 1973-10
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*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
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Smiley v. Director, Office of Workers' Compensation (9th Cir. 1992) 973 F.2d 1463
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Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
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Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
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SF 1985-1(F)
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CAL 1979-50
LA 216
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LA(I) 1962-2
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LA 273 (1962)
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-represents all partners
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LA(I) 1967-11
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-prosecutor
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--city attorney
LA(I) 1975-4
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--member against relative of client
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--member-trustee
LA 219 (1954)
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LA 269 (1960), LA 252 (1958),
LA 246 (1957)
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--when member is
---city attorney
LA(I) 1975-4
---city councilor
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LA(I) 1975-4
---prosecutor
LA 377 (1978)

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employer of, practice by
LA 377 (1978)
partner of
-practice by
LA 377 (1978)
-represents
--in criminal cases
Business and Professions Code section 6131
LA 377 (1978)
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-district attorney engaged in
8 Ops. Cal. Atty. Gen. 301 (12/11/46; No. 46-354)
4 Ops. Cal. Atty. Gen. 39 (7/19/44; No. NS-5517)
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People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
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SD 1997-2
Public defender
appointment of public defender to represent defendant at sentencing not precluded by public defender's office
representation of co-defendant at trial
People v. Ware (1966) 241 Cal.App.2d 143, 146-148 [50 Cal.Rptr. 252]
conflict of interest
-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
law firm holding county contract to provide public defender wishes to associate retired district attorney
62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
representation of criminal defendant by separate division within office does not alleviate conflict
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
withdrawal
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
Public office
duality of
58 Ops. Cal. Atty. Gen. 241 (4/29/75; No. CV 74-251)
38 Ops. Cal. Atty. Gen. 121, 123 (10/9/61; No. 61-91)
Publication of article regarding client's case
no conflict found
LA 451 (1988)
Purpose of rule 3-300
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
SF 1997-1
Purpose of rule 3-310
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Purpose of rule 3-600
*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Real estate transactions [See Conflict of interest, foreclosure; title.]
deed of trust on client's property through use of wife of attorney
Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
represent
-buyer and seller/later one against other
LA 471, SF 1973-22
-client in donating property to another client later same client in attempt to secure return of property
LA(I) 1970-10

Recusal of district attorney
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200, 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
Williams v. Superior Court (1988) 198 Cal.App.3d 960 [244 Cal.Rptr. 88]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 592 [144 Cal.Rptr. 34]
prior representation as private attorney and necessity for making claim timely
People v. Johnson (1980) 105 Cal.App.3d 884, 889-891 [164 Cal.Rptr. 746]
prior representation in criminal matters now prosecuting
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
relative of crime victim employed in district attorney's office
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
Related matter
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Relationship with opposing counsel
Rule 3-320, Rules of Professional Conduct
Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
34 Santa Clara L.Rev. 1157 (1994)
CAL 1984-83, SD 1989-4, SD 1976-12
Relative
partnership represents member against relative of client
LA(I) 1956-8
represent
-against client's relative
LA(I) 1956-8
-daughter against son-in-law
SF 1973-6
spouse
-represent
--client's in divorce
LA 207 (1953), LA 192 (1952)
--former client's in divorce
LA(I) 1971-8
Remedies of former clients
People v. Superior Court (Corona) (1981) 30 Cal.3d 193, 200 [178 Cal.Rptr. 334, 636 P.2d 23]
Remedy
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
Represent
both client A in suit A v. B, and client B in suit B v. C
Rule 3-310(C)(3), California Rules of Professional Conduct
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
LA 506, LA 333 (1973)
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CAL 1988-96
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-in welfare proceeding
CAL 1977-45
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In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
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SD 1968-3
Representation by public officials
city councilman as defense attorney in criminal proceeding
People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
county counsel acts as attorney for district under Municipal Water District Act of 1911, not permitted
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
Representation of co-defendants
U.S. v. Lightbourne (9th Cir. 1996) 104 F.3d 1172
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
In re Noday (1981) 125 Cal.App.3d 507, 517-519 [178 Cal.Rptr. 653]
In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
CAL 2002-158, LA 471 (1992)
actual conflict for joint representation can exist due to co-defendant's psychological domination of defendant sibling
United States v. Stites (9th Cir. 1995) 56 F.3d 1020
actual conflict not found
People v. Bryant (1969) 275 Cal.App.2d 215 [79 Cal.Rptr. 549]
public defender's office representation of co-defendant does not preclude representation of other co-defendant at sentencing hearing
People v. Ware (1966) 241 Cal.App.2d 143 [50 Cal.Rptr. 252]
separate trials for co-defendants but attorneys for both associated with one another
People v. Avalos (1979) 98 Cal.App.3d 701, 715-716 [159 Cal.Rptr. 736]
CAL 1979-49, CAL 1970-22
Right to effective counsel
attorney's literary rights to trial interfered with duty of undivided loyalty to client
People v. Corona (1978) 80 Cal.App.3d 684, 720-721 [145 Cal.Rptr. 894]
multiple representation as violation of Sixth Amendment
Cuyler v. Sullivan (1980) 446 U.S. 335, 348 [100 S.Ct. 1708, 64 L. Ed. 2d 333]
United States v. Moore (9th Cir. 1998) 159 F.3d 115
public defender refused to participate but no actual prejudice resulted
People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
publication rights in trial
United States v. Hearst (9th Cir. 1981) 638 F.2d 1190
Rules developed for private sector may not squarely fit realities of public attorney's practice
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
CAL 2002-158
Salaries
62 Ops. Cal. Atty. Gen. 54 (2/6/79; No. CV 77-243)
Self-dealing
attorney as trustee
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265
attorney purchasing real property subject of representation of client
Tomblin v. Hill (1929) 206 Cal. 689 [275 P. 941]
Settlement
conflicting instructions from insurer and insured
LA 344 (1974)
represent
-in when fee owed by client comes out of proceeds of
SD 1975-4

vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Sexual relations with client
Rule 3-120, California Rules of Professional Conduct
Business and Professions Code Sections 6106.8 and 6106.9
McDaniel v. Gile (1991) 230 Cal.App.3d 363
Barbara A. v. John G. (1983) 145 Cal.App.3d 369
CAL 1987-92
Sharing office space with another attorney
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
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LA 216 (1953)
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SD 1972-15
Special counsel appointed by bankruptcy court to represent bankruptcy trustee of debtor may have a conflict as a result of duties owed to the debtor's principals
In re Westwood Shake & Shingle, Inc. (9th Cir. 1992) 971 F.2d 387
Special office
created to avoid conflicts
62 Ops. Cal. Atty. Gen. 764 (12/7/79; No. 79-817)
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
Standing to assert
Allen v. Academic Games League of America (C.D. Cal 1993) 831 F.Supp. 785, 788
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
litigant lacks standing to assert a third party's conflict of interest claim against opposing counsel
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
laches
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F. Supp. 1150
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
Substantial relationship
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City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
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In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
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applicable to determine whether information law firm received as "monitoring counsel" for corporate parent's insurance underwriters disqualified firm from representing a party against corporate subsidiary
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
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Damron v. Herzog (9th Cir. 1995) 67 F.3d 211
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Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
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Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
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Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
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Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
-presumption of the exchange of confidential information
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motion to disqualify must be based on application of substantial relationship test
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no substantial relationship found
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-where disqualification for former representation would be futile
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David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
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*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
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Plxweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
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attorney beneficiary of will
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-to enforce fee agreement
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-courts view attorney/client transactions with suspicion
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-must show validity of contract
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-unequal relationship with
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-use of confession of judgment against client
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not required where attorney never performed services for former client of attorney's former firm
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Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
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-court has discretion to deny substitution because of serious potential conflict
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-no valid waiver found
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attorney as beneficiary of trust
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attorney and her family as primary beneficiaries
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attorney beneficiary of holographic will
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attorney drafts will making secretary executor, then represents executor for fee
LA 382 (1979)
attorney who drafted was later employed as attorney for executor
Estate of Effron (1981) 117 Cal.App.3d 915, 930
Will drafting
attorney as beneficiary under terms of gift instrument
Probate Code sections 15687, 21350 et. seq.
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Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
attorney drafts will making secretary executor, then represents executor for fee
LA 382 (1979)
counsel for organization drafts for those leaving money to organization
LA(I) 1966-17, LA 428 (1984)
draft
-when named beneficiary, executor, etc.
LA(I) 1963-4
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probate matter, from
-where lawyer defends executor in action brought by decedent's spouse to whom lawyer also giving legal advice
LA 23 (1923)
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Withdrawal from case
client prevents exercise of independent professional judgment
SD 1972-1
reasons for
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
Witness
attorney acting as
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 538
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646, 655, 657-658 [29 Cal.Rptr. 150]
-against former client
LA 75 (1934)
-anticipated testimony may be sufficient to disqualify attorney and/or law firm
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]

-called by defense while member of district attorney's or attorney general's staffs
*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
--consent of client
Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
-called by opposition, testimony not prejudicial to client
Rule 2-111(A)(4),(5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]
Brown v. De Rugeris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
--United States Attorney's staff
U.S. v. Prantil (1985) 756 F.2d 759
-for impeachment purposes
Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
client
-former
--witness
---against present client
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
----in criminal proceeding
CAL 1980-52
-witness
--against present client
---in criminal proceeding
CAL 1979-49
--former co-defendant as key witness for the prosecution
United States v. Henke (9th Cir. 2000) 222 F.3d 633
criminal case
People v. Hernandez (1991) 231 Cal.App.3d 1376
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)

CONSERVATORSHIP PROCEEDINGS
Attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
Compared with child dependency proceedings
LA 504 (2000)
Conservatee cannot obligate conservatorship estate for payment of attorney's fees
Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]
Constructive attorney-client relationship not formed between conservatee and her conservator's designated attorney
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
Fees
value of an estate in an elder abuse case is a factor in setting fees and is consistent with CRPC 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

CONSULTATION WITH CLIENT [See Attorney-client relationship.]

CONTACT WITH JURORS
Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1988-100, CAL 1987-95, CAL 1976-39

CONTACT WITH OFFICIALS [See Judges. Judicial officials.]
Communications with
Rules 7-103 and 7-108, Rules of Professional Conduct (operative until May 26, 1989)
Rules 2-100 and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

CONTACT WITH WITNESSES [See Witnesses, contact with.]
Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
With treating physician of opposing party
CAL 1975-33
SD 1983-9

CONTEMPT OF COURT
Code of Civil Procedure sections 178, 1209
Attorney misbehavior in office
Code of Civil Procedure section 1209, par. 3
Criminal
attorney held in
-judge other than one bringing charges must try
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
-notice to attorney required
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
Impugning integrity of prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Judicial officers
power to punish for contempt
Code of Civil Procedure section 178
Mitigation
apology
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
No penalty for advising client-witness to refuse to produce material demanded by a subpoena duces tecum based on 5th Amendment
Maness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]

CONTINGENT FEE [See Fee.]
Business and Professions Code section 6147
"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Adequacy of consideration is to be determined at time of contract formation
Rader v. Thrasher (1962) 57 Cal.2d 244, 252 [18 Cal.Rptr. 736, 368 P.2d 360]
Advancement of funds
Rule 4-210, California Rules of Professional Conduct (operative as of May 27, 1989)
LA 499 (1999), LA 106 (1937)
Alimony, overdue
LA 275 (1963), LA 263 (1959), LA(I) 1969-1
SF 1971-1
Award of attorney fees statutes may not allow a computation which increases the award to account for the client's retention of attorneys on a contingent fee basis
City of Burlington v. Daugue (1992) 505 U.S. 557 [112 S.Ct. 2638]
Bankruptcy court's award of fees based on a pre-approved contingent fee agreement
In re Reimers (9th Cir. 1992) 972 F.2d 1127
Child support, overdue
CAL 1983-72
LA 275 (1963), LA 263 (1959)
Civil rights
fee arrangement allowed providing fees in excess of court awarded fee
Venegas v. Mitchell (1990) 495 U.S. 82 [110 S.Ct. 1679]

Client discharges attorney
quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Collections
LA 275 (1963), LA 263 (1959)
percentage of amount charged creditor
LA 4 (1917)
Compensation for actual, necessary services under bankruptcy law
Yermakov v. Fitzsimmons and Weldon (9th Cir. 1983) 718 F.2d 1465
Contract
Business and Professions Code section 6147
attorney abandonment of case
-quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
--between city and private attorney
People ex rel Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Bus. & Prof. Code, § 6147 applies only to fee agreements with litigation plaintiffs and not to clients generally who have non-litigation matters
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
discharged attorney limited to quantum meruit, premise
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216 [204 Cal.Rptr. 531]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
hybrid, hourly and contingent
SF 1999-1
interest charged on advanced costs from payment until billing
LA 499 (1999)
recovery is in the form of an annuity
CAL 1987-94
-attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
-attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
-medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
offset recovery not actually received by client
LA 458
strictly construed against attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
voidable at option of client if Bus. & Prof. Code, § 6147(b) not complied with
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
attorney may pay litigation costs for clients if representing on a charitable basis
SF 1974-4
lenders to attorneys for percentage of settlement
SF 1981-1
recoverable only in event of favorable settlement
SF 1985-2
recovery of, based upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
SF 1985-2
Costs
recovery of
LA 495 (1998)
Court award rebate to client
LA 447 (1987)
Court not bound by contract for
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
Deceased attorney
Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
Determination of
based on offset recovery which client does not actually receive
LA 458
cannot be determined in summary or ex parte proceedings
Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
quote specific amount for certain services
SD 1976-4
Discharge
entitled to recover reasonable value of services rendered
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
Dissolution
CAL 1983-72
Divorce
award of legal fees tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
discipline not imposed for attorney entering into
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
not violative of public policy
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
CAL 1983-72
void as against public policy
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
SF 1971-1, LA 188 (1952)
when no other recovery
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
Effect of discharge or withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Estate
LA 144 (1943)
Failure to comply with Business and Professions Code section 6147, subdivision (a) prevented an authorization for “additional fees” from being a contingency fee agreement
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Favored in California
Newman v. Freitas (1900) 129 Cal. 283, 292 [61 P. 907]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
Fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

Fifty percent of recovery contingency fee
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
Filiation action
void as against public policy
Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
For public defender
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
Former shareholder of law firm has no right on interpleader to contingency fee from cases which shareholder settled while working for firm
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
From insurer, based on medical expenses recovered, for protecting insurer's lien on recovery of its expenses
LA 352 (1976)
Health care provider
representing person seeking damages against
Business and Professions Code section 6146
Hybrid, hourly and contingent
SF 1999-1
Insist upon
LA(I) 1970-11
Lay person hired on basis of
expert
LA 45 (1927)
paralegal receives bonuses
LA 457
secretary
LA 222 (1954), LA 190 (1952)
Malpractice
attorney's failure to comply with legislative mandates under Business and Professions Code section 6146 et seq. may give rise to a cause of action for professional negligence
Schultz v Harney (1994) 27 Cal.App.4th 1611
In the Matter of Harney (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 266
Medical injury tort claims
Business and Professions Code section 6146
periodic payments to plaintiff
-attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
Medical malpractice action
limitation on amount
Business and Professions Code section 6146
-federal tort claims act preempts California Business and Professions Code section 6146 fee limitation
Jackson v. United States (9th Cir. 1989) 881 F.2d 707
CAL 1987-94
fee in excess of MICRA limitations may be pursued if MICRA causes of action are brought together with non-MICRA causes of action
Barris v. County of Los Angeles (1997) 60 Cal.App.4th 471 [70 Cal.Rptr.2d 281]
Waters v. Bourhis (1985) 40 Cal.3d 424
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
-medical-legal consulting firms may contract for a contingent fee
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
-test for determining attorney fees based on periodic payments
Mai Chi Nguyen, A Minor v. Los Angeles County Harbor/UCLA Medical Center (1995) 40 Cal.App.4th 1433 [48 Cal.Rptr.2d 301]
Minors' compromise
Probate Code sections 3500 et seq., 3600 et seq.
Law Offices of Stanley J. Bell v. Shine, Browne & Diamond (1995) 34 Cal.App.4th 1070 [41 Cal.Rptr.2d 784]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
trial court has jurisdiction to divide fees between prior and current attorneys as part of settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
Modification of contract
Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]
Notice of lien
Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
Offset recovery
LA 458
Paid to expert witness
CAL 1984-79
Patent prosecution
LA 507
Paternity action
void as against public policy
Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
Plaintiff
agreement voidable at option of, where attorney fails to comply with Business and Professions Code section 6147
Business and Professions Code section 6147(b)
terms of written contract
Business and Professions Code section 6147(a)(1)-(5)
workers' compensation
-exception for requirements of written contract
Business and Professions Code section 6147(c)
written contract and terms
-workers' compensation exception
Business and Professions Code section 6147(c)
written contract to represent
Business and Professions Code section 6147(a)(1)
Presumptively invalid if attorney does not explain and client does not understand
Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
LA 458
Quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206 [204 Cal.Rptr. 531]
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
SF 1989-1
division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
incapacitation of attorney who was associated (became judge) entitles firm to quantum meruit fees (formula for determination of fees)
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
voluntary withdrawal of counsel without cause
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Reasonableness of
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465
Reasonableness of in light of legislative activity
Salton Bay Marina, Inc. v. Imperial Irrigation Dist. (1985) 172 Cal.App.3d 914, 952 [218 Cal.Rptr. 839]
Rebate portion of fee to client
LA 447 (1987)
Recovery is in the form of an annuity
attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]

Referral fee, duty to pay on occurrence of contingency
Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
Strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
LA 499 (1999)
Structured settlement
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
CAL 1987-94
medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
Validity
Estate of Kerr (1966) 63 Cal.2d 875 [48 Cal.Rptr. 707, 409 P.2d 931]
Herron v. State Bar (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]
Gelfand, Greer, Popko & Miller v. Shivener (1973) 30 Cal.App.3d 364 [105 Cal.Rptr. 445]
Estate of Raphael (1951) 103 Cal.App.2d 792 [230 P.2d 436]
Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
Voidable
at option of plaintiff where provisions of Bus. & Prof. Code, § 6147 not complied with
Business and Professions Code section 6147(b)
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
Workers' compensation cases
exempted from provisions for written fee contract
Business and Professions Code section 6147(c)

CONTRACT [See Contract for employment, fee.]
Changing terms, pro bono to paying
SD 1983-6
Client must understand
Denton v. State Bar (1951) 101 Cal.2d [226 P.2d 723]
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
Client waiver of attorney violation of Rules of Professional Conduct
CAL 1988-105
Construe contract for prospective client of corporations
when attorney acting as business agent for corporation
CAL 1968-13
Damages in contract causes of actions between partners of a dissolved partnership
equitable maxim to "do equity" does not preclude the recovery of damages
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Draft for
both parties
SF 1973-26
transaction between son and other party
SF 1973-26
Effect on contingent fees of attorney withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
For reporter's services
no intention to pay
CAL 1979-48

CONTRACT ATTORNEY
Compensation paid to non-employee attorney hired to render services to firm's client
CAL 1994-138, LA 473 (1993), LA 503 (2000)
Costs
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
Non-lawyers compensated for placing "temporary" attorneys with law firm
CAL 1992-126
Use of contract attorney, disclosure to client
CAL 1994-138, LA 473 (1993)

CONTRACT FOR EMPLOYMENT [See Attorney-client relationship.]
Business and Professions Code sections 6068(h), 6146, 6147
Code of Civil Procedure section 1021
Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)
Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]
Bradner v. Vasquez (1951) 102 Cal.App.2d 338 [227 P.2d 559]
LA 226 (1955)
Absent retainer agreement, quantum meruit
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
Agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
Agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
Agreement to limit personal professional liability prohibited
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative effective May 27, 1989)
damages limitation also prohibited
LA 489 (1997)
Appointment by court not a contract
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
Arbitration fee
binding
-client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1981-56
binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
Arbitration for professional liability of lawyer
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
LA 489 (1997)
client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1989-116, CAL 1977-47
Authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Bankruptcy
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
Bus. & Prof. Code, §§ 6147 and 6148 may not contemplate the wide variety of possible fee arrangements between attorneys and clients but any revision or expansion should be left to the legislature and not the courts
Franklin v. Appel (1992) 8 Cal.App. 4th 875 [10 Cal.Rptr.2d 759]

Contingent attorney's fee
domestic relations matter, discipline not imposed
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
fifty percent of recovery contingency fee
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
hybrid, hourly and
SF 1999-1
not violative of public policy
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
-client has no funds to pay
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
-percentage of recovery for spouse in divorce action
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
LA 499 (1999)
to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
void as against public policy
SF 1971-1
-divorce case
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
-examine factual background of each case
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
-however, attorney entitled to reasonable value of his services
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
voidable
-at option of plaintiff where provisions of Bus. & Prof. Code, § 6147 not complied with
Business and Professions Code section 6147(b)
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr. 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
Costs
contract provision may require that the attorney advance all reasonable necessary costs
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
interest charged on advanced costs from payment until billing
LA 499 (1999)
Criminal defense services
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
LA 466
Evidence of value of attorney's services
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8
Fees may not be raised by a law firm without notification to clients
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569, opn. mod. 1 Cal.App. 4th 417a
LA 479, LA 473
Formal contract
Jackson v. Campbell (1932) 215 Cal. 103 [8 P.2d 845]
additional compensation must not be too vague
Goldberg v. City of Santa Clara (1971) 21 Cal.App.3d 857 [98 Cal.Rptr. 862]
construe liberally in favor of client
Miller v. Wing (1935) 9 Cal.App.2d 483 [50 P.2d 470]
discharged attorney
Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]
formed after attorney-client relationship established
Preston v. Herminghaus (1930) 211 Cal. 1 [292 P. 953]
implied contract to exercise due care, skill, and knowledge
Floro v. Lawton (1960) 187 Cal.App.2d 657 [10 Cal.Rptr. 98]8
promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
-without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
unconscionable contract
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
OR 99-001
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letterhead
LA(I) 1962-5
-use of deceased or retired attorneys on
CAL 1986-90
used
-by sole survivor
LA 265 (1959)
-in partnership's name
LA 265 (1959), LA 248 (1958),
LA(I) 1962-5
Practice
maintain for widow of
SD 1969-4
sale of
Rule 2-300, California Rules of Professional Conduct
SD 1968-5
transfer of
LA 361 (1976)
SD 1968-5
DEGREES [See Advertising, academic degrees.]
DELAY IN HANDLING CASE [See Competence. Misconduct. Trial conduct.]
Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)
Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
For attorney's gain
Business and Professions Code section 6128(b)
Until fees are paid
CAL 1968-16
SD 1973-3
DISABLED LAWYER [See Deceased lawyer. Substitution of counsel. Withdrawal.]
Business and Professions Code section 6180, et seq.
Associate's duties with respect to practice of
LA 348 (1975)
DISBARMENT [See Disciplinary Action. Resignation. Suspension.]
Based on severity of offense
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Conviction of crime need not be in California
People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
Disbarment recommendation does not retroactively require involuntary inactive enrollment
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
Disregard for obligations to clients and profession
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Duties of disbarred lawyer
Rule 955, California Rules of Court
Bercovich v. State Bar (1990) 50 Cal.3d 116
In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646
Federal court must afford due process before disbarment of attorney based on state court disciplinary adjudication
In re Kramer (9th Cir. 1999) 193 F.3d 1131
Judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Many violations surrounded by serious, extensive aggravation
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Misappropriation generally warrants disbarment unless clearly extenuating circumstances are present
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Multiple acts involving moral turpitude and dishonesty warrant disbarment
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Not reserved for attorneys with prior disciplinary record
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Offenses concerning the administration of justice are serious
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Reinstatement
Calaway v. State Bar (1986) 41 Cal.3d 743
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894
In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373
Summary disbarment
Business and Professions Code section 6102(c) cannot be applied retroactively to summarily disbar an attorney for felony convictions
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740
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In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
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In re Franceschi (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

DISCIPLINARY ACTION [See Misconduct. Moral Turpitude.]
Business and Professions Code sections 6075-6087
Rule of Court 963
Rules 1-100 and 9-101, Rules of Professional Conduct (operative until May 26, 1989)
Rules 1-100 and 1-110, Rules of Professional Conduct (operative as of May 27, 1989)
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
Acts committed by attorney outside of professional capacity
attorney can be disciplined for
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
Administrative in nature and not governed by criminal procedure rules
In re Crooks (1990) 51 Cal.3d 1090
Emslie v. State Bar (1974) 11 Cal.3d 210
Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]
Admonishment considered appropriate discipline in light of extenuating circumstances and mitigation
In the Matter of Respondent C (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439
Aggravating circumstances
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Conroy v. State Bar (1990) 51 Cal.3d 799
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
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Natali v. State Bar (1988) 44 Cal.3d 456 [247 Cal.Rptr. 165]
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Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]
Carter v. State Bar (1988) 44 Cal.3d 1091, 1100-1101 [245 Cal.Rptr. 628, 751 P.2d 894]
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failure to appreciate seriousness of misconduct
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failure to comply with discovery requests by State Bar
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failure to cooperate with disciplinary investigation
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failure to file timely pre-trial statement
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
failure to return unearned fees
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
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In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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Edwards v. State Bar (1990) 52 Cal.3d 28, 35-36
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
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In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
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In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
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Associate assigned to client matters may not be blamed for supervising attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 35
Attorney-client privilege may be waived if client fails to assert it at a disciplinary hearing
Calvert v. State Bar (1991) 54 Cal.3d 765
Attorney entitled to procedural due process
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due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
Attorney must be afforded a fair and reasonable opportunity to be heard
Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661 P.2d 160]
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In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
Authority of Supreme Court
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
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Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Alberton v. State Bar (1984) 37 Cal.3d 1, 11-12 [206 Cal.Rptr. 573]
inherent authority includes power to appoint judges of the State Bar Court and this power is not impaired by permissible appointment mechanisms specified by the legislature
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
Bar Examination
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In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
Bias and prejudgment by hearing judge is claimed by respondent
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
Bias and prejudice against respondent manifested by referee are claimed by respondent as prejudicial error
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
Breach of fiduciary duty
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
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Hartford v. State Bar (1990) 50 Cal.3d 1139
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

Burden is on petitioner to demonstrate that findings of State Bar Court are unsupported by substantial evidence
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
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Montag v. State Bar (1983) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]
In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
Burden of proof
State Bar of California, clear and convincing
In re Morales (1983) 35 Cal.3d 1
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California Professional Responsibility Examination
purpose of
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
California State Bar Court is not governed by civil or criminal rules of procedure
In re Taggart (2001) 249 F.3d 987
Censure
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United States v. Summet (9th Cir. 1988) 862 F.2d 784
Civil findings by themselves are not dispositive of disciplinary issues
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
Collateral estoppel from previous litigation
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Commencement of disciplinary proceeding
period of limitations
Rule 51, Rules of Procedure of the State Bar of California
Communications with the State Bar are privileged
Business and Professions Code section 6094
Lebbos v. State Bar (1985) 165 Cal.App.3d 656, 665-671 [211 Cal.Rptr. 847]
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Complaint
lapse of time in the filing of a disciplinary complaint is no defense unless specific prejudice is shown
Yokozeki v. State Bar (1974) 11 Cal.3d 436, 449
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
presentation of a false and malicious complaint may give rise to a misdemeanor
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presenting charges of attorney misconduct
contact State Bar Office of Investigations
(800) 843-9053
Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Condition of psychiatric treatment requires clear or expert evidence that the respondent attorney had a specific mental or other problem
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
Conditions attached to public or private reprovals under Rule 956
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Conduct warranting discipline
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Confidentiality of disciplinary investigations
Business and Professional Code section 6086.1(b)
Contempt of court as basis for
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Continuances of proceedings
Palomo v. State Bar (1984) 36 Cal.3d 785, 791-792
Conviction of crime need not be in California
People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
Costs
incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10
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In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571
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reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
Criminal conviction
attorney cannot collaterally attack criminal conviction in disciplinary proceeding
In re Prantil (1989) 48 Cal.3d 227 [255 Cal.Rptr. 890, 768 P.2d 109]
attorney's conviction of a crime is conclusive evidence of guilt
In the Matter of Bouyer (Review Dept. 1998) 3 Cal.State Bar Ct. Rpt. 888
dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
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Criminal procedures do not apply in disciplinary proceedings
Palomo v. State Bar (1984) 36 Cal.3d 785, 792
Deception of court
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Default, no relief despite technical errors
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appropriate method for calculation of discipline
*In the Matter of Marsh (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291
recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension
In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
respondent claims disability affected memory
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Defendants' burden of proof
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Defense
attorney has right to argue ethical obligations establish a bona fide legal representation defense
United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
Defenses and mitigating circumstances
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In re Rose (2000) 22 Cal.4th 430 [93 Cal.Rptr.2d 298]
Disbarment appropriate when large sums of money misappropriated from several clients
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
Disbarment despite attorney's claim of emotional and physical problems caused by chronic diarrhea
Bercovich v. State Bar (1990) 50 Cal.3d 116
Disbarment despite contention that attorney was incompetent and unable to assist in his defense
Slaten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]
Disbarment despite mitigating circumstances if convicted of offense including intent to deceive or defraud and offenses committed while practicing law
In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]
Disbarment for abandonment and failure to return unearned fees
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
Disbarment for federal crime
protection of public
In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
Disbarment for misappropriation of funds from client trust account and partnership operating account
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
Disbarment for misappropriation unless clearly extenuating circumstances are present
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Disbarment for moral turpitude
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In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]
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In re Bloom (1987) 44 Cal.3d 128
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In re Rivas (1989) 49 Cal.3d 794
judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
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-attorney disbarred for misappropriating funds during breakup of firm
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Disbarment for repeated and persistent misconduct in multiple cases
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In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
In the Matter of Respondent D (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 517
Participate in
solely to obtain advantage in civil matter
Rule 7-104, Rules of Professional Conduct (operative until May 26, 1993)
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Partnership with a non-attorney
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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Warner v. State Bar (1983) 34 Cal.3d 36
Persistent inability to adhere to duties of an attorney
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
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In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
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Cooper v. State Bar (1987) 43 Cal.3d 1016
Preemption
Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
Pretrial discovery by accused attorney
Brotsky v. State Bar (1962) 57 Cal.2d 287
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Arm v. State Bar (1990) 50 Cal.3d 763 [789 P.2d 922]
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In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
Private reproval
may be disclosed on the State Bar's website
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
Probation conditions
abstention from all gambling
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
Probation modification ruling
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In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
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warrants 90-day suspension
In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
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In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
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probation revocation case remanded to the hearing judge re modification of a probation condition
In the Matter of Parker (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
probation revoked for failing to fully comply with probation requirements
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
+In the Matter of John Henry Hunter (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81; mod. at 3 Cal. State Bar Ct. Rptr. 89
In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108

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In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
Procedures
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Wells v. State Bar (1984) 36 Cal.3d 199, 205-207
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In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
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Rules of Practice Before the State Bar Court and Rules of Procedure of the State Bar Court
Text is located in:
Deerings Annotated California Codes, Court Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3
Text available through State Bar's home page:
http://www.calbar.ca.gov
Public Reproval is not sufficient discipline after conviction for not paying tax amounts withheld from employee wages
+In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
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Gordon v. State Bar (1982) 31 Cal.3d 748, 758
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Young v. State Bar (1990) 50 Cal.3d 1204
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In re Severo (1986) 41 Cal.3d 493
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-maintain highest professional standards, preserve integrity of and confidence in the legal profession
Conroy v. State Bar (1990) 51 Cal.3d 799
Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
Purview of Supreme Court, not Labor Board
Katz v. Worker's Comp. Appeals (1981) 30 Cal.3d 353 [178 Cal.Rptr. 815, 636 P.2d 1153]
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In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103
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discipline requirement of demonstrating learning in general law found unjustified
Snyder v. State Bar (1990) 49 Cal.3d 1302
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In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571
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Calaway v. State Bar (1986) 41 Cal.3d 743
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
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Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]
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Restitution
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In the Matter of Potack (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525
RICO and Sherman Antitrust Act not a defense
Lebbos v. State Bar (1991) 53 Cal.3d 37
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
Sharing legal fee with a non-attorney
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Sovereign immunity of the State Bar as an arm of the state
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
Standard for subjecting attorney to discipline -moral turpitude
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Standard of review
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
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Standard of review by California Supreme Court
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Galardi v. State Bar (1987) 43 Cal.3d 683
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California Rules of Court, rule 951.5
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
State Bar
advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]
inherent power to discipline for conduct in or outside the profession
In re Scott (1991) 52 Cal.3d 968
lacks authority to discipline an attorney until final judgment of criminal conviction on appeal or the time for appeal has passed
In re Strick (1983) 34 Cal.3d 891 [196 Cal.Rptr. 293, 671 P.2d 125]
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In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
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Stipulation
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In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
very limited mitigation for factual stipulation
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Substantial discipline
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Finch v. State Bar (1981) 28 Cal.3d 659, 665 [170 Cal.Rptr. 629, 621 P.2d 253]
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In re Franceschi (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
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In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
Business and Professions Code section 6102 (c) cannot be applied retroactively to summarily disbar an attorney for felony convictions
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740
Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney
Hustedt v. Workers' Comp. Appeals Bd. (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]
Threat to present disciplinary charges
to obtain advantage in civil action
Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)
Untimely filing of decision
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
Vicarious versus personal liability for another attorney's misconduct
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
"Willful" defined for non-compliance with Rule of Court 955
Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]
Durbin v. State Bar (1979) 23 Cal.3d 461 [152 Cal.Rptr. 749]
Willful failure to communicate, and to perform services
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Bach v. State Bar (1991) 52 Cal.3d 1201
King v. State Bar (1990) 52 Cal.3d 307
Baca v. State Bar (1990) 52 Cal.3d 294
Cannon v. State Bar (1990) 51 Cal.3d 1103
In re Billings (1990) 50 Cal.3d 235 [787 P.2d 617]
Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
McMorris v. State Bar (1983) 35 Cal.3d 78
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"Willfulness" of violations
bad faith finding not required
McKnight v. State Bar (1991) 53 Cal.3d 1025
King v. State Bar (1990) 52 Cal.3d 307
Conroy v. State Bar (1990) 51 Cal.3d 799
Zitney v. State Bar (1966) 64 Cal.2d 787
"Willfulness" of violations
repeated failure to attend to client needs is attorney conduct which need not be shown to be willful
Kapelus v. State Bar (1987) 44 Cal.3d 179, 188
Van Sloten v. State Bar (1989) 48 Cal.3d921, 932
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
Withdrawal from employment with prejudice to client is not a violation inconsistent with discipline for failure to communicate
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

DISCOVERY [See Interrogatory, sanctions on motion to compel.]
Copy of results given to another lawyer with some interest in matter
LA(I) 1965-16
Sanctions not available to attorney who litigates in propria persona under CCP sections 2030(1) and 2023(b)(1)
Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

DISCRIMINATORY CONDUCT IN A LAW PRACTICE
Rule 2-400, Rules of Professional Conduct (operative as of March 1, 1994)

DISQUALIFICATION [See Conflict of interest, disqualification. Termination of attorney-client relationship. Withdrawal from employment.]
Attorney-client relationship must have existed before disqualification is proper
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717, 1723
Attorney General – denied
Cornish v. Superior Court (1989) 209 Cal.App.3d 467
Attorney retained by insurer to represent insured does not have attorney-client relationship for purposes of
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Authority of court
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]
Concurrent representation of adverse parties in separate matters is not cured by withdrawal from representation of the less favored client who explicitly refuses to consent
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Confidences of adversary
mere exposure to does not, standing alone, warrant disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Confidences of the client
actual possession need not be proven – test
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
rebuttable presumption of shared confidences among the attorneys in a firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Disclosure of confidences of the client
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577-1578
Gregori v. Bank of America (1989) 207 Cal.App.3d 291
District attorney
conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
disqualification based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
entire office
People v. Eubanks (1996) 14 Cal.4th 580
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
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People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Conner (1983) 34 Cal.3d 141, 148-149
Williams v. Superior Court (1988) 198 Cal.App.3d 960
Expert witness
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
Toyota Motor Sales, U.S.A. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
Examine circumstances of each case
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
Extended to law firm
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 608 [168 Cal.Rptr. 196]
Financial management company
LA 372 (1978)
Financial state in action
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24, 705 P.2d 347]

Former client ordinarily must be the moving party to seek disqualification based on a conflict of interest
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
Grand jury
Sixth Amendment right to counsel of one's choice does not apply
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
Mediator is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
Motion for disqualification that is still pending does not automatically require stay of all trial matters
Reed v. Superior Court (Case Financial) (2001) 92 Cal.App.4th 448, mod. at 92 Cal.App.4th 1346B [111 Cal.Rptr.2d 842]
Motion must be timely filed
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
River West, Inc. v. Nickel (1987) 188 Cal.App.3d 1297, 1311
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 605
Multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
Non-client litigant must establish a personal stake in a motion to disqualify
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
Notice of motion to disqualify a district attorney
Penal Code section 1424
Paralegal "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Penal Code § 1424 prosecuting attorney's conflict of interest
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
In re Marriage of Abernethy (1992) 5 Cal.App.4th 1193 [7 Cal.Rptr.2d 342]
Possibility of breach of client confidences
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
Presumption of shared confidences
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463
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County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Prior relationship with opposing party
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
Prior relationship with opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Prior representation of opposing party
Bankruptcy of Mortgage & Trust (1996) 195 B.R. 740
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr. 327]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr. 537] [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
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Adhere to Rules of Professional Conduct
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Advance no fact prejudicial to honor or reputation of a party or witness, unless required by the justice of the cause
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Adverse parties
duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties
In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]
no duty of care
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. (1990) 50 Cal.3d 205 [786 P.2d 365]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]
Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
-acceptance of ministerial function invokes a duty
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
Adverse pecuniary interest
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Advise adversary of campaign contribution to presiding judge in case
LA 387 (1981)
Advise client of disability of employer attorney
LA 348 (1975)
Advise client of partner and firm's malpractice
LA 383 (1979)
Advise client of prior attorney's malpractice
LA 390 (1981)
Advise client of reasonably apparent legal problems outside the scope of representation
LA 502 (1999)
Advise client of settlement and liability exposure
Garris v. Severson, Merson, Berke & Melchior (1988) 205 Cal.App.3d 301
Advise client of significant developments in case
Business and Professions Code section 6068(m)
Rule 3-500, Rules of Professional Conduct
Advise court of material fact
Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]
OR 95-001
Advise court of violation of court order by third party
LA 394 (1982)
Advise court to correct known misrepresentation
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Agent
fiduciary duty
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
Appeal
counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
indigent defendant constitutionally entitled to counsel's best argument for an appeal before court rules on withdrawal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Artifice
never seek to mislead judge or judicial officer with
Business and Professions Code section 6068(d)
Rule 5-200(B), Rules of Professional Conduct
Associate's duties runs to client
LA 383 (1979)
Attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156 [65 Cal.Rptr. 406]
Avoid involving client in murky areas of law when alternatives are available
Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]
Candor
dishonesty to court
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
distortions of record
Amstar Corp. v. Envirotech Corp. (C.A. Fed 1984) 730 F.2d 1476
no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
LA 502 (1999)
quotations containing deletions
Amstar Corp. v. Envirotech Corp. (C.A. Fed. 1984) 730 F.2d 1476
withdrawal from representation of a minor child
LA 504 (2000)
Care
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Commence remedial action
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
CAL 1983-74
Communicate with clients
Business and Professions Code section 6068(m)
Rule 3-500, Rules of Professional Conduct
Conroy v. State Bar (1991) 53 Cal.3d 495
Borré v. State Bar (1991) 52 Cal.3d 1047
Harford v. State Bar (1990) 52 Cal.3d 93
Kapelus v. State Bar (1987) 44 Cal.3d 179
Butler v. State Bar (1986) 42 Cal.3d 323 [721 P.2d 585]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
In the Matter of Respondent C (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439
basis for calculating fees
OR 99-001
counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
discovery sanctions against the attorney and client may be a significant development which should be communicated to the client
CAL 1997-151
failure to communicate due to assigned associates inability to speak Spanish
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
no duty, as an element of malpractice action, to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
on any matter which requires client understanding, the attorney must take all reasonable steps to insure that the client comprehends the legal concepts involved and advice given
LA 504 (2000)
"reasonable status inquiry" for purpose of B & P § 6068(m)
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
Compelled to deal directly with opposing party
Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
CAL 1987-93, CAL 1984-83
Competence
Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)
obligation to anticipate reasonably foreseeable risks
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Comply with State Bar reporting requirements
Business and Professions Code section 6068(j)
Condone violation of duties, violates public policy
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
Confidences of client
duty to follow a minor client's instruction not to disclose confidential information
LA 504 (2000)
duty to maintain inviolate
Business and Professions Code section 6068(e)
duty to preserve client confidence and trust in attorney
People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
CAL 1981-58, CAL 1987-93, CAL 1987-92
LA 506
duty to protect client confidences and secrets
-after death of client
LA 414 (1983)
-after termination of attorney-client relationship
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
LA 463 (1990), LA 452 (1988), LA 400 (1982), LA 386 (1980)
fundamental ethical obligation not changed by court appointment to represent minor in dependency proceeding
LA 504 (2000)
Conform to professional standards of attorney in whatever capacity
Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
Crawford v. State Bar (1960) 54 Cal.2d 659, 668 [7 Cal.Rptr. 746, 355 P.2d 490]
Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

rendering legal and non-legal services to a single client
Kelly v. State Bar (1991) 53 Cal.3d 509
Layton v. State Bar (1990) 50 Cal.3d 889
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
CAL 1999-154
Constitution, support of United States and California
Business and Professions Code section 6068(a)
no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
Control communications of employees under attorney's letterhead and signature
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
Cooperate in disciplinary proceeding
Business and Professions Code section 6068(i)
Corrupt motive of passion or interest
not to encourage action or proceeding from
Business and Professions Code section 6068(g)
Rule 3-200(A), Rules of Professional Conduct
Costs
no duty to advance for pro bono client
LA 379 (1979)
Counsel or maintain such actions, proceedings, or defenses only as appear legal or just
Business and Professions Code section 6068(c)
Sorensen v. State Bar (1991) 52 Cal.3d 1036
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
Courts of justice
maintain respect for
Business and Professions Code section 6068(b)
respectfully yield to rulings of court, whether right or wrong
Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [247 Cal.Rptr. 599]
Deal honestly and fairly with adverse party and counsel
Slemaker v. Woolley (1989) 207 Cal.App.3d 1377
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Defend client
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
Defense counsel
People v. Fatone (1985) 165 Cal.App.3d 164 [211 Cal.Rptr. 228]
In re Spears (1984) 157 Cal.App.3d 1203, 1210 [204 Cal.Rptr. 333]
People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
Defenseless, cause of
duty not to reject for personal considerations
Business and Professions Code section 6068(h)
report child abuse
Penal Code section 11165
Dependency proceeding
representation of a minor client
LA 504 (2000)
Depositions, representing client at
instructions not to answer sanctionable
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
reconciling potentially divergent duties
LA 497 (1999)
Disclose
CAL 1969-19
SD 1983-8
altered evidence to opponent
SD 1983-3
death of client to opposing party
LA 300 (1967)
facts to client when acting in fiduciary capacity
Day v. Rosenthal (1985) 170 Cal.App.3d 1125, 1159-60 [217 Cal.Rptr. 89]
identity of informant to defendant
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]
legal authority in the controlling jurisdiction which is adverse to client
Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
violation of court order by third party
LA 394 (1982)
District attorney
In re Martin (1983) 150 Cal.App.3d 148, 169 [197 Cal.Rptr. 655]
Duty to preserve client confidence/trust in attorney
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 1987-93, CAL 1987-92
Duty to report impropriety of another attorney
Business and Professions Code section 6100 et seq.
SD 1992-2, LA 440 (1986)
SF 1977-1
Employ means consistent with truth
Business and Professions Code section 6068(d)
Rule 5-200, Rules of Professional Conduct
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
Employee duties to employer
Labor Code section 2650
Estate executor and beneficiary
Estate of Effron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
Exercise independent professional judgment in best interest of clients
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
LA 383 (1979)
Failure of counsel to investigate and file a federal tort claim imputed to client
Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]
Failure to perform duties
Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]
Newton v. State Bar (1983) 33 Cal.3d 480 [189 Cal.Rptr. 372, 658 P.2d 735]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
attorney neither pursued client's action nor took active steps to withdraw
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Fairness to opposing counsel
CAL 1984-78

False statement of fact or law
never seek to mislead judge or judicial officer with
Business and Professions Code section 6068(d)
Rule 5-200, Rules of Professional Conduct
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Fidelity to client
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
Anderson v. Eaton (1930) 211 Cal. 113
CAL 1987-93, CAL 1981-83
Fidelity to non-client
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Fiduciary
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A
Hartford v. State Bar (1990) 50 Cal.3d 1139
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. 196
Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]
Krusesky v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]
adverse party
Sternlieb v. State Bar (1990) 52 Cal.3d 317
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Crooks v. State Bar (1970) 3 Cal.3d 346
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97]
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
adverse party or non-client
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
-disbursement of assets in dissolution without consent of parties
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
breach of duty to a former client
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
legal obligation to give notice of impending default in plaintiff's suit
Bellm v. Bellia (1984) 150 Cal.App.3d 1036 [198 Cal.Rptr. 389]
relationship ends when insured sues its insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
rule requiring that trust funds disputed by client be maintained in the client trust account until the dispute is resolved also applies to disputes concerning funds held for the benefit of non-clients to whom the attorney owes fiduciary duties
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
standard for the relationship
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
statute of limitations
Stoll v. Superior Court (1992) 9 Cal.App.4th 1362
to co-counsel
-does not extend
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
to non-client joint ventures
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)
to third-party non-client
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Files [See Files.]
Fraud
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
false representation that attorney had received escrow funds and was holding in trust
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Honesty
deception and concealment amounting to moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
dishonesty to court
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
fundamental rule of ethics, common honesty
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
Alkow v. State Bar (1952) 38 Cal.2d 257, 264 [239 P.2d 871]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Improve and enhance the rule of law
Capotosto v. Collins (1991) 235 Cal.App.3d 1439
Indigent
duty to represent
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336 [222 Cal.Rptr. 854]
SD 1968-4
private employment contract with
SD 1968-4
Inform court [See Court.]
correct known misrepresentation
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
non-party witness perjury
SD 1983-8
of client perjury
CAL 1983-74

Insist that trustee receivers keep accurate records
Southwestern Media, Inc. v. Rau (9th Cir. 1983) 708 F.2d 419
Instruct client with respect to communications with opposing party
SD 1983-2
Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Insured's attorney owes no duty of good faith and fair dealing to insurer
Cooper v. Equity General Insurance (1990) 219 Cal.App.3d 1252 [268 Cal.Rptr. 692]
Insured's attorney owes no duty to insurer to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Investigate potential securities fraud
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
Investigate prior to filing lawsuit
Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
Investigate statements made by own client
United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
Joint ventures
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
Judge
never to mislead with artifice or false statement
Business and Professions Code section 6068(d)
Rule 5-200(B), Rules of Professional Conduct
Judicial office
maintain respect due
Business and Professions Code section 6068(b)
never to mislead with artifice or false statement
Business and Professions Code section 6068(d)
Keep accurate records
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
Laws, support of United States and California
Business and Professions Code section 6068(a)
no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
Loyalty
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 611
bonus program for public agency attorneys tied to savings by agency
SD 1997-2
may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OR 95-001
owed to one client does not consume that owed the other client
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688, 716 [201 Cal.Rptr. 528]
personal duty not delegable
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
LA 506
Maintain
contact with informants
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
inviolate confidences and secrets of client
Business and Professions Code section 6068(e)
-outlasts employment
LA 389 (1981)
Make available client files on withdrawal
CAL 1994-134, SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1
Mandatory bar membership
Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
Misappropriation of funds
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Misleading judge or judicial officer
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
court responsible for ascertaining attorney's role in preparation and presentation of sham evidence
Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
duty not to mislead by an artifice or false statement of fact or law
Business and Professions Code section 6068(d)
Rule 5-200(B), Rules of Professional Conduct
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
OR 95-001
duty to report possible violation of court order
LA 394 (1982)
No constitutional right to every defense
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
counsel need not raise every non-frivolous claim
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
No duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
Not required to make futile objections
People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]

Not to encourage actions brought from a corrupt motive of passion or interest
Rule 3-200(A), Rules of Professional Conduct
Sorensen v. State Bar (1991) 52 Cal.3d 1036
Obey court orders
Business and Professions Code section 6103
Barnum v. State Bar (1990) 52 Cal.3d 104
disregard of order by a workers' compensation judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
law firm violated injunction by depositing client's check into client trust account
Commodity Futures Trading Commission v. Co. Petro Mktg. (9th Cir. 1983) 700 F.2d 1269, 1284
monetary sanctions not warranted for premature departure from courthouse and returning late from lunch
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
no penalty of contempt for advising client-witness not to produce incriminating material based on 5th Amendment
Manness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]
Obey oath
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-131 [202 Cal.Rptr. 349]
Of discharged attorney
to sign settlement draft/check to facilitate former client's receipt of settlement proceeds
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
Of succeeding attorneys
honor preceding attorneys' liens
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
Offensive personality, duty to abstain from
Business and Professions Code section 6068(f)
Officer of court
Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
On withdrawal not affected by who terminates the relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
Opposing counsel
disclose death of client during settlement negotiation
LA 300 (1967)
dishonesty to
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Opposing party
disbursement of funds to client and attorney when funds held for the benefit of client and the adverse party without knowledge or consent of the adverse party and opposing counsel
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
litigation privilege is absolute and protects attorney from tort actions based on misleading statements made to opposing side in the context of dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
litigation privilege justifies dismissal of defamation action against law firm
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
litigation privilege protects attorney conduct which is communicative in nature
Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
no duty of care owed
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
to advise regarding opposing party's mistake of law affecting settlement
LA 380 (1979)
Oppressed, cause of duty not to reject for personal considerations
Business and Professions Code section 6068(h)
Outlast employment
LA 389 (1981)
duties to client extend beyond the closing of the client file
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
does not dissolve when attorney is discharged
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
Owed to third parties [See Professional liability, duty owed to third parties.]
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
stock pledged by third party creates fiduciary duty under Business and Professions Code section 6068(a)
Hartford v. State Bar (1990) 50 Cal.3d 1139
Partner's malpractice
associate's duty to disclose to client
LA 383 (1979)
Partnership dissolution
CAL 1985-86
fiduciary duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Party
honor of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
reputation of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
Pay court reporter fees
CAL 1979-48
Perform services for client
Butler v. State Bar (1986) 42 Cal.3d 323
McMorris v. State Bar (1983) 35 Cal.3d 78
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Personal considerations, not to reject cause of defenseless or oppressed for
Business and Professions Code section 6068(h)
LA 445 (1987)
Power of attorney, on advice of attorney
Civil Code section 2421(3)(2)
Preserve confidences and secrets
Business and Professions Code section 6068(e)
Pro bono client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
*Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 397
Proceeding
encouraging commencement or continuance from corrupt motive of passion or interest
Business and Professions Code section 6068(g)

legal or just
-duty to counsel or maintain only
Business and Professions Code section 6068(c)
Professionalism
LA 339 (1973), LA 272 (1962)
Prosecutor
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d, 5]
People v. Manson (1976) 61 Cal.App.3d 102, 164
duty to seek justice, not merely to convict
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
Protect a client in every possible way
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
Public agency attorneys
participation in bonus program tied to savings by agency
SD 1997-2
Public defender
People v. Forte (1984) 155 Cal.App.3d 912, 916
acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Refer client to specialist
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]
Reject for personal considerations
cause of defenseless or oppressed
Business and Professions Code section 6068(h)
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
Waitz v. Zumwalt (1985) 167 Cal.App.3d 835 [213 Cal.Rptr. 529]
CAL 1981-64
Report
child abuse
Penal Code section 11165 et seq.
LA 504 (2000)
crime discovered
SF 1975-2
impropriety of another attorney
Business and Professions Code section 6100 et seq.
LA 440 (1986)
SD 1992-2
SF 1977-1
to the I.R.S.
-cash receipts from any one transaction (or two related transactions) of $10,000 or more during one year
Internal Revenue Code section 6050(I)
to the State Bar
-address of attorney
Business and Professions Code section 6002.1
-conviction of attorney
Business and Professions Code section 6068(o)(5)
-imposition of discipline
Business and Professions Code section 6068(o)(6)
-indictment of information charging a felony
Business and Professions Code section 6068(o)(4)
-judgment against attorney for moral turpitude
Business and Professions Code section 6068(o)(2)
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
-judicial sanctions
Business and Professions Code section 6068(o)(3)
Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
In the Matter of Blum (Review Dept. 1994) 3 State Bar Ct. Rptr. 170
CAL 1997-151
--duty to report runs from the time sanctions ordered regardless of pendency of an appeal
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
-malpractice lawsuits
Business and Professions Code section 6068(o)(1)
Represent client zealously
People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
People v. Pangelina (1984) 153 Cal.App.3d 1
attorneys obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Research law
In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865
Respect courts and judicial officers
Business and Professions Code section 6068(b)
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Return client files to client
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
SD 1997-1, SD 1984-3, SD 1977-3
SF 1996-1, SF 1984-1
Return records mistakenly delivered to sender
SD 1987-3
Reveal
United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
client perjury in a civil non-jury trial
CAL 1983-74
the fruits of crime in his possession to the prosecutor
CAL 1984-76, LA 466
Secrets of client
duty to preserve
Business and Professions Code section 6068(e)
duty to supervise [See Employee.]
Serve indigent client without compensation
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 470
Settlement
attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156
settlement check issued only to client, but delivered to attorney who has a lien
OR 99-002
Special obligation to obey the law
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
Statutory duty to assist indigent
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
Statutory requirement for service on attorney
National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
Supervise client trust account
Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
LA 488 (1996)
Supervise employees
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Palomo v. State Bar (1984) 36 Cal.3d 785
Crane v. State Bar (1981) 30 Cal.3d 117, 122
Black v. State Bar (1972) 7 Cal.3d 676, 692
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
CAL 1997-150, CAL 1988-103, LA 488 (1996)
OR 94-002
attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
paralegal
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
OR 94-002
Support of United States and California Constitution and Laws
Business and Professions Code section 6068(a)
no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
Silberg v. Anderson (1990) 50 Cal.3d 205
Take reasonable measures to determine law at time of action
no duty to foresee changes in law
Jones v. Stevenson (1983) 149 Cal.App.3d 560, 565
*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
Third party
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
no duty to insurer to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
not to convert funds
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
LA 454
reasonable duty to communicate with a lienholder as to the subject of the fiduciary obligation
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
To adverse party
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. 50 Cal.3d 205
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
To clients
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
advice attorney to in propria persona litigants
LA 502 (1999)
breach warrants discipline
Alberton v. State Bar (1984) 37 Cal.3d 1, 14-15
good faith and fiduciary duty owed to clients
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235, 771 P.3d 1323], mod. 49 Cal.3d 38a
Gassman v. State Bar (1976) 18 Cal.3d 125, 130
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
To co-clients
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
To co-counsel
specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
LA 454
To communicate
McMorris v. State Bar (1983) 35 Cal.3d 78
policy limits to client
LA 350 (1975)
with client
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 1983-77
-basis for calculating fees
OR 99-001
To former client's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
To honor medical lien when client consents
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
To insured when retained by insurer
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
no duty to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
To non-clients
Silberg v. Anderson (1990) 50 Cal.3d 205
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
Pierce v. Lyman (1991) 1 Cal.App.4th 1093
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
accepting non-client funds/securities to secure client fees
Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675, 741 P.2d 172]
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774, 739 P.2d 134]
joint venture
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
no obligation to indemnify agent when no attorney-client relationship established between client's attorney and client's agency who negotiated a contract concurrently on behalf of their mutual client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
unrepresented party to pre-marital agreement negotiation, duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties
In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]
To refrain from acquiring pecuniary interest adverse to former client
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Truth, employ means only consistent with
Business and Professions Code section 6068(d)
Rule 5-200, California Rules of Professional Conduct
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
LA 504 (2000), LA 464 (1991)
Undivided loyalty to client
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]
LA 428 (1984)
Use such skill and diligence as others in the profession commonly used
Harris v. Smith (1984) 157 Cal.App.3d 100, 103-104
Violations of California Rules of Professional Conduct
SD 1992-2, LA 440 (1986)
SF 1977-1
Withdrawal [See Conflict of interest. Substitution. Withdrawal.]
reasonable steps to avoid reasonably foreseeable prejudice to client's rights
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
-attorney's active steps to prejudice client's rights
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
violation of professional responsibility
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090-1091 [206 Cal.Rptr. 45]
Witness
honor of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
reputation of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)

EDUCATIONAL ACTIVITY [See Broadcasting. Business activity. Publication.]
Lectures, seminars, teaching, etc.
Belli v. State Bar (1974) 10 Cal.3d 824
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
CAL 1972-29
LA 321 (1971), LA 286 (1965), LA 221 (1954), LA(I)1973-8
SD 1974-21, SD 1974-16, SD 1969-8, SD 1969-6

ELECTIONS [See Political activity.]

ELECTRONIC SURVEILLANCE [See Recording.]

EMBEZZLEMENT [See Client trust fund, misappropriation. Misappropriation. Misconduct.]

EMINENT DOMAIN [See Condemnation.]

EMPLOYEE [See Fee, lay person. Lay employee. Unauthorized Practice of Law.]
Disclosure of client confidences [See Confidences of the client.]
CAL 1979-50
Duty of attorney
to adequately supervise
-attorney liable for overdrawn bank account
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
-attorney unaware collection procedures already initiated
Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]
-employees' repeated neglect of client's case
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
-improper correspondence sent by staff
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]
-lapses in office procedure deemed willful
Trousil v. State Bar (1985) 38 Cal.3d 337, 342 [211 Cal.Rptr. 525]
Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]
-negligent office management
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
-regarding client trust account
--no intent to defraud need be shown
Waysman v. State Bar (1986) 41 Cal.3d 452 [224 Cal.Rptr. 101]
-secretary's negligent management of client trust account
Gassman v. State Bar (1976) 18 Cal.3d 125 [132 Cal.Rptr. 675]
to instruct concerning preserving confidences and secrets of clients
CAL 1979-50
Duty to employer
Labor Code section 2650

EMPLOYEE ASSOCIATION [See Labor union.]

EMPLOYMENT [See Acceptance of employment. Attorney-client relationship. Confidences of the client. Conflict of interest.]
Of attorney by office secretary
SD 1972-3

EMPLOYMENT AGENCY
CAL 1992-126

EMPLOYMENT WANTED [See Advertising. Collections. Insurance company attorney. Lay intermediaries. Referral of legal business. Solicitation of business. Substitution of counsel.]
Accept employment from
committee of accident victims
LA 165 (1947)
customers of own business
LA 205 (1953), LA(I) 1977-2, LA(I) 1976-9, LA(I) 1976-7
group of property owners
LA 257 (1959)
lay person or entity to serve customers of
LA 327 (1972), LA(I) 1969-4, LA(I) 1963-5
SD 1974-20
-employees of
SD 1972-3
members of client association
LA(I) 1974-14, LA(I) 1947-8
participants in educational activity
CAL 1972-29
party when criticized work of counsel of
LA 313 (1969)
pro bono clients
LA(I) 1975-6
viewers of television program
LA 318 (1970)
Accept when
selected from list prepared by insurance agent
LA(I) 1964-3

ENVELOPE [See Advertising, Solicitation.]

ESCROW [See Real estate transaction.]
Agent
represents against grantor
LA 266 (1959)
-one party in dispute over escrow
LA(I) 1955-6
returns client's deposit after discovery that client was fraudulently induced into agreement
LA(I) 1957-1
Lawyer employee for escrow company prepares escrow documents for customers of employer
LA 205 (1953)
Sue client for damages while holding client's stock in
LA 266 (1959)

ESTATE [See Conflict of interest, estate. Fee. Will.]
Administrator
beneficiary under will
Probate Code section 21350 et.seq.
own employee for opponent's estate
LA 341 (1973)
Administrator's attorney
buys property for estate
LA 238 (1956)

represents administrator in that capacity and in capacity as heir
CAL 1976-41
LA 237 (1956), LA 193 (1952), LA 144 (1943), LA 72 (1934), LA(I) 1967-6
takes assignment of administrator's interest in estate to secure loan
LA 228 (1955)
Attorney as beneficiary of trust
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Executor
beneficiary as
LA 219 (1954)
commission for sale of estate property
LA 317 (1970)
employs own lawyer employer as executor's attorney
LA 382 (1979)
in individual capacity against coexecutor
LA 72 (1934)
lawyer's secretary as
LA 382 (1979)
represents
-beneficiaries in contest over heirship
LA(I) 1958-2
will contents revealed to after incompetency of client
LA 229 (1955)
Executor's attorney
acts as real estate broker in the sale of estate property
LA 470 (1992)
attorney-client relationship extends only to the executor not to the beneficiaries
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
SD 1990-2
commission for sale of estate property
LA 470 (1992), LA 317 (1970)
fee for doing executor's work
LA 382 (1979), 347 (1975)
Probate Code sections 10804 and 15687
offers to prepare claims of creditors of estate for fee
LA(I) 1961-6
own partnership
LA 219 (1954)
referral fee from broker listing estate property
SD 1989-2
represents beneficiaries against reopened estate
LA 269 (1960)
-estate as contestant in probate
LA 193 (1952)
-person in determination of heirship
LA 193 (1952), LA(I) 1965-8
-re-opened estate against
LA 269 (1960)
Liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Partnership
represents
-member-executor
LA 219 (1954)
-member-trustee
LA 219 (1954)
Personal representative
attorney for heir bills for services covered by statutory fees to be paid from estate
LA(I) 1956-7
Trustee
as beneficiary
LA 219 (1954)
attorney-client relationship does not extend to beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282
mishandling of estate
Layton v. State Bar (1990) 50 Cal. 889 [789 P.2d 1026]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
partnership represents when member is
LA 219 (1954)
Will
attorney as beneficiary
Estate of Auen (1994) 30 Cal.App.4th 300

ETHICS COMMITTEES

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EVIDENCE

Adverse credibility determination in a disciplinary proceeding
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
Affirmative duty to reveal "fruit of crime" evidence to prosecution
United States v. Kellington (9th Cir. Or. 2000) 217 F.3d 1084
LA 466 (1991)
Attorney-client privilege survives client's death
Swidler & Berlin v. United States (1998) 524 U.S. 399
Conclusiveness of a final disciplinary order in another jurisdiction unless the misconduct in that jurisdiction would not warrant discipline in California or unless the disciplinary proceeding in that jurisdiction lacked fundamental constitutional protection
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Discovery of critical evidence and improper vouching by federal prosecutor
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
Duty to disclose altered evidence to opposing counsel
SD 1983-3

Immaterial that evidence used is embarrassing to opponent
Rule 5-220, Rules of Professional Conduct
LA 208 (1953)
Inadequate evidence to determine conflict of interest
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]
No error in excluding evidence of attorney's willingness to stipulate to reasonable discipline
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
Objections must be timely and specific
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Substantial evidence in a standard 1.4(c)(ii) proceeding
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
Waiver of a constitutional due process and equal protection argument against the application of B & P Code section 6049.1
Respondent failed to argue before the hearing department or in his briefs that culpability in a Michigan disciplinary proceeding required proof only by a preponderance of the evidence
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

EX PARTE COMMUNICATION WITH JUDGE [See Judge, Communication with judicial officers]
Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
"Judge" defined
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
CAL 1984-82
Judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Publication of article regarding pending case
LA 451 (1988), LA 343 (1974)
Regarding matter on appeal
CAL 1984-78

EXECUTOR [See Estate, executor.]

EXPENSES [See Advancement of funds. Costs. Reimbursement of attorney for expenses.]
Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative effective May 27, 1989)
Advance
LA 379 (1979), LA 106 (1936)
Advanced costs by law firm per contingency fee agreement deductible as business expenses
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
Assigned counsel's duty with respect to
LA 379 (1979)
Court reporter fees
CAL 1979-48
Lawyer pays
LA 379 (1979), LA 158 (1945), LA 149 (1944), LA 106 (1936)
SF 1974-4
Of litigation
lawyer advances
LA 106 (1936)
-interest from payment until billing
LA 499 (1999)
Physician's lien
CAL 1988-101
LA 478 (1994), LA 368, LA 357

FAXSIMILE TRANSMISSIONS
Filing via
Rosenberg v. Superior Court (1994) 25 Cal.App.4th 897
Solicitations via
faxing of unsolicited advertisements prohibited
Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54

FEE ARBITRATION
Business and Professions Code sections 6200-6206
Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs
Text is located in:
Deerings Annotated California Codes, Court Rules, and in
West's Annotated California Codes, Court Rules, Rules of Procedure for Fee Arbitration and the Enforcement of Awards, vol. 23, pt 3, p. 679
Information about the State Bar Fee Arbitration Program is available from:
State Bar of California
Fee Arbitration Program
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2020
Binding contract provision
CAL 1981-56
Binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
Client's fee guarantor entitled to arbitrate fee dispute
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
Insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client
National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
Notice of client's right to arbitrate a dispute must be given after dispute has arisen
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
OR 99-002
Public policy
Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

FEES [See Advancement of funds. Arbitration. Attorney's lien. Barter. Commission. Contingent fee. Contract for employment. Division of fees. Divorce, fee. Lien. Minimum fees. Solicitation of business.]
Business and Professions Code sections 6147-6149
Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)
Actions for recovery of compensation [See] 88 A.L.R.3d 246]
court cannot determine fees at ex parte or summary proceeding
Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
Additional compensation for uncontemplated services
awarded if contract anticipated additional services
McKee v. Lynch (1940) 40 Cal.App.2d 216 [104 P.2d 675]
awarded where attorney employee performs unanticipated services
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]
awarded where contract silent on fees
Brooks v. Van Winkle (1958) 161 Cal.App.2d 734 [327 P.2d 151]

unavailable if attorney failed to notify client of additional services performed
Baldie v. Bank of America (1950) 97 Cal.App.2d 70 [217 P.2d 111]
unavailable where attorney's contract with client is a "bad bargain" on behalf of the attorney
Reynolds v. Sorosis Fruit Co. (1901) 133 Cal. 625 [66 P. 21]
"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Advance payment requested from client
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
CAL 1976-38, LA 360 (1976), LA(I) 1966-4, SF 1974-4
Advance payment retainer distinguished from true retainer
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
Agreement
acquisition of adverse interest, in general
SF 1997-1
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee
LA 505 (2000)
arbitration clause
binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
billing practices
CAL 1996-147, OR 99-001
confidential nature of
Business and Professions Code section 6149
court informed of
LA 261 (1959)
divorce
LA 261 (1959), LA 226 (1955)
evaluated at time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding in bankruptcy matter
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
handle probate matter
-for less than statutory fee
LA 102 (1936)
hybrid, hourly and contingent
SF 1999-1
prepayment required
LA 360 (1976), LA(I) 1966-4
presumption of undue influence
-contract between attorney and client giving attorney interest in subject matter of representation
Cooley v. Miller & Lux (1914) 168 Cal. 120, 131 [142 P. 83]
-fee contract with client after creation of attorney-client relationship – attorney carried burden to demonstrate fairness
Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212, 227 [64 Cal.Rptr. 915]
-lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to
LA 496 (1998)
-presumption does not attach where fee agreement reached before or at creation of attorney-client relationship
Berk v. Twenty-Nine Palms Ranchos Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
-presumption of overreaching is rebuttable
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
-presumption that contract is without sufficient consideration
Lady v. Worthingham (1943) 57 Cal.App.2d 557, 560 [135 P.2d 205]
statutory clauses required
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
strictly construed against attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
-without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Appeal of dismissal required to obtain appellate ruling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281
Appeal of order denying fees
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Appointment of counsel
Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
-additional fees not available when case is not extended or complex
United States v. Diaz (1992) 802 F.Supp. 304
-billing for services rendered prior to appointment
In re Russell John Larson (9th Cir. 1994) 174 B.R. 797
Apportionment between attorneys
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903
Walsh v. Woods (1982) 133 Cal.App.3d 764 [184 Cal.Rptr. 267]
SD 1969-4
Apportionment between clients
LA 424 (1984)
Arbitration [See Fee Arbitration.]
Business and Professions Code section 6200, et seq.
Shepard v. Green (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165 [199 Cal.Rptr. 246]
clarification of award suggested that attorney's fees were not included
Bennett v. California Custom Coach, Inc. (1991) 234 Cal.App.3d 333
clause in retainer agreement
CAL 1981-56
fee guarantor entitled to arbitrate fee dispute
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client
National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

notice of client's right to arbitrate a dispute must be given after dispute has arisen
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
OR 99-002
trial de novo after award of fees by arbitrator not preserved by client's filing of malpractice action
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
waiver of due to filing of affirmative relief pleading
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587
Arrangement not subject to attorney-client privilege, no revelation of confidential information
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
Phaksuan v. U.S. (9th Cir. 1984) 722 F.2d 591, 594
Assigned counsel's private arrangement with client
SD 1969-9
Attempt to collect
confidences divulged in collection effort
LA 452 (1988)
discharge [See 24 Hastings Law Journal 771; 61 Cal.L.Rev. 397; 9 Cal.Western L. Rev. 355; 6 West L.A. L.Rev. 92; 3 G.G. L.Rev. 285; 92 L.L.R.3d 690.]
Abrams & Fox v. Briney (1974) 39 Cal.App.3d 604, 609 [114 Cal.Rptr. 328]
-contingent [See Fee, attempt to collect, discharge, quantum meruit.]
--attorney properly discharged for cause entitled to enforce lien to extent of reasonable value of services performed to date of discharge
Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]
--discharged attorney entitled only to reasonable value of services performed before discharge
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
--right of discharged attorney to sue for agreed fee does not arise until recovery through services of the substituted attorney
Echlin v. Superior Court (1939) 13 Cal.2d 368, 375-376 [90 P.2d 63]
-quantum meruit [See Liens.]
--attorney discharged with or without cause entitled to recover only reasonable value of services rendered prior to discharge
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
--discharged attorney entitled to quantum meruit recovery for reasonable value of services, upon occurrence of contingency
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]
--discharged attorney refuses to accept offer of reasonable value of services from substituted attorney
Kallen v. Delug (1984) 157 Cal.App.3d 940, 947 [203 Cal.Rptr.879]
--pro rata formula used where contingent fee insufficient to meet quantum meruit claims of both discharged and existing counsel
Spires v. American Buslines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]
duty of succeeding attorney
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
-action to recover
LA 109 (1937)
-award of attorney fees based on expert testimony fixing reasonable value of services
Mayock v. Splane (1943) 56 Cal.App.2d 563, 573 [132 P.2d 827]
-award of attorney fees based on reasonable value of services supported by expert testimony
Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 481-482 [60 P.2d 873]
-by associate attorney
Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]
-*Civil Code section 2235 dealing with the presumption of invalidity in contracts between trustee and beneficiary does not apply to attorney/client contracts (Civil Code section 2235 was repealed 7/1/87)
Probate Code sections 16002 and 16004
Walton v. Broglio (1975) 52 Cal.App.3d 400, 403-404 [125 Cal.Rptr.123]
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
-contracts between attorney-client; client cannot escape full payment of fees merely because attorney's services prove less valuable than contemplated
Berk v. Twentynine Palms Ranchos, Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
-determination of reasonable attorney fees primarily a question of fact for trial court; expert testimony unnecessary
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
-discretion of trial court in setting value of services and in considering expert testimony; review by appeals court
Libby v. Kipp (1927) 87 Cal.App. 538, 545-548 [262 P. 68]
-effect of express contract on fees where attorney performs additional services beyond contract
Biaggi v. Sawyer (1946) 75 Cal.App.2d 105, 111-112 [170 P.2d 678]
-evidence considered in determining attorney fees
Deberry v. Cavalier (1931) 113 Cal.App. 30, 35-36 [297 P. 611]
-expert opinion by attorney on value of services questions of fact for jury; overhead office expenses may be considered in fixing value of services
Tasker v. Cochrane (1928) 94 Cal.App. 361, 365-366, 368 [271 P. 503]
-expert testimony on value of services admissible, but not essential
Spencer v. Collins (1909) 156 Cal. 298, 306-307 [104 P. 320]
-factors considered by court in determining reasonable value of attorney fees; when appeals court may modify award
Boller v. Signal Oil & Gas Co. (1964) 230 Cal.App.2d 648, 652-653, 656 [41 Cal.Rptr. 206]
-fee arbitration
Business and Professions Code §§ 6200-6206
-power of jury to use independent judgment in fixing value of attorney services irrespective of expert testimony
Lady v. Ruppe (1931) 113 Cal.App. 606, 608 [298 P. 859]
-suit for reasonable value of services under oral contract; trial court's power to determine value independently
Elconin v. Yalen (1929) 208 Cal. 546, 548-550 [282 P. 791]
-trial court determines what constitutes reasonable attorney fees; factors considered
Melnyk v. Robledo (1976) 64 Cal.App.3d 618, 623-624 [134 Cal.Rptr.602]
-where no finding of fact made as to reasonable value of services by trial court, but evidence exists in records, Supreme Court will enter finding
Kirk v. Culley (1927) 202 Cal. 501, 508 [261 P. 994]
from trustee in bankruptcy
-post petition services
In re Alcala (9th Cir. 1990) 918 F.2d 99

quantum meruit
-attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
reasonable value of services
-effect of contract for attorney fees made after attorney-client relationship exists
Estate of Mallory (1929) 99 Cal.App. 96, 103 [278 P. 488]
Countryman v. California Trona Co. (1917) 35 Cal.App. 728, 735 [170 P. 1069]
-under invalid contingent fee contract, attorney entitled to reasonable value of services
Calvert v. Stoner (1948) 33 Cal.2d 97, 104-105 [199 P.2d 297]
-under invalid contract with client, attorney may secure reasonable value of services
Hall v. Orloff (1920) 49 Cal.App. 745, 749-750 [194 P. 296]
Attorney
applies to all causes of action arising from malpractice claim
Waters v. Bourhis (1985) 40 Cal.3d 424 [220 Cal.Rptr. 666]
illegal
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
Attorney obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Attorney's fees agreed to by contract
agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
allowed to oversecured creditor
In re Salazar (9th Cir. BAP 1988) 82 B.R. 538
authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal. Rptr.2d 198] as modified (June 2, 2000)
Attorney's fees should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271
Attorney/client interests
so great as to make both parties on appeal for attorney's fees
Kordich v. Marine Clerks Association (9th Cir. 1983) 715 F.2d 1392
Award of attorney's fees
absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
against government
Hoang Ha v. Schweiker (9th Cir. 1983) 707 F.2d 1104, 1106
-under Equal Access to Justice Act
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
"American Rule" that each party must bear its own legal fees
-city manager, analogous to a corporate employee, not liable for attorney's fees based upon conduct on behalf of employer
Golden West Baseball Co. v. Talley (1991) 232 Cal.App.3d 1294
-does not apply where each parties have agreed to allocate attorney fees by contract
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
-"third-party tort" exception
Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
appellate review of order fixing amount of attorney fees not available until entry of final judgment
Nimmagadda v. Krishnamurthy (1992) 3 Cal.App.4th 1505
apportionment of fees
-not required if successful and unsuccessful claims are interrelated
Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]
arbitration cases
-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
arbitrator's determination of prevailing party is not subject to appellate review
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
attorney-client fee agreements may provide for reasonable
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
attorney's fees and costs to prevailing party
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
bankruptcy action
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Levander (9th Cir. 1999) 180 F.3d 1114
In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29
Bankruptcy of Harvey (9th Cir. 1994) 172 B.R. 314
-attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
-automatic stay of proceedings
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Hines (9th Cir. BAP 1998) 198 B.R. 767 [36 Collier Bankr. CAS2d 577]
-bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Banbkr.Ct.Dec. 1229]
-chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]
-chapter 11 debtor's counsel entitled to attorney's fees only for services benefitting the estate
In re Xebec (9th Cir. 1992) 147 B.R. 518
-contingent fee agreement, pre-approved by the bankruptcy court, should control the amount of compensation awarded unless it is determined that the agreement was "improvident" in light of unforeseeable developments
In re Reimers (9th Cir. 1992) 972 F.2d 1127

-court may enhance fee in exceptional circumstance
In re Manoa Finance Company (9th Cir. 1988) 853 F.2d 687
-disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
-disgorgement of attorney fees against firm not proper where law firm representation was approved by court
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
-disgorgement of attorney fees is allowed after violation of bankruptcy code and rules
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
-emergency nature of legal services provided before court appointment justifies fee award to former counsel
Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797
-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
-fees incurred in opposing objections to final fee application for winding up estate properly disallowed
In re Riverside-Linden Investment Co. (9th Cir. 1991) 945 F.2d 320
-fees recoverable if they are linked to litigation seeking to enforce a contract
In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567
-in accordance with state law
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
-not awarded to alleged tortfeasor who was wholly exonerated and sought attorney fees from co-defendant on theory of implied indemnity under CCP § 1021.6
Watson v. Department of Transportation (1998) 68 Cal.App.4th 885 [80 Cal.Rptr.2d 594]
-open book account attorneys fees claim not barred by statute of limitations
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
-"reasonable attorneys' fees" calculated by court only a small fraction of actual amount charged by plaintiff's attorneys
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
-request must be scaled to expected recovery
In re Kitchen Factors, Inc. (9th Cir. 1992) 143 B.R. 560
Unsecured Creditors' Committee v. Puget Sound Plywood (9th Cir. 1991) 924 F.2d 955
-right to based on contract
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693-694
based on bad faith actions
McElwaine v. US West, Inc. (9th Cir. AZ 1999) 176 F.3d 1167
Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541
Brandt v. Superior Court (1985) 37 Cal.3d 813 [210 Cal.Rptr. 211]
United Services Automotive Association v. Dalrymple (1991) 232 Cal.App.3d 182 [283 Cal.Rptr. 330]
On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568 [272 Cal.Rptr. 535]
-bad faith cannot be inferred from fact that party was unsuccessful
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
based on underlying suit
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--justified by the vexatious, oppressive, obdurate, and bad faith conduct of litigation
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-denial of attorney's fees in second case where primary benefit already conferred upon client in first case
Kerr v. Screen Extras Guild, Inc. (9th Cir. 1975) 526 F.2d 67, 70-71; Cert. denied 425 U.S. 951 [96 S.Ct. 1726]
-explanation required of trial court's calculation in order to withstand review
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-in dissolution matter, denial of attorney's fees under CC § 4370 (Family Law Act)
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-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
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-hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
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-in Title VII action
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-negative multiplier decreasing the lodestar is justified where amount of time attorney spent on class action case was unreasonable and duplicative
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-prevailing market rate in relevant community for action by corporate in-house counsel under Civil Code section 1717
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-trial court must adequately explain the basis for the award in a federal securities fraud action
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-value of an estate is a factor in setting fees in elder abuse cases
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-consent decree's silence as to attorney's fees not waiver for prevailing party
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-third party claimant who was not intended beneficiary of attorney fee clause in contract denied award
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-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
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Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
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In re Marriage of Ward (1992) 3 Cal. App.4th 618 [4 Cal.Rptr.2d 365]
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-discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
-includes work reasonably performed by attorney to establish and defend own fee claim
Estate of Trynin (1989) 49 Cal.3d 868
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-trial court may not require reimbursement for attorneys' fees as a condition of probation
People v. Faatiliga (1992) 10 Cal.App. 4th 1276 [13 Cal.Rptr.2d 190]
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California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]
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Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193
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-corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
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Hadley v. Krepel (1985) 167 Cal.App.3d 677 [214 Cal.Rptr. 461]
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-arbitration award may be modified where arbitrator inadverte Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605] ntly failed to rule on prevailing party's claim to attorney's fees and costs
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Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
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Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
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-entitled to attorney fees based on workman's compensation lien amount
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Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
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-absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
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-apportionment not required if successful and unsuccessful claims are interrelated
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Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
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Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
-bond not required to stay award pending an appeal
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--attorney's fees for securities class action suits should be based on individual case risk
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--attorney's fees should be adequate to promote
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-construction contract fee provision not applicable to breach of limited partnership agreement
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-contrary provision in lease contract
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-defendant prevails in Title VII action brought by EEOC
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-district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
-employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims
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-environmental groups are not "prevailing parties" since they do not prevail against EPA
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-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
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-hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
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-IDEA (Individuals with Disabilities Education Act) matter
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-partially prevailing defendant not entitled following voluntary dismissal of entire action
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-petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
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-attorney's fees denied where opposing party's claims were not frivolous, unreasonable, or without foundation
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will not be disturbed absent abuse of discretion
-federal securities fraud matter remanded because the trial court did not adequately explain the basis for the award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
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Rite Nail Packaging Corp. v. Berry Fast (1983) 706 F.2d 933, 936
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-trial court abused discretion in limiting award of attorney's fees
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
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-Workers' Compensation lien fund and trial court's authority to allocate amount for attorney fees
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Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
-claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
-non-attorney's law firm representative of injured employee may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
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attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (1999 BAP) 231 B.R. 86
attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable
In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]
attorney's fees are administrative expenses that must be paid first
In re Shorb (1989) 101 B.R. 185
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In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
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In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
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In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322
bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement to enforce fee agreement between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Banbkr.Ct.Dec. 1229]
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In re Knudsen Corporation (1988) 84 B.R. 668
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In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
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In re Germaine (1993) 152 B.R. 619
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In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
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Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
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In re Shirley (1992) 134 B.R. 940
fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
fees for wife's attorney in dissolution dischargeable in bankruptcy
In re Gibson (1989) 103 B.R. 218
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Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
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MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
OR 99-001
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MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
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Severson, Werson et. al. v. Bollinger (1991) 235 Cal.App.3d 1569, mod. at 1 Cal.App.4th 417a
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-putative father's successful defense of paternity/reimbursement action does not include right to attorney fees
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Civil Code section 1717
attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
attorney litigating in propria persona
-award of discovery sanctions under CCP § 2030(1) analogized to award of attorney's fees under CC § 1717
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
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absent class members not liable for employer's attorney's fees in overtime dispute
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7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
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In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
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Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
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Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
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*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
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In propria persona client and advisor counsel share handling of case
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"Lodestar" multiplier method of fee calculation
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Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
serious ethical violation required, forfeiture never automatic
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
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None charged
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LA(I) 1931-3
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-leaving money for cause
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-to bank's customers
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LA 151 (1944)
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-lawyer declines to perform further services
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-defending duties of legal services lawyer
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-payment of fees does not determine ownership of the attorney-client privilege
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-insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred by on behalf of an insured client
National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
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-payment of fees does not determine ownership of the attorney-client privilege
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third party agrees to indemnify client's legal fees but not entitled to confidences or secrets
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People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
Partnership agreement to divide fee upon partner leaving firm held unconscionable
former firm entitled to quantum meruit
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*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
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Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
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petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
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Prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
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-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
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-arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
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-arbitrator's determination of, not subject to appellate review
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-absent class members not liable for employer's attorney's fees in overtime dispute
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-attorney's fees for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
-attorney's fees should be adequate to promote
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-de minimus damages award merits de minimus fee award
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-voluntary dismissal
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-voluntary dismissal of suit against defendant did not necessarily establish defendant's entitlement to attorney's fees as prevailing party
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-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
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-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
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-non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney
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-amount and items allowable – factors
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-based on time spent and reasonable hourly compensation
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-cannot be based on contingent fee – must be based on time spent on base
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-contingency fee agreement cannot justify lowering an otherwise reasonable lodestar fee
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-discovery may be allowed by the trial court
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-fee award subsumes novelty, experience, complexity, and results obtained
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-limited success against defendants may not warrant reduction of lodestar
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-multiplier to lodestar ensures counsel's acceptance of civil rights contingency cases
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-multiplier to lodestar no necessary to attack lawyers to meritorious contingency fee cases
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-objective
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-state obligation to reimburse county
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-trial court must make findings to show lodestar calculation applied in welfare benefits litigation
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-factors considered under CCP § 1021.5
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-fee awarded under CCP § 1021.5 – rationale for award
Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
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--award of fees improper when plaintiff has personal interest or individual stake in the matter
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
--non-pecuniary aesthetic interest are sufficient to block an award of attorney's fees otherwise appropriate under section 1021.5
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
-fees and costs awarded for sheriff's distribution of anti-Bird material
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-indirect benefit not sufficient
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-limited to successful litigants utilizing judicial process
Crawford v. Board of Education of the City of Los Angeles (1988) 200 Cal.App.3d 1397 [246 Cal.Rptr. 806]
-on remand, trial court to reevaluate fee award in light of party's success on appeal
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601
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Schmid v. Lovette (1984) 154 Cal.App.3d 466, 480 [201 Cal.Rptr. 424]
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Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601-602, mod. 150 Cal.App.3d 1141c
prison inmate's case, successfully litigated
Daniels v. McKinney (1983) 146 Cal.App.3d 42 [193 Cal.Rptr. 842]
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Pro bono
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Public defenders
reimbursable cost of public defender's service is actual cost to county, not reasonable attorneys' fees
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Quantum meruit
attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
award upheld and not prejudicial even though trial court erred in voiding the contingent fee contract
Franklin v. Appel (1992) 8 Cal.App.4th 875
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Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
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Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
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-for unfinished cases taken by departing partner
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
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Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
where services have been rendered under a contract which is unenforceable because it was not in writing
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
Reasonable number of hours times reasonable fee (community standards) for civil rights cases
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Reasonable only
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Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 483 [60 P. 873]
-whether contingent fee contract is unconscionable must be determined on situation as it appeared to parties at time it was entered into
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-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
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-because contract gambles on result, it may ask for greater compensation than would otherwise be reasonable
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Rader v. Thrasher (1962) 57 Cal.2d 244, 253 [18 Cal.Rptr. 736, 368 P.2d 360]
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
-contract presumptively invalid where attorney did not explain and client did not understand contract
Denton v. Smith (1951) 101 Cal.App.2d 841, 844 [226 P.2d 723]
-court construes ambiguous contract language to provide for reasonable compensation
Jackson v. Campbell (1932) 215 Cal. 103, 106 [9 P.2d 845]
-court may consider "open question" of reasonableness of contingent fee charged – factors considered
Blattman v. Gadd (1931) 112 Cal.App. 76, 92-93 [296 P. 681]
-evidence on reasonableness inadmissible where only dispute concerns whether agreement even exists
Ellis v. Woodburn (1891) 89 Cal. 129, 133 [26 P. 963]
-evidence supports find that fee agreement was fair and equitable – factors considered
Hendricks v. Sefton (1960) 180 Cal.App.2d 526, 532 [4 Cal.Rptr. 218]
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-reasonableness judged by situation as it appeared to parties at time contract was entered
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-attorney's fees not matter of right but rests in discretion of trial court – standard of review by appellate court
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-award of attorney's fees made at inception of divorce proceedings
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-award of excessive fee
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-burden of and standard for establishing abuse of discretion
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-circumstances affecting award – court may consider financial conditions of parties
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-court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
-court may determine fee from its own experience – no testimony necessary
Lipka v. Lipka (1963) 60 Cal.2d 472, 479-480 [35 Cal.Rptr. 71]
-discretion and experience to determine fees vested in trial court
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Busch v. Busch (1929) 99 Cal.App. 198, 201 [278 P. 456]
-factors considered by trial court
Dietrich v. Dietrich (1953) 41 Cal.2d 497, 506 [261 P.2d 269]
-family law court fee awards must be reasonable and based on factual showings
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
-inadequate fee award shows abuse of discretion
Hurst v. Hurst (1964) 227 Cal.App.2d 859, 871-872 [39 Cal.Rptr. 162]
-modification of court order allowing attorney's fee – circumstances affecting right to and amount of allowance
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-modification of custody award -determination of reasonable attorney's fees
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-no abuse of discretion – factors considered by appeals court on review
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-reasonable fees – factors considered by trial court
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-reasonableness is a question of fact in discretion of trial court
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-reasonableness of attorney's fee – discretion of trial court – factors considered – standard of review
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-reasonableness of attorney's fees -evidence – review by appellate court
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-test for determining reasonable attorney's fees
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-may include factors other than hourly rates charged by top law firms
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-trial judge has discretion to set reasonable fee – factors considered – appellate standard of review
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*Los Angeles v. Los Angeles-Inyo Farms Co. (1933) 134 Cal.App. 268, 274-275 [25 P.2d 224]
-under Code Civ. Proc. § 1255, trial courts experience allows it to set reasonable value of attorney's services
California Interstate Telephone Co. v. Prescott (1964) 228 Cal.App.2d 408, 411 [39 Cal.Rptr. 472]
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-limited by reasonableness requirement
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-amount of fee within discretion of trial court – factors considered
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-fee award not inadequate – factors considered in determining reasonable fee
Nevin v. Salk (1975) 45 Cal.App.3d 331, 343-344 [119 Cal.Rptr. 370]
-no evidence of value of services necessary for trial court to fix reasonable fee
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-where fee issue properly put before jury, jury may fix fee without independent testimony as to reasonableness
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-court has power to set fees independent of expert testimony
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-evidence considered by jury in fixing reasonable fee
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-evidence on reasonable value of services offered by witness attorneys
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-fees of attorneys for executors, administrators and guardians fixed by court – court has discretionary power to set fee
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-opinions of professional witnesses not binding on court
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-reasonable fee primarily question of fact for trial court –expert testimony unnecessary – appellate standard of review
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-superior court has discretion to determine fee – standard of review by higher court
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-awarding fees under "substantial benefit rule" – factors considered in setting reasonable fees
*Mandel v. Lackner (1979) 92 Cal.App.3d 747, 756-757 [155 Cal.Rptr. 269]
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-discretion of trial court to set fees
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-trial court has unquestioned power to appraise value of services
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-trial judge in best position to determine value of services –appellate standard of review – factors considered
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-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
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-trial court must adequately explain the basis for the award in a federal securities fraud action
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-may be invalid if the encumbrance is on community property and the act of the client/spouse constitutes a prohibited unilateral transfer under Civil Code section 5127
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-outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs
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Attorney fees may not be awarded under 42 U.S.C section 1988 to a pro se litigant
Kay v. Ehrler (1991) 499 U.S. 432 [111 S.Ct. 1435]
Attorney may recover only costs after successful discovery motion
Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
Client and advisor attorney share handling of case
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Client as co-counsel
People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
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People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]
Defendant represented by counsel may not have a constitutional right to act as a co-counsel
People v. Pena (1992) 7 Cal.App.4th 1294 [9 Cal.Rptr.2d 550]
Deputy public defender cannot serve as "stand-by counsel" under Government code section 27706 in the event defendant cannot continue with self-representation
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
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People v. Wolden (1991) 227 Cal.App.3d 529 [278 Cal.Rptr. 205]
Limited representation of in pro per litigants
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Non-attorney in litigant may assert statutory work product privilege
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Refusal to appoint counsel for pro se prisoner/plaintiff not an abuse of discretion
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Trial court may grant motion for self-representation without warning defendant of the risks of proceeding in pro per
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Business and Professions Code sections 6003(b), 6005-6007, 6126
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Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]
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Advising client not to talk to probation officer for pre-sentence report is not ineffective assistance of counsel
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counsel fails to raise multiple punishments issue
In re Granville (1991) 234 Cal.App.3d 155
counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
failure to raise any arguable issues in appellate brief leaves defendant constructively without counsel
*Delgado v. Lewis (9th Cir. 1999) 168 F.3d 1148
indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
*Delgado v. Lewis (9th Cir. 1999) 168 F.3d 1148
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
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People v. Mack (1995) 38 Cal.App.4th 1484 [45 Cal.Rptr.2d 1484]
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United States v. Moore (9th Cir. 1998) 159 F.3d 1154
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Defendant counsel failed to read opponent's trial memorandum which contained the opening statement
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Defendant entitled to counsel free of conflicts
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Defense attorney's illness with Alzheimer's disease during criminal trial does not make counsel ineffective per se
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Failure on appeal to raise failure of trial counsel to request certain jury instruction
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Failure to act as an advocate at the probation and sentence hearing
People v. Kozel (1982) 133 Cal.App.3d 507, 534 [184 Cal.Rptr. 208]
People v. Cropper (1979) 89 Cal.App.3d 716 [152 Cal.Rptr. 555]
Failure to act on behalf of client at trial after defendant expressed desire to represent himself
People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
Failure to adequately consult with client
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Failure to adequately investigate or prepare for penalty phase
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Failure to adequately prepare for criminal trial
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*People v. McDowell (1968) 69 Cal.2d 737 [71 Cal.Rptr. 1]
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Failure to advise client that making false statements on rental property application did not support conviction for making falsified financial statement
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Failure to advise client to deny prior convictions
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Failure to advise/misadvise re: immigration consequences of guilty plea
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
Failure to advise or inform client whether to accept plea bargain
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
Failure to argue all arguable issues
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Failure to deny defendant's guilt during closing argument to the jury
People v. Wade (1987) 43 Cal.3d 366, 375-378 [233 Cal.Rptr. 48]
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Failure to inform defendant that prior felony convictions that were admitted could be used to impeach him if he testified
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Failure to make all objections possible to prosecutor's questioning of witnesses
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People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]
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People v. Green (1980) 27 Cal.3d 1, 44 [164 Cal.Rptr. 1, 609 P.2d 468]
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People v. Adams (1974) 43 Cal.App.3d 697, 705 [117 Cal.Rptr. 905]
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People v. Campbell (1976) 63 Cal.App.3d 599, 613 [133 Cal.Rptr. 815]

People v. Simms (1970) 10 Cal.App.3d 299, 313 [89 Cal.Rptr. 1]
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]
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People v. Cooper (1979) 94 Cal.App.3d 672, 681 [156 Cal.Rptr. 646]
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People v. Belasco (1981) 125 Cal.App.3d 974 [178 Cal.Rptr. 461]
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People v. Beaumaster (1971) 17 Cal.App.3d 996, 1009 [95 Cal.Rptr. 360]
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*People v. Hoffmann (1970) 7 Cal.App.3d 39 [86 Cal.Rptr. 435]
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People v. Jackson (1980) 28 Cal.3d 264, 291 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Gordon (1982) 136 Cal.App.3d 519 [186 Cal.Rptr. 373]
People v. Frausto (1982) 135 Cal.App.3d 129 [185 Cal.Rptr. 314]
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*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]
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Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
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Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
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-"conduct prejudicial to the administration of justice that brings the judicial office into disrepute"
Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 631-632, 643, 645 [175 Cal.Rptr. 420, 630 P.2d 954]
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Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 796, 797 [119 Cal.Rptr. 841, 532 P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
-ex parte communication with parties
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
-persistent failure or inability to perform judicial duties
Kennick v. Commission on Judicial Performance (1990) 50 Cal.3d 297 [787 P.2d 591]
-willful misconduct in office
Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 625, 630-631, 637, 645, 648, 650, 651 [175 Cal.Rptr. 420, 630 P.2d 954]
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 795-799 [119 Cal.Rptr. 841, 532 P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
discovery [See Commission on Judicial Performance, procedure – discovery.]
jury trial
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
nature of proceedings
-non-criminal
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
-not constituting civil action
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
persistent and pervasive conduct prejudicial to the administration of justice
Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr 100]
Gonzalez v. Commission on Judicial Performance (1983) 33 Cal.3d 359 [188 Cal.Rptr. 880, 657 P.2d 372]
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McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, [138 Cal.Rptr. 459, 564 P.2d 1]
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-alternative to impeachment
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
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McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10-11 [138 Cal.Rptr. 459, 564 P.2d 1]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]

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-selection of special tribunal
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 7-8 [138 Cal.Rptr. 459, 564 P.2d 1]
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LA(I) 1954-1
Resignation from judicial office; effect upon proceedings for disbarment
California Constitution Article VI, section 18
In re Craig (1938) 12 Cal.2d 93 [82 P.2d 442]
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Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451, 458 [110 Cal.Rptr. 713, 516 P.2d 1]
-as valuable property right
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818, 825-826 [141 Cal.Rptr. 75]
-effect of criminal charges/conviction
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-interest on, withheld pending litigation as to entitlement
*Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
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"salary" construed
Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 456 [110 Cal.Rptr. 713, 516 P.2d 1]
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Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
Right to hire private counsel when county counsel has conflict of interest
Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]
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Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
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Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 800-803 [119 Cal.Rptr. 841, 532 P.2d 1209]
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 539-540 [116 Cal.Rptr. 260, 526 P.2d 268]
money sanction for violation of lawful court order
-not applicable to advocacy of counsel
Civil Code section 177.5
remanding sanctions did not imply the appearance of impropriety
Yagman v. Republic Insurance (1993) 987 F.2d 1027
State Bar Court
conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
in attorney criminal conviction matter, State Bar Court judge not authorized to require evidence beyond that which parties have presented
In the Matter of Bouyer (Review Dept. 1998) 3 State Bar Ct. Rptr. 888
State Supreme Court authority to appoint judges of the State Bar Court not impaired by permissible appointment mechanisms specified by the legislature
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
State Bar of California
jurisdiction
-over judges re disbarment proceedings
Christopher v. State Bar (1945) 26 Cal.2d 663, 666-668 [161 P.2d 1]
Cf. dissenting opinion of Carter. J.
Statutory test for disqualification is whether reasonable person with knowledge of all facts would conclude that judge's impartiality might reasonably be questioned
United States v. Nelson (9th Cir. 1983) 718 F.2d 315
Supreme Court Justice [See Removal.]
Suspension
pending appeal from criminal conviction
In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]
pending criminal prosecution
In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]
Trial conduct
judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties
People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
may not exclude a party to an action
People ex rel Curtis v. Peters (1983) 143 Cal.App.3d 597 [192 Cal.Rptr. 70]
Use of judge's name
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LA 53 (1927)
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Witness
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People v. Sweeney (1984) 150 Cal.App.3d 553
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People v. Fatone (1985) 165 Cal.App.3d 1164, 1183-1184 [211 Cal.Rptr. 288]
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Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

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Rules 7-101 and 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rules 3-210 and 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

JURORS, COMMUNICATION WITH OR INVESTIGATION OF
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Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]
Noland v. State Bar (1965) 63 Cal.2d 298, [46 Cal.Rptr. 305, 405 P.2d 129]
Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]
CAL 1988-100
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People v. Simms (1994) 22 Cal.App.4th 171 [29 Cal.Rptr.2d 436]
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Townsel v. Superior Court (1999) 20 Cal.4th 1084 [86 Cal.Rptr.2d 602]

jurors have absolute right to refuse to discuss deliberations or verdict with defense counsel
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

LABOR UNION
Emblem of on law firm letterhead
CAL 1971-24
Lawyer as member of
LA 337 (1973)
government employee
LA 337 (1973)
Lay employee shows membership in after signature
CAL 1971-24

LAW CORPORATIONS [See Professional corporations.]
Business and Professions Code sections 6125, 6126, 6127, 6160, et seq.
Inapplicable to duly certified professional corporation
Business and Professions Code section 6127.5
Business and Professions Code sections 6160-6172
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Business and Professions Code section 6161
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Business and Professions Code section 6160
director
-must be licensed person
Business and Professions Code section 6165
-shareholder
--income while disqualified person
Business and Professions Code section 6165
--must be licensed person
Business and Professions Code section 6165
Investigation
by State Bar
Business and Professions Code section 6168
Name of
Business and Professions Code section 6164
Report to State Bar
amendments to articles of incorporation
Business and Professions Code section 6162
annual report
Business and Professions Code section 6163
changes in directors, officers, employees performing professional services/share ownership
Business and Professions Code section 6162
Rules, The State Bar of California Law Corporation [A copy of the full text of these rules may be obtained by contacting the Law Corporation Department of the Office of Certification at the State Bar's 180 Howard location in San Francisco.]
authority to promulgate
Business and Professions Code section 6171
Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
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action of reviewable by Supreme Court
Business and Professions Code section 6170
disciplinary power and authority
-nothing in this article affects or impairs
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disciplinary power and authority
-nothing in this article affects or impairs
Business and Professions Code section 6172
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LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA
Text is located in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 417), and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 738
Text available through State Bar's home page:
http://www.calbar.ca.gov
Text may be obtained from:
Law Corporations Department
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2140

LAW FIRM [See Corporation, professional. Partnership, advertising. Practice of law].

LAW OFFICE [See Advertising, law office. Practice of law.]
Announcement of formation of practice
mention that lawyer is legislator
LA 111 (1937)
Branch office
LA(I) 1973-2
Business operated from
accounting
LA 351 (1976), LA 225 (1955)
book publishing
LA 446 (1987)
notary public
LA 214 (1953)
real estate
LA 340 (1973), LA(I) 1970-2
sale of partnership interests
LA 199 (1952)
school that teaches how to obtain government loans
LA(I) 1976-5
stenography
LA 214 (1953)
By partnership
LA 325 (1972)
Dummy
LA 198 (1952)
Relocation of
announcement of
LA 104 (1936)
Share with
accountant
LA(I) 1968-1
bail company
SD 1974-23
business
LA 199 (1952)
entrance with
-bail business
SD 1974-23
investigator
SD 1974-23
foreign attorney
LA 99 (1936)
insurance business
LA 215 (1953)
investigator
LA(I) 1963-8
SD 1974-23
land developer
LA(I) 1968-1
real estate business
LA (I) 1970-2
reception room
-investigator
SD 1974-23
suspended lawyer
LA (I) 1937-1

LAW STUDENT [See Admission to the Bar. Lay employee. Lay person. Practical training of law students.]
Presentation by to state agency
SD 1973-9
LAWYER [See Admission to the bar.]
Business and Professions Code section 6060, et. seq.
Circulation of list of lawyers who do not extend normal courtesies
LA 364 (1976)
Definition
Evidence Code section 950
Rule 1-100(B)(3), Rules of Professional Conduct
Duties
Business and Professions Code section 6068
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
Mandatory bar membership
Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
Misconduct of reported
SF 1977-1
LAWYER REFERRAL SERVICE [See Group legal services. Referral of legal business.]
Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)
Emmons, et. al. v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]
Duty to advise referred persons that counsel will divide fee with service
SD 1973-12
Financing of
LA(I) 1965-7, SD 1973-12
General guidelines
SD 1977-5
Immunity from liability for referrals
if authorized by the State Bar of California and in conformance with minimum standards for a lawyer referral service in California
Civil Code section 43.95
Income of organization
from operation of lawyer referral service in conformance with the minimum standards of a lawyer referral service
-excluded
Revenue and Taxation Code section 23734d
Minimum standards for a lawyer referral service [The full text is reprinted at at part IA., appendix A of this Compendium.]
Civil Code section 43.95
Revenue and Taxation Code section 23734d
Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)
Participation in
LA(I) 1960-3
referrals to directors
SD 1977-5
LAWYER'S PERSONAL ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA
For confidential assistance with chemical dependency, substance abuse, and emotional distress, contact:
Center for Human Resources/West
(415) 502-7290
For information about program, contact:
Office of Professional Competence, Planning & Development
(415) 538-2107
LAY EMPLOYEE [See Contingent fee. Division of fees. Fees. Foreign attorney. Lay person. Witness.]
Accountant
SD 1974-17
Card, professional [See Advertising.]
Certified law student
People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]
SD 1974-5
Client trust account
Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
Compensation of
division of fees
LA 222 (1954), LA 190 (1952)
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CAL 1979-50
Employed by several law firms
CAL 1980-50
Executor for opposing party's estate
LA 341 (1973)
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Holding out as attorney
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Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal. Rptr. 288, 499 P.2d 968
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
LA(I) 1976-1
Shows labor union membership after signature
CAL 1971-24
Signing on client trust account
CAL 1988-97
Uses card showing relationship to lawyer
LA 346 (1975), LA 172 (1950), LA(I) 1956-2
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LAY INTERMEDIARIES [See Division of fees. Referral of legal business. Solicitation of business.]
Association
act for members of
LA(I) 1947-8
trade, advise members of
LA 155 (1945)
Communicate with opposing party through
Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374]
LA 315 (1970)
Consulting firm, advise customers of
LA 194 (1952)
Corporation
represent customers of
LA 262 (1959)
Family counseling corporation, represent clients of
LA 270 (1962)
Interpreters in court
People v. Shaw (1984) 35 Cal.3d 535, 542-543 [198 Cal.Rptr. 72]
Labor union, represent members of
LA 151 (1944)

LAY PERSON [See Contingent fee. Law student. Lay employee. Patent attorney. Practice of law. Unauthorized practice of law.]
IRS agents not entitled to absolute immunity
sanction of person when taking action provoking lawsuit
Bothke v. Fluor Engineers and Constructors, Inc. (9th Cir. 1983) 713 F.2d 1405
Listed on law office door
LA(I) 1956-6
Partnership with
Rule 3-103, Rules of Professional Conduct
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
LA(I) 1966-18
accountant
LA(I) 1959-5
SD 1974-17
LECTURE [See Advertising. Publication.]
CAL 1972-29, CAL 1967-12
LEGAL AID [See Indigent persons.]
Ferreira v. Swoap (1976) 62 Cal.App.3d 875 [133 Cal.Rptr. 449]
Agency
advertising, referrals, referral panel, definition of fee generating case
SD 1976-7
advertising or solicitation by
SD 1974-9
control over activities of
-by lawyer employees of
SD 1974-9, SF 1976-1
disclosure of data about clients of
LA 378 (1978), LA 358 (1976)
disposition of unclaimed clients' funds by
CAL 1975-36
fund raising by
SD 1974-9
propriety of being employed by
LA(I) 1965-1
Divorce
advise client how to obtain in pro per divorce
SD 1972-6
Funding
Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment
Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]
lack of funding makes withdrawal and effective representation impossible or unreasonably difficult
CAL 1981-64
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SD 1983-4
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SF 1973-5
Legal services corporation including non-attorney shareholders
LA 444 (1987)
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LA(I) 1972-24
Public defender
offers to represent indigent before arraignment
LA(I) 1954-2
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SD 1983-6
LEGAL DIRECTORY [See Advertising, directory of lawyers. Solicitation of business, inclusion in list of approved practitioners.]
Certified law lists
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SF 1973-11
Listing
SD 1968-1
of interstate partnership
SF 1974-5
Out-of-state attorney listed in
LA 249 (1958)
LEGAL SERVICES [See Legal aid.]
United Mine Workers v. Illinois State Bar Assn. (1967) 389 U.S. 217 [88 S.Ct. 353]
Brotherhood of Railroad Trainmen v. Virginia (1964) 377 U.S. 1 [84 S.Ct. 1113]
NAACP v. Button (1963) 371 U.S. 415 [83 S.Ct. 328]
Brotsky v. State Bar (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]
Hildebrand v. State Bar (1950) 36 Cal.2d 504 [225 P.2d 508]
Lack of funding makes effective representation unreasonably difficult or impossible, withdrawal
CAL 1981-64
Legal services corporation including non-attorney shareholders
LA 444 (1987)
Partnership with non-lawyer living trust marketers
CAL 1997-148
Partnership with non-lawyer shareholder
LA 444 (1987)
Referral fees
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]
LEGAL SPECIALIZATION [See Advertising. Practice of law. Specialization.]
Advertising
notice to apprise profession of specialized service
LA 110 (1937)
Appellate briefs
LA 258 (1959)
Bankruptcy
LA 258 (1959)
California Board of Legal Specialization
Rules Governing the State Bar of California Program for Certifying Legal Specialists
Text of rules and regulations is located in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 433), and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 751
Text available through State Bar's home page:
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Text may be obtained from:
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State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2100

Certified specialist
authority over
LA(I) 1974-4
Consultative practice
LA 258 (1959)
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LA(I) 1948-1
Division of community property
LA(I) 1948-1
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LA 179 (1951)
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LA 209 (1953)
Holding out as specialist [see Advertising]
Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
Peel v. Attorney Regulatory & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802
International law
LA 230 (1955)
Lawyer referral service
Business and Professions Code section 6155
Rule 2-102, Rules of Professional Conduct
State Bar Minimum Standards for a Lawyer Referral Service, section 5.2

Legal accounting
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LA 209 (1953)
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LA(I) 1961-1
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LA 258 (1959)
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LA 232 (1956), LA 44 (1927)
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LA(I) 1970-4
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LA(I) 1948-1
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LA(I) 1948-1
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LA 180 (1951)
Taxation
LA 168 (1948)
Workers' compensation
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Accountant's lawyer shown on
LA 164 (1947)
Dead lawyer's name on
CAL 1986-90, LA(I) 1962-5
Former judge
judicial office shown on
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Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
Inactive lawyer on
Business and Professions Code section 6132
LA 310 (1969)
Lay person on
LA(I) 1964-4
Lay person's law degree noted on
LA 39 (1927)
Name of lawyer who is not associated with office on
SD 1969-4
Of client, counsel shown on
SD 1972-16, LA 289 (1965), LA 185 (1951), LA 173 (1950), LA 164 (1947), LA 43 (1927), LA(I) 1965-17, LA(I) 1965-15
"Of counsel" on
Rule 1-400, std. 8, Rules of Professional Conduct
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LA 421 (1983), LA 306 (1968), LA(I) 1967-8
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LA 286 (1965), LA 256 (1959)
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LA 332 (1973), LA 202 (1952), LA 189 (1952), LA(I) 1967-8, LA(I) 1965-9, LA(I) 1959-3
Out-of-state attorney's
LA(I) 1960-1
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foreign lawyer or firm on
LA 332 (1973), LA 249 (1958), LA 230 (1955), LA(I) 1965-9, SF 1974-1
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-inactive partner
LA 310 (1969)
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LA 230 (1955)
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LA(I) 1959-3
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SD 1978-4
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LA 260 (1959)
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SD 1974-10
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LA 224 (1955)
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-bar association
LA 153 (1945)
-in other professions
LA 349 (1975), LA(I) 1961-1
-specialities
LA 230 (1955),LA 168 (1948),LA(I) 1961-1
Union emblem on
CAL 1971-24
Use of
educational activity
SD 1974-21
political activity
LA 250 (1958)
Used by
client for collections
CAL 1982-68, LA(I) 1968-3
collection supervisor
SD 1978-4

LIEN [See Attorney's lien. Fees, collection of.]
Attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
Client settlement
failure of subsequent counsel to honor
-liability for interference with prospective economic advantage
Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
Common fund doctrine does not apply to contractual medical lienholders in personal injury matters
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]
County's right to recover lien for medical expenses from injured debtor's settlement
Tapia v. Pohlman (1998) 68 Cal.App.4th 1126 [81 Cal.Rptr.2d 1]
Hospital's right to assert a lien on patient's lawsuit recovery once Medi-Cal payments accepted
Brooks v. St. Mary Hospital (1997) 57 Cal.App.4th 241 [66 Cal.Rptr.2d 820]
Insurance company pays fee to insured's attorney to protect insurer's lien on insured's settlement
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Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
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Multiple errors by attorney do not support multiple claims against attorney when only single injury results
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No duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
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outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs of malpractice action brought by the corporation
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Professional malpractice distinguished from negligence
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Spoilation of evidence
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Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Standing to sue
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Statute of limitations
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*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
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*Pompilio v. Kosmo, Cho & Brown (1995) 39 Cal.App.4th 409 [46 Cal.Rptr.2d 409]
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-definition of "continuous representation" for purposes of
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-not tolled by third-party litigation or attorney's later role as consultant
Foxborough v. Van Atta (1994) 26 Cal.App.4th 217 [31 Cal.Rptr.2d 525]
-"outside" statute of limitations for medical malpractice action not tolled by 90-day period for notice of intent to sue
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-tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
O'Neill v. Tichy (1993) 19 Cal.App.4th 114
-tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one-year statute
Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]
-unconditionally tolled while attorney represents client
Kulesa v. Castleberry (1996) 47 Cal.App.4th 103 [54 Cal.Rptr.2d 669]
Third-party non-clients, liability to
Waggoner v. Snow, Becker, Kroll, Klaris and Kraus (1993) 991 F.2d 1501
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]

MILITARY PERSONNEL [See Attorneys of governmental agencies.]
Deserter, whereabouts disclosed
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MISAPPROPRIATION [See Clients' trust account.]

MISCONDUCT [See Candor. Contempt of court. Corporations. Professional liability. Trial Conduct.]
Abandonment of client
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Abdication of trust account responsibilities
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
Active steps to prejudice client's rights
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Advocating overthrow of government by force, violence or other unconstitutional means
Business and Professions Code section 6106.1
Alcoholism
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Appearance on own behalf as plaintiff
by disbarred or suspended attorney
-when action assigned subsequent to disbarment or suspension order
Business and Professions Code § 6130
Appearing without authority for client
Business and Professions Code section 6104
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr.267]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
"appearing" defined for purposes of B & P § 6104
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
Assault with a firearm warrants suspension but because of extensive mitigation does not involve moral turpitude
*In the Matter of Burns (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406
Assault on client (premeditated) does not equal moral turpitude
In re Larkin (1989) 48 Cal.3d 236 [256 Cal.Rptr. 90]
Attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
Attempting to prevent discovery
Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
Attorney neglect
State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 768]
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
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In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
imputed to client
Elston v. Turlock (1983) 148 Cal.App.3d 23 [195 Cal.Rptr. 618]
not necessarily binding on client
State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]
Breach of fiduciary duty
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
to non-client joint ventures
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
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Bribe(s)
judge accepted
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Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]
Werner v. State Bar (1944) 24 Cal.2d 611 [150 P.2d 892]
Business transaction, improper
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Carrying a concealed weapon
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
Chose in action
purchase by attorney with intent to bring suit thereon
Business and Professions Code section 6129
Client reliance on attorney
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
Collusion
consent to, with intent to deceive court or party
-misdemeanor
Business and Professions Code section 6128(a)
Comments in court
Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]
Commingling
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Conspiracy
alleged by client against attorney and others
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liability for tortious acts committed in concert with clients
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waiver of procedural defense
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"Contumacious" motion for substitution
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Business and Professions Code section 6101
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is basis for discipline, not a conviction
In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848, 659 P.2d 1137]
Corruption
whether or not in course of relations as attorney
Business and Professions Code section 6106
Counsel's basis for reversal of judgment in judicial proceeding
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Court
appearing in court while intoxicated
Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr. 803]
dishonesty to
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duty not to mislead
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
improper contact with juror
In re Possino (1984) 37 Cal.3d 163, 170 [207 Cal.Rptr. 543, 689 P.2d 115]
Court order
violation
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Criminal conviction
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In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
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In re Franceschi (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
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Decorum in courtroom
People v. Rainey (1964) 224 Cal.App.2d 93, 94-98 [36 Cal.Rptr. 291]
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failure to take action to set aside
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Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 396]
Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]
improperly obtaining
Grove v. State Bar (1965) 63 Cal.2d 312, 314 [46 Cal.Rptr. 513, 405 P.2d 553]
permitting without client's authority
Monroe v. State Bar (1961) 55 Cal.2d 145, 150 [10 Cal.Rptr. 257, 356 P.2d 529]
Defense in criminal action aiding, promoting, or advising where partner is district attorney or public prosecutor
Business and Professions Code section 6131(a)
Delay
client's suit
-with view to attorney's gain
--misdemeanor
Business and Professions Code section 6128(b)
"Dirty tricks" disrupting political campaign in acts unrelated to attorney's practice of law
Segretti v. State Bar (1976) 15 Cal.3d 878 [126 Cal.Rptr. 793]
Disbarred attorney
appearing as plaintiff on own behalf where action assigned to attorney subsequent to disbarment order
Business and Professions Code section 6130
judge disbarred in California after disbarment in Michigan
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Dishonesty
borrowing money without intent to repay it
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judge systemically and routinely sold his office and his public trust
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to adverse party's lawyer
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Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
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-filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
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Business and Professions Code section 6106
Disregard for obligations to the legal profession and to clients
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District attorney
advises, takes part in, or receives valuable consideration in criminal defense
-where prosecuted action
Business and Professions Code section 6131(b)
Driving under influence of alcohol, conviction for
In re Carr (1988) 46 Cal.3d 1089
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Drunkenness in public
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Duties of attorney, violation of
Business and Professions Code sections 6068, 6103
Duty to report violation of Rules of Professional Conduct and/or related statutes
SD 1992-2, LA 440 (1986)
Embezzlement of partnership funds
no injury to client
People v. Stamper (1987) 195 Cal.App.3d 1608 [241 Cal.Rptr. 449]
Evidence of debt
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Ex parte communication with judge
judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
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Failing to maintain respect due courts
Hogan v. State Bar (1951) 36 Cal.2d 807, 808 [228 P.2d 554]
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Failure to appear in a probation violation proceeding
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Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]
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Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]
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Failure to keep the State Bar advised of current address
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Failure to preserve confidences and secrets
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Failure to properly prevent direct contact with represented parties by correspondence of employees
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Failure to release client funds
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Failure to supervise non-attorney employee
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Failure to withdraw where required
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False or fraudulent insurance claim
preparation of writing to be used in support of
Business and Professions Code section 6106.5(b)
presentation of
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False or fraudulent statements in banking transactions
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False statement to a police officer
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Fee split with non-lawyer
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Felony involving moral turpitude
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Forgery
no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
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-forging names of
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Grand theft
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In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
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Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
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Ignoring pro bono clients
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Intimidation of witness
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Issuing checks with insufficient funds in account
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Misappropriation of client funds
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Misappropriation of law partnership funds
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Misdemeanor
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Business and Professions Code section 6126
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Business and Professions Code section 6128(a)
defense in criminal action
-advising, aiding, or promoting when partner is district attorney or public prosecutor
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Business and Professions Code section 6128(b)
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Misdemeanor involving moral turpitude
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Moral turpitude [See Moral Turpitude.]
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Negligent legal representation by itself does not prove misconduct
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Obstruction of justice
attorney has right to argue ethical obligations establish a bona fide legal representation defense
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Offensive and contemptuous conduct by attorney in court
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Partnership
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-prohibited if partnership activities constitute practice of law
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Prejudicial intimations may not amount to the advancement of prejudicial facts
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Pro hac vice attorney
censure for failure to follow local court rules
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Public prosecutor
advises, takes part in or receives valuable consideration in criminal defense
-where acted as prosecutor in matter
Business and Professions Code section 6131(b)
Purchase, with intent to bring suit
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filing false election documents
In re Rivas (1989) 49 Cal.3d 794
Falsely maligning judge
Matter of Humphrey (1917) 174 Cal. 290 [163 P. 60]
In re Graves (1923) 64 Cal.App. 176 [221 P. 411]
Fiduciary duties, breach of
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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In re Rivas (1989) 49 Cal.3d 794
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In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
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In re Franceschi (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
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+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679
no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
Fraud [See Fraud.]
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
Monroe v. State Bar (1961) 55 Cal.2d 145 [10 Cal.Rptr. 257, 358 P.2d 529]
Choate v. State Bar (1953) 41 Cal.2d 399 [260 P.2d 609]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
Wood v. State Bar (1938) 11 Cal.2d 139 [78 P.2d 429]
Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]
Aydelotte v. State Bar (1930) 209 Cal. 737, 740 [290 P. 41]
accepted fees for legal services but failed to perform such services or return the fees
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873]
advising the conveyance of property for the purpose of defrauding the creditor of his client
Townsend v. State Bar (1948) 32 Cal.2d 592 [197 P.2d 326]
arranging sham marriages
In re Aquino (1989) 49 Cal.3d 1122
attorney delayed informing client on receipt of payment of judgment, then misappropriated such funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825]
attorney failed to reveal extent of his pre-existing indebtedness and financial distress to client
Benson v. State Bar (1975) 13 Cal.3d 581 [119 Cal.Rptr. 297]
attorney induced a woman to purchase royalty interest that he should have known had only speculative value
In re Langford (1966) 64 Cal.2d 489 [50 Cal. Rptr. 661, 413 P.2d 437]
business dealings whereby the attorney benefits are closely scrutinized
Marlowe v. State Bar (1965) 63 Cal.2d 304 [46 Cal.Rptr.326, 405 P.2d 150]
characterizations of "moral turpitude, dishonesty, or corruption" must be made with intent to mislead
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
committed forgery, misappropriated funds, and numerous acts of deceit and other dishonest conduct
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301]
concealing adverse and material facts when he obtained the money from his client
Clancy v. State Bar (1969) 71 Cal.2d 140 [77 Cal.Rptr. 657, 454 P.2d 329]
deceiving clients as to the status of their cases, and issuing insufficiently funded checks
Alkow v. State Bar (1971) 3 Cal.3d 924 [92 Cal.Rptr. 278]
defrauded a client and misappropriated her funds
Allen v. State Bar (1977) 20 Cal.3d 172 [141 Cal.Rptr. 808]
deleting language in a statement obtained from the beneficiary of a trust deed on real property
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]
endorsing the draft and fabricating a "loan agreement" intending to deceive the bank
McKinney v. State Bar (1964) 62 Cal.2d 194, 196 [41 Cal.Rptr. 665, 397 P.2d 425]
filing false involuntary bankruptcy petitions
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal. Rptr. 864, 555 P.2d 1104]
insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
judge intentionally misstated his address for improper financial benefit
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
knowingly tried to take advantage of a relationship of personal trust and confidence
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467]
loan from client obtained under false pretenses
Slavkin v. State Bar (1989) 49 Cal.3d 894
misappropriated money received for posting of cash bond and funds delivered for use in settlement negotiations
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73 [141 Cal. Rptr. 169]
misappropriated payment of a judgment that he had won for his clients
Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
misrepresentations made to opposing counsel and the court
LA 482 (1995)
misrepresentation and concealment of adverse and material facts
Krieger v. State Bar (1954) 43 Cal.2d 604, 610 [275 P.2d 459]
misrepresented the status of the contest proceeding and kept clients ignorant of his unauthorized dismissal
Foote v. State Bar (1951) 37 Cal.2d 127 [230 P.2d 617]
obtained a loan from the estate without securing approval of the probate court
Laney v. State Bar (1936) 7 Cal.2d 419, 422 [60 P.2d 845]
petitioner's greater offense was his fraudulent and contrived misrepresentations to the State Bar
Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273]
practiced fraud and deceit on clients and a judge, and engaged in fraud on creditors
In re Wright (1973) 10 Cal.3d 374 [515 P.2d 292]
repeated practices of forgery, fraud, and deceit with clients and the Immigration and Naturalization Service
Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921]
repeatedly misrepresented facts to clients and made statements about their lawsuits which he knew were false
Stephens v. State Bar (1942) 19 Cal.2d 580, 583 [122 P.2d 549]
use of false medical reports in personal injury claims
In re Arnoff (1978) 22 Cal.3d 740, 744 [150 Cal. Rptr. 479, 586 P.2d 960]
using a fictitious name for purpose to defraud and obtain property by false pretense
In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
Furnishing marijuana/controlled substance to minor
In re Fudge (1989) 49 Cal.3d 643
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judge improperly accepted
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Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 475 [169 Cal.Rptr. 581, 619 P.2d 1005]
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breach of fiduciary duty
-failure to disburse settlement funds
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-failure to give proper accounting
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-misappropriation
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-overdrawing client trust account
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-in dissolution
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failure to supervise employees
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-associate attorney
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-bookkeeper
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-office staff
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-secretary
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Price v. State Bar (1982) 30 Cal.3d 537, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
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In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
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In re Cadwell (1975) 15 Cal.3d 762, 771-772 [125 Cal.Rptr. 889, 543 P.2d 257]
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Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
Using undue influence to secure a loan from client
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Borré v. State Bar (1991) 52 Cal.3d 1047
Harris v. State Bar (1990) 51 Cal.3d 1082
Hawes v. State Bar (1990) 51 Cal.3d 587
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
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Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr. 2d 229]
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Associate assigned to client matters may not be blamed for attorney's misconduct
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Attorney neglect not necessarily binding on client
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Failure to request trial de novo after adverse arbitration award does not entitle plaintiff to relief on the ground of attorney neglect
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Recovery of fees not permitted
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LA 426 (1984)
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LA 306 (1968), LA(I) 1967-8
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LA 306 (1968), LA(I) 1973-4, LA(I) 1973-3
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of intent to default
SD 1969-3
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LA 315 (1970)

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LA 326 (1972)
Breach of ethics by, not grounds for refusal to recognize as counsel
LA 240 (1957)
Communication with
adverse party represented by counsel
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general counsel of national corporation when suing subsidiary represented by local counsel
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LA 339 (1973)
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-attorney leaving law firm may not remove client file prior to written notification from client
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-post-dissolution profits from unfinished partnership business
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File
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LA 405 (1982)
Firm name
LA 290 (1965)
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-not admitted in California
--included in
LA 295 (1966)
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LA 265 (1959)
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Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]
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Partner's malpractice
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Payments to estate of deceased partner or associate
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-city attorney
LA 242 (1957), LA(I) 1975-4
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LA(I) 1975-4
-prosecutor
LA 377 (1978)
Represents
estate
-member-executor
LA 219 (1954)
-member-trustee
LA 219 (1954)
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-when associate is
--prosecutor
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-when member is
--city attorney
LA 242 (1957), LA(I) 1975-4
--city council member
LA(I) 1975-4
--prosecutor
LA 377 (1978)
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LA(I) 1956-8
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-before joining acted for other side
LA 363 (1976)
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-before joining acted for other side
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LA 392 (1981)
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Consumer affairs agency
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LA 369 (1977)
Ethics committee in Los Angeles will not answer inquiries about
LA(I) 1966-9

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PERJURY [See Confidences of the client, disclosure, perjury. Trial conduct.]
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PERSONAL INJURY ACTION [See Automobile accident case.]

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LA 368 (1977), LA 357 (1976)
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Medical liens, attorney duty with respect to
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
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CAL 1975-33
SD 1983-9
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LA 335 (1973)
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LA(I) 1949-1
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LA 443 (1988)

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City council
members receiving contributions to their political campaigns from law firms who are representing clients before the council
Woodland Hills Residents Assn., Inc. v. City Council of the City of Los Angeles (1980) 26 Cal.3d 938 [164 Cal.Rptr. 255]
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LA(I) 1972-21
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-misrepresentation by
LA(I) 1974-11
-no uniform rules regulating conduct of in California
SF 1974-6
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LA(I) 1972-21
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POWER OF ATTORNEY [See Authority of attorney. Withdrawal.]
Annuity gift from estate's attorney to himself is void as outside his power of attorney
Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]
Assignment of power of attorney to heir hunter's attorney is against public policy
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Does not give non-lawyer the authority to appear in court on behalf of another
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

PRACTICAL TRAINING OF LAW STUDENTS
Rule of Court 983.2
Certification of law students
under State Bar Rules Governing the Practical Training of Law Students
Contact:
Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
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Rules Governing the Practical Training of Law Students, The State Bar of California
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Trial advocacy by a certified law student acting under the active supervision of the deputy public defender, pursuant to the rules promulgated by the State Bar
People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]
Special Committee on
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Refusal to return other party's
LA(I) 1966-8

PROSECUTOR [See Attorneys of government agencies. Conflict of interest.]
Communication with criminal defendant who is potential witness to another crime
CAL 1979-49
Communication with jurors
CAL 1976-39
Conflict of interest
welfare proceeding
-between state and child
--disclosure to court
CAL 1977-45
Legal advice
to victim of crime
-of civil remedies
CAL 1976-40
Rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

PROSECUTORIAL MISCONDUCT [See Competence. Ineffective assistance of counsel. Judges, ex parte communication with. Trial conduct.]
Note: This section is arranged according to the stage of the proceeding in which the conduct occurs.
Advocacy, proper
People v. Kelley (1984) 158 Cal.App.3d 1085, 1097
Appeal
timely objection required
People v. Fondron (1984) 157 Cal.App.3d 390
Authority
effect of trial court discretion on
People v. Geiger (1984) 35 Cal.3d 510, 530
Breach of plea bargain agreement
People v. Leroy (1984) 155 Cal.App.3d 602, 606
California county district attorney acted as state official for purposes of section 1983 claim when deciding whether to prosecute individual for criminal defense
Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
Closing argument [See 26 A.L.R. 3d 1909; 85 A.L.R. 2d 1132.]
admission into evidence of extrajudicial statement made by defendant in attempt to impeach defendant's testimony
People v. Disbrow (1976) 16 Cal.3d 101 [127 Cal.Rptr. 360, 545 P.2d 272]
People v. Nudd (1974) 12 Cal.3d 204, 210 [115 Cal.Rptr. 372, 524 P.2d 844]
alleged racial slur
People v. Torres (1982) 133 Cal.App.3d 265, 281 [184 Cal.Rptr. 39]
appeal to passion and prejudice
People v. Simington (1993) 19 Cal.App.4th 1374
Drayden v. White (9th Cir. 2000) 223 F.3d 704
comment in attempt to discredit defense witness on fact witness's children had been taken from her because of neglect
People v. Dontanville (1970) 10 Cal.App.3d 783, 795 [89 Cal.Rptr. 172]
comment on counsel for defendant
People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]
People v. Meneley (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]
comment on defendant's bias and motive for lying
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
comment on defendant's case
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
People v. Meneley (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]
comment on defendant's character and his associates
People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
comment on defendant's choice of counsel
People v. Schindler (1980) 114 Cal.App.3d 178, 187 [170 Cal.Rptr. 461]
comment on defendant's failure to call certain witness/introduce evidence
Reynolds v. Superior Court (1974) 12 Cal.3d 834 [117 Cal.Rptr. 437, 528 P.2d 45] and disap in People v. Beagle (1972) 6 Cal.3d 441 [99 Cal.Rptr. 313, 442 P.2d 1]
In re Banks (1971) 4 Cal.3d 337, 349-351 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Coy (1981) 119 Cal.App.3d 254, 278-279 [173 Cal.Rptr. 889]
People v. Singleton (1980) 112 Cal.App.3d 418, 423 [169 Cal.Rptr. 333]
People v. Gray (1979) 91 Cal.App.3d 545, 551 [154 Cal.Rptr. 555]
People v. Corona (1978) 80 Cal.App.3d 684, 725 [145 Cal.Rptr. 894]
People v. Frohner (1976) 65 Cal.App.3d 94, 109 [135 Cal.Rptr. 153]
People v. Demond (1976) 59 Cal.App.3d 574, 591 [130 Cal.Rptr. 590]
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
People v. DeVaney (1973) 33 Cal.App.3d 630, 636 [109 Cal.Rptr. 276]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Powell (1971) 14 Cal.App.3d 693, 695 [92 Cal.Rptr. 501]
People v. Rice (1970) 10 Cal.App.3d 730, 742 [89 Cal.Rptr. 200]
*People v. Hall (1970) 7 Cal.App.3d 562, 567 [86 Cal.Rptr. 504]
comment on defendant's failure to previously come forward with defense asserted at trial
People v. Martin (1980) 101 Cal.App.3d 1000, 1008-1009 [162 Cal.Rptr. 133]
comment on defendant's failure to reply to accusatory statement
People v. Martin (1980) 101 Cal.App.3d 1000, 1007-1008 [162 Cal.Rptr. 133]

comment on defendant's failure to testify
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Vargas (1973) 9 Cal.3d 470 [108 Cal.Rptr. 15, 509 P.2d 959]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]
People v. Goodall (1982) 131 Cal.App.3d 129 [182 Cal.Rptr. 243]
People v. Jones (1970) 10 Cal.App.3d 237, 293 [88 Cal.Rptr. 871].
But see
In re Banks (1971) 4 Cal.3d 337, 349-351
People v. Gaulden (1974) 36 Cal.App.3d 942, 959-958 [111 Cal.Rptr. 803]
People v. Parks (1973) 32 Cal.App.3d 143, 151 [108 Cal.Rptr. 34]
People v. Meneley (1972) 29 Cal.App.3d 41 [105 Cal.Rptr. 432]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Bethea (1971) 18 Cal.App.3d 930, 936 [96 Cal.Rptr. 229] cert. den. 405 U.S. 1042, 31 L.Ed.2d 584, 92 S.Ct. 1325
-comment to jury on why defense witness did not testify
People v. Gaines (1997) 54 Cal.App.4th 821 [63 Cal.Rptr.2d 188]
People v. Gaines (1997) 52 Cal.App.4th 1004 [61 Cal.Rptr.2d 47]
-indirectly commenting of defendant's failure to testify
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]
-sanity phase of trial
People v. Flores (1976) 55 Cal.App.3d 118
-statement that defendant's exercise of his Fifth Amendment rights did not mean that he was innocent or that jury was supposed to find him not guilty
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr.382]
comment on defendant's silence in face of accusation by private person
People v. Martin (1980) 101 Cal.App.3d 1000, 1004-1008 [162 Cal.Rptr. 133]
comment on defense counsel's failure to reveal alibi defense prior to trial
People v. Lindsey (1988) 205 Cal.App.3d 112, mod. 205 Cal.App.3d 986d
comment on defense counsel's tactics, implication of chicanery
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
comment on failure of defense to call witnesses to advance alibi defense urged by defendant
People v. Najera (1979) 88 Cal.App.3d 930, 933-935 [152 Cal.Rptr. 124]
comment on failure of defense to present evidence corroborating defendant's asserted alibi
People v. Chandler (1971) 17 Cal.App.3d 798, 805-806 [95 Cal.Rptr. 146]
comment on lack of defense testimony
People v. Beyea (1974) 38 Cal.App.3d 176, 199 [113 Cal.Rptr. 254]
comment on lack of evidence presented by defense
People v. Gaulden (1974) 36 Cal.App.3d 942, 954-958 [111 Cal.Rptr. 803]
comment on merit of evidence presented by defense
People v. Powell (1980) 101 Cal.App.3d 513, 520 [161 Cal.Rptr. 803]
comment on possible sentence
People v. Kozel (1982) 133 Cal.App.3d 507, 519 [184 Cal.Rptr. 208]
comment on post-arrest silence
People v. Delgado (1992) 10 Cal.App.4th 1837 [13 Cal.Rptr.2d 703]
comment on pre-arrest silence
People v. Kelly (1981) 125 Cal.App.3d 575 [178 Cal.Rptr. 84]
comment on presentation of defendant's case/choice of counsel/trial tactics
People v. Gordon (1982) 136 Cal.App.3d 519
comment on prior judgments/convictions of defendant [See Prior judgments/convictions.]
People v. Bolton (1979) 23 Cal.3d 208, 212-15 [152 Cal.Rptr. 141, 589 P.2d 396]
People v. McDaniel (1976) 16 Cal.3d 156, 175-77 [127 Cal.Rptr. 467, 545 P.2d 843], cert. den. 429 U.S. 847 [50 L.Ed.2d 119, 97 S.Ct. 131]
People v. Savala (1979) 2 Cal.App.3d 415, 419-20 [82 Cal.Rptr. 313]
*People v. Allums (1975) 47 Cal.App.3d 654, 661 [121 Cal.Rptr. 62]
People v. Martinez (1973) 31 Cal.App.3d 355, 358 [107 Cal.Rptr. 284]
comment on testimony
-of character of witnesses
In re Gary G. (1981) 115 Cal.App.3d 629, 637 [171 Cal.Rptr. 531]
*People v. Benton (1979) 100 Cal.App.3d 92, 97 [161 Cal.Rptr. 12]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Ayers (1975) 51 Cal.App.3d 370, 379 [124 Cal.Rptr. 283]
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 405-06 [119 Cal.Rptr. 378]
People v. Beyea (1974) 38 Cal.App.3d 176, 197 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 91, 60 [105 Cal.Rptr. 432]
People v. Luckett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]
-of defendant, comment as to veracity
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1, 609 P.2d 468]
comment on what would have been the testimony of uncalled witness
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
death penalty reversed due to prosecutor's misleading closing argument
People v. Farmer (1989) 47 Cal.3d 888 [254 Cal.Rptr. 508, 765 P.2d 940]
disparaging remarks about defense counsel
People v. Reyes (1974) 12 Cal.3d 486, 505-06 [116 Cal.Rptr. 217, 526 P.2d 225]
People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]
erroneous statement of the law
People v. Scott (1982) 129 Cal.App.3d 301 [180 Cal.Rptr. 891]
expression of belief in defendant's guilt
People v. Prysock (1982) 127 Cal.App.3d 972 [180 Cal.Rptr. 15]
expression of opinion as to defendant's guilt
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
People v. Herring (1993) 20 Cal.App.4th 1066 [25 Cal.Rptr.2d 213]
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1, 609 P.2d 468]
People v. Brown (1981) 119 Cal.App.3d 116, 133 [173 Cal.Rptr. 877]
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr. 382]
People v. Bush (1978) 84 Cal.App.3d 294, 306 [148 Cal.Rptr. 430]
People v. La Fontaine (1978) 79 Cal.App.3d 176, 186 [144 Cal.Rptr. 729]

People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
*People v. Wiley (1976) 57 Cal.App.3d 149, 162-63 [129 Cal.Rptr. 13]
People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
People v. Calpito (1970) 9 Cal.App.3d 212, 222-23 [88 Cal.Rptr. 64]
expression of opinion as to a witness credibility
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
United States v. Kerr (9th Cir. 1992) 981 F.2d 1050
false statement of fact to jury
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
improper remarks as to defendant's character and as to consequences of acquittal
People v. Jones (1970) 7 Cal.App.3d 358, 362-365 [86 Cal.Rptr. 516]
improper remarks directed against counsel for the defense
*People v. Perry (1972) 7 Cal.3d 756,789-91 [103 Cal.Rptr. 161, 499 P.2d 129]
improper remarks regarding conduct of defendant
People v. Blagg (1970) 10 Cal.App.3d 1035, 1040 [89 Cal.Rptr. 446]
impugning defense counsel's tactics at trial and in argument
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
inferences and deductions
People v. Kozel (1982) 133 Cal.App.3d 507, 518-519 [184 Cal.Rptr. 208]
inferences and deductions drawn from facts ascertained at trial
People v. Preston (1973) 9 Cal.3d 308, 317 [107 Cal.Rptr. 300, 508 P.2d 300]
People v. Butler (1980) 104 Cal.App.3d 868, 878 [162 Cal.Rptr. 913]
People v. Lawson (1979) 100 Cal.App.3d 60, 65-66 [161 Cal.Rptr. 7]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Mendoza (1974) 37 Cal.App.3d 717, 726-727 [112 Cal.Rptr. 565]
People v. Meneley (1972) 29 Cal.App.3d 41, 61 [105 Cal.Rptr. 432]
People v. Vatelli (1971) 15 Cal.App.3d 54, 63 [92 Cal.Rptr. 763]
People v. Rice (1970) 10 Cal.App.3d 730, 743 [89 Cal.Rptr. 200]
People v. Brown (1970) 6 Cal.App.3d 619, 625 [86 Cal.Rptr. 149]
misstatement of law to jury
People v. Pineiro (1982) 129 Cal.App.3d 915 [179 Cal.Rptr. 883]
misstatement/erroneous statement of law or fact
People v. Strickland (1974) 11 Cal.3d 946, 955-57 [114 Cal.Rptr. 632, 523 P.2d 672]
People v. Beyea (1974) 38 Cal.App.3d 176, 198 [113 Cal.Rptr. 254]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
penalty trial
-attempt to re-open issues resolved at guilt trial
People v. Haskett (1982) 30 Cal.3d 841,864 [180 Cal.Rptr. 640, 640 P.2d 776]
prejudicial inflammatory comments during closing argument
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
People v. Deasee (1993) 19 Cal.App.4th 374
People v. Duckett (1984) 161 Cal.App.3d 307, 316 [207 Cal.Rptr. 491]
prosecutor effectively calling defense counsel a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
reference tp Biblical passage sanctioning capital punishment not prejudicial
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
reference to defendant as "smart thief" and "parasite on the community"
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]
reference to defendant's use of heroin
Hall v. Whitley (9th Cir. 1991) 935 F.2d 164
reference to facts not in evidence
People v. Galloway (1979) 100 Cal.App.3d 551, 563-564 [160 Cal.Rptr. 914]
People v. Panky (1978) 82 Cal.App.3d 772, 781 [147 Cal.Rptr. 341]
People v. Baeske (1976) 58 Cal.App.3d 775, 783 [130 Cal.Rptr. 35]
People v. Beyea (1974) 38 Cal.App.3d 176, 197-98 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 41, 62 [105 Cal.Rptr. 432]
People v. McDowell (1972) 27 Cal.App.3d 864, 880 [104 Cal.Rptr. 181]
People v. Wallace (1970) 13 Cal.App.3d 608, 616 [91 Cal.Rptr. 643]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
reference to lack of witnesses/evidence presented by defense to corroborate asserted defense
People v. Roberts (1975) 51 Cal.App.3d 125, 135-137 [123 Cal.Rptr. 893]
remarks about defendant's self-representation and statements to the effect that prosecutors are held to higher standards than others
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
soliloquy delivered in voice of murder victim from witness chair
Drayden v. White (9th Cir. 2000) 223 F.3d 704
statement impugning defendant's testimony
People v. Haslouer (1978) 79 Cal.App.3d 818, 833 [145 Cal.Rptr. 234]
statement that "the defendant thinks it is funny" regarding facing criminal charges
People v. Gilliam (1974) 41 Cal.App.3d 181, 194-195 [116 Cal.Rptr. 317]
statements denigrating the defense as a sham
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
statements directed at the jury regarding its functions, duties, and conclusions properly drawn
People v. Wilson (1979) 97 Cal.App.3d 547, 550 [158 Cal.Rptr. 811]
People v. Patino (1979) 95 Cal.App.3d 11, 29-31 [156 Cal.Rptr. 815]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Panky (1978) 82 Cal.App.3d 772, 780-781 [147 Cal.Rptr. 341]
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
*People v. Smith (1973) 33 Cal.App.3d 51, 70-71 [108 Cal.Rptr. 698]
People v. Gay (1972) 28 Cal.App.3d 661, 675 [104 Cal.Rptr. 812]
People v. Daniels (1971) 16 Cal.App.3d 36, 47-48 [93 Cal.Rptr. 628]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
statements to jury
People v. Haskett (1982) 30 Cal.3d 841,863 [180 Cal.Rptr. 640, 640 P.2d 776]
as to what the testimony of an uncalled witness would have been
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]

statements to the effect that defendant lied, and that a co-defendant had "ice running through his veins"
People v. Reyes (1974) 12 Cal.3d 486, 505 [116 Cal.Rptr. 217, 526 P.2d 225]
suggestion that defendant has the burden of raising a reasonable doubt as to guilt
*People v. Ramos (1982) 30 Cal.3d 553, 574-575 [180 Cal.Rptr. 266, 639 P.2d 908]
unsupported implication by prosecutor that defense counsel has fabricated a defense
People v. Bain (1971) 5 Cal.3d. 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]
vouching by prosecutor not plain error
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440
Comments on defendant's conduct
People v. Garcia (1984) 160 Cal.App.3d 82, 93-94
Comments on lies by witnesses at a foreign extradition hearing constituted reversible error
People v. Jaspal (1991) 234 Cal.App.3d 1446
Comments to jury concerning personal responsibility for death penalty
People v. Fierro (1991) 1 Cal.4th 173
Communication with defendant
People v. Manson (1976) 61 Cal.App. 3d 102, 164 [132 Cal.Rptr. 265]
Conduct before a grand jury
failure to disclose witness's potential bias
U.S. v. Benjamin (9th Cir. 1988) 852 F.2d 413
Constitutional protection for criminal defendant
People v. Smith (1984) 155 Cal.App.3d 1103, 1138
Cross-examination
allegation of improper questioning and comment, and objectionable demeanor on part of prosecutor
People v. Hyatt (1971) 18 Cal.App.3d 618, 624 [96 Cal.Rptr. 156]
allegation that prosecutors questions exceeded the scope of direct examination
People v. Harris (1981) 28 Cal.3d 935, 953 [171 Cal.Rptr. 679, 623 P.2d 240]
alleged prejudicial questioning concerning defendant's use of/involvement with narcotics
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
arguing facts not in evidence
People v. Baines (1981) 30 Cal.3d 143,149 [177 Cal.Rptr. 861, 635 P.2d 455]
asking questions of defendant which implied that he was guilty of the charged offense where facts requisite to such a conclusion were not in evidence and had not been established
People v. Romero (1977) 68 Cal.App.3d 543, 597-598 [137 Cal.Rptr. 675]
asking questions of defendant's girlfriend, who had borne defendant's daughter, and mother designed to show bias
People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]
asking questions reasonably necessary to develop fact of defendant's prior felony convictions
People v. Medina (1972) 26 Cal.App.3d 809, 820-822 [103 Cal.Rptr. 337]
asking questions which infer that witness has fabricated her testimonial evidence
People v. Straiten (1977) 71 Cal.App.3d 526, 535-36 [139 Cal.Rptr. 414]
asking witness, in attempt to impeach, whether he had ever been convicted of a felony
People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]
attempt to discredit and impeach an alibi
-witness for defense
People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]
attempt to discredit/impeach witness for defense regarding testimony as to defendant's mental/physical health at time of commission of the charged offense
People v. Mazoros (1977) 76 Cal.App.3d 32, 46-49 [142 Cal.Rptr. 599]
attempt to impeach defendant on basis of his silence following arrest and Miranda warnings
People v. Galloway (1979) 100 Cal.App.3d 551, 556-560 [160 Cal.Rptr. 914]
bad faith may be manifested by prosecutor intentionally asking questions of witness, the answers to which he knows are inadmissible because of their prejudice to the accused, or by asking questions which he knows are improper and inadmissible
People v. Romero (1977) 68 Cal.App.3d 543, 548 [137 Cal.Rptr. 675]
comment on defendant's right of silence
U.S. v. Sehnal (9th Cir. 1991) 930 F.2d 1420
comment to defendant that "you stand an excellent chance of being convicted of first-degree murder"
People v. Hall (1970) 5 Cal.App.3d 116, 124-126 [85 Cal.Rptr. 188]
detailed examination of defendant on matters testified to on direct examination
People v. Green (1979) 95 Cal.App.3d 991, 1007-1008 [157 Cal.Rptr. 520]
directing improper questions to defendant
People v. Wong (1973) 35 Cal.App.3d 812, 833-835 [111 Cal.Rptr. 314]
eliciting testimony concerning defendant's need for money as a motive for commission of charged offense
People v. Morales (1979) 88 Cal.App.3d 259, 264 [151 Cal.Rptr. 610]
exceeding the scope of direct examination
*People v. Goss (1980) 105 Cal.App.3d 542, 546-547 [166 Cal.Rptr. 1]
failed attempt to impeach witness by prior inconsistent statement
People v. Robinson (1970) 6 Cal.App.3d 448, 454-455 [86 Cal.Rptr. 56]
failure to offer any evidence in rebuttal of defendant's denial of use of a false name
*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]
forcing defendant to characterize U.S. Marshall as liar
United States v. Sanchez (9th Cir. 1999) 176 F.3d 1214
impeachment of defendant on a collateral matter
People v. Blair (1979) 25 Cal.3d 640, 664 [159 Cal.Rptr. 818, 602 P.2d 738]
impeachment of defendant's testimony at trial on basis of statements made by him at time of arrest and after proper Miranda warnings
People v. Hill (1980) 110 Cal.App.3d 937, 943 [168 Cal.Rptr. 272]
improper examination in order to place inadmissible prejudicial evidence before the jury
People v. Johnson (1978) 77 Cal.App.3d 866, 873 [143 Cal.Rptr. 852]
insinuations, made during objection to questioning of defendant by his counsel, that prosecutor had in his possession undisclosed but highly relevant and damaging evidence regarding defendant's prior sexual conduct
People v. Villa (1980) 109 Cal.App.3d 360, 364-367 [167 Cal.Rptr. 265]
presentation of rebuttal testimony regarding defendant's possession of a gun which was the basis of the charged offense
*People v. Goss (1980) 105 Cal.App.3d 542, 546-47 [166 Cal.Rptr. 1]
propriety of inquiries respecting prior convictions of defendant
People v. Watts (1954) 126 Cal.App.2d 659, 662-63 [272 P.2d 814]
question asked of defendant in attempt to produce evidence that would clarify inconsistency in identification testimony where prosecutor had no evidence to support the innuendo contained in the question
People v. Lyons (1971) 18 Cal.App.3d 760, 779-80 [96 Cal.Rptr. 76]

question by prosecutor, on cross-examination of defendant, as to whether defendant knew that another person who had been present during the execution of the search warrant was a heroin user
People v. Lovett (1978) 82 Cal.App.3d 527, 534 [147 Cal.Rptr. 136]
questioning co-defendant concerning the involvement of a third person in the actual perpetration of the charged offense where such
involvement was revealed for the first time at trial
People v. Love (1977) 75 Cal.App.3d 928, 933 [142 Cal.Rptr. 532]
questioning defendant about post-arrest statements made which were inconsistent with his testimony on direct examination
People v. Clem (1980) 104 Cal.App.3d 337, 344 [163 Cal.Rptr. 553]
questioning defendant about prior conviction for armed robbery
People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]
questioning defendant as to whether he had explained his alibi to arresting officers
People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]
questioning defendant concerning his post-arrest silence
People v. Matthews (1980) 108 Cal.App.3d 793, 795 [167 Cal.Rptr. 8]
*People v. Gaines (1980) 103 Cal.App.3d 89, 92-96 [162 Cal.Rptr. 827]
questioning defendant concerning inconsistencies between the effect of his in-court testimony and his confession, where the matter was not raised on direct
People v. Blair (1975) 51 Cal.App.3d 480, 486 [124 Cal.Rptr. 123]
questioning defendant on his activities after the date of the crime and while defendant was in another jurisdiction, where said subject had not been raised on direct
People v. James (1976) 56 Cal.App.3d 876, 887-88 [128 Cal.Rptr. 733]
questioning defendant on his alleged use of marijuana at the scene of the crime absent any corroborative or independent evidence of such conduct
People v. Rocha (1971) 3 Cal.3d 893, 901-02 [92 Cal.Rptr. 172, 479 P.2d 372]
questioning defendant on the specifics of his asserted alibi defense
People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]
questioning defendant to ascertain his motive in taking murder weapon to a third person after commission of crime
People v. Harris (1970) 7 Cal.App.3d 922, 927-28 [87 Cal.Rptr. 46]
questioning witness regarding a drug overdose for which she received emergency treatment
People v. Straiten (1977) 71 Cal.App.3d 526, 536 [139 Cal.Rptr. 414]
questions concerning defendant's knowledge of how to use a knife, asked of defendant in prosecution for possession of dirk/dagger by a prisoner
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 404 [119 Cal.Rptr. 378]
questions eliciting fact that defendant was found with a newspaper of sexual orientation where defendant was charged with various sex offenses
People v. James (1976) 62 Cal.App.3d 399, 408 [132 Cal.Rptr. 888]
questions relating to defendant's post-arrest silence
People v. Farris (1977) 66 Cal.App.3d 376, 387-88 [136 Cal.Rptr. 45]
questions which improperly suggest to jurors that prosecutor had a source of information unknown to them which corroborated the implication in questions that accused had engaged in extensive prior drug transactions
People v. Wagner (1975) 13 Cal.3d 612, 619 [119 Cal.Rptr. 457. 532 P.2d 105]
reference to fact that defendant's wife did not testify on his behalf in the first trial (on some charges) as a basis for impeachment
People v. Straiten (1977) 71 Cal.App.3d 526, 535 [139 Cal.Rptr. 414]
repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]
use by prosecutor of defendant's voluntary pretrial exculpatory statement in which he failed to claim that he had been coerced by another into aiding in the killings (charged offense) to impeach his inconsistent defense of coercion at trial
People v. Barker (1979) 94 Cal.App.3d 321, 327-330 [156 Cal.Rptr. 407]
See also:
Anderson, Warden v. Charles (1980) 447 U.S. 404 [65 L.Ed.2d 222, 100 S.Ct. 2180]
Coercive effect of misconduct on defense decision to plea bargain or go to trial
U.S. v. Basalo (9th Cir. 2001) 258 F.3d 945
Deception of grand jury
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Deliberately causing a witness to invoke his Fifth Amendment privilege to the detriment of the defendant
United States v. Lord (9th Cir. 1983) 711 F.2d 887, 891
Due diligence required
People v. Clay (1984) 153 Cal.App.3d 433, 436
Duty to avoid prejudicial, non-relevant material by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364
Effect subsequent trial for greater charge
Barajas v. Superior Court (1983) 149 Cal.App.3d 30 [196 Cal.Rptr. 599]
Evidence
admission of defendant's statement, "I think I want a lawyer," made in response to question as to his whereabouts on the night of the crime; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 58 [105 Cal.Rptr. 432]
admission of evidence of another burglary in which defendant was involved
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]
allegations of material evidence
Price v. State Bar (1982) 30 Cal.3d 537, 547 [179 Cal.Rptr. 914, 638 P.2d 1311]
alleged knowing use of perjured testimony
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]
alleged suppression of evidence by prosecution's failure to call unindicted co-conspirator as witness; alleged suppression of prosecution witness's phone records
People v. Pic'l (1981) 114 Cal.App.3d 824, 879-880 [171 Cal.Rptr. 106]
altering evidence in criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 543-546 [179 Cal.Rptr. 914, 638 P.2d 1311]
attempt to introduce arrest record of a defense witness, waving around what was apparently the witness's rap sheet during argument at the bench
People v. Hernandez (1977) 70 Cal.App.3d 271, 281-282 [138 Cal.Rptr. 675]
attempts to display to jury photographs of wounds sustained by victims where said photos had been ruled objectionable on basis of their prejudicial effect
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]
display of dangerous weapons to jury
*People v. Thornton (1974) 11 Cal.3d 762 [114 Cal.Rptr. 467, 523 P.2d 267]

displaying handguns and other items not admitted into evidence to the jury
People v. Chi Ko Wong (1976) 18 Cal.3d 698, 723 [135 Cal.Rptr. 392, 557 P.2d 976]
elicitation of inadmissible evidence
People v. Parsons (1984) 156 Cal.App.3d 1165, 1170-1172
eliciting inadmissible testimony concerning defendant's parole status and residence in a halfway house
People v. Morgan (1978) 87 Cal.App.3d 59, 65-70, 76 [150 Cal.Rptr. 712]
fabricating
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
failure to accept proffered stipulation by defendant as to an element of the charged offense where proof introduced at trial would be rightly prejudicial
People v. Sherren (1979) 89 Cal.App.3d 752, 755-759 [152 Cal.Rptr. 828]
failure to clarify testimony susceptible of an interpretation known to be false by prosecutor
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
failure to comply with trial court's order to delete references to defendant's conduct on parole from an exhibit given to the jury, even where such failure is inadvertent
*People v. Piper (1980) 103 Cal.App.3d 102, 112-113 [162 Cal.Rptr. 833]
failure to disclose evidence
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
failure to disclose whereabouts of informant upon whose testimony charges are founded; failure to produce informant at pretrial
People v. Partlow (1978) 84 Cal.App.3d 540, 557-59 [148 Cal.Rptr. 744]
failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial
Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157
failure to present exculpatory evidence along with an admission by defendant contained in a taped telephone conversation, which had no bearing on the charges contained in defendant's indictment
People v. Vallerga (1977) 67 Cal.App.3d 847, 835-885 [136 Cal.Rptr. 429]
failure to preserve
People v. Gonzales (1984) 156 Cal.App.3d 558, 561-562
improper vouching by federal prosecutor
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
intentional destruction of capital defense strategy tape not violative of due process
People v. Zapien (1993) 4 Cal.4th 929 [17 Cal.Rptr.2d 122]
introduction of physical evidence forming the basis of a count dismissed by the court
People v. Harris (1977) 71 Cal.App.3d 959, 967 [139 Cal.Rptr. 778]
statements by prosecutor during direct examination, inferring that defendant was the "Hillside Strangler"
People v. Wills-Watkins (1979) 99 Cal.App.3d 451, 456, 457 [160 Cal.Rptr. 289]
suppression by prosecutor of statement by victim to the effect that a third person, identified as a perpetrator, had been involved in the crime
People v. Bauer (1969) 1 Cal.3d 368, 375 [82 Cal.Rptr. 357, 461 P.2d 637]
use by prosecutor of allegedly perjured testimony of defendant's accomplice
People v. Lavergne (1971) 4 Cal.3d 735, 742-744 [94 Cal.Rptr. 405, 484 P.2d 77]
use of perjured testimony
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
Examination of witness or defendant
asking a rebuttal witness whether he was aware of an investigation of defendant's billing practices in an earlier period in a prosecution for offenses arising out of defendant's doctor's presentation of allegedly false Medi-Cal claims
People v. Slocum (1975) 52 Cal.App.3d 867, 887-888 [125 Cal.Rptr. 442] cert. den. 426 U.S. 924
asking character witness on cross-examination about specific acts of misconduct relating to the offense for which defendant was charged
People v. Qui Mei Lee (1975) 48 Cal.App.3d 516, 528 [122 Cal.Rptr. 43]
asking questions clearly suggesting the existence of facts harmful to defendent where such facts were not in evidence and could not be established independently
*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]
asking questions known to be inadmissible and improper; asking questions for the clear purpose of prejudicing the jury against defendant
People v. Dorsey (1974) 43 Cal.App.3d 953, 964-966 [118 Cal.Rptr. 362]
asking questions, the answers to which prosecutor knows to be both irrelevant and prejudicial
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311 [105 Cal.Rptr. 458]
asking questions, the answers to which prosecutor knows to be inadmissible
People v. Mazoros (1977) 76 Cal.App.3d 32, 48 [142 Cal.Rptr. 599]
attempt to impeach defense alibi witness by demonstrating that she learned of the crime one day earlier than she had claimed in prior testimony
People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]
attempt to impeach defense witness by asking if he was in custody because of outstanding traffic warrants
People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]
attempts by prosecution to cast aspersions upon defendant's character in relation to his personal sexual morality
People v. Yanikian (1974) 39 Cal.App.3d 366, 381-382 [114 Cal.Rptr. 188]
attempts to elicit allegedly improper testimony
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]
attempts to elicit testimony of defendant's domain over drugs at a time outside a limitation previously set by trial court
People v. Pacheco (1972) 27 Cal.App.3d 70, 83 [103 Cal.Rptr. 583]
duty to see that a witness called by prosecutor volunteers no statement that would be inadmissible, and also those which are prejudicial
People v. Schiers (1971) 19 Cal.App.3d 102, 112-114 [96 Cal.Rptr. 330]
eliciting references to defendant's arrest record
People v. Brunt (1972) 24 Cal.App.3d 945, 957-958 [101 Cal.Rptr. 457]
eliciting statement on redirect of prosecution witness, that defendant had been in trouble with the police previously
People v. Vernon (1979) 89 Cal.App.3d 853, 865-867 [152 Cal.Rptr. 765]
expression of personal opinion re witnesses' credibility
U.S. v. Kerr (1992) 981 F.2d 1050
improper use of leading questions
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]

inadvertently eliciting from witness the fact of defendant's previous imprisonment
People v. Sims (1976) 64 Cal.App.3d 544, 554-55 [134 Cal.Rptr. 566]
non-production of records used to refresh recollection of key prosecution witness
People v. Blackwell (1981) 117 Cal.App.3d 372, 378 [172 Cal.Rptr. 636]
prosecutor commits flagrant violation of defendant's right to remain silent by eliciting testimony that defendant had refused to make pretrial statement; asking defendant on cross-examination whether he made any pre-trial disclosure of his defense
People v. Andrews (1970) 14 Cal.App.3d 40, 48-49 [92 Cal.Rptr. 49]
question asked of defendant as to whether he had any means of identification on him at time of arrest
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311-12 [105 Cal.Rptr. 458]
question by prosecutor of victim of prior felony-rape as to whether witness had ever told prosecutrix that it appeared that she had been raped by the same man as had witness
People v. Rance (1980) 106 Cal.App.3d 245, 253 [164 Cal.Rptr. 822]
question by prosecutor which assumed that defendant and his companion had killed the victim
People v. Helfend (1969) 1 Cal.App.3d 873, 883-84 [82 Cal.Rptr. 295] cert. den. 398 U.S. 967 [26 L.Ed.2d 551, 90 S.Ct. 2182]
questioning certain witnesses concerning defendant's appearance before, during, and after a prior court proceeding; questioning witnesses about alleged "affair" defendant had during relevant time period
People v. Mazoras (1977) 76 Cal.App.3d 32, 47-48 [142 Cal.Rptr. 599]
questioning defendant's psychiatric expert witness on statements made by defendant to the psychiatrist, where such statements formed the basis of the expert's testimony
People v. Mazoras (1977) 76 Cal.App.3d 32, 46-47 [142 Cal.Rptr. 599]
reference by prosecution to defendant's parole status
*People v. Romo (1975) 47 Cal.App.3d 976, 987-88 [121 Cal.Rptr. 684]
reference to defendant as "assailant" during direct examination of complaining witness in prosecution of rape
People v. Sims (1976) 64 Cal.App.3d 544, 552 [134 Cal.Rptr. 566]
reference to defendant's failure to surrender weapon (used in charged offense) to the police
People v. Burton (1981) 117 Cal.App.3d 382, 388-89 [172 Cal.Rptr. 632]
reference to defendant's pre-arrest silence
People v. Burton (1981) 117 Cal.App.3d 382, 386-88 [172 Cal.Rptr. 632]
remarks properly dismissed as abuse of writ of habeas corpus
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]
seeking legal conclusion from witness; accusing defense counsel of having told a "blatant lie"
People v. Montgomery (1976) 61 Cal.App.3d 718, 734 [132 Cal.Rptr. 558]
statements by prosecutor in a murder trial which in effect accused defense counsel of causing a witness to prejudice himself
*People v. Benjamin (1975) 52 Cal.App.3d 63, 79-81 [124 Cal.Rptr. 799]
testimony elicited by prosecutor containing a reference to a parole agent
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 312 [105 Cal.Rptr. 458]
use of leading questions in direct examination by prosecutor in attempt to elicit damaging hearsay evidence
People v. Burciago (1978) 81 Cal.App.3d 151, 163-165 [146 Cal.Rptr. 236]
Failure to disclose evidence
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
Failure to honor plea bargain
People v. Leroy (1984) 155 Cal.App.3d 602 [202 Cal.Rptr. 88]
Failure to know whereabouts of informant
Twiggs v. Superior Court (1983) 34 Cal.3d 360
Failure to use diligence in obtaining evidence
People v. Rodriquez (1984) 152 Cal.App.3d 289, 295-296
Goading a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409
Harmless misconduct
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Immunity
absolute or qualified immunity may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant
Morley v. Walker (1999) 175 F.3d 756
district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]
fabricating evidence, filing false crime report, making comments to the media and investigating crime against attorney may not be protected by absolute immunity against §1983 claims
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
Improper argument
People v. Smith (1984) 155 Cal.App.3d 1103, 1182
Improper questioning
People v. Darwiche (1984) 152 Cal.App.3d 630, 641-642
Inferences and deductions
People v. Ferguson (1982) 129 Cal.App.3d 1014 [181 Cal.Rptr. 593]
Interference with attorney-client relationship
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Intimidation of witnesses
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People v. Bryant (1984) 157 Cal.App.3d 582, 592-595
Jury selection
improper motives for peremptory challenges
People v. Trevino (1985) 39 Cal.3d 667, 669 [277 Cal.Rptr. 170]
Misstatement of law inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
Motive
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 374-375 [194 Cal.Rptr. 152, 667 P.2d 1165]
Obligation to avoid prejudicial non-relevant testimony by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364, 1368 fn. 1
Opening statement
misstatement of the value of a quantity of heroin in possession of defendant
People v. Cooper (1979) 95 Cal.App.3d 844, 849-850 [157 Cal.Rptr. 348]
prosecutor improperly refers to defendant's failure to testify
People v. Diaz (1989) 207 Cal.App.3d 922 [255 Cal.Rptr. 91]
prosecutor's statement that evidence would prove defendant committed a murder at the insistence of his girl friend
People v. Brown (1981) 119 Cal.App.3d 116, 131-32 [173 Cal.Rptr. 877]
reference to defendant as a felon
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35 [88 Cal.Rptr. 789]

reference to expected testimony of a person who had testified at preliminary examination to potentially incriminating statements made by defendant, where said witness was never called
People v. Rhinehart (1973) 9 Cal.3d 139, 153-54 [107 Cal.Rptr. 34, 507 P.2d 642] ovrld. People v. Bolton (1979) 23 Cal.3d 208 [152 Cal.Rptr. 141, 589 P.2d 396]
reference to fact of defendant's status as a life prisoner
People v. Robles (1970) 2 Cal.3d 205, 213-214 [85 Cal.Rptr. 166, 466 P.2d 710]
reference to fact that one accused, arrested with defendant, led police to defendant's brother, where the brother had not been charged and was never formally accused of crime
People v. Brown (1980) 110 Cal.App.3d 24, 35-36 [167 Cal.Rptr. 557]
reference to polygraph test
People v. Carpenter (1979) 99 Cal.App.3d 527, 531-33 [160 Cal.Rptr. 386]
reference to statement made by defendant at time of arrest but prior to defendant's having been advised of his Miranda rights
Mozzetti v. Superior Court (1971) 4 Cal.3d 699 [94 Cal.Rptr. 412, 484 P.2d 84]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
People v. Havenstein (1970) 4 Cal.App.3d 710, 713-715 [84 Cal.Rptr. 528]
reference to statement of separately tried co-defendant indicating a third party had committed the crime
People v. Brown (1981) 119 Cal.App.3d 116, 132 [173 Cal.Rptr. 877]
reference to the effect that defendant had "said very little" in response to the questions of an investigating police officer; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 59 [105 Cal.Rptr. 432]
references to evidence never produced by prosecutor in trial
People v. Hernandez (1970) 11 Cal.App.3d 481, 488-91 [89 Cal.Rptr. 766]
references to extraneous matters dealing with defendant's private life
People v. Powell (1974) 40 Cal.App.3d 107, 165-66 [115 Cal.Rptr. 109]
references to witnesses/testimony not produced at trial; statements known to be untrue
People v. Watson (1971) 15 Cal.App.3d 28, 44-45 [92 Cal.Rptr. 860]
remark that prosecution expected a certain witness to testify because the defense had subpoenaed her
*People v. Yarber (1979) 90 Cal.App.3d 895, 902 [153 Cal.Rptr. 875]
statement to jury that prosecutor would prove defendant's prior narcotics convictions by testimony of parole officers and by documentary evidence
*People v. Cruz (1970) 6 Cal.App.3d 384, 391 [85 Cal.Rptr. 918]
stating theory of the case
*People v. Ramos (1982) 30 Cal.3d 553, 574-75 [180 Cal.Rptr. 266, 639 P.2d 908]
use by prosecutor of allegedly 'inflammatory" words, descriptions
People v. Hayes (1971) 19 Cal.App.3d 459, 469-70 [96 Cal.Rptr. 879]
use of unauthenticated voice recordings
People v. Kirk (1974) 43 Cal.App.3d 921, 929
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Biblical authority quoted in final argument does not require reversal of penalty judgment
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Permissible advocacy
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jurors, communication with
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Prejudice to appellant
New Hampshire Insurance Co. v. Madera (1983) 144 Cal.App.3d 298 [192 Cal.Rptr. 548]
assertion without proof that defense counsel fabricated a defense
People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
lack of diligence re introducing prior convictions until after prosecutors case closed
People v. Rodriguez (1984) 152 Cal.App.3d 289 [199 Cal.Rptr. 433]
Prejudice to defendant
multiple instances of prosecutorial misconduct and trial conduct error deprived capital defendant of a fair trial
People v. Hill (1998) 17 Cal.4th 800 [72 Cal.Rptr.2d 656]
Preliminary hearing
alleged use of perjured testimony
People v. Brice (1982) 130 Cal.App.3d 201 [181 Cal.Rptr. 518]
misstatement of the facts by prosecutor, representing that defendant "was running" from the scene of the crime allowed inference of guilty knowledge on part of defendant
People v. DeLaSierra (1970) 13 Cal.App.3d 528, 534-35 [91 Cal.Rptr. 674]
Presumption of vindictiveness
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 368-369 [194 Cal.Rptr. 152, 667 P.2d 1165]
Pretrial
Rule 7-106(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
announcement to court by prosecutor that there was presently on file in municipal court an action against appellant (defendant)
People v. Patejdl (1973) 35 Cal.App.3d 936, 946
failure to elect
People v. Dunnahoo (1984) 152 Cal.App.3d 548
failure to join unrelated offenses
People v. Tirado (1984) 151 Cal.App.3d 341, 353-354
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People v. Rodriquez (1984) 152 Cal.App.3d 289, 295-296
has burden to show good cause as to why accused has not been brought to trial
Rhinehart v. Municipal Court (1984) 35 Cal.3d 772, 780-781
lineup by district attorney without notifying the attorney of record
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Questions which are sufficient for reversal
People v. Barr (1984) 159 Cal.App.3d 1129, 1160
Recusal
improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial
People v. McPartland (1988) 198 Cal.App.3d 569 [243 Cal.Rptr. 752]
Retaliation against defendant
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People v. Lucious (1984) 153 Cal.App.3d 416, 421
Suppression of evidence
Hast. Const. L.Q. 715 (fall 1977)
People v. Newsome (1982) 136 Cal.App.3d 992 [186 Cal.Rptr. 676]
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People v. Mills (1978) 87 Cal.App.3d 302, 308 [151 Cal.Rptr. 71]

destruction of tapes containing recorded, incriminating statements to police by accused
People v. Anderson (1976) 59 Cal.App.3d 831, 843 [131 Cal.Rptr. 104]
failure to call informant to testify for People
People v. Moran (1970) 1 Cal.3d 755, 761 [83 Cal.Rptr. 411, 463 P.2d 763]
failure to disclose identity of an informant
People v. Rand (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]
failure to disclose to co-defendant offer of leniency in exchange for testimony
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
failure to disclose to prosecution reasonably accessible address of prospective witness
In re Littlefield (1993) 5 Cal.4th 122 [19 Cal. Rptr.2d 248]
failure to inform counsel for defense that evidence critical to asserted defense had been falsified, causing defendant to abandon the defense, where prosecutor knew that facts would sustain the defense if truthfully disclosed
People v. Dena (1972) 25 Cal.App.3d 1001, 1010 [102 Cal.Rptr. 357]
failure to produce a prior statement of prosecution witness to police which incriminated defendant in a way different in factual detail but not in effect from witness's statement
People v. Green (1971) 3 Cal.3d 981, 991 [92 Cal.Rptr. 494, 479 P.2d 998]
improper interference with defendant's right to psychiatric examinations of the complaining witness in prosecution for incest and rape
People v. Davis (1971) 20 Cal.App.3d 890, 896-97 [89 Cal.Rptr. 71]
material evidence bearing on credibility of key prosecution witness
People v. Ruthford (1975) 14 Cal.3d 399, 406-409 [121 Cal.Rptr. 261, 534 P.2d 1341]
suppression of exculpatory fingerprint
Imbler v. Craven (1969) 298 F.Supp. 795, affd. 424 F.2d 631 cert. den. 400 U.S. 865, 27 L.Ed.2d 104, 91 S.Ct. 100
suppression of extra-judicial statement of defendant as to co-defendant
People v. Brawley (1969) 1 Cal.3d 277, 296 [82 Cal.Rptr. 161, 461 P.2d 361] cert. den. 400 U.S. 993, 27 L.Ed.2d 441, 91 S.Ct. 462
Trial conduct
calling to the stand defendant's juvenile accomplice, knowing that the minor would invoke the privilege against self-incrimination
People v. Chandler (1971) 17 Cal.App.3d 798, 803-05 [95 Cal.Rptr. 146]
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-on defense counsel's intentions
People v. Goldberg (1984) 161 Cal.App.3d 170, 190-191 [207 Cal.Rptr. 431]
-upon merits of a case both as to law and fact
People v. Johnson (1979) 39 Cal.App.3d 749, 763 [114 Cal.Rptr. 545]
conferring with judge in absence of opposing counsel respecting alteration of evidence by prosecutor
Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]
criticizing trial court's publicity order, attempting to secure removal of defense counsel
People v. Manson (1976) 61 Cal.App.3d 102, 179-180 [132 Cal.Rptr. 265]
duty to disclose misleading testimony of prosecution's witnesses
In re Martin (1983) 150 Cal.App.3d 148, 169
effect on conduct on verdict
People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569 [198 Cal.Rptr. 182]
ex parte communication to the adjudication hearing referee in juvenile court proceeding indicating that a witness in a companion case had told him that the companion minor had attempted to run over the witness's children
In re Robert W. (1977) 68 Cal.App.3d 705, 713-14 [137 Cal.Rptr. 558]
failure of district attorneys to inform appointed defense counsel of bargain made with defendant; deliberate debasement of the attorney-client relationship by disparaging defendant's counsel; encouraging defendant to reveal nothing of the prosecutor's bargain to his counsel
People v. Moore (1976) 57 Cal.App.3d 437, 441 [129 Cal.Rptr. 279]
failure to indicate modification in standard jury instructions
People v. Kozel (1982) 133 Cal.App.3d 507, 518 [184 Cal.Rptr. 208]
failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendatnt's right to a fair trial
Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157
inadvertent violation of court order prohibiting reference to highly prejudicial evidence
People v. Gomez (1976) 63 Cal.App.3d 328, 337-39 [133 Cal.Rptr. 731]
inconsistency in referring to date of commission of charged offense where prosecutor alternately referred to two dates and defense was predicated on alibi accounting for only one of those
*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]
interview given to magazine reporters by a deputy district attorney in violation of court's publicity order
People v. Manson (1976) 61 Cal.App.3d 102, 177-79 [132 Cal.Rptr. 265]
making disparaging remarks concerning the on-going prosecution of defendant
People v. Jones (1970) 10 Cal.App.3d 237, 245 [88 Cal.Rptr. 871]
offer of assistance to criminal defendant in exchange for valuable consideration
Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]
offer to stipulate to reopening case in order to corroborate testimony to which defendant had objected
People v. Utter (1972) 24 Cal.App.3d 535, 554 [101 Cal.Rptr. 214]
prejudicial comments
United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455
reference, in criminal proceedings under juvenile court law, to fact that defendant's father was facing criminal charges
In re Gary G. (1981) 115 Cal.App.3d 629, 637
reference to fact that two of defendant's fellow gang members had been convicted of charges arising out of the same murders in which defendant was charged
People v. Szeto (1981) 29 Cal.3d 20, 30-31 [171 Cal.Rptr. 652, 623 P.2d 213]
repeated acts of intemperate and unprofessional conduct by deputy district attorney, including personal attacks and threats against defense counsel, ridicule of defendants and their defense, and refusal on occasion to comply with trial court's orders
People v. Kelley (1977) 75 Cal.App.3d 672, 680-690 [142 Cal.Rptr. 457]
statements insinuating that defendant was involved in a prostitution ring
*People v. Hathcock (1973) 8 Cal.3d 599, 610-11 [105 Cal.Rptr. 540, 504 P.2d 476]
use of district attorney's address as his own by prosecution witness
People v. Page (1980) 104 Cal.App.3d 569, 573 [163 Cal.Rptr. 839]
Two-step analysis
People v. Callegri (1984) 154 Cal.App.3d 856, 864

Use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions
Robert Lee Morrow v. Superior Court (1994) 30 Cal.App. 4th 1252 [36 Cal.Rptr.2d 210]
Vindictiveness
People v. Hudson (1989) 210 Cal.App.3d 784 [258 Cal.Rptr. 563]
Voir dire
leaving police officer's file in position where plainly visible to members of venire
People v. Luckett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]
peremptory challenge based on gender violated Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
peremptory challenges on unmarried female venire persons violated defendant's right to equal protection
United States v. Omoruyi (1993) 7 F.3d 880
prosecutor's peremptory challenge of sole black juror not a showing of group bias
People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]
prosecutor speculating as to whether defendant would elect to take the stand; statement that in event of evidentiary conflict defendant would only have to take the witness stand and deny the charges
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-72 [153 Cal.Rptr. 382]
prosecutor's peremptory challenge of sole black juror not a showing of group bias
People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]
reference to impeaching effect which defendant's five prior felony convictions would have
People v. Bowen (1971) 22 Cal.App.3d 267, 289-91 [99 Cal.Rptr. 498]
selection of a "death penalty oriented" jury
People v. Wong (1973) 35 Cal.App.3d 812, 832-33 [111 Cal.Rptr. 314]
unsupported implication by prosecutor that defense counsel has fabricated a defense
People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]
using peremptory challenges for racially discriminatory purposes
People v. Trevino (1985) 39 Cal.3d 667 [217 Cal.Rptr. 652]
People v. Sanchez (1992) 6 Cal.App.4th 913 [8 Cal.Rptr.2d 200]
People v. Clay (1984) 153 Cal.App.3d 433 [200 Cal.Rptr. 269]
Vouching
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
United States v. Molina (9th Cir. 1991) 934 F.2d 1440
not found
U.S. v. Tavakkoly (9th Cir. 2001) 238 F.3d 1062
Withholding evidence
United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455
Witness's absence not improperly effected by prosecutor
Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581
Witness credibility
expression of personal opinion
U.S. v. Kerr (1992) 981 F.2d 1050

PUBLIC OFFICE [See Administrative agency. Court. Judge. Political activity.]
City attorney
associate of
-practice by
LA(I) 1975-4
former associate or partner refers clients to former firm
CAL 1967-10
partner
-practice by
LA(I) 1975-4
partner represents
-in criminal matters
LA 242 (1957), LA(I) 1975-4
partnership with
-practice by
--associate of
LA(I) 1975-4
City council member
associate, practice by
CAL 1977-46
LA(I) 1975-4
communication with
Rule 2-100, Rules of Professional Conduct
CAL 1977-43
partner
-practice by
CAL 1977-46, LA(I) 1975-4
represents
-criminal defendants
CAL 1977-46
-in ordinance violations
LA 273 (1962), SD 1969-1
-in traffic cases
SD 1969-1
Electioneering
for judge
-lawyer may question incumbent judge's qualifications
LA 304 (1968)
Judge
election campaign for
-lawyer may question incumbent judge's qualifications
LA 304 (1968)
systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Lawyer
as a candidate for
-misleading public re experience
LA 297 (1966)
-use of campaign materials to advertise profession
LA 297 (1966)
Prosecuting attorney
communication with criminal defendant
-who may be witness for matter unrelated to that for which accused
CAL 1979-49
criticizes sentence
SD 1974-8
employer of, practice by
LA 377 (1978)
former
-represent person indicted by grand jury
--when served as, during pendency of same action
LA 117 (1937)
legal advice
-to victim of crime
--re civil remedies
CAL 1976-40
partner of
-practice by
LA 377 (1978)
-represents
--in criminal matter
Business and Professions Code section 6131
LA 377 (1978)
welfare proceedings
-potential conflict between interests of state and child
--disclosure to court
CAL 1977-45

PUBLICATION [See Advertising, publication. Judicial conduct. Lecture. Solicitation.]
Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Article
about self
LA 38 (1927)
SD 1975-3
on law
-about pending case
LA 343 (1974)
-attorney cannot be identified as an attorney
SF 1972-1
-lay publication
LA 181 (1951), LA(I) 1978-1
SF 1972-1
-newspaper
LA 175 (1950)
SD 1974-3
-periodical
LA 181 (1951), LA(I) 1964-2, LA(I) 1960-4
-trade of professional
LA 200 (1952), LA(I) 1964-2
Biography
LA 268 (1960)
SD 1973-4
Book
about case
LA 369 (1977)
course for real estate salespeople
LA(I) 1963-3
law book
LA 235 (1956)
Client's counsel listed in
SF 1974-2
Column
law
-in newspaper
LA 354 (1976), LA 191 (1952), LA 34 (1927)
SD 1976-2, SD 1974-3
--bar association
LA 191 (1952)
"Course" for real estate salespeople
LA(I) 1963-3
Directory
SD 1968-1
Legal newsletter or service
LA 148 (1944)
Pamphlet
"consult your lawyer first," by bar association
LA 65 (1931)
on legal topic
LA(I) 1962-1
PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [See Estate.]
Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)
Sodikoff v. State Bar (1975) 14 Cal.3d 422, 425-432 [121 Cal.Rptr. 467, 535 P.2d 331]
Silver v. State Bar (1974) 13 Cal.3d 134, 137-142 [117 Cal.Rptr. 821, 528 P.2d 1157]
Lee v. State Bar (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]
Eschwig v. State Bar (1969) 1 Cal.3d 8, 11-19 [81 Cal.Rptr. 352, 459 P.2d 904]
Marlowe v. State Bar (1965) 63 Cal.2d 304, 305-311 [46 Cal.Rptr. 326, 405 P.2d 150]
Stanford v. State Bar of California (1940) 15 Cal.2d 721, 722-728 [104 P.2d 635]
Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]
Carlson v. Lantz (1929) 208 Cal. 134, 138-142 [280 P. 531]
Expanding prohibition to include purchases made by attorney's spouse
Marlowe v. State Bar (1965) 63 Cal.2d 304, esp. at 307-308 [46 Cal.Rptr. 326, 405 P.2d 150]
Permissible where attorney only represents a mortgage company to obtain relief from an automatic stay in bankruptcy court
LA 455
Presumption of undue influence respecting agreements between attorney and client
Magee v. State Bar (1962) 58 Cal.2d 423, 425-433 [24 Cal. Rptr. 839, 374 P.2d 807]
Estate of Witt (1926) 198 Cal. 407, 419-426 [245 P. 197]
"Probate sale" construed
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 906-918 [86 Cal.Rptr. 387]
See also:
Silver v. State Bar (1974) 13 Cal.3d 134, 137-140 [117 Cal.Rptr. 821, 528 P.2d 1157]
Yokozeki v. State Bar (1974) 11 Cal.3d 436, 441-451 [113 Cal.Rptr. 602, 521 P.2d 858]
Ames v. State Bar (1973) 8 Cal.3d 910, 915-921 [106 Cal.Rptr. 489, 506 P.2d 625] re: applicability, scope and breadth of rule 5-103 vis-à-vis rule 5-102
Coviello v. State Bar (1955) 45 Cal.2d 57, 60-66 [286 P.2d 357]
Estate of Effron (1981) 117 Cal.App.3d 915, 928-931 [173 Cal.Rptr.93] re: applicability of rule 5-103 in probate proceedings, especially with respect to attorneys duties to client/client's interest
You may also wish to consult:
Matter of Randall (1981) 640 F.2d 898
QUANTUM MERUIT [See Fee.]
REAL ESTATE [See Trustee.]
Attorney/realtor [See Practice of law, dual occupation.]
CAL 1982-69
SD 1992-1, SD 1969-2
LA 413, LA 384
Board
attorney becomes affiliate of
CAL 1968-15
REAL ESTATE TRANSACTION [See Conflict of interest. Estate. Purchasing property at probate, foreclosure or judicial sale.]
Represent
buyer and seller/later one against other
SF 1973-22
client in donating property to another client, later same client in attempt to secure return of property
LA(I) 1970-10
REALTOR [See Practice of law, dual profession and Business Activity, dual profession.]
REBATE [See Commission. Fees.]
Code of Civil Procedure section 568
RECEIVER [See Bankruptcy.]
Code of Civil Procedure section 568
Entitled to attorney-client privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
RECORDING
Rule 2-101(E), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Court proceedings
California Rule of Court 980
Disclosure of wiretap after its authorization expires violated 18 U.S.C. 2232(c)
U.S. v. Aguilar (1995) 515 U.S. 593 [115 S.Ct. 2357]
Of conversation
California Penal Code section 632
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

telephone
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
CAL 1966-5
LA 272 (1962), LA 182 (1951)
California Penal Code section 633
applicability to city attorney while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

REFERRAL FEE [See Division of Fees. Referral of legal business.]

REFERRAL OF BUSINESS
To physician
LA 443 (1988)

REFERRAL OF LEGAL BUSINESS [See Division of fees. Fee. Lay employees. Lay intermediaries. Legal referral services. Solicitation of business.]
Business and Professions Code section 6152(c)
Rules 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)
Rules 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
Between partners when one is lawyer-physician
LA 331 (1973)
By adjuster
who failed to settle claim
LA 59 (1930)
By attorney to associate or partner
who specializes in field of law
CAL 1967-10
By business to partner who is lawyer
CAL 1969-18
By client's employees
LA(I) 1973-10
By consumer organization
LA(I) 1978-1
SD 1983-5, SD 1975-17
SF 1973-27
By educational foundation
LA(I) 1977-2
By foreign attorney
LA(I) 1959-3
By insurance agent
LA(I) 1964-3
By investigator
employed by client
LA 67 (1932)
By lay entity
by membership organization
LA 401 (1982)
by religious organization
-employing attorney
--referral of member
LA 298 (1966)
for compensation from client
LA 135 (1941)
of employees
-where lawyer hired to advise, counsel, and represent employee of industrial organization
LA 137 (1941)
real estate business
LA 140 (1942)
-associated with lawyer
LA 140 (1942)
selling of legal services
LA 137 (1941)
By management consulting company
LA 446 (1987)
By membership organization
LA 401 (1982)
By non-profit organization
SF 1976-2
traveler's aid
-no charge
LA 73 (1934)
By physician
LA(I) 1949-1
By real estate agent/broker
in expectation of compensation
LA 18 (1922)
By suspended attorney
LA(I) 1937-1
By union representative who is spouse
LA(I) 1974-5
Civil case
duty to referring attorney
Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
Compensation in consideration for
by lawyers
Rule 2-108(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 2-200(B), Rules of Professional Conduct (operative as of May 27, 1989)
by non-lawyers
Rule 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-320(B), Rules of Professional Conduct (operative as of May 27, 1989)
by representative of the press
Rule 3-102(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-320(C), Rules of Professional Conduct (operative as of May 27, 1989)
Thank sources of
LA(I) 1968-2
To opposing counsel
LA(I) 1959-6
Traffic court appearances
SD 1974-2

REFERRAL SERVICES
Minimum standards [See This Compendium, Part I-B, appendix A, State Bar Act.]

REINSTATEMENT
After disbarment
Hippard v. State Bar (1989) 49 Cal.3d 1084
Calaway v. State Bar (1986) 41 Cal.3d 743
In re Andreani (1939) 14 Cal.2d 736, 748-750
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
Denied because of petitioner's failure to prove rehabilitation, present moral qualifications, and present legal learning and ability
In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894
In the Matter of Miller (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423
In the Matter of Heiner (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 301
In the Matter of Rudman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 756
After resignation
passage of professional responsibility examination is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91
After resignation with disciplinary charges pending
does not affect the necessity for a reinstatement proceeding
Hippard v. State Bar (1989) 49 Cal.3d 1084, 1082, fn. 4
Calaway v. State Bar (1986) 41 Cal.3d 743, 745
Tardiff v. State Bar (1980) 27 Cal.3d 395, 398
In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 314, fn. 2
petitioner must pass professional responsibility examination and demonstrate rehabilitation, present moral qualifications, and present learning and ability in the general law
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement
In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56
unauthorized practice of law and lack of candor demonstrated the lack of moral reform that would prevent reinstatement
In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630
Not precluded by egregiousness of misconduct as law favors rehabilitation
Resner v. State Bar (1967) 67 Cal.2d 799, 811
In re Andreani (1939) 14 Cal.2d 736, 749
In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309
In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373, 382
Standard for rehabilitation and present moral qualifications
Calaway v. State Bar (1986) 41 Cal.3d 743
Resner v. State Bar (1967) 67 Cal.2d 799
Allen v. State Bar (1962) 58 Cal.2d 912
Werner v. State Bar (1954) 42 Cal.2d 187
Jonesi v. State Bar (1946) 29 Cal.2d 181
In re Gaffney (1946) 28 Cal.2d 761
Preston v. State Bar (1946) 28 Cal.2d 643
In re Andreani (1939) 14 Cal.2d 736
In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 320

REPORTING FEES [See Advancement of funds.]
Failure to pay for contracted services
CAL 1979-48

RESIGNATION [See Disabled lawyer. Disbarment. Suspension.]
Business and Professions Code section 6180, et seq.
As active member of State Bar
Business and Professions Code sections 6004-6007
Duties of resigned attorney
Rule 955, California Rules of Court
Resignation requires passage of responsibility examination as a condition of reinstatement, not a condition precedent to filing of a petition for reinstatement
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91
Resignation with disciplinary charges requires passage of professional responsibility examination and demonstration of rehabilitation, present moral qualifications, and present learning and ability in the general law as conditions of reinstatement
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91
With disciplinary charges pending
reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement
In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

RESTRICTIVE COVENANT BETWEEN LAWYERS
Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-500, Rules of Professional Conduct (operative as of May 27, 1989)
Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]
CAL 1988-104, LA 480 (1995), LA 468 (1992), LA 460 (1990), LA 445 (1987)
Business and Professions Code section 16602, applicability
Howard v. Babcock (1993) 6 Cal.4th 409
Contract term compelling departing partners to forfeit a significant sum of money should they decide to compete with their former partners not contrary per se to public policy
Haight, Brown & Bonesteel v. Superior Court (1991) 234 Cal.App.3d 963
Contract term providing that if an attorney leaves the firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
Covenant not to compete
Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr. 2d 687]
Matull & Associates v. Cloutier (1987) 194 Cal.App.3d 1049
LA 480 (1995)
Law Partners' Agreement imposing reasonable toll on departing partners who compete with firm is enforceable
Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

RETAINER [See Client trust account, Non-refundable retainer. Contract for employment. Fee.]
Rule, 3-700(D)(2), California Rule of Professional Conduct
Securities and Exchange Commission v. Interlink Data Network (9th Cir. 1996) 77 F.3d 1201
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 356 at fn. 2 [178 Cal.Rptr. 815]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1

RULE AGAINST PERPETUITIES
Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]

RULES OF PRACTICE BEFORE THE STATE BAR COURT
Text is located in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3
Text available through State Bar's home page:
http://www.calbar.ca.gov
Text may be obtained from:
State Bar Court
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2030

RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA
Text is located in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3
Text available through State Bar's home page:
http://www.calbar.ca.gov
Text may be obtained from:
State Bar Court
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2030
Rule 205 [requirement of motion for relief from actual suspension]
not a valid reason for failure to recommend a specific period of stayed suspension
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension
In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103
Rule 220(b) [requirement to file a decision within 90 days of submission]
neither mandatory nor jurisdictional, but directory
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
Rule 262 [dismissal]
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Rule 270(c) [disclosure of private reproval]
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
Rule 283(b) [costs recoverable by an exonerated attorney]
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
Rule 290 [completion of Ethics School if discipline is imposed]
may be required as a probation condition
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
may be required at the time of a ruling on a motion to end actual suspension
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
Rule 300 Interlocutory Review
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91
probation modification rulings
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
Rule 301(a)(2) [trial transcript required for review]
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
Rule 305 [independent de novo review]
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
Rule 305(a) Great Weight to Credibility Determinations by Hearing Judge
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
Rule 561 [standard of proof in probation revocation, preponderance of evidence]
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
Rule 634 Standard 1.4(c)(ii) Proceeding, Petitioner's Burden of Proof, Preponderance of the Evidence
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
Rule 639 Standard 1.4(c)(ii) Proceeding, Review Under Rule 300, Abuse of Discretion or Error of Law
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289
Rule 655 Reinstatement
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91
Rules 271 and 290
examined in connection with Section 6078 of Business and Professions Code and Rule 956 of California Rules of Court
In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85

RULES OF PROFESSIONAL CONDUCT [The full text of the rules are reprinted in part I A above. The annotated Rules of Professional Conduct are found in:
Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 319]
Text available through State Bar's home page:
http://www.calbar.ca.gov

CAVEAT: Subject headings must be consulted for cases interpreting particular Rules of Professional Conduct in addition to rule headings.

Duty to abide with
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
attorney ethics rules do not apply to non-lawyers and law entities
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
attorney's conduct evaluated by the Rules of Professional Conduct in effect at the time of the misconduct
Image Technical Services v. Eastman Kodak (C.D. 1993) 820 F.Supp. 1212
Dudugjian v. State Bar (1991) 52 Cal.3d 1092, 1094, fn. 1 [278 Cal.Rptr. 90]
King v. State Bar (1990) 52 Cal.3d 307, 311, fn.4 [276 Cal.Rptr. 176]
Kelson v. State Bar (1976) 17 Cal.3d 1, 4 fn. 1
Jackson v. State Bar (1975) 15 Cal.3d 372, 374, fn. 1 [124 Cal.Rptr. 185, 540 P.2d 25]
Tomlinson v. State Bar (1975) 13 Cal.3d 567, 569 fn. 1 [119 Cal.Rptr. 335, 531 P.2d 1119]
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
civil case
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
Government attorneys
applicability to
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]
Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84
CAL 2002-158
Interpretation of
rules conclusively set ethical duties
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
-effect of expert testimony
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Day v. Rosenthal (1985) 170 Cal.App.3d 1125
Judicial Notice of
Evidence Code section 451
Jurisdiction
California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [555 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
over out-of-state arbitration representatives
Code of Civil Procedure section 1282.4
Purpose of, generally
Allen v. Academic Games League of America (C.D. 1993) 831 F.Supp. 785
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. 1992) 809 F.Supp. 1383
Zitney v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]

CURRENT RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989)
Rule 1-100 Rules of Professional Conduct, In General.
Bankruptcy of Mortgage & Realty Trust (1996) 196 B.R. 740
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
Consideration of ethical rules of other jurisdictions
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

Duty to abide with
Central District of California has adopted the "State Bar Act, the Rules of Professional Conduct of the State Bar of California" as the standard of professional conduct in the district
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Willful violation is disciplinary offense
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
"associate" defined
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
CAL 2001-155, CAL 1998-152, CAL 1996-145, CAL 1997-149, CAL 1997-148
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-W & I Code § 15657.1 incorporates Rule 4-200 by reference
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LA 444 (1987), LA 426 (1984), LA 413 (1983), LA 372 (1978) LA 335 (1983), LA 372 (1978), LA 335 (1973)
SD 1984-1, SD 1983-4, SD 1975-18, SD 1975-13, SD 1974-7, SD 1974-23, SD 1974-21, SD 1974-17, SD 1972-10, SD 1969-6
Rule 4-101 Accepting Employment Adverse to a Client. [See Acceptance of employment. Conflict of interest. Confidences of client.]
CAL 1987-91, CAL 1982-65, CAL 1981-63, CAL 1981-61, CAL 1981-57, CAL 1980-52
LA 451 (1988), LA 450 (1988), LA 448 (1987), LA 439 (1986), LA 433 (1984), LA 406 (1982),LA 395 (1982), LA 423 (1983), LA 418 (1983), LA 413 (1983), LA 409 (1983), LA 392 (1981), LA 377 (1978), LA 366 (1977), LA 363 (1976), LA 344 (1974), LA 341 (1973)
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SF 1979-2, SF 1973-6
Rule 5-101 Avoiding Adverse Interest. [See Conflict of interest.]
CAL 1987-94, CAL 1982-65, CAL 1981-63, CAL 1981-62, CAL 1981-56, CAL 1981-55
LA 451 (1988), LA 416 (1983), LA 409 (1983), LA 407 (1982), LA 398 (1982), LA 347 (1975), LA 317 (1970)
SD 1987-2, SD 1984-1, SD 1976-14, SD 1975-19
Rule 5-102 Avoiding Representation of Adverse Interest. [See Conflict of interest.]
CAL 1988-96, CAL 1987-92, CAL 1987-91, CAL 1982-65, CAL 1981-63, CAL 1981-61, CAL 1981-59, CAL 1979-49, CAL 1977-46, CAL 1977-45, CAL 1976-41, CAL 1975-35
LA 451 (1988), LA 450 (1988), LA 449 (1988), LA 439 (1986), LA 435 (1985), LA 434 (1984), LA 432 (1984), LA 427 (1984), LA 424 (1984), LA 423 (1983), LA 418 (1983), LA 415 (1983), LA 413 (1983), LA 412 (1983), LA 409 (1983), LA 406 (1982), LA 398 (1982), LA 397 (1982), LA 395 (1982), LA 392 (1981), LA 385 (1980), LA 384 (1980), LA 383 (1979), LA 382 (1979), LA 377 (1978), LA 363 (1976), LA 353 (1976), LA 353 (1976), LA 344 (1974), LA 341 (1973), LA 333 (1973)
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Rule 5-103 Purchasing Property at a Probate, Foreclosure or Judicial Sale. [See Purchasing property at a probate, foreclosure or judicial sale.]
LA 317 (1970)
See: 94 A.L.R.3d 863; 93 A.L.R.3d 1091; 93 A.L.R.3d 1070; 75 A.L.R.3d 309; 35 A.L.R.3d 674; 19 A.L.R.3d 589, 620; 98 A.L.R.2d 1237; 97 A.L.R.2d 207; 66 A.L.R. 229; 29 Hast. L.J. 841; 13 Hast. L.J. 562 Cal. L.R. 612; 29 Cal. L.R. 93, 50 J.B.C. 383, 13 U.C.D. 412, 7 Sw.R. 613
Rule 5-104 Payment of Personal Business Expenses Incurred By or For a Client. [See Advancement of funds. Costs. Expenses.]
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LA 434 (1984), LA 432 (1984), LA 379 (1979), LA 357 (1976)
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Rule 5-105 Communication of Written Settlement Offer [See Settlement.]
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Rule 6-101 Failing to Act Competently. [See Competence. Ineffective assistance of counsel. Misconduct.]
CAL 1988-96, CAL 1987-92, CAL 1987-91, CAL 1982-65, CAL 1981-64, CAL 1981-61, CAL 1979-51, CAL 1979-50, CAL 1977-45, LA 385 (1980), LA 383 (1979), LA 379 (1979), SD 1982-69
Rule 6-102 Limiting Liability to Client. [See Limiting liability to client.]
CAL 1981-56, CAL 1979-50, CAL 1977-47
Rule 7-101 Advising the Violation of Law. [See Advising violation of law.]
CAL 1986-89, CAL 1981-58, CAL 1975-33
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Rule 7-102 Performing the Duty of Member of the State Bar in Government Service. [See Attorneys of governmental agencies.]
LA 429 (1984), SD 1983-3
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LA 408 (1982), LA 394 (1982)
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CAL 1984-79
Rule 7-108 Contact With Officials. [See Contact with officials. Judges.]
LA 387 (1981), LA 343 (1974)
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Rule 8-101 Preserving Identity of Funds and Property of a Client. [See Client trust account.]
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LA 454, LA 438 (1985), LA 407 (1982), LA 388 (1981), LA 357 (1976)
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FORMER RULES OF PROFESSIONAL CONDUCT (effective 1928-1979)

Rule 2-101 General Prohibition Against Solicitation of Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1977-44, CAL 1977-42, CAL 1975-32
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Rule 2-103 Professional Notices, Letterheads, Offices, and Law Lists. (Repealed by order of Supreme Court, effective April 1, 1979.)
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SD 1978-2, SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-3, SD 1976-2, SD 1976-1, SD 1975-18, SD 1975-17, SD 1975-14, SD 1975-13, SD 1975-7, SD 1975-6, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21 1/2, SD 1974-21, SD 1974-19, SD 1974-17, SD 1974-11, SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-7, SD 1973-6, SD 1972-9, SD 1969-6
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Rule 2 re: Advertising and Solicitation
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LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959) LA 228 (1955)
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Rule 5 re: Accepting Employment Adverse to Client
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LA 343 (1974), LA 341 (1973), LA 333 (1973), LA 298 (1966), LA 291 (1965), LA 284 (1964), LA 276 (1963), LA 273 (1962), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 219 (1954), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 170 (1949), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 136 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 108 (1936), LA 94 (1936), LA 72 (1934), LA 57 (1928), LA 51 (1927), LA 27 (1927), LA 23 (1923), LA 22 (1923), LA 6 (1918), LA 2 (1917)
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Rule 9 re: Duty in Respect to Client's Funds and Property
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Rule 11 re: Advising Violation of the Law
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LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 326 (1972), LA 315 (1970), LA 234 (1956), LA 350 (1975), LA 213 (1953)
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Rule 13 re: Acceptance of Employment for Purpose of Harassment, Delay, or Spite
LA 208 (1953)
Rule 14 re: Disclosure to Public Body of Professional Capacity
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Rule 16 re: Communicating with Judge not in Open Court, in Absence of Opposing Counsel
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Rule 19 re: Employment of Unlicensed Person to Appear on Behalf of Member before a Board or Agency
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Agent
Business and Professions Code section 6151(b)
Defined
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Falsification of medical reports and bills
In re Gross (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
Living trust marketer sends attorney clients
CAL 1997-148
Penalty
Business and Professions Code section 6153
Release from liability claim
fraudulent if executed within 15 days after physical confinement or prior to release from clinic or health facility
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SALE OR PURCHASE OF A LAW PRACTICE
Rule 2-300, California Rules of Professional Conduct
Valuation of law practice may require deduction of operating costs
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SANCTIONS [See Acceptance of employment.]
Corralejo v. Quiroga (1984) 152 Cal.App.3d 871 [199 Cal.Rptr. 733]
Abuse of discovery
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Abuse of discretion in imposing
district court did not give attorney notice or opportunity to be heard
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
Against attorney for conduct violative of American Bar Association standards but which is not addressed by California authorities are subject to reversal
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Against attorney is reviewable only after final judgment is entered
Sanders Associates v. Summargraphics Corp (1993) 2 F.3d 394
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Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
Against attorney for taking all actions necessary to protect his client's rights
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
Against non-party attorneys is final and appealable by the person sanctioned when imposed
Mesirow v. Pepperidge Farm, Inc. (9th Cir. 1983) 703 F.2d 339, 345
Against non-party attorneys may be abuse of discretion
Westlake North Property Owners Association v. City of Thousand Oaks (9th Cir. 1990) 915 F.2d 1301
Agreement re allocation of future sanction payments may be ethical with adequate disclosure to the client
CAL 1997-151
Attempt to depose opposing counsel
Estate of Ruchti (1993) 12 Cal.App.4th 1593 [16 Cal. Rptr.2d 151]
Attorneys fees awarded as sanctions for
failure to comply with discovery order
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filing false documents under penalty of perjury
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Authority of court
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available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
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Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
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Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
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People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5 [204 Cal.Rptr. 563]
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Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
inherent power
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trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
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belong to client unless express attorney-client agreement or court order to contrary
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
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Ramsey v. City of Lake Elsinore (1990) 220 Cal.App.3d 1530 [269 Cal.Rptr. 198]
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Neft v. Vidmark, Inc. (9th Cir. 1991) 923 F.2d 746
Deposition
instructions not to answer sanctionable
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
Discovery sanctions
discovery sanction order against attorney who no longer represents party in lawsuit is not immediately appealable
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
discovery sanctions against attorney may be a significant development and should be communicated to the client
CAL 1997-151
discovery sanction order makes attorney liable for client's costs and expenses
Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162
discovery sanction order against attorney who no longer represents party in lawsuit was immediately appealable
Barton v. Ahmanson (1993) 17 Cal.App.4th 1358 [22 Cal.Rptr.2d 56]
discovery sanctions not available to attorney who litigates in propria persona under Code of Civil Procedure sections 2030(1) and 2023(b)(1)
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Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th [108 Cal.Rptr.2d 821]
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-refusal to accept
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-trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
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Bruns v. State Bar (1931) 213 Cal. 151, 155
filing dishonest and inaccurate pleadings denounced even where no direct evidence of malice, intent to deceive, or hope of personal gain
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 473 [169 Cal.Rptr. 581, 619 P.2d 1005]
making false allegations in petition to probate court
Paine v. State Bar (1939) 14 Cal.2d 150 [93 P.2d 103]
misrepresentation of record on appeal -sanctions imposed
In re Disciplinary Action Boucher (9th Cir. 1988) 850 F.2d 597
no difference whether judicial officer mislead by false statement, misleading silence, or combination of both; allowing client to sign known false affidavit
In re Lincoln (1929) 102 Cal.App. 733, 741
Misrepresentation by counsel, willful
basis for reversal of judgment
-must be reported by clerk to State Bar
Business and Professions Code section 6086.7
Misrepresentations made to opposing counsel
LA 482 (1995)
Monetary sanctions not warranted where attorney's conduct of returning late from lunch and failure to await court preparation of a verdict form did not clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
Non-disclosure of material facts
concealing assets from judgment creditor
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
Lebbos v. State Bar (1991) 53 Cal.3d 37
concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 617 [125 Cal.Rptr. 471, 542 P.2d 631]
failure to disclose material facts to bail commissioner
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failure to disclose to court attorney's purchase of principal estate asset while representing executrix
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failure to disclose to judge earlier order affecting same parties; knowing failure to disclose to judge intended use of granted ex parte order
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
failure to disclose to judge known whereabouts of absent opposing counsel
OR 95-001
misleading the court
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
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Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
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In re Richardson (1930) 209 Cal. 492, 499 [288 P. 669]
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Offensive descriptions of opposing party's counsel
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Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
Offensive personality
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Peremptory challenges to exclude all Asians from the jury as possible trial court error
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People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
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-no civil liability for attorney for inducing false testimony by client
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People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
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LA 386 (1977)
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People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
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Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]
Pro hac vice attorney
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United States v. Summet (9th Cir. 1988) 862 F.2d 784
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Public defender
assignment to act as advisory counsel proper even though attorney is officially relieved of the representation
Ligda v. Superior Court (1970) 5 Cal.App.3d 811 [85 Cal.Rptr. 744]
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Hughes v. Superior Court (1980) 106 Cal.App.3d 1 [164 Cal.Rptr. 721]
Punctuality for court appearances
Clark v. Los Angeles Superior Court (1992) 6 Cal.App.4th 58 [7 Cal.Rptr.2d 772]
In re Allis (9th Cir. 1976) 531 F.2d 1391
Removal of defense counsel warranted when counsel's repeated delays are the result of a medical condition
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published letter written about opinion of a judge
Lloyd v. Superior Court (1982) 133 Cal.App.3d 896 [184 Cal.Rptr. 467]
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altering evidence in criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 549 [179 Cal.Rptr. 914, 638 P.2d 1311]
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-incompetent representation
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-misconduct
Business and Professions Code section 6086.7
-willful misrepresentation
Business and Professions Code section 6086.7
--report to State Bar
Business and Professions Code section 6086.7
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concealment of material facts just as misleading as explicit false statements
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*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
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Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 469 [169 Cal.Rptr. 581, 619 P.2d 1005]
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People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]
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LA 408 (1982)
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Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
Federal Rule 11 sanctions levied only on lawyers, not law firms
Pavelic & LeFlore v. Marvel Entertainment Group (1989) 493 U.S. 120 [110 S.Ct. 456]
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580 Folsom Associates v. Prometheus Development Co. (1989) 216 Cal.App.3d 972
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-attorney not subject to sanctions under local rules for failing to meet and confer with opposing counsel before moving for new trial
Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]
-cannot be imposed for mere negligent violation
Zambrano v. City of Tustin (9th Cir. 1989) 885 F.2d 1473
-cannot be imposed unless sanctioning court first gives attorney opportunity to be heard
Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]
Signing declarations under penalty of perjury on behalf of clients and witnesses may be improper and a conflict of interest
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]
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criminal defendant insists on testifying perjuriously, appropriate and necessary for defense counsel to present request to withdraw
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In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448]
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In re Petersen (1929) 208 Cal. 42, 52 [280 P. 124]
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In re Branch (1969) 70 Cal.2d 200, 212 [74 Cal.Rptr. 233]
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In re Jones (1929) 208 Cal. 240, 242-243 [280 P. 964]
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People v. Benson (1962) 206 Cal.App.2d 519, 530 [23 Cal.Rptr. 908]
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In re Allen (1959) 52 Cal.2d 762, 767 [344 P.2d 609]
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In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]
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Two attorneys may question a deponent when deponent has agreed
Rockwell International Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325
Vexatious litigant
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Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
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Georgia v. McCollum (1992) 505 U.S. 42 [112 S.Ct. 2348]
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76 Cal. Ops. Gen. 193 (8/30/93; opn. no. 93-303)
Business and Professions Code section 6126
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Gerhard v. Stephens (1968) 68 Cal.2d 864, 917-918 [69 Cal.Rptr. 612, 442 P.2d 692]
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People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]
SD 1983-12, SD 1983-7
Complaints about
Contact: Unauthorized Practice of Law
Office of Complaint Intake
State Bar of California
1149 South Hill Street
Los Angeles, CA 90015-2299
Telephone: (213) 765-1000

Questions about re: research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
Office of Professional Competence, Planning & Development
180 Howard Street
San Francisco, CA 94105
(415) 538-2150
(800) 238-4427 (within CA)
Contempt of court
Business and Professions Code section 6127
advertising or holding oneself as entitled to practice
Business and Professions Code section 6127(b)
assuming and acting as attorney without authority
Business and Professions Code section 6127(a)
Contract preparation
by non-lawyer
-for compensation
--involving legal knowledge of skill
LA 80 (1935)
Corporations
Merco Const. Eng. v. Municipal Court (1978) 21 Cal. 3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]
People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]
Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 657-658 [142 Cal.Rptr. 367]
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76 Cal. Ops. Gen. 208 (9/27/93; opn. no. 93-303)
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Code of Civil Procedure section 116.540
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CAL 1975-18
sole proprietorship on appeal
Code of Civil Procedure section 904.3
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LA 372 (1978)
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Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
In re Glad (9th Cir. 1989) 98 B.R. 976
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Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
OR 94-002
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LA 426 (1984), SD 1983-12
Department of Unauthorized Practice of Law. [See Complaints or Questions.]
Deposition in California for use in another state
Code of Civil Procedure sections 2026, 2029
"Do-it-yourself"
Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
SD 1983-12
Eviction services
People v. Landlord Professional Services, Inc. (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]
Expert witnesses provided by consulting service
CAL 1984-9
Federal court
Spanos v. Skours (1966) 364 F.2d 161
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
McCue v. State Bar (1930) 211 Cal. 57 [293 P. 47]
Bankruptcy court
attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (1999 BAP) 231 B.R. 86
suspension from federal practice is not dictated by state rules
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
Federal District Courts (Central, Eastern, Northern re State Bar Membership)
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
Federal district judge's request for attorney fees in action to amend a local rule
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
Federal law
state prohibition of practicing law without a license is assimilated into federal law under Assimilative Crimes Act
United States v. Clark (9th Cir. 1999) 195 F.3d 446
Fees for legal services
must be licensed at time services performed to recover
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Longval v. WCAB (1996) 50 Cal.App.4th 1056 [58 Cal.Rptr.2d 62]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
Financing arrangements jointly controlled by buyer and seller may constitute unlawful, unfair, and fraudulent business practices
Hernandez v. Atlantic Finance Co. (1980) 105 Cal.App.3d 65 [164 Cal.Rptr. 279]
Foreign attorney in law office
Rule 988, California Rules of Court
LA 426 (1984)
Guardian ad litem
Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
J.W., a Minor, etc. v. Superior Court (1993) 17 Cal. App.4th 958 [22 Cal.Rptr.2d 527]
Holding oneself out as entitled to practice law
contempt of court
Business and Professions Code section 6127(b)

disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees
Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 358]
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honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law
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Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]
Business and Professions Code sections 6125, 6126, and 6127
letterhead of New York law firm listing a California lawyer as "admitted in California only"
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
misdemeanor where person not active member of the State Bar of California
Business and Professions Code section 6126 (a)
non-lawyers
Business and Professions Code section 6127(b)
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In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889, 543 P.2d 257]
non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
suspension order disqualifies an attorney not only from practicing law but also from holding himself or herself out as entitled to practice
Arm v. State Bar (1990) 50 Cal.3d 763, 775
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In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
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Investigation service
in personal injury matters
-not agree to collect any claim for damages
--not practice of law
LA 81 (1935)
Lay person
treble damages warranted for injury caused by unlicensed practice of law
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
McKay v. Longsworth (1989) 211 Cal.App.3d 1592 [260 Cal.Rptr. 250]
may not represent another
Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
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may not represent unincorporated association in court
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Legal services corporation which includes non-attorney see shareholders
LA 444 (1987)
Lending name of attorney
to be used by non-lawyer
-in collection cases
LA 61 (1930)
Lending to non-attorney
Business and Professions Code section 6105
McGregor v. State Bar (1944) 24 Cal.2d 283, 286-287 [148 P.2d 865]
Letterhead
in-house counsel for insurance company representing insureds
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Licensed attorneys who are not active members of the State Bar of California
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*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
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In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
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-subject to liability for malpractice
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
see also:
40 So.Cal.L.Rev. 569
11 ALR3d 907
19 Stanf.L.Rev. 856
Living Trusts
In re Mid-American Living Trust Association, Inc., et al. (Missouri 1996) 927 S.W.2d 855
The Florida Bar Re Advisory Opinion–Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
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Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
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LA 16 (1922)
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bankruptcy petition preparers
code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and right to privacy
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]
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certified public accountant
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City of Downey v. Johnson (1968) 263 Cal.App.2d 775, 778 [69 Cal.Rptr. 830]
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The Florida Bar Re Advisory Opinion–Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
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76 Ops. Cal. Atty. Gen. 193 (8/30/93; No. 93-303)
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In re Steven C. (1970) 9 Cal.App.3d 255, 265 [88 Cal.Rptr. 97]
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40 So.Cal. L.Rev. 569
11 ALR 907
19 Stanf.L.Rev. 856
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Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
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76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
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Questions about re: research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
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180 Howard Street
San Francisco, CA 94105
(415) 538-2150
(800) 238-4427 (within CA)
Representation by non-lawyer in court of law prohibited
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80 Ops. Cal. Atty. Gen. 221 (8/5/97; No. 97-409)
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99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
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Unfair business practices and unlawful advertising
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lay person may not represent in court
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UNREPRESENTED PERSON [See Communication, Not represented by counsel.]
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Counsel for organization drafts for those leaving money to it
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Person who must sign will is a client regardless of who has sought out and employed the attorney
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Code of Civil Procedure section 284, et seq.
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*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
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Attorney for guardian ad litem
Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
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Attorney who might be called as witness not required to withdraw with written consent of client
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
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LA(I) 1968-7
Before suing client for fee
LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
Cannot provide level of advocacy required by rule 6-101
People v. Munoz (1974) 411 Cal.App.3d 62 [115 Cal.Rptr. 726]
Class action
duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
Client
appears to have abandoned case
CAL 1989-111
LA 441 (1987), LA(I) 1958-1
burden to prove
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
cannot be located
CAL 1989-111
LA 441 (1987)
claims cannot pay fee
LA 356 (1976)
SD 1983-6
commits
-fraud
LA 329 (1972)
SF 1977-2
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CAL 1983-74
LA(I) 1974-7
conducts undercover surveillance of opposing party
LA 315 (1970)
engaged in unlawful activity
LA 353 (1976)
intends to commit perjury
People v. Brown (1988) 203 Cal.App.3d 1335
LA 362 (1976)
objects to fee
LA 211 (1953)
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CAL 1983-74
refuses to file accurate fiduciary accounting
SD 1983-10
refuses to follow advice
LA 362 (1976)
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LA 251 (1958)
uncooperativeness of client
Shukry Messih v. Lee Drug, Inc. (1985) 174 Cal.App.3d 312, 313-314 [220 Cal.Rptr. 43]
Client conduct renders continued representation unreasonably difficult
leads attorney to believe client needs a conservator
OR 95-002
Client's refusal to cooperate with attorney's withdrawal does not excuse attorney from making motion to be removed as counsel of record
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
Code of Civil Procedure section 284
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
People v. Bouchard (1957) 49 Cal.2d 438, 440 [317 P.2d 971]
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Mandell v. Superior Court (1977) 67 Cal.App.3d 1, 4 [136 Cal.Rptr. 354]
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Kerfoot (1960) 184 Cal.App.2d 622, 635 [7 Cal.Rptr. 674]
Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423-424 [230 P.2d 57]
Compensation dispute
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Collins (1966) 242 Cal.App.2d 626, 636 [51 Cal.Rptr. 604]

Helpe v. Kluge (1951) 104 Cal.App.2d 461 [231 P.2d 505]
Cassell v. Gregori (1937) 28 Cal.App.2d Supp. 769, 771
Linn v. Superior Court (1926) 79 Cal.App. 721 [250 P. 880]
LA 251 (1958), LA 212 (1953)
SD 1983-6
Competence of attorney
People v. Strozier (1993) 20 Cal.App.4th 55 [24 Cal.Rptr.2d 362]
Conflict of interest
Hodcarriers, etc. Local Union v. Miller (1966) 243 Cal.App.2d 391 [52 Cal.Rptr. 251]
SD 1972-1
appearance of impropriety due to counsel's relationship with judge may be cured by withdrawal
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
becoming apparent
LA 333 (1973), LA 219 (1954)
multiple representation
-where client's interests become adverse
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 1988-96
LA 471 (1992), LA 459 (1990), LA 427 (1984), LA 395 (1982)
vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Contract for employment
includes substitution of attorney clause
LA 371 (1977)
Control by court
DeRecat Corp. v. Dunn (1926) 197 Cal. 787 [242 P. 936]
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609
Gion v. Stroud (1961) 191 Cal.App.2d 277 [12 Cal.Rptr. 540]
Cassel v. Gregori (1937) 28 Cal.App.2d Supp. 769 [70 P.2d 721]
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Criminal cases
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People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
not required, defense counsel may Wendt appellate briefs instead
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
De facto withdrawal
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
Delay in serving complaint excused, in part, because of a last minute change of attorneys
Yao v. Anaheim Eye Medical Group (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]
Dependency proceedings
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609
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LA 504 (2000)
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LA 498 (1999)
Disqualification of counsel
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William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
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CAL 1985-86
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Duties not altered by who terminates relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
Duty to avoid foreseeable prejudice
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CAL 1992-127
Duty to client and administration of justice require effectuation of consensual withdrawal or motion under Code of Civil Procedure section 284
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LA 360 (1976), LA 330 (1972)
Duty to represent client until court approves withdrawal
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
Effect on contingency fee contract
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
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Failure to execute a substitution of attorney
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Failure to return client property
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Failure to take reasonable steps to avoid prejudice by first attorney's lack of cooperation with client's new attorney
Friedman v. State Bar (1990) 50 Cal.3d 235
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LA 493 (1998)
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LA(I) 1976-3
Frivolous appeal
brief requirement prior to withdrawal discussing frivolous appeal deemed permissible
McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
If client persists in illegitimate acts
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
Incompetence of attorney
LA 383 (1979)
Ineffective assistance of counsel as basis for motion
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
*Delgado v. Lewis (9th Cir. 1999) 168 F.3d 1148
People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]
Legal aid lawyer
CAL 1981-64, SD 1983-6, SF 1973-5
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Rule 2-111(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
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LA 504 (2000)
may be denied if attorney fails to provide even general information regarding nature of ethical dilemma
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr. 494]
Neglect [See Neglect.]
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LA 125 (1940)
Neighborhood Legal Assistance Foundation
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Notice of withdrawal not communicated to client is prejudicial
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
Partial when case against one defendant weak
LA 223 (1954)
Perjury
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Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
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Permissive withdrawal by attorney
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*Delgado v. Lewis (9th Cir. 1999) 168 F.3d 1148
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
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Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Kapelus v. State Bar (1987) 44 Cal.3d 179
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Franklin v. State Bar (1986) 41 Cal.3d 700
Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
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Request for withdrawal properly denied despite prospect of client perjury
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Skilled counsel prejudices criminal defendant
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Substitution of attorney clause in retainer agreement
LA 371 (1977)
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Timeliness of motion for substitution of counsel
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In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
no denial of effective assistance of counsel when defendant becomes indigent and retained counsel withdraws because court denies request to appoint the retained counsel
People v. Castillo (1991) 233 Cal.App.3d 36
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LA 399 (1982)
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LA 399 (1982)
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LA 367 (1977)
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Rule 2-111(A)(5), Rules of Professional Conduct (operative until May 26, 1989)
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LA 323 (1971)

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People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
where representing client in same proceeding
-called by party other than client
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Communication with
LA 490 (1997), LA 234 (1956), LA 213 (1953), LA(I) 1975-3
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Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)
defense attorney contact treating physician of plaintiff
-notification of attorney
Rules of Professional Conduct, rule 7-107, former rule 15
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-suppressing evidence which attorney has a legal obligation to reveal or produce
Rule 7-107(A), Rules of Professional Conduct (operative until May 26, 1989)
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belongs to attorney
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
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BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]
merely turning over documents prepared independently by party to attorney does not make them privileged
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