

**DATE:** October 29, 2009  
**TO:** Members of the Commission for the Revision of the Rules of Professional Conduct  
**FROM:** Lauren McCurdy  
**SUBJECT:** Agenda Materials for Your Meeting on Friday & Saturday, November 6 & 7, 2009

Enclosed, please find the agenda materials for your November meeting. **This is an in-person meeting in Los Angeles**, scheduled as follows:

**Friday, November 6, 2009**  
**Saturday, November 7, 2009**  
**(9:00 am - 5:00 pm)**

**State Bar Offices – Los Angeles**  
**1149 South Hill Street**  
**Los Angeles, CA 90015**

**NOTE RE AGENDA MATERIALS:** For some items staff has prepared initial drafts or template dashboards. It is anticipated that these drafts would be discussed and completed at the meeting if there is substantial progress and agreement on the relevant rules.

**E-MAIL DEADLINE:** After the agenda materials are sent by staff, the recommendations of the drafting team set forth in an agenda item may be deemed approved, subject to the important note from the Chair set forth below which, among other things, sets a deadline of **Monday, November 2, 2009** for the submission of issues by the members of the Commission.

**IMPORTANT NOTE FROM THE CHAIR re NEW PROCEDURES:** In an effort to not waste time on issues which are of concern to only a few members of the Commission (often only one or two), each drafting team is requested to MAKE RECOMMENDATIONS, if at all possible, as to any issues relating to the rule assigned to the team. This will avoid simply saying that the Commission must decide an issue spotted by the drafting team. In addition, in the case of a carried over matter, the drafting team is requested to MAKE RECOMMENDATIONS as to any issue raised by a member prior to the meeting at which the matter was carried over. Recommendations as to non-consent items may be deemed approved unless: (a) at least 3 members indicate on or before **Monday, November 2, 2009** that they wish to discuss an issue and the reasons therefore; (b) the drafting team is unable to arrive at a consensus as to the issue; or (c) the Chair, in light of the objections to the recommendation, considers it appropriate to have a discussion even though 3 members have not requested a discussion.

**ATTENDANCE AND ON-TIME ARRIVAL:** To ensure a quorum, if you are unable to attend in-person or if you are running late, please contact staff to report your status and to facilitate potential arrangements to participate by telephone. If you cannot attend the entire meeting and want to attend by telephone you must contact the chair and explain the nature of your situation.

#### **REMINDERS FROM THE CHAIR**

1. The lead drafter is responsible for getting the assignment to staff in time for the agenda distribution. If that person cannot timely complete the assignment, he or she must get a substitute who will complete the assignment on time and advise staff and the chair of this substitution.
2. If a person has not sent comments on an agenda item by e-mail prior to the meeting, he or she may, at the Chair's discretion, only get one opportunity to comment on that agenda item. Anyone sending e-mail comments on an agenda item should send copies to all Commission members, staff and our consultant. Please note: all e-mails exchanged will be made part of the open session agenda materials; and, members who send e-mails will not be bound by the positions taken therein as the deliberative process at the meeting will not be constrained or prejudiced by the exchange of e-mails.
3. In order to ensure that there is a quorum and adequate participation, if you are unable to attend in-person, please contact staff to make arrangements to attend by video-conference from the alternate Bar site, or by telephone. As always, notify staff if you are unable to attend a meeting under any circumstances.

/Imm  
enclosures  
c: Robert Hawley

**STATE BAR OF CALIFORNIA**  
**COMMISSION FOR THE REVISION OF THE RULES**  
**OF PROFESSIONAL CONDUCT**

**OPEN SESSION**

**November 6 & 7, 2009**

LA-State Bar Office  
Conf. Rm. 723  
1149 South Hill Street  
Los Angeles, CA 90015

**[NOTE: The November meeting was previously scheduled as a video-conference meeting. It is now an *in-person meeting* to be held at the State Bar office in Los Angeles.]**

**[NOTE RE MEETING SITE: Members of the public who wish to attend this meeting are asked to call Audrey Hollins at 415-538-2167.]**

**E-MAIL COMMENT DEADLINE: Monday, November 2, 2009**

**DELIVERABLE DUE TO THE BOARD FOLLOWING THESE MEETINGS:**

→ At its meetings on November 12 & 13, 2009, RAC/the Board will consider the Commission's recommendation to adopt the Batch 1, 2, and 3 rules.

**NEXT DELIVERABLE DUE TO THE BOARD:**

→ At its meetings on January 7, 2009, the Board's RAC Committee will consider the Commission's request to issue the Batch 6 rules for a 60-day public comment period. Also, RAC/the Board will consider the Commission's recommendation to adopt the Batch 4 rules.

- I. **APPROVAL OF OPEN SESSION ACTION SUMMARY FROM THE PRECEDING MEETING** (TBA)
  
- II. **REMARKS OF CHAIR**
  - A. **Chair's Report**  
(The Chair will provide an oral report on administrative, procedural, or other informational matters.)

**B. Staff's Report**

(Staff will report on the activities of COPRAC and the Board of Governors.)

**III. MATTERS FOR ACTION – BATCH 6 RULES (for public comment distribution)**

(Name with asterisk indicates the lead drafter. New drafters are underlined.)

**\*MOHR**

**Julien**

**Kehr**

**Tuft**

- A. Rule 1.18 Duties to Prospective Clients [N/A] (Draft #3.2 dated 4/24/09)**  
(Materials enclosed.) **[pages 1 – 18]**

**\*RUVOLO**

**Foy**

**Lamport**

**Voogd**

- B. Rule 3.9 Non-adjudicative Proceedings [N/A] (new matter assigning the preparation of a first draft rule in a MR comparison chart format)**  
(Materials enclosed.) **[pages 19 – 28]**

**\*MARTINEZ/TUFT**

**Voogd**

- C. Rule 4.1 Truthfulness in Statements to Others [N/A] (new matter assigning the preparation of a first draft rule in a MR comparison chart format)**  
(Materials enclosed.) **[pages 29 – 34]**

**\*MARTINEZ/TUFT**

**Voogd**

- D. Rule 4.4 Respect for Rights of 3rd Persons [N/A] (new matter assigning the preparation of a first draft rule in a MR comparison chart format)**  
(Materials enclosed.) **[pages 35 – 42]**

**\*SNYDER**

**Foy**

**Julien**

**Voogd**

**Ruvolo**

- E. Rule 6.1 Voluntary Pro Bono Service [N/A] (new matter assigning the preparation of a first draft rule in a MR comparison chart format)**  
(Materials enclosed.) **[pages 43 – 78]**

**\*SNYDER**

Foy

Ruvolo

- F. **Rule 6.2 Accepting Appointments [N/A] (new matter assigning the preparation of a first draft rule in a MR comparison chart format)**  
(Materials enclosed.) *[pages 79 – 92]*

**\*MOHR**

Martinez

Sapiro

- G. **Rule 7.6 Contributions to Obtain Government Service [N/A] (at the July 2009 meeting, the Commission reconsidered a prior rejection of the rule and decided to assign a first draft rule in a comparison chart format)**  
(Materials enclosed.) *[pages 93 – 108]*

**\*RUVOLO**

Sapiro

Vapnek

- H. **Rule 2.4.2 Lawyer as Candidate for Judicial Office [1-700] AND Rule 8.2(a) Judicial and Legal Officials [N/A]**  
(Materials enclosed.) *[pages 109 – 120]*

**\*MELCHIOR**

Sapiro

Tuft

Voogd

- I. **Possible Rule re: A-C Privilege Waiver (no counterpart rules)**  
(Materials enclosed.) *[pages 121 – 172]*

**\*MELCHIOR**

Ruvolo

Sapiro

- J. **Possible Rule re: Advice of Counsel (see Oregon Rule 8.6)**  
(Materials enclosed.) *[pages 173 – 188]*

**\*VOOGD**

Martinez

Sapiro

(w/ Karpman) K.

- Possible Rule re: Class Action (no counterpart rules) (possible rule last considered at the September 2006 meeting; see also the comments to proposed Rule 1.7)**  
(Materials enclosed.) *[pages 189 – 248]*

**\*VOOGD**

Foy

Peck

- L. **Possible Rule re: Hourly Fee (Record Time) (no counterpart rules) (possible rule last considered at the August 2004 meeting; see also email compilation dated 1/31/08)**  
(Materials enclosed.) *[pages 249 – 270]*

**\*MARTINEZ**

**Mohr  
Peck  
Ruvolo  
Tuft**

- M. Possible Rule re: Law Firm Discipline (no counterpart rules) (possible rule last considered at the April 2006 meeting; see also New Jersey and New York rules) (Materials enclosed.) [pages 271 – 302]**

**\*SAPIRO**

**Lampert  
Vapnek**

- N. Possible Rule re: Practice Succession Plan (no counterpart rules) (consideration of a possible rule arose from the Board's Career Transition Planning Task Force, Judy Johnson memo dated 6/18/08) (Materials enclosed.) [pages 303 – 314]**

**\*SAPIRO**

**Lampert  
Vapnek**

- O. Possible Rule re: Use of Private Will Depositories (no counterpart rules) (consideration of a possible rule arose from the Board's Career Transition Planning Task Force, Judy Johnson memo dated 6/18/08) (Materials enclosed.) [pages 315 – 330]**

**\*MOHR**

**Julien  
Peck  
Ruvolo  
Tuft**

- P. Possible Rule re: Lawyer Acting as Lobbyists (no counterpart rules) (Materials enclosed.) [pages 331 – 336]**

**\*VAPNEK**

**Sapiro  
Ruvolo  
Martinez**

- Q. Rule 6.5 Limited Legal Services Programs [only if adopted by Sup. Ct.] (Materials enclosed.) [pages 337 – 350]**

**\*TUFT**

**Julien  
Kehr  
Martinez  
Foy**

- R. Rule 3-410 Insurance Disclosure [adopted by the Sup. Ct. operative 1/1/10] (Materials enclosed.) [pages 351 – 362]**

IV. **MATTERS FOR ACTION – ITEMS FROM PRIORS BATCHES THAT HAVE BEEN MOVED TO BATCH 6 (for public comment distribution)** (Name with asterisk indicates the lead drafter. New drafters are underlined.)

**\*VOOGD**

**Sapiro  
Julien  
Kehr**

- A. **Rule 1.0.1 Definition of "Law Firm" [1-100(B)(1)] (Post Public Comment Rule Draft dated 6/16/07) and a global terminology rule [MR 1.0, RPC 1-100(B)]**  
(Materials enclosed.) ***[pages 363 – 392]***

**\*Kehr  
Sapiro**

- B. **Consideration of Model Rule 5.7 Responsibilities Regarding Law-Related Services (no California counterpart)**  
(Materials enclosed.) ***[pages 393 – 424]***

**\*SAPIRO/KEHR**

**Melchior  
Martinez**

- C. **Rule 1.17 Purchase & Sale of a Geographic Area or Substantive Field of a Law Practice [2-300] (Post Public Comment Merged Rule Draft #1.1 dated 1/6/09 to be revised following the July 2009 meeting)**  
(Materials enclosed.) ***[pages 425 – 458]***

**\*Sapiro  
Kehr  
Melchior  
Mohr**

- D. **Consideration of Rule 1.11 Special Conflicts of Interest for Former and Current Officers and Government Employees [Rule 3-310]**  
(Materials enclosed.) ***[pages 459 – 494]***