



**THE STATE BAR
OF CALIFORNIA**

**OFFICE OF PROFESSIONAL COMPETENCE
PLANNING, AND DEVELOPMENT**

180 HOWARD STREET, SAN FRANCISCO, CA 94105-1639

TELEPHONE: (415) 538-2167

DATE: January 13, 2010
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, January 22 & 23, 2010

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

Friday, January 22, 2010
Saturday, January 23, 2010
(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, a complete set of necessary documents (Dashboard, Introduction, etc.) are not included. This is due to anticipated resolution of open issues to be discussed at the meeting. Documents not included will need to be finalized by codrafters as soon as possible after the resolution of open issues.

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, January 18, 2010** 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, January 18, 2010** 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.

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enclosures
c: Robert Hawley

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

OPEN SESSION AGENDA

January 22 & 23, 2010

LA-State Bar Office
1149 South Hill Street
Los Angeles, CA 90015

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

DEADLINES:

Email Comment Deadline = Mon. 1/18/10

NEXT DELIVERABLE DUE TO THE BOARD:

→ At its meetings on March 4, 2010, RAC and the Board will consider the Commission's recommendation to adopt the Batch 5 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 – CONSIDERATION OF PROPOSED RULES DISTRIBUTED FOR PUBLIC COMMENT (BATCH 5) (Name with asterisk indicates the lead drafter.

New drafters are underlined. Discussion of the rules in this section of the agenda will be limited to issues raised by the public comments or non-substantive clean-up revisions. Please note: After submission of the assignments, the Chair may designate certain Items “Consent Items.” Following distribution of the agenda materials, a rule designated as a Consent Item will be deemed approved for recommended adoption by the Board and not called for discussion, unless four Commission members object with a written statement of the asserted concerns and proposed edits to address those concerns.)

*SNYDER

Peck

Tuft

- A. Proposed Rule 1.2 [N/A]. Scope of Representation**
(Materials enclosed.) ***[pages 1 – 68]***

*MOHR

Julien

Lamport

Peck

Tuft

- B. Proposed Rule 1.6 [Rule 3-100, B&P 6068(e)]. Confidentiality of Information**
(Materials enclosed.) ***[pages 69 – 130]***

*MOHR

Julien

Peck

Ruvolo

Tuft

- C. Proposed Rule 1.8.2 [Rules 3-100, 3-310]. Use of Confidential Information**
(Materials enclosed.) ***[pages 131 – 164]***

*TUFT

Kehr

Melchior

Mohr

Snyder

- D. Proposed Rule 1.8.13 [N/A]. Imputation of Personal Conflicts**
(Materials enclosed.) ***[pages 165 – 184]***

*KEHR

Lamport

Melchior

Mohr

Vapnek

- E. Proposed Rule 1.9 [Rule 3-310]. Duties to Former Clients**
(Materials enclosed.) ***[pages 185 – 258]***

*TUFT
Julien
Kehr
Mohr
Vapnek

- F. **Proposed Rule 1.10 [N/A]. Imputation of Conflicts: General Rule**
(Materials enclosed.) ***[pages 259 – 312]***

*RUVOLO
Mohr
Peck
Vapnek

- G. **Proposed Rule 1.12 [N/A]. Former Judge, Arbitrator, Mediator**
(Materials enclosed.) ***[pages 313 – 336]***

*FOY
Julien
Peck

- H. **Proposed Rule 1.14 [N/A]. Client with Diminished Capacity**
(Materials enclosed.) ***[pages 337 – 498]***

*LAMPOR
Vapnek

- I. **Proposed Rule 2.1 [N/A]. Advisor**
(Materials enclosed.) ***[pages 499 – 536]***

*FOY
Peck
Tuft

- J. **Proposed Rule 3.8 [Rule 5-110]. Responsibilities of a Prosecutor**
(Materials enclosed.) ***[pages 537 – 654]***

*MELCHIOR
Lampor
Peck

- K. **Proposed Rule 8.5 [Rule 1-100(D)]. Choice of Law**
(Materials enclosed.) ***[pages 655 – 724]***

IV. **MATTERS FOR ACTION – CONSIDERATION OF PROPOSED RULES DISTRIBUTED FOR PUBLIC COMMENT (BATCH 6)** *(If a sufficient number of comments have been received on any of the rules circulating in Batch 6 a supplemental assignment agenda will be distributed with those additional assignments no later than January 14, 2010.*

Name with asterisk indicates the lead drafter. New drafters are underlined. Discussion of the rules in this section of the agenda will be limited to issues raised by the public comments or non-substantive clean-up revisions. Please note: After submission of the assignments, the Chair may designate certain Items as “Consent Items.” Following distribution of the agenda materials, a rule designated as a Consent Item will be deemed approved for recommended adoption by the Board and not called for discussion, unless four Commission members object with a written statement of the asserted concerns and proposed edits to address those concerns.)

No public comments for Batch 6 rules received to date.

V. **MATTERS FOR ACTION – ITEMS FROM PRIORS BATCHES THAT HAVE BEEN RETURNED TO THE COMMISSION BY RAC FOR FURTHER CONSIDERATION (for approval by the Board)** (Name with asterisk indicates the lead drafter, new assignments are underlined.)

*KEHR
Melchior
Mohr
Snyder

- A. **Proposed Rule 1.7 Conflicts of Interests: Current Clients [3-310]**
(Materials enclosed.) ***[pages 725 – 770]***

*TUFT
Peck
Ruvolo
Sapiro

- B. **Proposed Rule 3.3 Candor Toward the Tribunal [Rule 5-200]**
(Materials enclosed.) ***[pages 771 – 780]***