To assist you in your research on attorney professional responsibility, an electronic copy of the 2012 *California Compendium on Professional Responsibility* index is posted here. Enclosed are the following:

1. How to Use This Index Reference
2. Table of Contents
3. Index (including entries through 12/31/11)
4. Compendium Update Case List***

Other helpful research links:

1. Ethics Hotliner Newsletter
2. California Rules of Professional Conduct
3. State Bar Ethics Opinions
4. Handbook on Client Trust Accounting for California Attorneys

Information about the *Compendium* and other professional responsibility publications that are available for purchase can be found at http://ethics.calbar.ca.gov/Publications.aspx.

*** An alphabetical list of cases added in this 2012 update of the California Compendium on Professional Responsibility index. Generally, cases added in this update are from January 2011 to December 2011.

HOW TO USE THIS INDEX

SUBJECT LISTINGS AND HEADINGS

The subject listings in this index were adapted, with the permission of the American Bar Foundation, from the *1980 Supplement to Digest of Bar Association Ethics Opinions* edited by Olavi Maru. Therefore, the listings in this index are compatible with and cumulative to the listings in American Bar Association professional responsibility materials, which should be consulted for the views of other jurisdictions. If there are no California citations or entries under a primary heading, the entry has been retained so that you may consult ABA Digests for authority in other states.

The index contains primary subject listings which are alphabetically arranged. Cross references immediately following the listing refer you to the subject or subjects where citations and other information are to be found. In the interest of providing comprehensive coverage of a subject or analogous or related topics, many subject listings have more than one cross-reference. Primary listings are printed in capital letters, in darker print, followed by sub-headings, citations and cross references, as shown in the example below:

Primary heading:	**ARBITRATION**
Cross reference:	[See Fee arbitration.]
Subheading:	Agreement with client to arbitrate any malpractice claim by client
Citation to subheading:	CAL 1977-47
Next subheading:	Arbitrator
Sub-subheading:	appointment of law office associate as
Secondary sub-subheading:	-by attorney representing claimant in same proceeding
Citation to preceding subheadings:	LA 302 (1968)

CITATIONS

The intent of this index is to provide, in one location, a comprehensive research guide to California authorities relating to professional responsibilities of members of the legal profession and related topics.

**** SPECIAL NOTE **:** **--CASES PRECEDED BY AN ASTERISK (*) SHOULD BE CAREFULLY SHEPARDIZED, AS THEY ARE SUBJECT TO REVIEW (AT THE TIME OF PUBLICATION OF THIS COMPENDIUM UPDATE), OR HAVE BEEN OVERRULED OR DISAPPROVED EITHER WHOLLY OR IN PART BY THE SUPREME COURT OF CALIFORNIA.**

--CASES PRECEDED BY A CROSS SYMBOL (+) ARE STATE BAR COURT REVIEW DEPARTMENT DECISIONS WHICH ARE EITHER TEMPORARILY OR PERMANENTLY DEPUBLISHED DUE TO A PETITION FOR REVIEW BY THE CALIFORNIA SUPREME COURT. (SEE RULE 310, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS (EFF. JANUARY 1, 1995).) PLEASE CHECK THE STATUS OF THE DECISION BEFORE CITING THE CASE AS AUTHORITY. (SEE "HOW TO USE" AND "TABLE OF CASES AND SUBSEQUENT HISTORY" SECTIONS, CALIFORNIA STATE BAR COURT REPORTER.)

OPINIONS AND OTHER AUTHORITIES: Authorities under each subject heading are listed in the following order of priority:

JURISDICTION	LEVEL OF COURT	ORDER
California:	Selected statutes	In numerical order.
	Rules of Professional Conduct	In numerical order.
Federal:	United States Supreme Court	Most recent cases first, descending chronologically to oldest cases.
	U.S. District Court of Appeals Ninth Circuit	Most recent cases first, descending chronologically to oldest cases.
	U.S. District Courts within California	Most recent cases first, descending chronologically to oldest cases.
California:	Supreme Court of California	Most recent cases first, descending chronologically to oldest cases.
	Court of Appeal Cases	Most recent cases first, descending chronologically to oldest cases.
	Other Selected Rules	In numerical order.

HOW TO USE THIS INDEX (Cont'd.)

JURISDICTION	LEVEL OF COURT	ORDER
California (cont'd):	California Ethics Opinions	In alphabetical order, as follows: CAL, LA, OCBA, SD and SF. Most recent opinions first, descending chronologically to oldest opinions. Formal opinions precede informal opinions.
	Selected California Attorney General Opinions	Most recent opinions first, descending chronologically to oldest cases.

RULES OF PROFESSIONAL CONDUCT: The Rules of Professional Conduct are listed in alphabetical order under "Rules" and each specific rule follows in numerical order.

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

EXAMPLE: **RULES OF PROFESSIONAL CONDUCT** [The full text of the rules are reprinted in part I A above; [See below for former rules.]
Purpose of, generally
Zitny v. State Bar (l966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]
Rule 1-100 Rules of Professional Conduct, In General.
CAL 1975-33
SD 1977-2, SD 1974-6, SD 1972-17
SF 1977-2, SF 1977-1
LA 342 (1973)
Rule 1-101 Maintaining Integrity and Competence of the Legal Profession. [See Admission to the bar.]
Rule 2-101 Professional Employment. [See Advertising. Business activity. Solicitation.]

STATUTES: Selected statutes are listed alphabetically by code and numerically by statute number.

EXAMPLE: **BUSINESS AND PROFESSIONS CODE** [The entire text of the State Bar Act (Business and Professions Code, §6000 et seq.) is reprinted as Part I A to this Compendium.]
Sections 6000 et seq.
CAL 1979-48
Section 6067 [See Oath of attorney.]
CAL 1979-51
Section 6068
LA 394 (1982)
subdivision (d)
CAL 1972-30

KEY TO SYMBOLS

CAL 1981-64:	Formal Opinion No. 1981-64 of the State Bar's Standing Committee on Professional Responsibility and Conduct. (The full text of each opinion is reprinted within Tab II A.)
LA 402 (1982):	Formal Opinion No. 402 of the Los Angeles County Bar Association Legal Ethics Committee.
LA (I) 1970-1:	Informal Opinion No. 1970-1 of the Los Angeles County Bar Association Legal Ethics Committee.
11 LABB (1934):	Indicates opinions published in the Los Angeles County Bar Bulletin.
OC 93-001:	Formal Opinion No. 93-001 of the Orange County Bar Association. (The full text of each opinion is reprinted within Tab II D.)
SD 1970-1:	Opinion No. 1970-1 of the San Diego County Bar Association Legal Ethics and Unauthorized Practice Committee. (The full text of each opinion is reprinted within Tab II C.)
SF 1980-1:	Opinion No. 1980-1 of the Legal Ethics Committee of the Bar Association of San Francisco. (The full text of each opinion is reprinted within Tab II B.)
46 Ops. Cal.Atty.Gen. 74 (l965):	Refers you to Opinions of the Attorney General of California, 46th volume, at page 74. [Issued in 1965.]
See:	Refers you to the heading wherein citations or other information are contained within the compendium.
Contact:	Refers you to the person or office where you may obtain copies of the document referenced or further information on the subject referenced.

READER PARTICIPATION

The index to this Compendium is a service to you the reader. Your constructive ideas concerning its improvement will be gratefully received by the editors. Also, if you discover authorities or cases which would be helpful to the index, please forward them to the editors.

CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY

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Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
--reversal of trial court not argued for in appellate brief; denied reversal, but not frivolous
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
-sanctions
Rule 8.272, California Rules of Court
Code of Civil Procedure section 907
--factors used to determine sanctions
Maple Properties v. Harris (1984) 158 Cal.App.3d 997, 1011 [205 Cal.Rptr. 532]
--interest on settlement funds as well as attorney fees may be imposed
McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
--maintaining a second appeal based on parallel issues after first appeal received an unfavorable decision
Cohen v. General Motors Corp. (1992) 2 Cal.App.4th 893
--"rational relationship" to circumstances as standard for sanctions when clear evidence of damages is lacking
Hersch v. Citizens Savings & Loan Assoc. (1983) 146 Cal.App.3d 1002 [194 Cal.Rptr. 628]
--sanctions for multiple meritless claims
Reber v. Beckloff (1970) 6 Cal.App.3d 341 [85 Cal.Rptr. 807]

--subjective bad faith or motive required
Llamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]
-simply meritless appeal is not frivolous
Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508]
Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
-solely for delay
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
-spite as a motive is frivolous
Rule 2-110, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
In re Stephens (1890) 84 Cal. 77, 81
-suit with no questions of law or fact remaining
--libel
Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
Katz v. Rosen (1975) 48 Cal.App.3d 1032 [121 Cal.Rptr. 853]
--real estate commission action
Towle v. Lewis (1969) 274 Cal.App.2d 376 [79 Cal.Rptr. 58]
-Supreme Court adjudication is law of the case; so further appeal on same matter is meritless and improper
Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
-waiver of right to appeal in settlement makes the appeal frivolous for delay
McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
-wholly inadequate appeal is frivolous
McCosker v. McCosker (1954) 122 Cal.App.2d 498 [265 P.2d 21]
-will contest is personal; so an appeal may not be frivolous
Estate of Bloom (1980) 107 Cal.App.3d 195 [165 Cal.Rptr. 591]
-writ of execution on sale of property is quashed by trial court at its discretion; appeal therefore is frivolous
Wellborn v. Wellborn (1945) 67 Cal.App.2d 545 [155 P.2d 99]
criminal proceeding
-appeal on jurisdiction and legality of the proceedings where no error existed is meritless
People v. Wallace (1963) 217 Cal.App.2d 440 [31 Cal.Rptr. 697]
-death penalty appeals exhausted; re-appeal on same issues is frivolous
People v. Smith (1933) 218 Cal. 484, 489
-dismissal of frivolous appeals should be used sparingly in criminal matters
People v. Sumner (1968) 262 Cal.App.2d 409, 414-415 [69 Cal.Rptr. 15]
-limited review of errors of fact or factual disputes; appeal was frivolous
Edwards v. People (1950) 99 Cal.App.2d 216 [221 P.2d 336]
--facts not known or available to defendant at the time of the verdict
People v. Malone (1950) 96 Cal.App.2d 270 [215 P.2d 109]
-withdrawal
--attorney may include brief to support
McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
Frivolous motion
In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
In propria persona litigant
LA 502 (1999)
Malicious prosecution
attorney is jointly liable with client for malicious prosecution
Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
Tool Research & Engineering v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
attorney may be held liable for continued prosecution of a case that lacks probable cause
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
burden of proof on plaintiff to show "want of probable cause" necessary for a malicious prosecution action
Grant v. Moore (1866) 29 Cal. 644, 648
client must fully disclose all necessary facts to attorney before defense of "advice of counsel" is allowed
Siffert v. McDowell (1951) 103 Cal.App.2d 373, 378 [229 P.2d 388]
Walker v. Jensen (1949) 95 Cal.App.2d 269 [212 P.2d 569]
-evidence of self defense kept from district attorney who then prosecutes, destroys probable cause defense
Starkweather v. Eddy (1930) 210 Cal. 483
defendant entitles to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
defendant has burden of proving action taken in good faith
Masterson v. Pig-N-Whistle Corp. (1958) 161 Cal.App.2d 323 [326 P.2d 918]
discrepancies of fact not enough for court to find "want of probable cause"
Lee v. Levinson (1916) 173 Cal. 166
dismissal of action by negotiation is not "want of probable cause," but may be used as evidence
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
evidence of misappropriation of money enough for probable cause, even though acquitted
Haydel v. Morton (1935) 8 Cal.App.2d 730
felony grand theft evidence is disputed; enough to show probable cause
Richter v. Neilson (1936) 11 Cal.App.2d 503
felony of grand theft acquittal was malicious prosecution because defendant had an "honest" belief that goods were plaintiff's
Singleton v. Singleton (1945) 68 Cal.App.2d 681 [157 P.2d 886]
good faith belief in action is a defense to malicious prosecution
Kassan v. Bledsoe (1967) 252 Cal.App.2d 810 [60 Cal.Rptr. 799]
malice does not exist if client acted in good faith on attorney advice
Brinkley v. Appeley (1969) 276 Cal.App.2d 244 [80 Cal.Rptr. 244]
negligence or failure of attorney to conduct factual research and lack of probable cause do not support an inference of malice, an element of malicious prosecution
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
probable cause exists even where plaintiff in first action claimed only a small portion
Murdock v. Gerth (1944) 65 Cal.App.2d 170
reliance of attorney on client's distorted facts in filing an action creates a want of probable cause
Albertson v. Raboff (1960) 185 Cal.App.2d 372 [8 Cal.Rptr. 398]
Prior counsel terminated
CAL 1994-134, SD 1972-17

Prohibited employment
appeal
-prosecute solely for delay
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
-take solely for delay
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
litigation
-claim/defense not warranted under existing law
Rule 2-110(B), Rules of Professional Conduct Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
-good faith exception
Rule 2-110(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
malicious injury to a person
-bringing action, conducting defense or asserting position in litigation
Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
-harassing a person by bringing action, conducting defense, or asserting position in litigation
Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
-spite, prosecute, or defend action solely out of
Sorensen v. State Bar (1991) 52 Cal.3d 1036
Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

ACCOUNTANT [See Business activity and Practice of law, dual occupation.]

ACCOUNTING [See Business Activity and Practice of Law.]
[See Clients' trust account, accounting.]

ADDRESS [See Advertising. Solicitation.]
Attorney's failure to keep current address with the State Bar of California
Business and Professions Code section 6002.1
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
Lyden v. State Bar (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

ADJUSTER [See Lay employee.]
Act for employer; later represent against in same matter as lawyer
LA 216 (1953)
Former acts against former employer
LA 216 (1953)
Settlement negotiated with or by
SD 1978-8

ADMINISTRATIVE AGENCY [See Public office.]
Federal
foreign attorney appears before
LA 168 (1948), LA 156 (1945)
Foreign attorney practices before
LA 168 (1948), LA 156 (1945)
Law student appears before
SD 1974-1, SD 1973-9
Lay person appears before
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
LA 195 (1952), LA 143 (1943)
SD 1974-1, SD 1973-9

ADMISSION TO THE BAR [See Candor. Moral Turpitude.]
Business and Professions Code section 6060 et seq.
Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-200, Rules of Professional Conduct (operative as of May 27, 1989)
Admission denied
Greene v. Committee of Bar Examiners (1971) 4 Cal.3d 189
Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90
history of drug trafficking
Seide v. Committee of Bar Examiners (1989) 49 Cal.3d 933 [264 Cal.Rptr. 361]
history of felony convictions as an attorney in New Jersey for theft of client funds, failure to file tax returns, manufacture of methamphetamines and failure to make restitution
In re Menna (1995) 11 Cal.4th 975 [47 Cal.Rptr.2d 2]
omission of felony convictions in application demonstrates lack of frankness and truthfulness required by the admission process
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Admission granted
Lubetzky v. State Bar (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]
Kwasnik v. State Bar (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]
Hall v. Committee of Bar Examiners (1979) 25 Cal.3d 730 [159 Cal.Rptr. 848]
Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]
Admission revoked
Goldstein v. State Bar (1989) 47 Cal.3d 937 [254 Cal.Rptr. 794]
Langert v. State Bar (1954) 43 Cal.2d 636
Spears v. State Bar (1930) 211 Cal. 183
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483
Admission to Practice, Rules Regulating
Text is located in:
Deerings Annotated California Codes, Court Rules, vol. 2, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 232
Text available through State Bar's home page:
http://www.calbar.ca.gov
Admission to the federal bar
federal district court could reasonably rely upon distinction that state bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871

Americans with Disabilities Act, accomodations for use of computer programs for legally blind applicant so as to best ensure that the exam results accurately reflect aptitude rather than disabilities
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153
Authority of Committee of Bar Examiners
Mothershed v. Justice of the Supreme Court (9th Cir. 2005) 410 F.3d 602
Craig v. State Bar (9th Cir. 1998) 141 F.3d 1353
McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Greene v. Zank (1984) 158 Cal.App.3d 497, 506-513 [204 Cal.Rptr. 770]
Bar examination
accomodations for use of computer programs for legally blind applicant, likely to be successful under Americans with Disabilities Act
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153
disbarment for taking Bar Examination for another
In re Lamb (1990) 49 Cal.3d 239 [260 Cal.Rptr. 856]
unsuccessful bar examinee has no breach of contract action against preparer of multistate bar exam
McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062
Business and Professions Code sections 6060-6067
oath of attorney
Business and Professions Code section 6067
Certification of Law Students [See Practical Training of Law Students.]
Committee of Bar Examiners of The State Bar of California. [See Addresses, supra.]
determines that an applicant possesses the good moral character required of an officer of the court
Klarfeld v. United States (9th Cir. 1991) 944 F.2d 583
criminal defendant's rights and privileges restored upon a pardon by the governor may not operate to usurp the authority of the rules relating to admission
In re Lavine (1935) 2 Cal.2d 324
may initiate investigation of criminal charges against applicant but may not "re-try" applicant
Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661; P.2d 160]
Correspondence law schools
Benjamin J. Ramos dba University of Honolulu School of Law v. California Commission of Bar Examiners (1994) 857 F.Supp. 702
Misappropriation
attorney's petition for reinstatement, after disbarment for misappropriation, is denied
In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
Misconduct prior to admission
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In the Matter of Ike (1996) 3 Cal. State Bar Ct. Rptr. 483
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
*In the Matter of Respondent Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318
In the Matter of Lybbert (1994 Review Dept.) 2 Cal. State Bar Ct. Rptr. 297
Moral character proceedings (governed by Rules Proc. of State Bar, Rule 680 et seq.)
burden of proof
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In re Menna (1995) 11 Cal.4th 975
Lubetzky v. State Bar (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]
Kwasnik v. State Bar (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]
Hightower v. State Bar (1983) 34 Cal.3d 150
Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90
Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318
discovery
In the Matter of Lapin (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 279
quasi-judicial immunity of the State Bar and the Committee of Bar Examiners
Greene v. Zank (1984) 158 Cal.App.3d 497
Oath
district court lacks subject matter jurisdiction in reviewing applicant's request to take an amended oath because of religious conflicts
Craig v. State Bar of California (9th Cir. 1998) 141 F.3d 1353
Privilege to practice law
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 467-469
Pro hac vice
Rule 9.40, California Rules of Court
Ninth Circuit Civ. L.R. 83.3(c)(5) [S.D.Cal.]
Leis v. Flynt (1979) 439 U.S. 438 [99 S.Ct. 698]
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
People v. Cooks (1983) 141 Cal.App.3d 224, 290 [190 Cal.Rptr. 211]
Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
Shapiro v. Paradise Valley Unified School District No. 69 (2004) 374 F.3d 857
attorney not entitled to fees for work done prior to admission pro hac vice
Shapiro v. Paradise Valley Unified School District No. 69 (2004) 374 F.3d 857
California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
court may, in its discretion, revoke status of pro hac vice attorney for bad faith misconduct; it cannot impose monetary sanctions unless authorized by statute
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Property right
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 467-469
Public access to bar examination statistics: balancing of right of access and right of applicants' privacy
Sander v. State Bar of California (2011) 196 Cal.App.4th 614 [126 Cal.Rptr.3d 330]
Rehabilitation
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Reinstatement
In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
Residency requirements
Barnard v. Thorstenn (1989) 489 U.S. 546 [109 S.Ct. 1294]
Supreme Court of Virginia v. Friedman (1988) 487 U.S. 59 [108 S.Ct. 2260]
Supreme Court of New Hampshire v. Piper (1985) 470 U.S. 274
State Supreme Court's rules governing bar admissions does not violate First Amendment right
Mothershed v. Justice of the Supreme Court (9th Cir. 2005) 410 F.3d 602
Unqualified person
lawyer furthering the application of
Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-200, Rules of Professional Conduct (operative as of May 27, 1989)

ADOPTION
Family Code section 8800
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Act for both parties
Civil Code section 225(m)
LA 284 (1964)
Award of attorney's fees
fees denied under Code of Civil Procedure 1021.5 where litigant had done nothing to curtail a public right, but sought a judgment only to settle her private rights and those of her children, notwithstanding the public benefit to others whose adoptions were validated by the litigation
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
Independent adoption
Penal Code section 273
Represent
one party in, after advising the other
LA(I) 1958-6

ADVANCEMENT OF FUNDS [See Expenses. Fee.]
Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Advance deposit
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
Attorney's fees from client
failure to return unearned portion
Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 253]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Bond
attorney acting as guarantor of client's cost
CAL 1981-55
premium for absent guardian of minor
LA(I) 1954-5
By client
status as trust funds
SF 1980-1, SF 1973-14
-advance deposit
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
-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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
-of costs
Rule 8-101(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
-of legal fees to attorney
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) 80 Cal.3d 353, 355 [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]
-retainer fee
Rule 3-700(D)
SF 1980-1
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
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
Costs
LA 379 (1979), LA 149 (1944), SF 1985-2
billing
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
failure to return unused advanced costs
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
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
interest charged on advanced costs from payment until billing
LA 499 (1999)
of litigation
CAL 1976-38
-on contingent contract
Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
LA 76 (1934)
-preparation for litigation
Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

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
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 1985-86, SD 1975-1
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]
Attorney as partner or employee of two law firms
LA 511 (2003)
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
Bankruptcy
attorneys are "debt relief agencies" within meaning of BAPCAPA and must make required disclosures, they may, however, also mention that they are attorneys in their advertisements
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
Bar membership number
pleadings
Rule 201, California Rules of Court (Superior Court)
Rule 501(e), California Rules of Court (Municipal Court)
Biography of lawyer, sale of book
SD 1973-4
Books relating to practice of law
LA 446 (1987)
Broadcasting
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
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
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
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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
Chat room
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Check, profession shown on
LA(I) 1970-3
Class action
communication with potential class members prior to certification
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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]
-scope of commerical speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
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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
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SD 2006-1, 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]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 1995-142, CAL 1988-105
SD 1992-3, OC 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
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Rule 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)
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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
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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
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constitutional analysis versus State Bar policy
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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)
OC 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 2004-167, CAL 1997-150, CAL 1986-90
LA 413 (1983), LA 385, LA 325 (1972)
SD 1985-1
concurrent use of attorney's name in two different law firms
LA 511 (2003)
former partner's name
CAL 1986-90
of law office comprised of separate sole practitioners
CAL 1986-90
SD 1985-1
First Amendment protections
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
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]
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Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
LA 494 (1998), LA 474
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Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
Foreign attorney
LA 156 (1945)
General guidelines
SD 1977-4
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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]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 1995-142, CAL 1988-105, SD 1992-3, OC 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
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 2005-168, CAL 2001-155
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CAL 2004-166
Intrusion/duress
CAL 2004-166
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
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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]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 1995-142, CAL 1988-105
OC 93-001
SD 1992-3

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 516 (2006), LA 421 (1983)
other jurisdictions
-address of offices in
SD 1975-16
Mail [See Solicitation.]
CAL 1983-75
LA 404 (1983)
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CAL 1981-61
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-requesting referrals
CAL 1981-61
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SF 1979-1
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]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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, OC 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 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
-class commercial as opposed to a professional announcement
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
disclaimer regarding the relationship between specially appearing attorneys and the clients of the attorney who hires the specially appearing attorney
CAL 2004-165
fees, costs
Business and Professions Code section 6157
Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
honorific title in firm name or trade name may be misleading
CAL 2004-167,
reference to current or past relationship with governmental agency in firm name, letterhead or business card
CAL 2004-167,
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
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
LA 8 (1917)
article
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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
scope of commerical speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
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]
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CAL 1986-88
LA 516 (2006), 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
attorney as partner or employee of two law firms
LA 511 (2003)
changes in personnel
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 1986-90, CAL 1985-86, LA 247 (1957)
formation of
LA 331 (1973)
Potential members of class action
prior to class certification
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
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Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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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)
--State Bar website listing
SD 2006-1
--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 with regards to 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)
Standards
standard 3, potential client who does not have requisite emotional or mental state to make a reasonable judgment about retaining counsel
CAL 2004-166
standard 6, reference to relationship with governmental agency in firm name, letterhead or business card
CAL 2004-167
Target mail solicitation
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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, OC 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
-State Bar website
SD 2006-1
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)
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
Advocating civil disobedience
CAL 2003-162
Bankruptcy
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
Collections
LA 522 (2009)
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
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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
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
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-defendant not entitled to second court-appointed counsel when death penalty not sought
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-public defender may be appointed standby or advisory counsel for defendant who chooses to represent himself
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In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
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In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
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In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
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In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
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King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
may not be forfeited without defendant's voluntary, knowing and intelligent waiver
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
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Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
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-intercession by courts to vacate an arbitration award where arbitrator has prevented a party from fairly presenting his or her case
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-by attorney representing claimant in same proceeding
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-failure to disclose nature of professional responsibility practice
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-arbitral immunity protects arbitrator from civil liability; vacation award proper remedy
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Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
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Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062
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-actual bias in an arbitrator is not required to trigger disclosure requirements; rather, the arbitrator's duty to disclose is measured by an objective, reasonable person standard
--disclosure of public censure while previously serving as judge not required
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
-failure to disclose nature of professional responsibility practice
Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]
federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements
Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]
no right of parties to seek arbitrator's disqualification based on disclosure that was not statutorily required (CCP § 1281.9 et seq.)
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
nominee for service as a neutral arbitrator must disclose any matter that could cast doubt on his or her ability to be impartial
-disclosure of public censure while previously serving as judge not required
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
not available when motion to disqualify is brought after ruling by arbitrator on any contested matter
Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
vacatur of arbitration award denied where arbitrator's voluntary disclosure of his membership in the same professional organization as the expert witness as such disclosure was not required by law (CCP § 1281.9 et seq.)
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
Enforcement of an arbitration award
Code of Civil Procedure 1286.2(a)(5) provides a safety valve in private arbitration by permitting courts to intercede when an arbitrator has prevented a party from fairly presenting his or her case
Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
prevailing party seeking to enforce an arbitration award must petition the court to confirm the award (CCP §§ 1285 et seq.)
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
Fee arbitration [See Fee. Professional liability.]
Business and Professions Code section 6200, et seq.
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165

OC 99-002
affirmative duty of prior counsel to seek arbitration or judicial determination of attorney fee
CAL 2009-177
amount of money in controversy, determined by plaintiff's claim
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
-filing of claim in small claims court is effective rejection of award
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
arbitration award corrections
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
arbitrator's authority to determine own jurisdiction
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718
binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the MFAA arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
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 waiver of arbitration rights
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
initiation of a State Bar-sonsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
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. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718
Mandatory Fee Arbitration Act does not impliedly repeal California Arbitration Act
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
notice of claim against client's fee guarantor
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
public policy
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
trial de novo after award of fees by arbitrator not preserved by client's filing of a malpractice claim
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
waiver due to filing of pleading for affirmative relief
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587
Insurance cases
Civil Code section 2860(c)
-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
-disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
-insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
-no right to arbitration where no determination of whether insurer has duty to defend
Intergulf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]
-remedy for insurer's failure to participate in mandatory arbitration is a petition to compel arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
Cumis counsel
-insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
Member of partnership is arbitrator when client of firm is party
LA(I) 1967-10
Misleading conduct by party to settlement negotiation waives contractual right to compel arbitration
Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]

Preemption
federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements
Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]
Res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644
Restrictive covenant in law firm's employment contract disputed by a departing attorney
courts may not vacate an arbitration award except for statute
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
Standards for neutral arbitrators adopted by the Judicial Council
La Serena Properties v. Welsbach (2010) 186 Cal.App.4th 893 [112 Cal.Rptr.3d 597]

ASSIGNED COUNSEL
Capital cases
defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Arizona) 2003) 339 F.3d 915
Contract for private employment
SD 1969-9
Duty with respect to costs and expenses
LA 379 (1979)

ASSIGNMENT [See Trustee.]
Assignee
represent against former client's assignee in matter in which acted for client
LA(I) 1961-2
Assignee, lawyer
claim and client's accounts for purpose of collection
LA 7 (1918)
client's interest in estate to secure loan
LA 228 (1955)
Assignor
(1937) 13 LABB 67
Attorney-client relationship between assignor and attorney for assignee
Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]
Buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Debt
where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129
Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]
Fees
right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Legal malpractice claims are not assignable under California law and public policy
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]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705
shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Lottery ticket to attorney
LA 115 (1937)
Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim
LA 500 (1999)
Tort claims for personal injuries are not assignable under California law
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

ASSOCIATE
City council member's practice by
CAL 1977-46, LA(I) 1975-4
Conducts employer's practice during employer's disability or absence
LA 348 (1975)
Definition
Rule 1-100(B)(4), Rules of Professional Conduct
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Division of fees
attorney as partner or employee of two law firms
LA 511 (2003)
Duty to represent a client competently
LA 383 (1979)
Duty with respect to disabled employer's practice
LA 348 (1975)
Former attorney-employees liable for violation of Uniform Trade Secrets Act (Civil Code § 3246 et seq.) if found to have misappropriated employer's protected trade secret client list for solicitation
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Former attorney-employees may compete for the business of former employer so long as such competition is fairly and legally conducted
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Form for listing on announcements
SF 1973-18
Practice by employer of when associate is prosecutor
LA 377 (1978)
Represented other side
LA 363 (1976)

ASSOCIATE COUNSEL
Division of fees
association of outside counsel not a basis for exemption from 2-200 requirements
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
outsourcing legal services
LA 518 (2006)
Employment as subject to approval of other attorney
LA 183 (1951)
Employment as, subject to approval of client
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
LA 518 (2006), LA 473 (1993), SD 1974-2

Outsourcing legal services
LA 518 (2006)
ATTACHMENT [See Fee, unpaid.]
Of assets of another lawyer's client when learned of assets during unrelated representation
LA(I) 1963-1
ATTORNEY-ATTORNEY RELATIONSHIP
Business and Professions Code section 6068(f)
Civil Code section 47(2)
Rules 2-100, 2-200, 2-300, and 2-400, Rules of Professional Conduct
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110, 1119
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775, 786-787
Attorney as agent of another
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
Attorney as independent contractor
Wothington v. Unemployment Ins. App. Bd. (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]
Merrit v. Reserve Ins. Co. (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]
Otten v. San Francisco Hotel etc. Assn. (1946) 74 Cal.App.2d 341 [168 P.2d 739]
Associated Ind. Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804 [133 P.2d 698]
Attorney as partner or employee of two law firms
LA 511 (2003)
Communications with the State Bar are privileged
Chen v. Fleming (1983) 147 Cal.App.3d 36
Consultation with an independent attorney regarding the client's case may be permitted
SD 1996-1
Division of fees
attorneys' oral agreement to form joint venture to share legal fees held enforceable notwithstanding argument that such arrangement may have violated rules of professional conduct requiring clients' consent to share fees and waiver of conflict of interest
Jorgensen v. Cassiday (9th Cir. 2003) 320 F.3d 906
by attorneys who represented each other in recovery of contingent fee due under retainer agreement
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
former shareholder of law 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]
post-dissolution profits from unfinished partnership business
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
requires written disclosure to client and client's written consent
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
Employer may recover for tortious interference with employment contracts of its at-will employees by third party (attorney-employees) who induced personnel to terminate their employment
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Fiduciary duty owed by partners of a dissolved partnership to each other
duty to complete the partnership's unfinished business and to an to act in the highest good faith
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Fiduciary duty to protect the interest of clients does not extend to co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405]
Group of attorneys circulating names of other attorneys who fail to extend professional courtesies
LA 364 (1976)
Indemnity claim between attorneys not barred
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Law firm's attorneys shared a mutual obligation to assure that an oral argument appearance would be covered despite one attorney's resignation from the firm
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
Lying to opposing counsel
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
Obligation to return telephone calls of other lawyers
LA(I) 1972-11
Opposing counsel may not be deposed in preparation for good faith settlement hearing
Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]
Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924 [245 Cal.Rptr. 247]
Representation of attorney-client against former attorney-client
LA 418 (1983)
Sanctions against attorney attempting to depose opposing counsel as a litigation tactic
Estate of Ruchti (1993) 12 Cal.App.4th 1593
Sanctions appropriate when attorney schedules depositions and serves subpoenas during time period of opposing counsel's known trips out of state and out of the country
Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299 [10 Cal.Rptr.2d 371]
Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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]
Subpoena
grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship
U.S. v. Bergeson (9th Cir. (Oregon) 2005) 425 F.3d 1221
Termination of employer-employee relationship
former attorney-employees acted unlawfully and unethically when they engaged in campaign to disrupt employer's business
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

former attorney-employees liable for intentional interference with at-will employment relation by engaging in unlawful and unethical conduct and causing personnel to terminate their at-will employment contracts
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]
former attorney-employees liable for Violation of Uniform Trade Secrets Act (Civil Code § 3426 et seq).if found to have misappropriated employer's protected trade secret client list
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]
former attorney-employees may compete for the business of former employer so long as such competition is fairly and legally conducted
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]
Threat to opposing counsel
Standing Committee on Discipline of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171

ATTORNEY-CLIENT RELATIONSHIP [See Acceptance of employment. Appointment of attorney by court. Authority of attorney. Confidences of the client, disclosure. Contract for employment. Corporations. Substitution. Termination of attorney-client relationship. Withdrawal.]
Olson v. Superior Court (1984) 157 Cal.App.3d 780
Abstract
In re Ochse (1951) 38 Cal.2d 230, 231 [238 P.2d, 561]
Accusing opposing counsel of misrepresentation may be moral turpitude when done with gross neglect
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
Acts constituting malpractice
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
Acts in role other than as an attorney
Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 475-476
Advance fees and costs [See Fees, advance.]
Adverse interest
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
LA 492 (1998), LA 418 (1983)
Advise client of disability of attorney; associate's duty
LA 348 (1975)
Advise client of potential malpractice claims against oneself
CAL 2009-178
Advise client of prior attorney's malpractice
LA 390 (1981)
Agency
exception -- attorney neglect is punitive misconduct
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
Appellate counsel for minor
in a dependency matter, attorney has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]
Appointment of attorney for indigent
Bailey v. Lawford (1993) 835 F.Supp. 550
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12 Cal.Rptr.2d 55]
Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586 [192 Cal.Rptr. 49]
Appointment of succeeding attorney
Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
As bank's director, bank attorney
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042
Association for particular case
Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]
Brunn v. Lucas, Pino & Luco (1959) 172 Cal.App.2d 450 [342 P.2d 508]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
limited scope of representation as "appearance attorney" in an immigration proceeding is improper
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Attorney as agent
C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 6]
Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]
Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
agent is also a wrongdoer when the principal is a wrongdoer
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
client has right and power to discharge at any time
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
dissolves on suspension of attorney
Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]
exception when attorney has a present and co-existing interest in the object of representation
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
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Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
-neglect imputed to client
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outside counsel for a corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Attorney as employee
Casselman v. Hartford etc. Co. (1940) 36 Cal.App.2d 700 [98 P.2d 539]
CAL 1993-132
Attorney as independent contractor
Wothington v. Unemployment Ins. App. Bd. (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]
Merrit v. Reserve Ins. Co. (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]
Otten v. San Francisco Hotel etc. Assn. (1946) 74 Cal.App.2d 341 [168 P.2d 739]
Associated Ind. Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804 [133 P.2d 698]
LA 473 (1992)
outside counsel for a corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
outsourcing legal services
LA 518 (2006)

Attorney as trustee, client as beneficiary
Probate Code sections 16002 and 16004
Probate Code section 15687
*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
Attorney as witness
Reich v. Club Universe (1981) 125 Cal.App.3d 965, 970 [178 Cal.Rptr. 473]
Attorney assumes personal obligation of reasonable care
Palomo v. State Bar (1984) 36 Cal.3d 785, 795
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]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Attorney entitled to reasonable value of services rendered, quantum meruit
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216
Attorney need not blindly follow desire of client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
Shepard v. Superior Court (1986) 180 Cal.App.3d 23
Wolfrich Corp. v. United Services Automobile Assn. (1983) 149 Cal.App.3d 1206, 1211
People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]
counsel has a professional responsibility not to pursue an appeal that is frivolous or taken for the purpose of delay just because client instructs him to do so
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
court's advice to defendant that he follow his attorney's advice did not impair defendant's ability to waive his right to testify
United States v. Joelson (1993) 7 F.3d 174
Attorney neglect must be excused to avoid imputation to client
Griffis v. S.S. Kresge (1984) 150 Cal.App.3d 491
Attorney not liable to insured when insurer, under consent clause of policy, settles claim without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Attorney of record
Singh v. Immigration and Naturalization Service (2003) 315 F.3d 1186
Fox v. Pollack (1986) 181 Cal.App.3d 954
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]
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
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Attorney's partner or employee
Little v. Caldwell (1894) 101 Cal.553 [36 P.2d 107]
Raskin v. Superior Court (1934) 138 Cal.App. 668 [33 P.2d 35]
Attorney-client have co-existing interests
SD 1983-11
Authority of attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]
Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]
In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
*In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
CAL 2002-160
commitment proceedings
-counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
representation of a minor client in a dependency proceeding
LA 504 (2000)
-to enforce minor client's parental rights
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
to bind client
Code of Civil Procedure section 283
to settle lawsuit when client cannot be located
LA 441 (1987)
to settle lawsuit without client's consent
LA 505 (2000)
Board of education
may only appoint outside counsel, in addition to in-house counsel, for "special services"
86 Ops. Cal. Atty Gen. 57 (4/25/03; No. 02-1005)
Borrowing from client on oral loan without complying with duties
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Burden to prove rests on client
Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
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
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
all dealings between attorney and client that are beneficial to the attorney will be closely scrutinized with the utmost strictness for any unfairness
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

entire attorney-client business relationship was tainted by the attorney's failure to fully disclose to the client material terms of their transactions and to obtain the client's written consent
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
Business transaction with former client
no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule re the transaction
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
with funds obtained by the representation
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
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
Probate Code section 15687
*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 non-payment of fee [See Fee.]
withdrawal
Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
-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 1077 [245 Cal.Rptr. 404]
Client's right to choice of counsel
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
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
class actions
-right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
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]
conservatorship proceedings
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
indigent defendants does not have the right to select court-appointed attorney
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
must yield to considerations of ethics
Comden v. Superior Court (1978) 20 Cal.3d 906, 915 [145 Cal.Rptr. 9, 576 P.2d 971]
Client suffering from a mental disorder
client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
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
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
People v. Davis (1984) 161 Cal.App.3d 796, 801-803
LA 509 (2002)
Competent representation at time of representation
Aloy v. Mash (1983) 144 Cal.App.3d 768 [192 Cal.Rptr. 818]
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]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Condominium associations
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Confidence of client in attorney
CAL 1987-93, CAL 1984-83
Confidential in character
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]
Plxweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Confidential in nature
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Conflict of interest
based on relationship between class action counsel and class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
client as beneficiary, attorney as trustee
Probate Code sections 16002 and 16004
Probate Code section 15687
*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
disqualification of counsel and firm
W.L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1466-1467
none exists when trustee is also creditor
Vivitar Corp. v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Conservatorship proceedings
attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
reestablishing conservatorship by stipulation filed by conservatee's attorney
In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]
right of prospective conservatee to effective assistance of counsel
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
Consultation with, prima facie case of existence of
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
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]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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]
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
CAL 1984-84, LA 465 (1991), SD 2006-1, 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]
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
CAL 2005-168, CAL 2003-161
-dealing with constituents of an organization
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
burden rests on client to prove existence of
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
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
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
LA 506 (2001)
-attorney-client privilege does not extend to communications after attorney declines representation
People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]
-no duty based on receipt of private information from potential client via unsolicited email
SD 2006-1
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
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

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 re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
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 contingency fees
Waters v. Bourhis (1983) 142 Cal.App.3d 235 [190 Cal.Rptr. 833]
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
compliance with Business and Professions Code section 6147 required
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
Contract for employment
attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement
LA 505 (2000)
attorney requires inclusion of substitution of attorney clause
LA 371 (1977)
compliance with Rules of Professional Conduct 3-300
CAL 2006-170
Contract limits fees
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
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
attorney for corporation does not represent shareholders
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
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]
court appointed counsel
In re Joyleaf W. (1984) 150 Cal.App.3d 865, 868
In re Jay R. (1983) 150 Cal.App.3d 251, 262
directors have no power as individuals
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
employee not entitled to personal claim of atorney-client privilege to protect his communications with corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
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]
CAL 1989-113
prima facie case of fraud required to waive relationship
Dickerson v. Superior Court (1982) 135 Cal.App.3d 93
relationship between corporate employees and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
shareholders derivative action
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
totality of circumstances test used to determine whether manager employees are clients
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
unincorporated organization
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party
Matter of Fonoiller (9th Cir. 1983) 707 F.2d 441, 442
Court appointed attorney to coordinate discovery in complex litigation
no interference to parties' right to counsel of choice
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Court appointed for criminal defendant for a civil action
Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 395
Creation of relationship
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
Fox v. Pollack (1986) 181 Cal.App.3d 954
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between corporate employee and corporae counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
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]
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]
no relationship based on receipt of private information from potential client via unsolicited email
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no relationship with third party absent an intent by attorney and client to benefit third party
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
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
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
statement that attorney represented client is sufficient to support a finding of an attorney-client relationship also, work performed to obtain loan supports finding
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
subjective belief that an attorney-client relationship exists cannot create such a relationship; instead, the parties' intent and conduct determine whether such a relationship has been created
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
under the implied contract theory (Civil Code § 1621)
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
Defendant must make knowing and intelligent waiver of counsel
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Mellor (1984) 161 Cal.App.3d 32
right to counsel may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
Defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
Defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
Defined
Barbara A. v. John G. (1983) 145 Cal.App.3d 369, 383-384 [193 Cal.Rptr. 442]
Definition of attorney
Evidence Code section 950
Definition of client
Evidence Code section 951
Dependency proceeding
representation of a minor client
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
LA 504 (2000)
Discharge of attorney, rights and obligations of client
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9
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
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
hardship to client
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1002
party of moving for disqualification of counsel absent an attorney-client relationship generally does not have standing to assert conflict of interest
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
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In re Marriage of Ward (1994) 29 Cal.App.4th 1452 [35 Cal.Rptr.2d 32]
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Business and Professions Code section 6068(d)
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In re Branch (1969) 70 Cal.2d 200, 210 [138 Cal.Rptr. 620]
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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 2007-174, CAL 1994-134
LA 493 (1998), SD 1997-1
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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
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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]
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Effect on communication with opposing party on attorney-client relationship
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American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
-plaintiff and alleged beneficiary of a testamentary instrument may have no standing to bring malpractice action against attorney-defendant
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
does not extend to co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)
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*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
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-no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule re the transaction
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
-using funds obtained by the representation
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"Framework" contract, where attorney and client provide a structure for future "as requested" representation does not create a current attorney client relationship
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Friends require the same strict adherence to professional rules and record keeping as regular clients
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Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
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People v. Yackee (1984) 161 Cal.App.3d 843, 849
Governmental entities
Brown Act (CCP § 54956.9)
-board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
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Torres v. Friedman (1985) 169 Cal.App.3d 880, 887 [215 Cal.Rptr. 604]
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Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
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Johnson, York, O'Connor & Caudill v. Board of County Commissioners for the County of Fremont (1994) 868 F.Supp. 1226
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LA 502 (1999)
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Interference with
by third party (district attorney and sheriff)
-results in dismissal of criminal accused's case
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Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
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-actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
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-appellate counsel for a minor client has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
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LA 132 (1940)
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2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
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Right of a party to select counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
automatic vicarious disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
criminal defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Arizona) 2003) 339 F.3d 915
Right of defendant
People v. Davis (1984) 161 Cal.App.3d 796, 802
to counsel of choice
People v. Trapps (1984) 158 Cal.App.3d 265, 272-273
-defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
Right to appointed counsel
ineffective assistance of counsel for minor
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
juvenile delinquency proceeding is sufficiently similar in substance and import to criminal prosecution that indigent juveniles are entitled to Fourteenth Amendment protections
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
Right to counsel of choice
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
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, 306 [205 Cal.Rptr. 671]
People v. Stevens (1984) 156 Cal.App.3d 1119,1128
applies to retained counsel, not appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
automatic disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
class actions
-right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
conservatorship proceedings
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
court did not abuse discretion in denying motion to substitute in retained counsel; waiver was based on an inadequate conflict waiver
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
court has latitude to remove counsel where potential conflict exists, over objection of defendant
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
criminal defendant's right to discharge retained counsel
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
-court may deny untimely request to discharge retained counsel
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be reappointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
may not be forfeited without defendant's voluntary, knowing and intelligent waiver
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
public defender not required to represent indigent person on appeal
Erwin v. Appellate Department (1983) 146 Cal.App.3d 715
waiver not effective if defendant must choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
Sanctions may not be levied against attorney for taking all actions necessary to protect his clients
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
Scope of representation
Maxwell v. Cooltech (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
LA 502 (1999), LA 483 (1995), LA 476 (1995)
class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
-counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
-counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]

defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
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]
Settlement
general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]
Sexual relations with client
Rule 3-120, Rules of Professional Conduct
Business and Professions Code section 6106.9
CAL 1987-92, OC 2003-02
Special appearances
CAL 2004-165
LA 483 (1995)
specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Statutory reduction of defendant's control of the case
People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2
Substantial previous relationship
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
Substantial right of client may not be relinquished: exception -- best discretion
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Substitution of attorney clause in retainer agreement
LA 371 (1977)
Substitution when conflicts of interest occur based on obligations to clients in different proceedings
Leversen v. Superior Court (1983) 34 Cal.3d 530
Telephone "hotline" run by attorney
LA 449 (1988)
Termination of employment
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
Threat to
Phaksuan v. United States (9th Cir. 1984) 722, F.2d 591, 594
mere threat of malpractice suit against criminal defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
Trustees
existence of relationship for purposes of privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
Unauthorized appearance by mistake
Omega Video Inc. v. Superior Court (1983) 146 Cal.App.3d 470
Unauthorized representation
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Undue influence
Estate of Witt (1926) 198 Cal. 407, 419 [245 P.2d 197]
Violation of probation by client
leaving jurisdiction
-disclosure in letter
--privilege
LA 82 (1935)
Willful failure to perform and communicate
Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
Wills
Probate Code section 21350 et seq.
-attorney's failure to comply with provisions of Probate Code § 21350 could be grounds for discipline
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
-liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
person who must sign a will is a client regardless of who has sought out and employed the attorney
SD 1990-3
Withdrawal
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
CAL 1983-74
inability to provide competent legal services because of disagreement with a minor client
LA 504 (2000)
Work product
client's right to
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
SD 2004-1, SD 1997-1, SF 1990-1
ATTORNEYS OF GOVERNMENTAL AGENCIES [See Conflict of interest, disqualification.]
Business and Professions Code section 6131(a)
Rule 7-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-110, Rules of Professional Conduct (operative as of May 27, 1989)
Administrative agency attorneys
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Assistants' actions do not create official policy
Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923

Attorney-client relationship not formed between prosecutor enforcing child support & parent entitled to payment
Jager v. County of Alameda (1992) 8 Cal.App.4th 294
Attorney general
People v. Brown (1981) 29 Cal.3d 150 [172 Cal.Rptr. 478]
D'Amico v. Board of Medical Examiners (1974) 11 Cal.3d 1 [112 Cal.Rptr. 786]
People v. Birch Securities Co. (1948) 86 Cal.App.2d 703 [196 P.2d 143]
authority under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
deputy attorney general may not represent clients in private action absent consent of the Office of the Attorney General
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
duty to investigate violations of Ethics in Government Act
Dellums v. Smith (N.D. Cal. 1984) 577 F.Supp. 1449, 1451-1452
opinions are not merely advisory but are statements to be regarded as having a quasi-judicial character and are entitled to great weight by the courts
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
Attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
Authority of court to sanction
People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5
Bonus program tied to savings by public agency
SD 1997-2
Child support modification and enforcement activities do not create an attorney-client relationship with any parent
Jager v. County of Alameda (1992) 8 Cal.App.4th 294
City attorney
People v. Rhodes (1974) 12 Cal.3d 180 [115 Cal.Rptr. 235]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
Tri-Cor v. Hawthorne (1970) 8 Cal.App.3d 134 [87 Cal.Rptr. 311]
CAL 2001-156
acts as both advocate of city's position and advisor to neutral decision maker
Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]
anti-discrimination suit against city attorney's employer is not entitled to First Amendment protection
Rendish v. City of Tacoma (W.D. (Washington) 1997) 123 F.3d 1216
assigned to represent constituent agency
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
recording a conversation per Penal Code section 633 while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
Closed-session meetings pursuant to the Brown Act (CCP § 54956.9)
board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
Confidences
inadvertent disclosure
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Conflict of interest
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
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]
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]
attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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]
county counsel giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
SD 1997-2
former client, now witness against current client, no prejudice found where Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
former government attorney now associate in law firm
LA 246 (1957)
limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]

prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
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
screening measures
-burden on public law office to show that effective screening measures were taken to protect and maintain client confidences
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation
86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)
vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
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In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
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Trujillo v. Superior Court (1983) 148 Cal.App.3d 368
CAL 2001-156
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Conservatorship of Early (1983) 35 Cal.3d 244, 255
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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)
limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
CAL 2001-156
County prosecuting attorneys and investigators had absolute immunity from civil suits when duties carried out in preparation for prosecutor's case
Freeman on Behalf of the Sanctuary v. Hittle (9th Cir. 1983) 708 F.2d 442
Distinguish public officials from government employees
Cleland v. Superior Court (1942) 52 Cal.App.2d 530
District attorney
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
Madera v. Grendron (1963) 59 Cal.2d 798 [31 Cal.Rptr. 302]
CAL 1979-51
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People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, 531-532
Ciaccio v. Superior Court (1984) 156 Cal.App.3d 130, 133
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75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal. Rptr. 3d 182]
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. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
-recusal of entire office
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
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People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
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People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569
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Fazio v. City and County of San Francisco (9th Cir. 1997) 125 F.3d 1328
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Davis v. Municipal Court (1984) 154 Cal.App.3d 996, 1003
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People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal. Rptr. 3d 182]
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. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr 476, 561 P.2d 1164]
-Penal Code section 1424
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal. Rptr. 3d 182]
-disqualification not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
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--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
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Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]
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In re Martin (1983) 150 Cal.App.3d 148, 169
In re Ferguson (1971) 5 Cal.3d 525, 531
OC 94-003
-acts on behalf of the state when training personnel and developing policy regarding prosecution and the preparation for prosecution of criminal violations of state law
Pitts v. Kern (1988) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]
-of prosecutor
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
*People v. Eubanks (1996) 14 Cal.4th 580
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
financial assistance to prosecutor's office disqualified district attorney
*People v. Eubanks (1996) 14 Cal.4th 580
holder of privilege with regard to material seized from office occupied by a deputy district attorney
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
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-county district attorney may not be entitled to qualifed immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
-county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
-district attorney acted as state official when deciding whether to prosecute individual for criminal defense
Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
-fabricating evidence, filing false crime report, comments made 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
-may not apply when prosecutor is acting in an investigative or administrative capacity
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
-prosecutors afforded absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747
impartiality subject to private party influence
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
may represent county in an action even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942
office employees are immune from liability for acts taken during investigations
County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]
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Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
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People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
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People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
*People v. Eubanks (1996) 14 Cal.4th 580
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573
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-Penal Code section 1424
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
-erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-recusal not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
recusal of the prosecutor not required when victim pays for prosecutorial expenses
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
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Kain v. State Bar (1982) 130 Cal.App.3d 499, 504
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Hoines v. Barney's Club Inc. (1980) 28 Cal.3d 603
Duties
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disclose identity of informants to defendant
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]
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SD 1997-2
maintain contact with informants
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
Immune from tort liability arising out of conduct about civil cases
Custom Craft Carpets, Inc. v. Miller (1983) 137 Cal.App.3d 120 [187 Cal.Rptr. 78]
Immunity
private attorney hire by the city acting as government agent
Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069
under the Noerr-Pennington doctrine
-sham litigation exception
--law firm, as agent for school district in an eminent domain petition, may not be immune from liability if found to have engaged in represented misrepresentations and to have suppressed information relevant to the dispute
Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638
Judge's right to hire private counsel when county counsel has conflict of interest
Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29
Limitations on authority
Feminist Women's Health Center, Inc. v. Philibosian (1984) 157 Cal.App.3d 1076
Notice of motion to disqualify a district attorney
Penal Code section 1424
Outside counsel
those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues
Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
Outside counsel retained by county in civil rights action not entitled to qualified immunity when defending own suit for violating plaintiff's constitutional rights
Gonzales v. Spencer (2003) 336 F.3d 832
Private attorney under contract to government agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel.Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
Privilege against self-incrimination
Gwillim v. City of San Jose (9th Cir. 1991) 929 F.2d 465
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]
Probable cause
duty of attorney when charges not supported
LA 429 (1984)
Prosecutorial misconduct
denial of attorney's fees to plaintiffs where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in a bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
trial conduct
-use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
Prosecutors
absolute immunity, scope of
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
absolute immunity does not protect prosecutor for comments made to the media
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
absolute immunity for actions taken in the normal prosecutorial role
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
Doubleday v. Ruh (1993) 149 F.R.D. 601
absolute immunity for acts performed in scope of judicial process; qualified immunity for investigative or administrative acts
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923
absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747
absolute immunity from liability for decision not to prosecute police officer cases
Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578
absolute immunity may not be available against being sued for supervising or participating in investigations
Buckley v. Fitzsimmons (1993) 509 U.S. 259 [113 S.Ct. Rptr. 2606]
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578
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Pitts v. County of Kern (1996) 49 Cal.App.4th 1430 [57 Cal.Rptr.2d 471]
absolute immunity may not be available when alleged false statements were made in application for search warrant
*Fletcher v. Kalina (9th Cir. 1996) 93 F.3d 653
absolute immunity may not be available where prosecutor gives advice to the police
Burns v. Reed (1991) 500 U.S. 478 [111 S.Ct.1934]
Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]
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75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
communication with the media
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conduct when he/she does not believe in case
LA 429 (1984)
deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
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. 60]
duty to seek justice not convictions
People v. Rutherford (1975) 14 Cal.3d 399 [121 Cal.Rptr. 357]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
People v. Dena (1972) 25 Cal.App.3d 1001 [102 Cal.Rptr. 357]
In re Ferguson (1971) 5 Cal.3d 525

for purposes of section 1983 claim, California county district attorney acted as state official when deciding whether to prosecute individual for criminal defense
Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007)150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
qualified immunity may not be available for executing search warrant against criminal defense attorney
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
recusal of entire office
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
state bar has authority and jurisdiction to discipline
Price v. Superior Court (1982) 30 Cal.3d 537
In re Bloom (1977) 19 Cal.3d 175
OC 94-003
suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
suppression of evidence, no prejudice to defendant found
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210];
Public defender
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]
appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]
can be sued under 42 U.S.C. 1983, not as "state actor" but as administrative head of office
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
conflict of interest
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
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]
-conflict where compelled by excessive caseload to choose between the rights of the various indigent defendants he or she is representing
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
--one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
-no prejudice where former client is witness against current client and Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
-not found where former member of public defender's office had represented witness in current matter where defendant was represented by another member of public defender's office and where office had received no confidential information of witness
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
-removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
-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]
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-three strikes cases
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
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delinquency proceeding
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
dependency proceeding
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
does not act under color of state law when lawyer for criminal defendant
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558
does not enjoy "discretionary immunity"pursuant to Government Code section 820.2
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
in-person contact with arrested person permissible
CAL 1977-42
not immune from legal malpractice under statute granting discretionary immunity to public employees
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
not independent contractors for purposes of a government tort claim
Briggs v. Lawrence (1991) 230 Cal.App.3d 605 [281 Cal.Rptr. 578]
sanctions not imposed resulting from misleading emergency petition where factual omission resulted from mistake
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
Public employees
attorney employee investigated for misconduct can be compelled, under threat of job discipline, to answer questions regarding his job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]
Recording a conversation
city attorney recording a conversation pursuant to Penal Code section 633 while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
Release dismissal agreements
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Representation of criminal defendant by member of firm acting as city prosecutor
LA 453
Retaining private counsel for special services
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
Denio v. Huntington Beach (1943) 22 Cal.2d 580 [140 P.2d 392]
State Comp. Ins. Fund v. Riley (1937) 9 Cal.2d 126 [69 P.2d 953]
Jaynes v. Stockton (1961) 193 Cal.App.2d 47 [14 Cal.Rptr. 49]
Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]
Rules of Professional Conduct, applicability to government attorneys
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
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
CAL 2002-158
When an attorney leaves employment of one firm
side switching
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
LA 501

ATTORNEY OF RECORD [See Authority of attorney. Withdrawal from employment.]

ATTORNEY'S LIEN [See Fee, unpaid. Lien.]
Attorney's lien is created and takes effect at the time fee contract is executed
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Bankruptcy action
attorney's lien not payable in circumvention of the Bankruptcy Code
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]
Jones v. Martin (1953) 41 Cal.2d 23 [256 P.2d 905]
Ex parte Kyle (1850) 1 Cal. 331
contract
Weiss v. Marcus (1975) 51 Cal.App.3d 590, 598 [124 Cal.Rptr. 297]
CAL 2006-170
requires compliance with rule 3-300 when included in hourly fee agreement
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
-contingency fee agreements distinguished
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
tax consequences to plaintiff in contingent fee agreement with attorney
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074
Client settlement
check issued only to client, but delivered to attorney who has a lien
OC 99-002
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]
Client's award
improper
Cain v. State Bar (1978) 21 Cal.3d 523, 525 [146 Cal.Rptr. 737, 579 P.2d 1053]
Client's funds
LA(I) 1970-1
Client's papers
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Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
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Common law liens
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Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
Haupt v. Charlie's Kosher Market (1941) 17 Cal.2d 843 [121 P.2d 627]
Gostin v. State Farm Ins. Co. (1964) 224 Cal.App.2d 319 [36 Cal.Rptr. 596]
Bartlett v. Pac. Nat. Bank (1952) 110 Cal.App.2d 683 [244 P.2d 91]
Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
Tracy v. Ringole (1927) 87 Cal.App. 549 [262 P. 73]
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OC 99-002
attorney lien in relation to medical lien in contingency fee case
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
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Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
nature and effect
Cetenko v. United California Bank (1982) 30 Cal.3d 528 [179 Cal.Rptr. 902, 638 P.2d 1299]
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
LA 496 (1998)
Equitable lien for fees
County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
Holding client's funds
coerce fee payment
-without lien or proper authority
McGrath v. State Bar (1943) 21 Cal.2d 737 [135 P.2d 1]
Independent action required to establish existence and amount of lien
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]

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nature and effect
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
right of attorney to intervene in the undelying matter to enforce his lien is limited to those actions in which client specifically gives attorney interest in the subject matter of the action by way of their fee contract
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
No duty of successor counsel to hold money in client trust account to honor prior attorney's lien
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
Notice of lien
Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
CAL 2009-177, CAL 2008-175
attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Possessory
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]
Ex parte Kyle (1850) 1 Cal. 331
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
Spenser v. Spenser (1967) 252 Cal.App.2d [60 Cal.Rptr. 747]
Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
client's files or papers
-no right to
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 160]
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Priority of
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]
Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
attorney's lien is subordinate to an adverse party's right to offset judgments
Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]
attorney's lien superior to claims of other creditors against a bankruptcy distribution
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
between contractual medical lien and an attorney lien for fees and costs of litigation in a contingency fee case
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
judgment creditor denied recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights
Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Statutory liens
Los Angeles v. Knapp (1936) 7 Cal.2d 168 [60 P.2d 127]
AUCTION
Donate legal services through
CAL 1982-65, SD 1974-19
AUTHORITY OF ATTORNEY [See Substitution of counsel.]
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
Acknowledge satisfaction of judgment
after judgment, upon payment of money claimed in action
Code of Civil Procedure section 283
After substitution
appearance carries presumption
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
Agency
authority covers all ordinary procedural steps to bind client
Code of Civil Procedure section 283
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]
*In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
Agency basis
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)
Bristschgi v. McCall (1953) 41 Cal.2d 138, 142 [257 P.2d 977]
Preston v. Hill (1875) 50 Cal. 43
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Fresno v. Baboian (1975) 52 Cal.App.3d 753, 757 [125 Cal.Rptr. 332]
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Wilson v. Eddy (1969) 2 Cal.App.3d 613, 618 [82 Cal.Rptr. 826]
Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]
Nellis v. Massey (1952) 108 Cal.App.2d 724 [239 P.2d 509]
Redsted v. Weiss (1945) 71 Cal.App.2d 660 [163 P.2d 105]
Fidelity & Cas. Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
Fleschler v. Strauss (1936) 15 Cal.App.2d 735 [60 P.2d 193]
Burns v. McCain (1930) 107 Cal.App. 291 [290 P.2d 623]
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Apparent authority as to procedural or tactical matters
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]
LA 502 (1999)

Appeal
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In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
attorney may file notice of appeal on behalf of deceased client
Code of Civil Procedure section 903
in a dependency matter, appellate counsel for a minor client has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]
Attorney may bind client to stipulation without client's consent which does not affect issues central to the dispute
In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]
Attorney of record must take legal steps
Epley v. Califro (1958) 49 Cal.2d 849, 854 [323 P.2d 91]
Goetz v. Superior Court (1958) 49 Cal.2d 784, 786 [322 P.2d 217]
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Bind client
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Bind client in action or proceeding
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Client
cannot be located
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cedes to counsel the right to protect the client's vest interests and the client cannot be expected to correct counsel's behavior during examination of a witness in order to avoid inferences as to the client's actions
Gdowski v. Gdowski (2009) 175 Cal.App.4th 128 [95 Cal.Rptr.3d 799]
court's advice to client to follow attorney's advice
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-attorney may file notice of appeal on behalf of decedent
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insane or incompetent clients may lack authority over substantive issues
LA 509 (2002)
-commitment proceedings under Penal Code section 1026.5(b)
--counsel for client found to be insane and dangerous to others may properly waive a jury trial over client's objections
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retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
Client's instructions intentionally ignored
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Client suffering from a mental disorder
client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
Compelling client to follow advice
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by client
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cross examination, manner in which attorney conducts, is within control of counsel
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statutory reduction of client's control
People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2
-commitment proceedings under Penal Code section 1026.5(b)
--counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
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-court found that stipulation re probable cause to arrest was valid after plaintiff's counsel signed it on plaintiff's behalf and in the plaintiff's presence
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Morrow v. Learned (1926) 76 Cal.App. 538, 540 [235 P.2d 442]
McCord v. Martin (1920) 47 Cal.App. 717, 726 [191 P. 89]
Continental Bldg. etc. Assn v. Woolf (1910) 12 Cal.App. 725, 729 [108 P. 729]
-liability or damages
Gonzales v. Pacific Greyhound Lines (1950) 34 Cal.2d 749 [214 P.2d 809]
McGee v. City of Los Angeles (1936) 6 Cal.2d 390 [57 P.2d 925]
Valdez v. Taylor Auto Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]
Corbett v. Benioff (1932) 126 Cal.App. 772 [14 P.2d 1028]
City of Los Angeles v. Oliver (1929) 102 Cal.App. 299 [283 P.2d 298]
-miscellaneous
City of Los Angeles v. Cole (1946) 28 Cal.2d 509, 515 [170 P.2d 928]
Estate of Kent (1936) 6 Cal.2d 154, 163 [57 P.2d 910]
Meagher v. Gagliardo (1868) 35 Cal. 602
People v. Busick (1968) 259 Cal.App.2d 744, 748 [66 Cal.Rptr. 532]
Phillips v. Beilsten (1958) 164 Cal.App.2d 450 [330 P.2d 912]
Estate of Doran (1956) 138 Cal.App.2d 541 [292 P.2d 655]
Gordon v. Kifer (1938) 26 Cal.App.2d 252 [79 P.2d 164]
First National Bank v. Stansbury (1931) 118 Cal.App. 80 [5 P.2d 13]
Johnson v. Johnson (1931) 117 Cal.App. 145 [3 P.2d 587]
-pleadings and issues
Estate of Stickelbaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
Williams v. Gen. Ins. Co. (1936) 8 Cal.2d 1 [63 P.2d 289]
Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
Michelin Tire Co. v. Coleman and Bentel Co. (1919) 179 Cal. 598 [178 P.2d 507]
Hehr v. Swendseid (1966) 243 Cal.App.2d 142 [52 Cal.Rptr. 107]
Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
Bemer v. Bemer (1957) 152 Cal.App.2d 766 [314 P.2d 114]
Steele v. Steele (1955) 132 Cal.App.2d 301 [282 P.2d 171]
Abalian v. Townsend Social Center, Inc. (1952) 112 Cal.App.2d 441 [246 P.2d 965]
Spahn v. Spahn (1945) 70 Cal.App.2d 791 [162 P.2d 53]
Collins v. Welsh (1934) 2 Cal.App.2d 103 [37 P.2d 505]
-subsequent proceedings
Fowlkes v. Ingraham (1947) 81 Cal.App.2d 745 [185 P.2d 379]
Estate of Cohn (1940) 36 Cal.App.2d 676 [98 P.2d 521]
Clay v. Clay (1937) 19 Cal.App.2d 589 [65 P.2d 1363]
Pacific States Savings and Loan Co. v. Roselli (1936) 17 Cal.App.2d 527 [62 P.2d 441]
Armstrong v. Brown (1936) 12 Cal.App.2d 22 [54 P.2d 1118]
Gibson v. Berryman (1910) 14 Cal.App. 330 [11 P. 926]
--probable cause stipulation admissible as an admission in plaintiff's action against police arising out of arrest
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
-withdrawal and rescission
--plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
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73 Am.Jur.2d, Stipulations, section 1
Palmer v. City of Long Beach (1948) 33 Cal.2d 134, 142 [199 P.2d 952]
Raymond v. McMullen (1891) 90 Cal. 122, 125 [27 P. 21]
Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447, 452 [49 Cal.Rptr. 610]
Los Angeles City School District v. Landier Inv. Co. (1960) 177 Cal.App.2d 744, 752 [2 Cal.Rptr. 662]
Morgenstern v. Bailey (1938) 29 Cal.App.2d 321 [84 P.2d 159]
oral stipulations not entered
Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97 Cal.Rptr. 274]
Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447 [49 Cal.Rptr. 610]
Johnston, Baker and Palmer v. Record Machine and Tool Co. (1960) 183 Cal.App.2d 200 [6 Cal.Rptr. 847]
Exley v. Exley (1951) 101 Cal.App.2d 831 [226 P.2d 662]
Cathcart v. Gregory (1941) 45 Cal.App.2d 179 [113 P.2d 894]
Morrow v. Learned (1926) 76 Cal.App. 538 [235 P. 442]
Ward v. Goetz (1917) 33 Cal.App. 595 [165 P. 1022]

relief by interpretation or rescission
-formal stipulations
Palmer v. City of Long Beach (1948) 33 Cal.2d 134 [199 P.2d 952]
Ward v. Clay (1890) 82 Cal. 502 [23 P. 50]
Burrows v. State of California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]
Petroleum Midway Co. v. Zahn (1944) 62 Cal.App.2d 645 [145 P.2d 371]
Sinnock v. Young (1943) 61 Cal.App.2d 130 [142 P.2d 256]
Brown v. Superior Court (1935) 10 Cal.App.2d 365 [52 P.2d 256]
Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]
-oral statements
People v. Church (1943) 57 Cal.App.2d Supp. 1032, 1038 [136 P.2d 139]
Back v. Farnsworth (1938) 25 Cal.App.2d 671 212, 219 [77 P.2d 295]
Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]
Orr v. Ford (1929) 101 Cal.App. 694, 699 [282 P. 280]
-plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
Substitution
no independent pleading pursuant to Code of Civil Procedure section 284 need be filed before a complaint or other initial pleading is served
Baker v. Boxx (1991) 226 Cal.App.3d 1303
Test for, substantial rights
People v. Sumstine (1984) 36 Cal.3d 909, 922
Unauthorized representation
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
after substitution
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
-attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
"appearing" defined for purposes of Business and Professions Code section 6104
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
unnecessary research
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
Verification
Probate Code section 21350 et. seq.
attorney's use of pre-signed verification forms
Drociak v. State Bar (1991) 52 Cal.3d 1085
client's signature on blank
LA 174 (1950)
AUTOMOBILE ACCIDENT CASE
Receiving unsolicited information by email from non-client driver in multi-vehicle collision
SD 2006-1
Represent
daughter-passenger against her driver-husband after representing husband on traffic charge
SF 1973-6
owner-passenger against driver after representing both parties
LA(I) 1974-10
BANKRUPTCY [See Trustee.]
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 Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr.Ct.Rep. 46]
Advice to "load up" on debt with the expectation of obtaining its discharge, conduct that is abusive per se
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
Attorney assisted debtor-client in concealing assets from trustees and his lack of experience in bankruptcy law is not a shield from criminal liability
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
Attorney fees and costs that creditor incurs in successfully prosecuting nondischargeability complaint, should be awarded as party of this nondischargeable debt, if such fees would be recoverable outside bankruptcy under state or federal law
Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775
Attorney's fees
In re Auto Parts Club, Inc. (9th Cir. BAP 1997) 211 B.R. 29
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 and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609
attorney's fees are administrative expenses that must be paid first
In re Shorb (9th Cir. BAP 1989) 101 B.R. 185
attorney's fees and cost are recoverable against bankruptcy debtor in absence of any compensatory judgment based on violation of protective order
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re LCO Enterprises, Inc. (9th Cir. BAP 1995) 180 B.R. 567 [27 BankrCt.Dec. 201]
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
-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]
attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exception for "willful and malicious injury"
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
attorney's fees claim against lender's collateral barred where law firm negotiated and approved comprehensive waiver in loan agreement which bared surcharge or assessment against the collateral
In re Cooper Commons LLC (9th Cir. 2008) 512 F.3d 533
attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95

attorney's fees awarded as sanction for frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
attorney's fees from discharge action are disallowed
Bankruptcy of Gee (9th Cir. 1994) 173 B.R. 189
attorney's fees from discharge action may/may not preclude appeal over attorney fees award
Hurley v. Bredehorn (1996) 44 Cal.App.4th 1700 [52 Cal.Rptr.2d 615]
award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract
In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204
bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104
bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730
chapter 7 bankruptcy
-attorney cannot use confidences of former client to challenge client's discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr. Ct. Rptr. 43]
-attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct
In re Suarez (9th Cir. BAP 2009) 400 B.R. 732
-attorney's fees and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609
-automatic stay
In re Hines (9th Cir. BAP 1998) 198 B.R. 769
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
-award of fees and costs to judgment creditor not dischargeable under willful and malicious injury dischargeability exception
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
-award of fees for services rendered by creditor's attorney must meet statutory requirements
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
-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]
-entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
-expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
-fees for trustee's attorney may be denied if attorney lacks disinterestedness or represents interests adverse to the interest of the estate
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
-must benefit the estate
Bankruptcy of Hanson (9th Cir. 1994) 172 B.R. 67
-must file detailed proof of time spent in each role to receive fee award for services as trustee
In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601
-pre-petition attorney fee agreement may be dischargeable
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
-statutory silence regarding expenses incurred by a creditor does not necessarily mean foreclosure of a fee award from the debtor estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
-trustee expenses incurred in marketing & selling property & in defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution o of claims by non-debtor, co-owner of property
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
-trustee expenses incurred in marketing & selling property & in defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co-owner of property
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
-trustee may withhold non-debtor, co-owner's share of proceeds from the sale of property pending resolution of claims by co-owner relating to such sale
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
chapter 9 (municipality bankruptcy)
-fee 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]
-pre-petition attorney fee agreements may be dischargeable
Bankruptcy of Biggar (9th Cir. 1995) 185 B.R. 825
-pre-petition debt is dischargeable
Bankruptcy of Zapanta (9th Cir. 1997) 204 B.R. 762
Bankruptcy of Biggar (9th Cir. 1997) 110 F.3d 685
chapter 11 bankruptcy
-creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236]
chapter 13
In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592
-bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104
contingent fee agreement
In re Reimers (9th Cir. 1992) 972 F.2d 1127
court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
In re Levander (9th Cir. 1999) 180 F.3d 1114
creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236
creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nevada) 2003) 293 B.R. 227
delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees
In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
dischargeability of a contempt judgment
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
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 for professional misconduct
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
disgorgement of attorney fees is allowed after violations of bankruptcy code and rules
In re Peterson (1994) 163 B.R. 665
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]
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
fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs
In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558
open book account attorneys fees claim not barred by statute of limitations
In re Roberts Farms (9th Cir. 1992) 980 F.2d 1248
prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
security retainer agreements require appropriate fee application made to the court
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
totality of circumstance test applied when awarding attorney's fee
Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
Bankruptcy petition preparers
BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and privacy rights
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal.Bankr. Ct. Rep. 46]
disgorgement of excessive fees for services constituting the unauthorized practice of law
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
Conflict of interest
attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
bankruptcy
In re Hines (9th Cir. BAP 1998) 198 B.R. 769
-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
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
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)
successive representation
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
Debt relief agencies
includes attorneys, as they provide assistance under BAPCAPA
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
prohibited from advising a debtor to incur more debt because the debtor is filing for bankruptcy, rather than for a valid purpose. However, attorneys may talk fully and candidly about the incurrence of debt in contemplation of filing a bankruptcy case. The inhibition of frank discussion serves no conceivable purpose within the statutory scheme
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
Disciplinary action
abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 BankrCt.Dec. 140]
attorney's bankruptcy not a bar to an order to pay restitution
Brookman v. State Bar (1988) 46 Cal.3d 1004
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
bankruptcy court has authority to impose its own sanctions and to refer the matter to the State Bar
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
bankruptcy court has inherent power to suspend or disbar an attorney for misconduct
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
payment of costs to State Bar under 2003 amendments to Business & Professions Code § 6086.10 are not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
-intent of imposing attorney disciplinary costs was to promote rehabilitation and to protect the public and is not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
payment of costs to State Bar under Business & Professions Code § 6086.10 are dischargeable while payment of monetary sanctions under § 6086.13 are not
In re Taggart (2001) 249 F.3d 987

proceeding by Arizona Bar to discipline an Arizona attorney is exempted from bankruptcy automatic stay provisions
In re Wade (9th Cir. 1991) 948 F.2d 1122
Legal malpractice claims cannot be assigned by trustee of bankruptcy estate
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]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705
Majority shareholder's attorney may represent debtor
In re Sidco (1993) 162 B.R. 299
Receiver entitled to attorney-client privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
Represent
bankrupt/creditor
LA 51 (1927)
Sanctions
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
Hedges v. Resolution Trust Corp. (9th Cir. 1994) 32 F.3d 1360
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
In re Hansen (9th Cir. BAP 2007) 368 B.R. 868
In re DeVille (9th Cir. BAP 2002) 280 B.R. 483
against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
bankruptcy court has inherent power to impose district-wide suspension of attorney
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
bankruptcy court's inherent power allows it to sanction "bad faith" or "willful misconduct" by attorneys
In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
consideration of ABA standards to categorize misconduct and to identify the appropriate sanction
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
for fraudulent transfers and misrepresentations by attorney debtor
In re Hansen (9th Cir. BAP 2007) 368 B.R. 868
for frivolous objection to creditor's claim
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
trustee lacked standing to appeal order awarding discovery sanctions against counsel
In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372
Trustee
attorney as bankruptcy trustee must file detailed proof of time spent in each role to receive fee award
In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601
attorney serving as trustee was removed due to an indirect relationship with the debtor that violated the requirement that a trustee be
In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139
fees for trustee's attorney may be denied if attorney lacks disinterestedness or represents interests adverse to the interest of the estate
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
standing to sue corporate attorneys of "sham" corporation for malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

BAR ASSOCIATION [See Lay intermediaries.]
Ethics committee
answers legal questions in newspaper
LA 191 (1952)
arbitration committee, duty to submit fee dispute to in Los Angeles
LA 309 (1969)
legal advice
-answer questions about pending litigation
LA(I) 1966-9
-answer questions of law
LA(I) 1970-1, LA(I) 1969-7, LA(I) 1969-4
BAR EXAMINERS [See Admission to the bar.]
BARRATRY
Penal Code § 158
BARTER
Legal services for other goods
CAL 1981-60, CAL 1977-44
LA(I) 1965-18
BOND [See Conflict of interest, bond.]
Attorney acting as guarantor
CAL 1981-55
Fidelity
post for client
SF 1973-16
Guarantor of
clients' cost bond
-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
Statutory bond
prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
BONUS [See Division of fees. Fees, Bonus. Division of Fees, With Non-lawyers, bonus.]
BROADCASTING [See Advertising. Solicitation of business. Trial publicity.]
BUSINESS ACTIVITY [See Advertising. Broadcasting. Conflict of interest, business or financial transaction. Educational activity. Practice of law. Publication. Solicitation of business. Specialization. Unauthorized practice of law.]
Accountant
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
LA 351 (1976), LA 225 (1955), LA(I) 1965-4
employment of
SD 1974-17
partnership with
LA(I) 1959-5, SD 1974-17
share office with
LA(I) 1968-1
shows both professions on card or letterhead
LA 224 (1955)
-on sign
LA 225
Adjusting
LA 216 (1953)
Adviser to radio and television scripts
LA(I) 1947-5
Agent, attorney acting as
for actors, theatrical agency
LA 84 (1935)

for corporation
CAL 1968-13
-to solicit athletic contracts
CAL 1968-13
Aviation consultants
law firm associates with
CAL 1969-18
Brokerage
LA(I) 1962-4
Business and Professions Code
§ 6068
LA 396 (1982)
§ 6068(e)
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
CAL 1994-135
LA 403 (1982), LA 400 (1982), LA 389 (1981)
SD 2008-1
Business operated by lawyer
discontinues active practice of law
-competition with former client
LA 98 (1936)
not engaged in active practice of law
-handling local matters gratuitously
LA 98 (1936)
Client's business
promotion of
-by attorney
LA 91 (1936)
Client's participation or work in
LA 176 (1950)
Collection agency
attorney operation of
Business and Professions Code section 6077.5
Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
-undertake collections for other attorneys
LA 124 (1939)
-when acts as counsel under fictitious name
LA 124 (1939)
-while operates law office
LA 124 (1939)
by attorney's spouse
LA 120 (1938)
Collections
LA(I) 1971-12, LA(I) 1967-7, LA(I) 1965-6, LA(I) 1965-3, LA(I) 1952-1
by inactive lawyer
LA 105 (1936)
Competition with former client
LA 98 (1936)
in non-legal business
-where lawyer ceased to engage in active law practice
LA 98 (1936)
Conform to professional standards of attorney
in whatever capacity
Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
Jacobs v. State Bar (1933) 219 Cal. 59 [25 P.2d 401]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
CAL 1968-13
Corporation
agent for
-to solicit athletic contracts
CAL 1968-13
Donation of legal services [See Auction.]
Dual occupation
CAL 1982-69, CAL 1968-13
LA 477 (1994), LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975)
SD 1992-1, SD 1969-2
Collection agency and law practice
Business and Professions Code section 6077.5
Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
LA 124 (1939)
Escrow business
LA 205 (1953)
Exchange for professional services of others
lawyer participates in
CAL 1981-60, CAL 1977-44
LA(I) 1965-18
Insurance
LA 285 (1964), LA 227 (1955), LA 215 (1953), LA 142 (1943)
SD 1974-18
Investment counsel
LA(I) 1963-2
Legal document
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 forms sold
LA(I) 1976-11
Legal research and writing
LA 327 (1972)
Legal research service
operated by attorneys
-advertising of
LA 301 (1967)
-constitutes practice of law
LA 301 (1967)
-incorporation
LA 301 (1967)
Lending operations
LA(I) 1931-4
Malpractice litigation service by lawyer and physician's
LA 335 (1973)
Medicine
LA 331 (1973)
Notary public
LA 214 (1953), LA 206 (1953)
Partnership
interests sold
LA 199 (1952)
partners of a dissolved partnership have a fiduciary duty 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]
with non-lawyer
-defined
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
-prohibited if any of partnership activities constitute practice of law
Rule 1-310, Rules of Professional Conduct
Promotion
by attorney
-of client's business
--posting bail bonds
LA 91 (1936)
Publishing [See Conflict of interest, literary rights. Publication.]
Real estate [See This heading, dual occupation.]
CAL 1982-69
LA 413 (1983), LA 384 (1980), LA 340 (1973) LA 282 (1963)
SD 1992-1, SD 1969-2
SF 1973-23

agent, attorney acting as
CAL 1982-69
LA 140 (1942)
board
-affiliate of attorney becoming
CAL 1968-15
broker, attorney acting as
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
CAL 1982-69, LA 140 (1942)
business
-attorney operating
LA 140 (1942)
--accepting legal business referred by
LA 140 (1942)
partnership wth non-attorney broker
SF 1973-23
recommend own attorney to client
LA(I) 1976-9, LA(I) 1971-16
represent customers of own
LA 205 (1953), LA(I) 1975-2, LA(I) 1976-9
Referring clients to doctor for medical services for compensation prohibited
LA 443 (1988)
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LA(I) 1976-5
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LA 214 (1953)
Tax opinion letter about tax shelter prospective
SD 1984-1
Tax work
LA 236 (1956)
SD 1975-2

BUSINESS AND PROFESSIONS CODE [The entire text of the State Bar Act (Business and Professions Code sections 6000, et seq.) is reprinted at Part I A of this Compendium.]

§ 6000, et seq.
CAL 1979-48
§ 6002.1
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Clinton (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63
purpose of address requirement
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
§ 6007(b)(3)
Walker v. State Bar (1989) 49 Cal.3d 1107, 1119
Newton v. State Bar (1983) 33 Cal.3d 480, 483-484
Ballard v. State Bar (1983) 35 Cal.a3d 274, 289
*In the Matter of Wolfgram (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 355
§ 6007(c)
Conway v. State Bar (1989) 47 Cal.3d 1107
In the Matter of Phillips (Review Dept.1999) 4 Cal State Bar Ct. Rptr. 47
In the Matter of Smith (Review Dept.1995) 3 Cal. State Bar Ct. Rptr. 261
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
In the Matter of Rose (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 192
In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658
§ 6007(c)(4)
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In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
§ 6007(d)
In the Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523
In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
§ 6007(e)
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
§ 6013
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
§ 6015
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
§ 6018
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
§ 6043.5
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
§ 6049
In the Matter of of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
§ 6049.1
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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§ 6050
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§ 6051.1
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
§ 6060
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§ 6060(b)
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§ 6062(b)
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
§ 6064
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
§ 6067 [See Oath of attorney.]
CAL 2003-162, CAL 1983-72, CAL 1979-51, LA 497 (1999)
§ 6068
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
Bates v. State Bar (1990) 51 Cal.3d 1056
CAL 1983-74, CAL 1983-72
LA 394 (1982)
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subdivision (a)
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
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In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
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In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
CAL 2009-176, CAL 2007-173, CAL 2003-162
LA 502 (1999)
-attorney/real estate licensee who shares a commission with an unlicensed person may risk forfeiture of fees under Bus. & Prof. Code § 10137
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
-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

subdivision (b)
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
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In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
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In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
In the Matter of Jeffers (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 211
In the Matter of Varakin (Review Dept. 1994) 3 Cal.State Bar Ct. Rptr. 179
CAL 2009-176, LA 502 (1999)
-attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
-attorney sanctioned for disregarding court's ruling at sidebar
Scott Moody, Inc. v. Staar Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
-no discipline for factual statements unless the State Bar proves that such statements are false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
-no discipline for rhetorical hyperbole incapable of being proven true or false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775

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Canatella v. California (9th Cir. 2002) 304 F.3d 843
Sorensen v. State Bar (1991) 52 Cal.3d 1036
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
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CAL 2009-176, CAL 2003-162, LA 502 (1999)

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Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
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In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
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In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
CAL 2008-175, CAL 1989-111, CAL 1972-30
LA 522 (2009), LA 502 (1999) LA 497 (1999), LA 464 (1991)
SD 2011-2, SD 2011-1
OC 95-001
-making repeated misrepresentations of both law and facts of the case and contentions that no reasonable attorney would have raised
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]p

subdivision (e) [See Confidences of client.]
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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OC 2003-01, OC 95-001, OC 95-002
SD 2011-1, SD 2008-1, SD 2006-1, SD 2004-1, SD 1996-1, SD 1990-1
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subdivision (f)
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Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
Lebbos v. State Bar (1991) 53 Cal.3d 37
Van Sloten v. State Bar (1989) 48 Cal.3d 921, 925
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Ainsworth v. State Bar (1988) 46 Cal.3d 1218, 1227
Dixon v. State Bar (1982) 32 Cal.3d 728, 735
Ramirez v. State Bar (1980) 28 Cal.3d 402,404,406
Snyder v. State Bar (1976) 18 Cal.3d 286, 292
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
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In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
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In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
-applies to advancement of prejudicial facts, but perhaps not prejudicial intimations
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
-unconstitutional vagueness of "offensive personality"
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Sorensen v. State Bar (1991) 52 Cal.3d 1036 [804 P.2d 44]
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179

subdivision (h)
Waltz v. Zumwalt (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]
CAL 2009-176, CAL 1981-64, CAL 1970-23

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Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
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Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
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SD 2007-1, SD 2004-1
-does not address issue of whether an attorney communicates correct or incorrect legal advice
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
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Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
Hill v. MacMillan/McGraw Hill School Company (9th Cir. 1996) 102 F.3d 422
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
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In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
CAL 1997-151
-improper to charge a violation where there is sufficient evidence of attorney's knowledge of final, binding sanctions order
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
-reporting sanctions by the court
--court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
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In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
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In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
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debtors
-by final notice before suit
LA 19 (1922)
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CAL 1997-150, CAL 1986-90, CAL 1971-27
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-partnership name when no partnership exists
CAL 1971-27
Misstatements
affirmative
-prohibited in any context
In re Kristovich (1976) 18 Cal.3d 468 [134 Cal.Rptr. 409, 556 P.2d 771]
To judge
attempt to deceive immigration judge
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
deceive about identity of client
Rule 7-105(2), Rules of Professional Conduct (operative until May 26, 1989)
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LA(I) 1965-11
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Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476
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Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]
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Grove v. State Bar (1965) 63 Cal.2d 312 [46 Cal.Rptr. 513]
failure of law firm to disclose corporate client's suspended status is sanctionable
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
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In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
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LA 502 (1999)
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Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476
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CAL 1972-30
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CAL 1967-11
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Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
disclosure of death of client
-during settlement negotiation
LA 300 (1967)
failure of law firm to disclose corporate client's suspended status is sanctionable
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
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-disclosure of death of client
LA 300 (1967)
To opposing party
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LA 380 (1979)
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LA 387 (1981)
Volunteer facts
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Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]
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CERTIFICATION
Of law corporations [See Law Corporations.]
Of law students [See Practical training of law students.]
Of legal specialists [See Legal Specialization.]
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CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Debt
where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129
Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]
Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim
LA 500 (1999)
CHILD CUSTODY
Disclosure to court of conflict between client and child
suggest appointment of separate counsel to court
CAL 1976-37
Post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
Referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process
In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]
Representation of a minor child in a dependency proceeding
LA 504 (2000)

actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]

CHILD SUPPORT
Attorney's fees not classified as gross income in calculating child support obligations
M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]
Communicate with other party about
LA(I) 1958-3, SD 1972-5
Contingent fee for collecting
LA 275 (1963), LA 263 (1959), LA(I) 1969-1
Counsel for one party in divorce who holds trust fund executes against other's share for child support
LA(I) 1971-15
Failure of attorney to pay
Business and Professions Code section 6143.5
Overdue
CAL 1983-72
Priority of child support obligations ordered by family court over fees deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
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
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
--where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129
Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]
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]
Abuse of discretion by trial court
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Advertising
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
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
attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
awarded pursuant to Civil Code section 1717
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
basis of award to an unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
denied
-shareholder's class action against corporation did not confer sufficient benefits under the substantial benefit doctrine to warrant an award of attorney's fees
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
dispute among class counsel
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
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
interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
lodestar multiplier method
-adjustment based on benefit conferred on class by class counsel
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
Wininger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
-court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-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]

-when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr. 3d 358]
no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
settlement shall not include attorney fees as portion of common fund established for benefit of class
Staton v. Boeing Co. (9th Cir (Washington) 2003) 327 F.3d 938
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
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
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
-class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084
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) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
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LA(I) 1966-7, LA(I) 1974-2
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Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
-scope of commerical speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
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Conflict of interest
Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
class representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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
conflict of interest when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
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
disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
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]
incentive agreement between class representatives and class counsel
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948
no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
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]
Counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
Counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
Counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
Disclosure of putative class members' identity
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
Duty to communicate with members of class to correct erroneous impression
LA(I) 1966-13
Duty to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
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

Right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
Settlement
court must have sufficient information to make an informed evaluation on fairness
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Standard of care to class
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Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
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
Standing to pursue an award of fees
attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
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

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Conflict of interest
Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interest
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Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
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
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Former licensed attorney is ordered by court to pay restitution after conviction of embezzlement by an employee and is not entitled to an offset for payment to victim from CSF
People v. Hume (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
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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
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Friedman v. State Bar (1990) 50 Cal.3d 235
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Monroe v. State Bar (1961) 55 Cal.2d 145, 147-149 [10 Cal.Rptr. 257, 358 P.2d 529]
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-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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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-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]

-client demand for an account is not required for finding a violation of rule 4-100(B)(3)
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
-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
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-restitution as appropriate sanction for failure to report receipt of settlement check
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-sanctions
--disbarment
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Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
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--public reprimand
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Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
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-services not performed for monies advanced
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-timeliness of account when attorney's office is struck by a fire
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-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]
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Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
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Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
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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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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)
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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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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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 so 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
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
OC 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 1009
Porter v. State Bar (1990) 52 Cal.3d 518
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
CAL 2005-169
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
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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 Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
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
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
--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 1009
--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]
failure to withdraw earned fees, after they become fixed, within reasonable time
CAL 2005-169
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]
CAL 2005-169

-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 [2 Cal.Rptr. 461]
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
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
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976
Alberton v. State Bar (1984) 37 Cal.3d 1, 13

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 (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
Duty
consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive without delay
CAL 2009-177
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]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
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 Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
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 Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar. Ct. Rptr. 153
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
CAL 2009-177, 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]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
Failure to place client funds in
McKnight v. State Bar (1991) 53 Cal.3d 1025
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
Waysman v. State Bar (1986) 41 Cal.3d 452
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]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
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)
Cannon v. State Bar (1990) 51 Cal.3d 1103
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Matthew v. State Bar (1989) 49 Cal.3d 784
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]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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 Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
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
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Kennon (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 287
LA 484 (1995)
Failure to return unused advanced costs
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
Fiduciary obligation to directors of client corporation
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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
In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
In the Matter of Respondent F (Review Dept.1992) 2 Cal. State Bar Ct. Rptr. 17
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CAL 2009-177
Fixed rate for legal fees
SF 1980-1
Flat rate for legal fees
SF 1980-1
Funds having trust account status
CAL 2006-171
Funds properly withdrawn from a client trust account under rule 4-100(A)(2) and later disputed by the client neither retain nor regain their trust account status and do not need to be re-deposited into the trust account
CAL 2006-171
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
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
-no regulatory taking, no net loss to clients
Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406
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
Issuing settlement checks to clients, before settlement proceeds received from defendant or defendant's insurance company
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Levy on
Finance Code section 17410
Lay employee on
Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
CAL 1988-97
LA 488 (1996), LA 454 (1988)
bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
use of rubber stamp of attorney's signature
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
Maintain at an adequate level
Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
Maintained outside of California
LA 454
Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
Misappropriation
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Lipson v. State Bar (1991) 53 Cal.3d 1010
Brockway v. State Bar (1991) 53 Cal.3d 51
Grim v. State Bar (1991) 53 Cal.3d 21
Harford v. State Bar (1990) 52 Cal.3d 93
Edwards v. State Bar (1990) 52 Cal.3d 28
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Snyder v. State Bar (1990) 49 Cal.3d 1302
Walker v. State Bar (1989) 49 Cal.3d 1107
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]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Athearn v. State Bar (1979) 22 Cal.3d 232, 234-235 [142 Cal.Rptr. 171, 571 P.2d 628]
Allen v. State Bar (1977) 20 Cal.3d 172, 175-178 [141 Cal.Rptr. 808, 570 P.2d 1226]
Jackson v. State Bar (1975) 15 Cal.3d 372, 375-381 [124 Cal.Rptr. 185, 540 P.2d 25]
Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]
Sevin v. State Bar (1973) 8 Cal.3d 641, 643-646 [105 Cal.Rptr. 513, 504 P.2d 449]
Blackmon v. Hale (1970) 3 Cal.3d 348
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In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
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In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
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In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
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In the Matter of Elliott (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 541
In the Matter of Spaith (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
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In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
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]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
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]
bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
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
CAL 2005-169
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
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
-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]
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
-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]
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
LA 484 (1995)
-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
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
CAL 2009-177
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
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
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 Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
-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]
-bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
-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 Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
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]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
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 Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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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]
Tardiff v. State Bar (1971) 3 Cal.3d 903, 908 [92 Cal.Rptr. 301, 479 P.2d 661]
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]
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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]
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Edmondson v. State Bar (1981) 29 Cal.3d 339, 343-344 [172 Cal.Rptr. 899, 625 P.2d 812]
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Athearn v. State Bar (1977) 20 Cal.3d 232, 237 [142 Cal.Rptr. 171, 571 P.2d 628]
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Greenbaum v. State Bar (1976) 15 Cal.3d 893, 904-906 [126 Cal.Rptr. 785, 544 P.2d 921]
Schultz v. State Bar (1975) 15 Cal.3d 799, 803-805 [126 Cal.Rptr. 232, 543 P.2d 600]
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Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
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Black v. State Bar (1972) 7 Cal.3d 676, 694 [103 Cal.Rptr. 288, 499 P.2d 968]
Bernstein v. State Bar (1972) 6 Cal.3d 909, 918-919 [101 Cal.Rptr. 369, 495 P.2d 1289]
Benson v. State Bar (1971) 5 Cal.3d 382, 388 [96 Cal.Rptr. 30, 486 P.2d 1230]
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Demain v. State Bar (1970) 3 Cal.3d 381, 387-388 [90 Cal.Rptr. 420, 475 P.2d 652]

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Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
Simmons v. State Bar (1969) 70 Cal.2d 361, 366-368 [74 Cal.Rptr. 915, 450 P.2d 291]
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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]
Hatch v. State Bar (1961) 55 Cal.2d 127, 138 [9 Cal.Rptr. 808, 357 P.2d 1064]
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]
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Anderson v. State Bar (1941) 17 Cal.2d 375, 377-378 [110 P.2d 1]
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
-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]
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
In the Matter of Robins (Review Dept.1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Dyson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280
-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]
LA 454
-estate funds are loaned out to other clients
Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
-funds retained to pay medical liens
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
-succeeding attorney's duty to prior attorney
CAL 2008-175
-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
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
-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
Sternlieb v. State Bar (1990) 52 Cal.3d 317
Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
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
Bates v. State Bar (1990) 51 Cal.3d 1056

Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
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
Warner v. State Bar (1983) 34 Cal.3d 36, 43 [192 Cal.Rptr. 244, 664 P.2d 148]
violation for extended period
Cain v. State Bar (1979) 25 Cal.3d 956, 962 [160 Cal.Rptr. 362, 603 P.2d 464]
willful failure to disburse client funds
Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
LA 484 (1995)
withdrawal of entrusted funds for personal use
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
Mishandling of client funds
Lawhorn v. State Bar (1987) 43 Cal.3d 1357
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
Non-refundable retainer
defined
Rule 3-700 (D)(2), Rules of Professional Conduct
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 at fn.4 [154 Cal.Rptr.752]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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
Notice to client of fees collected on client's behalf
Browne v. State Bar (1955) 45 Cal.2d 165, 169 [287 P.2d 745]
Alkow v. State Bar (1952) 38 Cal.2d 257, 259, 261
Rohe v. State Bar (1941) 17 Cal.2d 445, 446-450
LA 407 (1982)
Overdraft protection
CAL 2005-169
Partner
liability of
-for misappropriation
Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560 [83 Cal.Rptr. 194, 463 P.2d 418]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
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
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
CAL 2005-169
Retainer
SF 1980-1, SF 1973-14
Rule of Professional Conduct
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
Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
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]
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
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]
child support obligations have priority over fees on funds from liquidated assets deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
no duty to lender, where client owed no funds to the lender
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
Unclaimed client funds
Code of Civil Procedure section 1518
client cannot be located
CAL 1989-111, CAL 1975-36
LA 441 (1987)
Use of, and ownership of interest accrued
property of the clients and customers whose money is deposited into trust
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
Withdrawal of client funds to pay disputed fee
LA 438 (1985)
Withdrawal of unrelated funds
Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302]
Withholding funds of client
Inniss v. State Bar (1978) 20 Cal.3d 552, 555-556 [143 Cal.Rptr. 408, 573 P.2d 852]
McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1]
sanctions
-suspension
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
Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
LA 496 (1998)

CODE OF JUDICIAL CONDUCT, CALIFORNIA [The full text of the California Code of Judicial Conduct is reprinted in part IV B of this Compendium.]
CODE OF PROFESSIONAL RESPONSIBILITY [See American Bar Association Model Code of Professional Responsibility.]
COLLECTIONS [See Division of fees. Fees. Judgment.]
Business and Professions Code section 6077.5
Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
Advising creditors
of legal action
-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
Civil Code sections 1788.10 et seq.
attorney as
Business & Professions Code section 6077.5
Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
Confidences divulged in collection action
LA 452 (1988)
Default
against client without consulting
LA 174 (1950)
notification to opposing counsel
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)
Fair Debt Collections Practice Act (FDCPA), authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
Federal judgment
use of state procedure
In re Levander (9th Cir. 1999) 180 F.3d 1114
Fee
CAL 1982-68
client keeps
LA(I) 1955-1
contingent
LA 275 (1963), LA 263 (1959)
(1931) 7 LABB 13
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)
Judgment
notice of attorney's request for postjudgment attorney fees must be given to former client
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
Lending name of attorney to non-lawyer
LA 522 (2009)
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)
Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)
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)
Upjohn v. U.S. (1981) 449 U.S. 383, 393
Sturr v. State Bar (1959) 52 Cal.2d 125, 132-133 [338 P.2d 897)

Ex parte McDonough (1915) 170 Cal. 230 [149 P. 566]
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]
McMunn v. Lehrke (1915) 29 Cal.App.298 [155 P. 473]
CAL 1965-3
LA 411 (1983)
SD 2005-1
About suit in "regular" court if small claims suit is not dropped
SD 1978-6
Advise on law
LA 350 (1975)
Advised
of possible malpractice by counsel of
LA 326 (1972)
After final decision on appeal
Carpenter v. State Bar (1930) 210 Cal. 520, 523 [292 P. 450]
After judgment
SD 1976-14
Agent of attorney, physician
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]
Amicable solution suggested to
LA 334 (1973)
Attorney-client privilege [See Confidences of the client, privilege]
Attorney of record
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
State Compensation Insurance Fund v. WPS, Inc. (entitled to the privilege of that fact1999) 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 2005-1, 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]
Child custody and support
LA(I) 1958-3
SD 1972-5
City council member
CAL 1977-43
Civil liability
Wilhelm v. Pray, Price, Williams & Russell (1986) 186 Cal.App.3d 1324, 1333 fn. 5
Class action
court order prohibiting attorney for a named plaintiff in a class action from communicating with non-client class members regarding proposed class settlement was not an abuse of discretion
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
potential members
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
-conditional class certification triggers "no contact rule"
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
settlement notice to class action members
-counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
Client negotiating directly with opposing party
CAL 1993-131, LA 375 (1978), SD 2005-1, SF(I) 1985-1
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
Rule 5-105, Rules of Professional Conduct
Communication with opposing counsel through the unwitting acceptance of an ex parte "friend" request, on a social media website
SD 2011-2
Confidences learned cannot be unlearned
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]
Consent
Implied
CAL 2011-181
Consent of employer required
LA 389 (1981)
SD 2011-2
Consultant
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]
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
SD 2005-1

at client's direction
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
settlement effected without consent
Turner v. State Bar (1950) 36 Cal.2d 155
Contact former expert witness of adverse party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
Copy of letter to adverse party sent to counsel of
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
Corporation (homeowner's association) where attorney is member of association and represents plaintiffs against association
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Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nevada) 2003) 338 F.3d 981
public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
statements of sales manager and production director could not be imputed to employer and thus neither employee was deemed to be a represented party under rule 2-100
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Employer in worker's compensation case
when employer is dismissed from the worker's compensation case by operation of law, whatever duties attorneys for employer's carrier owed to employer ended at that point in time, including the duty to communicate a settlement offer
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Exclusion of information acquired by violation of rule 2-100 (former rule 7-103)
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Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
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Bobele v. Superior Court (1988) 199 Cal.App. 708 [245 Cal.Rptr. 144]
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LA 339 (1973)
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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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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
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Military commanding officer
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)
Not a basis for imposition of civil liability in damages
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
Kain v. Municipal Court (1982) 130 Cal.App.3d 499, 503-505 [181 Cal.Rptr. 751]
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Not represented by counsel
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LA 508 (2002), LA 334 (1973)
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CAL 1996-145, LA 334 (1973)
in propria persona party is attorney of record but has advisory counsel
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instigating a conversation under false pretense
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Party defined
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CAL 1996-145, LA 490 (1997)
after appeal
Carpenter v. State Bar (1930) 210 Cal. 520 [292 P. 450]
CAL 1979-49, SD 1972-5, SD 1968-2
attorney who is party may communicate on own behalf with adverse party who is represented by counsel
CAL 2009-178
exception
-public official
CAL 1977-43, SD 1978-3
insurer, even though not named a party
LA 442 (1988)
sales manager and production director not managing agents, thus they were not represented parties and opposing counsel was not prohibited from interviewing them
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Party/attorney communicating on own behalf with a represented party
CAL 1989-110
Physician of party
LA 490 (1997), SD 1983-9
attorney-client privilege extends to
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]
communication with opposing party's medical 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]
ex parte communications between defendants and plaintiff's treating physician should be limited to the statutorily mandated manner
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CAL 1975-33, SD 1983-9
Physician practicing in hospital when hospital is opposing party
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Plaintiff's physician
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public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
Purpose of the rule
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CAL 2011-181, CAL 1996-145, CAL 1993-131, LA 490, LA 472, LA 442
justifies an exception to prevent subornation of perjury
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rule is not intended to prevent parties themselves from communicating about the subject matter of the representation
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Relating to matters previously litigated
LA 411 (1983)
Reliance on party's opinion that he has an attorney
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Represented by counsel
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communications with former wife of the adversary do not provide a basis for disqualification
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may not be improper when attorney had no actual knowledge of the representation
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-attorney-client privileged not violated where employee informed opposing counsel that her declaration was rewritten under employer's instructions
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-court chooses not to speak on ethical issues
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-exclusion of information obtained
United States v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
-may not be improper when opposing party is counsel of record in propria persona but has advisory counsel
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
-permitted when a party is seeking to hire new counsel or obtain a second opinion
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-permitted when not representing a party in the matter for the sole purpose of advising person of the competence of representation
LA 487 (1996)
-plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney
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-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
--permitted to prevent subornation of perjury
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-standing to assert ethical violation
United States v. Partin (9th Cir. 1979) 601 F.2d 1000, 1005
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-court could not impose monetary sanctions
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
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Second attorney representing client against first attorney's motion to be removed as client's attorney of record
LA 416 (1983)
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Social media website "friend" request to current employees of adverse party
SD 2011-2
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Third parties of debtor
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With the media
absolute immunity does not protect prosecutors for comments made to the media
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COMMUNICATION WITH A REPRESENTED PARTY

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not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation that should have been pursued in discovery
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COMPETENCE [See Abandonment. Attorney-client relationship. Ineffective assistance of counsel. Neglect. Professional liability. Prosecutorial misconduct. Trial conduct.]

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King v. State Bar (1990) 52 Cal.3d 307
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441]
Lewis v. State Bar (1981) 28 Cal.3d 683, 688 [170 Cal.Rptr. 634, 621 P.2d 258]
Olquin v. State Bar (1980) 28 Cal.3d 195, 198
Inniss v. State Bar (1978) 20 Cal.3d 552, 557 [143 Cal.Rptr. 408, 573 P.2d 852]
Ridley v. State Bar (1972) 6 Cal.3d 551, 560 [99 Cal.Rptr. 873, 493 P.2d 105]
Simmons v. State Bar (1970) 2 Cal.3d 719, 729 [87 Cal.Rptr. 368, 470 P.2d 352]

Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]
Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr 831
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
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
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 Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
Enriquez v. Smyth (1985) 173 Cal.App.3d 691, 696-698 [219 Cal.Rptr. 267]
CAL 2010-179
Accepting legal employment without sufficient time, resources or ability to perform the services with competence
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
SD 2007-1
Acquiring sufficient learning of governing laws is needed when a newly licensed attorney begins practice in a particular field of law
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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]
Advocating civil disobedience
CAL 2003-162
Alcohol abuse
incapacity to attend to law practice
-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
Lawyers Personal Assistance Program of the State Bar of California
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
Attorney is responsible for supervising work delegated to paraprofessionals
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
Attorney prepares will and receives a substantial gift
LA 462
Bonus program for public agency attorneys tied to savings by agency
SD 1997-2
Burden of proof in malpractice action
attorney charged with spoilation of evidence must prove that the attorney's negligence did not result in the loss of a meritorious case
Galanek v. Wismar (1998) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
Cessation of law practice leaving unfinished client matter
death
Business and Professions Code section 6180
disbarment
Business and Professions Code section 6180
inactive status
Business and Professions Code section 6180
jurisdiction of the courts
Business and Professions Code sections 6180-6180.14
resignation
Business and Professions Code section 6180
suspension
Business and Professions Code section 6180
Class action
arm's length negotiation
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Client's instructions intentionally ignored
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
+In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
Communication with clients
Lister v. State Bar (1990) 51 Cal.3d 1117
Hartford v. State Bar (1990) 50 Cal.3d 1139
Layton v. State Bar (1990) 50 Cal.3d 889
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
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 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 Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
CAL 2010-179, CAL 2003-163, LA 497 (1999)
ability to communicate with non-English speaking clients
Iturribarria v. I.N.S. (9th Cir. 2003) 321 F.3d 889
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
CAL 1984-77

counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
inattention to the needs of a client and a failure to communicate are proper grounds for discipline
Spindell v. State Bar (1975) 13 Cal.3d 253, 260
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
instructions during deposition not to answer sanctionable
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
representation of a minor
LA 504 (2000)
successor attorney's duty to advise client of ramifications of failure to notify prior attorney of existence of settlement
CAL 2008-175
use of outside lawyers or outsourcing legal services
CAL 2004-165, CAL 1994-138
LA 518 (2006)
SD 2007-1
Criminal matter
abandonment of client
In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
failure to file timely Appellate Opening Brief (AOB)
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
malpractice
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
requesting continuance, over client's objection, to competently prepare case did not violate client's right to speedy trial
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
right to discharge retained counsel does not require showing of incompetence
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
three strikes
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
SD 1995-1
Declaration of fault by foreign attorney entitled client to relief under CCP § 473
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
Declaration of fault by in-house counsel entitled client to vacation of default judgment under CCP § 473
Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]
Defense counsel
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
People v. Saldana (1984) 157 Cal.App.3d 443, 461-462
bizarre closing argument prejudicial to criminal defendant and co-defendant
People v. Diggs (1986) 177 Cal.App.3d 958
Delay in handling of client's matter amounts to reckless incompetence
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
Dishonesty
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
Duties
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120 [202 Cal.Rptr. 349]
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]
Duty to advise client of reasonably apparent legal problems outside the scope of representation
LA 502 (1999)
Duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation
LA 497 (1999)
Excessive caseload and limited resources
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
Failure to adequately represent client's interest in land sale
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Failure to adequately supervise
CAL 2010-179
LA 522 (2009)
adequate office procedures and staff training
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
attorney employed non-attorney to supervise other non-attorneys in preparing habeas corpus petitions
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
-pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
non-attorney employees
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
-paralegal submitted incorrect address for attorney to the Bar
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
-responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
outside lawyers or providers of oursourced legal services
CAL 2004-165
LA 518 (2006)
SD 2007-1
public defender's supervision of separate alternate public defender office
CAL 2002-158
specially appearing attorney
CAL 2004-165
violation of attorney's oath
Business and Professions Code section 6067
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
CAL 1997-150
Failure to advise client on immigration matter
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
Failure to advise client of other claims
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Nichols v. Keller (1993) 15 Cal.App.4th 1672 [19 Cal.Rptr.2d 601]
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
SD 2005-1
claims of prior attorney in matter
CAL 2008-175
class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
failure to advise client of collateral penalty (deportation) is not ineffective assistance of counsel
U.S. v. Fry (9th Cir. (Nevada) 2003) 322 F.3d 1198
Failure to advise/misadvise about the immigration consequences of guilty plea
Padilla v. Kentucky (2010) __ U.S. __ [130 S.Ct. 1473]
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
Failure to argue for reversal of judgment
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
Failure to appear at hearing to mitigate prejudice caused by attorney
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to cite case law or authorities in opposition brief
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to communicate with client before penalty phase of trial
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Failure to communicate status of case to client
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to conduct discovery
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to consult experts
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
Failure to cooperate with discovery
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to deliver trust amendment to trustee before death of settlor
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Failure to file opposition to summary judgment motion
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to file timely notice of appeal
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
Failure to interview and call witnesses
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
Failure to investigate California and non-California law applicable to client's case
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
Failure to investigate potential client fraud
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
Failure to overrule criminal defendant's decision to call witness not incompetent
People v. Galan (1989) 213 Cal.App.3d 864
Failure to provide competent legal services in bankruptcy matters
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
Failure to provide competent legal services in immigration matters
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Failure to provide competent legal services in patent matters
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
Failure to pursue breach of contract action on behalf of client
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Failure to respond to cross-complaint
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to return client's multiple telephone messages
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

Failure to serve answer repeatedly and in violation of court order
Community Dental Services v. Tani (2002) 282 F.3d 1164
Failure to supervise
permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
Failure to suppress evidence
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
Failure to take action to set aside default judgment
Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]
Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 369]
Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]
Failure to take steps to establish paternity
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
Failure to use reasonable skill and diligence
Sands v. State Bar (1989) 49 Cal.3d 919
Gold v. State Bar (1989) 49 Cal.3d 908
Baker v. State Bar (1989) 49 Cal.3d 804
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Franklin v. State Bar (1986) 41 Cal.3d 700
Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
Marcus v. State Bar (1980) 27 Cal.3d 199 [165 Cal.Rptr. 121, 611 P.2d 462]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Kinnamon v. Staitman & Synder (1977) 66 Cal.App.3d 893, 903 [136 Cal.Rptr. 321]
Lerette v. Dean Witter Organization, Inc. (1976) 60 Cal.App.3d 573, 577 [131 Cal.Rptr. 592]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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 Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
SD 2007-1
fee dispute does not relieve counsel of duty
LA 521 (2007)
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]
CAL 2004-165
will registry, attorney had duty to determine that registry protects interests of the client before registering client's identifying information
CAL 2007-173
Gross negligence
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
violation of attorney's oath
Business and Professions Code section 6067
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713, 494 P.2d 1257]
Demain v. State Bar (1970) 3 Cal.3d 381, 387 [90 Cal.Rptr. 420, 475 P.2d 652]
Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368, 470 P.2d 352]
Grove v. State Bar (1967) 66 Cal.2d 680 [58 Cal.Rptr. 564, 427 P.2d 164]
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
Stephens v. State Bar (1942) 19 Cal.2d 580
Waterman v. State Bar (1936) 8 Cal.2d 17, 19-20
Marsh v. State Bar (1930) 210 Cal. 303, 307
-default judgment may be set aside when attorney is grossly negligent which resulted in the judicial system losing credibility and appearance of fairness and an innocent party suffers drastic consequences
Community Dental Services v. Tani (2002) 282 F.3d 1164
Incapacity to attend to law practice
inactive enrollment
Business and Professions Code section 6007
-alcohol addiction
Business and Professions Code section 6007(b)
-conservator appointed on account of mental condition
Business and Professions Code section 6007(a)
-drugs, addiction
Business and Professions Code section 6007(b)
-guardian appointed on account of mental condition
Business and Professions Code section 6007(a)
-illness
Business and Professions Code section 6007(b)
-incompetent, mentally
Business and Professions Code section 6007(a)
-insane, following judicial determination of
Business and Professions Code section 6007(a)
-involuntary treatment required
Business and Professions Code section 6007(a)
-mental illness
Business and Professions Code section 6007(b)
unfinished client matters
-alcohol, excessive use of
Business and Professions Code section 6190
-drugs, excessive use of
Business and Professions Code section 6190
-infirmity
Business and Professions Code section 6190
-jurisdiction of the courts
Business and Professions Code sections 6190-6190.6
-mental illness
Business and Professions Code section 6190
-physical illness
Business and Professions Code section 6190
Incompetent representation of counsel
basis for reversal of judgment
-report by clerk to State Bar
Business and Professions Code section 6086.7
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]
Lack of zealous defense
a competent attorney would not have conceded the cause of death, where there were "tantalizing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
failure to investigate and introduce exculpatory evidence at trial
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
Lack of zealous representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
Lack time and resources to represent pro bono client
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 353-355
Licensed attorneys who are not active members of the State Bar of California
effect on underlying matter
People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
*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]
Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
federal courts may require membership in State Bar of California to ensure a uniform minimum level of competence for lawyers
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Limited preparation does not affect
LA 379 (1979)
Mere ignorance of law insufficient
Zitny v. State Bar (1966) 64 Cal.2d 787 [51 Cal.Rptr. 825, 415 P.2d 521]
Griffith v. State Bar (1953) 40 Cal.2d 470, 476
Friday v. State Bar (1943) 23 Cal.2d 501, 505-508
Miscalendaring of a five-year statute of limitation period
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
Negligent legal representation by itself does not prove misconduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
Negligent negotiation
goal of lawyer is to achieve a reasonable settlement
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
settlements are often protected judgment calls
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
Obligation to represent client competently not alleviated by a conflict of interest waiver
CAL 1989-115
Pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Public defender
can be sued under 42 U.S.C. 1983, not as "state actor" but as administrative head of office
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
supervision of separate alternate public defender office
CAL 2001-158
Reckless behavior by attorney
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
failure to respond to discovery requests, oppose dismissal motion, and refile case
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Repeated failure to provide competent legal services
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
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In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
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Church of Scientology v. United States (1992) 504 U.S. 940 [112 S.Ct. 2273]
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Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
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-in camera review of communications to determine privilege
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege and court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
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Mohawk Industries, Inc. v. Carpenter (2009) __ U.S. __ [130 S.Ct. 599]
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In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826
In re Grand Jury Investigation (9th Cir. 1992) 974 F.2d 1068
-distinguished from application of CA state law
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
law office property seized by law enforcement officers protected until trial court reviews all sealed documents
Geilim v. Superior Court (1991) 234 Cal.App.3d 166
subpoena duces tecum which is overbroad and reaches materials covered by the attorney-client privilege is invalid
In re Grand Jury Subpoena Issue to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
test validity of court order
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
trial court erred in finding that privilege was waived by disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
Criminal case reciprocal discovery under the Crime Victim's Justice Reform Act upheld despite alleged interference with attorney work product privilege
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San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
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-from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
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-as means of informing the court as to the basis of motion for withdrawal
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-employer could not be required to make in camera disclosure of opinion letter for ruling on claim of privilege
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-in camera review not a prerequisite to trial court's determination that the documents were privileged
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-conflict between client and interests of child
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Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
-excessive review of privileged documents, received improperly, resulted in disqualification
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
-no waiver of attorney-client privilege where defendant had previously produced privileged documents to federal government during regulatory and criminal investigations
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inference that attorney used confidential information, acquired during the representation, against the former client in attempting to defeat the same project that the attorney had represented the client in promoting, establishes minimal merit within the meaning of the anti-SLAPP statute (C.C.P. § 425.16)
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-defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examiniation
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-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
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-intentionally placed to eavesdrop on privileged attorney-client communications
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-law firm representing corporation has duty to disclose client's suspended status
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-attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
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where attorney believes innocent person wrongly convicted of felony
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-contents after incompetency of client
LA 229 (1955)
will depository, Probate Code sections 700 et seq provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent
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will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests
CAL 2007-173
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documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]
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]
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People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
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Dismissal of an action
on basis that attorney-party's due process right to present a claim or defense is compromised by inability to present confidential information
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Disqualification
abuse of discretion not found where separate attorney for directors of corporation gave permission for adverse counsel's communication with directors and no confidential information disclosed
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
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Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
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Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [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]
automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that they attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
because of possibility of breach
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
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La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
defense counsel disqualified when former co-defendant is called as the prosecution's key witness and counsel's ability to cross-examine former client is impaired
United States v. Henke (9th Cir. 2000) 222 F.3d 633
marital relationship does not create assumption that lawyers violate duty of confidentiality
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
no conflict of interest found where former member of public defender's office represented witness in current matter where defendant was represented by another member of public defender's office and where office received no confidential information of witness
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
not required when based on counsel's alleged familiarity with claims procedures from a prior representation of the moving party
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
not required where attorney who handled adverse party's prior matter has left firm and there is no evidence that confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
not required where defendants had common interests and shard information
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
not required where plaintiff's expert waived conflict where defense counsel had previously represented expert
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
presumption of shared confidences in a law firm
-rebuttable
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
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]
Distinguished from attorney-client privilege
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529, 536, fn. 5
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
OR 97-002
District attorney
deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
Dual professions, attorney engaged in
CAL 1999-154
Duty of loyalty to client may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OR-95-0001
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
Duty to divulge client fraud
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
LA 436 (1985)
Duty to former client
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998-999
Duty to protect client confidences and secrets
after death of client
Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal. Rptr. 3d 199]
LA 491 (1997), LA 414 (1983)
after termination of attorney-client relationship
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F. Supp. 1383
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
ex rel Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
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CAL 1993-133
LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980)
extends to preliminary consultations by a prospectiveclient with a view to retention of that lawyer although employment does not result
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
CAL 2003-161
extends to questions submitted by potential client via website
CAL 2005-168
-does not extend to private information received from a non-client via an unsolicited email
SD 2006-1
listserv postings should avoid including information regarding particular cases
LA 514 (2005)
not limited to proceedings at which testimony may be compelled by law
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
where the third party funds lawsuit in exchange for interest in proceeds
LA 500 (1999)
Duty to reveal the fruits of crime in his possession to the prosecution
CAL 1984-76
E-mail
CAL 2010-179, CAL 2007-174, SD 2006-1, OC 97-002
from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
Electronic file
metadata
CAL 2007-174
Employee who also works for other lawyers
Penal Code section 135
CAL 1979-50
educate employee about maintaining clients' confidences
CAL 1979-50
Evidence
state rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
Evidence of crime in lawyer's possession
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
People v. Pic'l (1982) 31 Cal.3d 731 [183 Cal.Rptr. 685]
People v. Meredith (1981) 29 Cal.3d 682, 695
People v. Superior Court (Fairbank) (1987) 192 Cal.App.3d 32, 39
People v. Lee (1970) 3 Cal.App.3d 514 [83 Cal.Rptr. 715]
CAL 1986-89, CAL 1984-76, LA 466
Exceptions to rule of confidentiality
McClure v. Thompson (9th Cir. (Oregon) 2003) 323 F.3d 1233
Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
American Mutual Liability Insurance Co. v. Superior Ct. (1974) 38 Cal.App.3d 579, 595-596 [113 Cal.Rptr. 561]
LA 519 (2006), LA 504 (2000), LA 498 (1999), LA 394 (1982)
SD 2008-1

Exceptions to the attorney-client privilege codified in the Evidence Code modify the duty of confidentiality under Bus. & Prof. Code § 6068(e)
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Expert
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
LA 513 (2005)
designation of a party as an expert trial witness is not in itself implied waiver of party's attorney-client privilege
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
disqualification may be required if the expert possesses confidential information material to the pending litigation
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
disqualification of counsel not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
disqualification of expert witness interviewed but not retained by opposing party is abuse of discretion
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
expert's opinion
CAL 1981-58
law firm's retention of expert previously rejected by opposing party justifies disqualification from further representation
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
need not be removed where plaintiff's expert was previously represented by defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Extends to information learned from third parties resulting from confidential communications with client
People v. Barr (1984) 159 Cal.App.3d 1129, 1159-1160
Fee agreement considered confidential communication
Business and Professions Code section 6149
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
LA 456
Fee arrangement not subject to attorney-client privilege, no revelation of confidential information
U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
Phaksuan v. United States (9th Cir. 1984) 722 F.2d 591, 594
U.S. v. Sherman (9th Cir. 1980) 627 F.2d 189, 191-192
Fiduciary relationship, existence of
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal Rptr.3d 256]
Lee v. State Bar (1970) 2 Cal.3d 927, 939 [88 Cal.Rptr. 361]
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-156 [49 Cal.Rptr. 97]
People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
CAL 1987-93, CAL 1984-83
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
Former client
accept employment adverse to
-knowledge of former client's property and property rights involved in action
LA 31 (1925)
use of confidential communications of
-in subsequent representation of adverse party
LA 27 (1925)
Franchise group
franchisee law firms of franchise group obtaining confidences
LA 423 (1983)
Fraud
against client
Krieger v. State Bar (1954) 43 Cal.2d 604 [275 P.2d 459]
upon client
Choate v. State Bar (1953) 41 Cal.2d 399
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
Fugitive
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
harboring a fugitive
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
LA(I) 1931-2
Historical background
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 500-501 [30 Cal.Rptr. 317]
Identity of third party paying attorney's fee
United States v. Blackman (1995) 72 F.3d 1418
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
Implied-in-fact contract
duty of confidentiality does not extend to private information received from a potential client via an unsolicited email
SD 2006-1
may result in duty of confidentiality
CAL 2005-168, CAL 2003-161
In camera hearing on motion to withdraw
defense counsel reveals belief that defendant would commit perjury
People v. Brown (1988) 203 Cal.App.3d 1335
In camera review
determination of waiver of privilege where documents related to a joint defense agreement were shared or sought under theory of common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 724 [101 Cal.Rptr.3d 758]
Inaccurate fiduciary accounting by client
SD 1983-10
Inadvertent disclosure
Samuels v. Mitchell (1994) 155 F.R.D. 195
KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]

Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
CAL 2010-179, SD 1987-3
by third party does not negate confidentiality or cause forfeiture of privilege where claimant acted pursuant to protective order to keep trade secrets confidential
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
electronic communication technologies, utilization of
OC 97-002
if involuntary disclosure, privilege will be preserved if the holder has made efforts "reasonably designed' to protect the privilege
Gomez v. Vernon (9th Cir.(Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Incompetent client
attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
duty of confidentiality compared with duty to be truthful to the court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Joint defense agreement
advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
privilege related to documents shared before litigation
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Mediation
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
all communications among all participants remain privileged unless all mediation participants involved in a mediation-related communication agree to its disclosure
Cassel v. Superior Court (2011) 51 Cal.4th 113 [119 Cal.Rptr.3d 437]
communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation
Wimsatt v. Superior Court (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]
evidence of alleged oral settlement agreement made in mediation was inadmissible
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
exception mediation privilege
-admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et. Seq.)
Estate of Thottam (2008) 165 Cal.App.4th 1331 [81 Cal.Rptr.3d 856]
general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
mediation confidentiality statutes prohibit a mediator from testifying to anything about a settlement agreement unless parties agree otherwise
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
prepared for the purpose of mediation are not subject to discovery and are not admissible in subsequent litigation
Rojas v. Superior Court (2004) 33 Cal.4th 407 [15 Cal.Rptr. 643]
proponent's attorney's declaration that he numbered the agreement pages before the parties signed was admissible because it involved non-communicative conduct
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
waiver of confidentiality may not be effective in absence of party authorization
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]
Mediator may not report sanctionable conduct of parties to court
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
Minor client in dependency matter
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
LA 504 (2000)
Mismanagement of funds
by client
-administrator
--report to court
LA 132 (1940)
--urge restitution
LA 132 (1940)
Misuse of client funds
Resner v. State Bar (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]
Brawner v. State Bar (1957) 48 Cal.2d 814 [313 P.2d 1]
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
Misuse of client property
Lefner v. State Bar (1966) 64 Cal.2d 189, 193 [49 Cal.Rptr. 296, 410 P.2d 832]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
Moral turpitude
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
Name of client [See Confidences of the client, client name.]
Obtained in unrelated matter
LA(I) 1963-1
Outside services, use of by attorney
CAL 2010-179
may involve disclosure of client confidences
CAL 1971-25
LA 516 (2006)
SD 2007-1
-to outside lawyers or providers of outsource legal services
LA 518 (2006)
Partnership
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
Wortham & Van Liew et al. v. Superior Court (1987) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
Perjury
by client
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01

disclosure of secret by attorney
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01
narrative form of testimony is best choice when attorney fears client will commit perjury
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
withdrawal
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct.] 988
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01
-discretion of the court in granting motion
People v. Brown (1988) 203 Cal.App.3d 1335
Possession of, presumed if substantial relationship of the matters
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 578 [205 Cal.Rptr. 605]
rebuttable presumption
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
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Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
Possibility of breach, basis for disqualification
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
Prison officials may only open mail -- not read it
People v. Poe (1983) 145 Cal.App.3d 574
Prisoner mail to foreign attorney
In re Gonzales (1989) 212 Cal.App.3d 459 [260 Cal.Rptr. 506]
Privilege
Evidence Code sections 950, et seq.
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
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People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
LA 519 (2006)
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
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HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal. Rptr. 3d 199]
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
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People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr. 213]
Grand Jury v. Superior Court (1989) 211 Cal.App.3d 740 [259 Cal.Rptr. 404]
Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [190 Cal.Rptr. 919, 661 P.2d 1073]
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793 [204 Cal.Rptr. 234]
LA 519 (2006)
attorney
-authority to assert
In re Boileau (9th Cir. 1984) 736 F.2d 503, 506
-by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
-good faith requirement
Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
-holder of psychotherapist-patient privilege when appointed for minor and serving as guardian ad litem
In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
-identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)
Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]
-required to claim privilege
Evidence Code section 955
attorney-client and work product privileges are not limited by the prosecution seeking to discover documents through a search warrant
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
attorney-client privilege applies even to disclosures to a court
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
attorney-client privilege extends to all communications relating to a client's matter or interests among and between multiple attorneys who are representing client
Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
bankruptcy proceedings
attorney cannot use confidences of former client to challenge client's 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]
breach by attorney, no "fruit of the poisonous tree" remedy absent government misconduct
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

client
-deceased client
HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal. Rptr. 3d 199]
LA 491 (1997), LA 414 (1983)
--federal investigation
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--intention of affecting property interest
Evidence Code section 961
-defined
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
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-email to attorney on client's employer's computer, where client warned that communication was neither private nor confidential
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-fiduciaries: receivers, trustees, executors entitled to privilege
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-file
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-identity
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-joint clients
--common interest doctrine, no waiver of
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--community of interest doctrine
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--exception to privilege
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--no joint client privilege when parties have simply overlapping interests
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--under joint defense agreement
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-joint defense agreement; documents shared before litigation
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-based on waiver analysis; parties may share privileged information when it furthers the attorney-client relationship
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-distinctions between confidences and secrets and privileged communications
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-documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
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-email to attorney was neither private nor confidential
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-exceptions
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--billing statements
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--business checks payable to a client or others on the client's behalf
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--codefendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other codefendant
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--does not apply to work product
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--does not extend to employee's personal claim of attorney-client privilege to protect his communications with corporate counsel
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--does not extend to otherwise unprivileged subject matter that has been communicated to attorney
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--extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
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--investigation activities by a claims adjuster who also is an attorney may not be covered by the privilege
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--no unavailability exception – privilege protects pre-trial statements although unavailable to opposing counsel through discovery
Admiral Insurance v. United States (9th Cir. 1989) 881 F.2d 1486
-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]
-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
-privilege does not extend to investigated work done by claims adjuster who also is an attorney
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
-purpose of the communication, between attorney and client
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-questionnaire, where no waiver of privilege
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-report prepared by expert-consultant is protected by the attorney's work product privilege
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condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
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-destruction of file
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deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
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disclosure by corporate officer to attorney for the purpose of disclosure to outside auditors is not privileged
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disclosure of client secret
-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
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-leading to search warrant
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-to third parties reasonably necessary to carry out the representation
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-extends to attorney for corporation as to communications with client before merger
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-breach of duty arising out of lawyer-client relationship
--no exception where third party is seeking disclosure to informationrelated to the litigation
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-due process
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-fraud or crime
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--preponderance of evidence required to establish
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-identity of putative class members not covered by privilege
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-to mediation privilege
--admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et. Seq.)
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Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
holder of privilege
-attorney appointed for minor serves as guardian ad litem and is holder of psychotherapist-patient privilege
In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
-personal representative as
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-successor of a merged corporation
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-successor fiduciary
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in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
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-liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advise it received
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-privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
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-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
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-by corporate director
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-codefendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other codefendant
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-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]
-general,boilerplate assertion of an evidentiary privilege is not a proper assertion of the privilege
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-not limited to litigation communications
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-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
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-subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity
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-city attorney's written opinion to council on pending matter subject to attorney-client privilege
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-report prepared by police officers in the performance of their duties are public record and are not privileged
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United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
-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]
-disclaimer of attorney-client relationship does not effectively waiver the duty of confidentiality
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
-failure to produce a privilege log in a timely manner is a waiver of privilege
Burlington Northern & Santa Fe Railway Co. v. U.S. District Court (9th Cir. (Montana) 2005) 408 F.3d 1142
-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
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Durdines v. Superior Court (1999) 76 Cal.App.4th 247 [90 Cal.Rptr.2d 217]
-found when party claiming privilege uses non-disclosure as both a sword and a shield
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
-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
-inadvertent disclosure by third party does not negate confidentiality or cause forfeiture of privilege where claimant acted pursuant to protective order to keep trade secrets confidential
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
-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]
-IRS, voluntary disclosure by client
Griffith v. Davis (1995) 161 F.R.D. 689
-limited in federal habeas petitions, court justified in entering protective order
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
-limited to habeas proceeding when court within its discretion, issues protective order when ineffective assistance of counsel issues are raised
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Osband v. Woodford (9th Cir. 2002) 282 F.3d 1125
-limited waiver based on limited disclosure
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
-no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
-not found
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
--common interest doctrine applies to joint prosecution agreement for the sharing of experts reports
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]

--disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
--liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advise it received
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
--shareholder derivative action
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
--to third parties reasonably necessary to carry out the representation
California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]
--when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
-patent case
McCormick-Morgan, Inc. v. Teledyne Industries, Inc. (N.D. Cal. 1991) 765 F.Supp. 611
-reasonable steps to protect privileged communications
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
-sexual relations with client may waive privilege
OC 2003-02
-technology
CAL 2010-179
-third party communication, privilege only extends to those necessary to effectuate the client's consultation
U.S. v. Kovel (2nd Cir. 1961) 296 F.2d 918
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
-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]
voluntary disclosure of privileged materials to government agency in non-public investigation constitutes waiver
McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
voluntary disclosure partially waives attorney-client privilege for contested documents in patent case
Starsight Telecast v. Gemstar (1994) 158 F.R.D. 650
who may claim
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 825
witnesses
-privilege does not extend to memorandum disclosing the existence of
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
work product including non-litigation work
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
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
Rumac v. Bottomley (1983) 143 Cal.App.3d 810 [192 Cal.Rptr. 104]
-attorney/client privilege distinguished from work product rule
Electro Scientific Industries v. General Scanning (1997) 175 F.R.D. 539
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
Admiral Insurance v. U.S. District Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
SD 2004-1
-by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
-common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
-common interest doctrine applies to join prosecution or defense agreements for the sharing of experts' reports
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
-excluded from discovery
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Olson v. Superior Court (1984) 157 Cal.App.3d 780
-identity of putative class members does not violate
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
-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]
-no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
-privilege does not extend to memorandum disclosing the existence of
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
-report prepared by expert-consultant is protected by the attorney's work product privilege
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
Psychotherapist-patient privilege
Roe v. Superior Court (1991) 229 Cal.App.3d 832 [280 Cal.Rptr. 380]

Public record information
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
report prepared by police officers in the performance of their duties are public record are not privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
LA 386
Questionnaire posted on the Internet
may be privileged if no waiver of privilege, despite waiver of attorney-client relationship
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Receivers entitled to attorney-client privilege when counsel is obtained to assist in the discharge of duties
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
Records mistakenly delivered to a party
SD 1987-3
Related matter
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
imputed knowledge
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
-rebuttable presumption of shared confidence in a law firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Relationship of matter to
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 897 [175 Cal.Rptr. 575]
imputed knowledge
-rebuttable presumption of shared confidences in a law firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Representing client's former spouse
DeLong v. Miller (1955) 133 Cal.App.2d 175
Research project by non-attorney seeks summarized client data
LA 378 (1978)
Revelation of client confidences required by court order
challenge to error
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
Right to chosen counsel
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 674 [153 Cal.Rptr. 295]
automatic vicarious disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Search warrant
lawyer's voluntary disclosure to police that her clients are committing crimes is not a basis to quash a search warrant or suppress evidence despite a claimed breach of the attorney-client privilege
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Secret of client
duty of lawyer to preserve
Business and Professions Code section 6068(e)
CAL 2010-179, CAL 1988-96, CAL 1986-87, CAL 1981-58, CAL 1980-52
LA 456, LA 452 (1988), LA 436 (1985), LA 409 (1983), LA 386 (1980)
SD 2011-1
secret includes criminal or fraudulent acts
CAL 1988-96, CAL 1986-87
Settlement, private
Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]
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 he lawyer's consent
LA 505 (2000)
"Smoking gun"
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
CAL 1984-76, LA 466 (1991)
Standing to assert common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Status of suspended corporations
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
Supervision of employees
attorneys must prohibit their employees from violating confidences of former employers as well as confidences of present clients
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
duty to maintain client confidences when sharing facilities and staff with other attorneys
CAL 1997-150
duty to maintain client confidences when sharing facilities with non-lawyers
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Technology, use of
CAL 2010-179
Telephone "hotline" taking legal inquiries from callers
LA 449 (1988)'
To "Of Counsel"
LA 516 (2006)
To protect self
against a claim brought by a third-party
LA 519 (2006)
Trusts
trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
trust's attorney need not disclose to beneficiaries confidential communication with trustee
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Unauthorized dismissal of case
Foote v. State Bar (1951) 37 Cal.2d 127, 128 [230 P.2d 617]
Use of
following disqualification due to a conflict of interest
CAL 1970-22
former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
SD 2008-1
in action against former client
-attorney plaintiff may not prosecute a lawsuit if 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]
SD 1970-2
-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
in action to collect fee involving client
LA 452 (1988), LA 159 (1945), LA(I) 1961-3
in action to recover unpaid attorney referral fees
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
in representation of another client
LA 506 (2001), LA 366 (1977)
in representing former client's opponent
SD 1976-10
revelation to entertainment industry regarding client's case
LA 409 (1983)
Waiver [See Privilege. waiver]
Whereabouts of client
CAL 1989-111, LA(I) 1931-2
Wireless connection, use of and need for precautions
CAL 2010-179
Withdrawal
in camera disclosure of general information as basis for
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
in camera disclosure of possible client perjury
People v. Brown (1988) 203 Cal.App.3d 1335
LA 498 (1999)
Withholding client funds
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
Sullivan v. State Bar (1955) 45 Cal.2d 112 [287 P.2d 778]
Wrongfully retaining client money
Griffith v. State Bar (1945) 26 Cal.2d 273, 275 [158 P.2d 1]

CONFLICT OF INTEREST [See Adverse interest. Attorneys of Governmental Agencies. Confidences of the client. Duty to disclose. Termination. Withdrawal. 18 Santa Clara L.Rev 997, 1003 (1978).]
Abuse of discretion
court did not abuse discretion in denying motion to substitute in retained counsel; waiver based on an inadequate conflict waiver
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
Acceptance of adverse employment
Rule 4-101, Rules of Professional Conduct [former rule 5] (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
CAL 1988-96, CAL 1986-87, CAL 1980-52
LA 452 (1988), LA 448 (1987), LA 436 (1985), LA 409 (1983), LA 406 (1982), LA 395 (1982), LA 386 (1980), LA 242 (1957), LA 237 (1956), LA 223 (1955), LA 216 (1953), LA 170 (1949), LA 136 (1941), SD 1968-3
attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
client in one matter, later opposing party in unrelated matter
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 304 [205 Cal.Rptr. 671]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
LA 418 (1983), LA 406 (1982)
consultation with opposing party related to fees only, not to issues of cause of action
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
continuing relationship with opposing party deemed conflict
Shaeffer v. State Bar (1934) 220 Cal. 681
dual representation after disclosure and upon receipt of consent
Lessing v. Gibbons (1935) 6 Cal.App.2d 598 [45 P.2d 258]
necessity for consent of parties
61 Ops. Cal. Atty. Gen. 18, 19 (1/5/78; No. CV 77-118)
60 Ops. Cal. Atty. Gen. 206, 212 (7/7/77; No. CV 76-14)
preparing answer for in propria persona defendant while representing plaintiff in same matter
LA 432 (1984)
public defender may not set up separate division within office to represent criminal defendant where conflict present
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
representation of arbitrator presently hearing matter
LA 415 (1983)
representation of both husband and wife in a divorce action
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
representation of criminal defendant in one matter and representation of another client in a related matter is an actual conflict
People v. Easley (1988) 46 Cal.3d 712
representation of husband and wife in estate planning, later represents husband in Marvin agreement
LA 448 (1987)
representation of opposing party in the same matter without consent of former client
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
Acceptance of adverse interest
Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
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Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
Accepting compensation from other than client
Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
LA 500 (1999)
Accepting employment adverse to client
Rules 4-101 and 5-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Acquisition of adverse interest
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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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Connor v. State Bar (1990) 50 Cal.3d 1047
Hawk v. State Bar (1988) 45 Cal.3d 589
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-partner not an independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
adverse pecuniary interest must be "knowingly acquired"
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
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Fall v. State Bar (1944) 25 Cal.2d 149, 152-154 [153 P.2d 1]
attorney's dual capacity as attorney and real estate broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
LA 470 (1992)
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Kapelus v. State Bar (1987) 44 Cal.3d 179
-finder's fee
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609
-judgment proceeds as source of attorney fee
LA 416 (1983)
-representation/business relationship with living trust marketer
CAL 1997-148
-security for fees
LA 407 (1982), LA 398 (1982)
-selling information regarding case to entertainment industry
LA 409 (1983)
attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
attorney's purchase of real property which was the subject matter of client representation
Tomblin v. Hill (1929) 206 Cal. 689
before termination of attorney-client relationship requires compliance with rule 5-101
Arden v. State Bar (1987) 43 Cal.3d 713
bidding on government contract requiring client's consent to waiver of client's attorney-client and work product privileges
LA 435
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Sugarman v. State Bar (1990) 51 Cal.3d 609
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Rhodes v. State Bar (1989) 49 Cal.3d 50
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619 P.2d 1005]
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In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
-absence of security for a loan is an indication of unfairness
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
-full disclosure and written consent required
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Lipson v. State Bar (1991) 53 Cal.3d 1010
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
Frazer v. State Bar (1987) 43 Cal.3d 564
Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
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Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
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In re Tallant (9th Cir. 1998) 218 B.R. 58
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
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-burden of proof on attorney that dealings fair and reasonable
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Hunniecutt v. State Bar (1988) 44 Cal.3d 362, 372-373 [243 Cal.Rptr. 699]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
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 Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
CAL 1995-140, LA 477
-fee financing plan
CAL 2002-159
OC 93-002
-from fund which resulted from representation, attorney-client relationship exists even if representation has otherwise ended
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
-law partner not "independent counsel" for purpose of conflicts rule
Connor v. State Bar (1990) 50 Cal.3d 1047
-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

-no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
-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
CAL 2002-159
-post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
-strictly scrutinized for fairness
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Beery v. State Bar (1987) 43 Cal.3d 802, 812-813
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
charging lien in hourly fee agreement requires compliance with rule 3-300
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
CAL 2006-170
-contingency fee agreements distinguished
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
compensation from third party affecting professional judgment
LA 317 (1970)
confession of judgment
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
entering into loan transaction with client -- attorney has one client loan money to another client
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Hunniecutt v. State Bar (1988) 44 Cal.3d 362
estate attorney charging personal representative personally for services performed
LA 470 (1992), LA 347 (1975)
judgment proceeds as source of attorney fee
LA 416 (1983)
lending money to client by attorney
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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
-by attorney's spouse
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
lien against recovery in unrelated matter to secure fees owed not subject to rule 3-300
LA 496 (1998)
no duty to recommend specific lawyer
Maltaman v. State Bar (1987) 43 Cal.3d 924
not found
-charging lien in contingency fee agreement does not create an adverse interest within the meaning of rule 3-300
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
-where attorney arranges to transfer client's property to attorney's son
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
-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
CAL 2002-159
note and deed of trust for personal gain
Lee v. State Bar (1970) 2 Cal.3d 927
note secured by deed of trust to secure fees is an "adverse" interest requiring compliance with rule 5-101
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
LA 492 (1998)
open-ended credit transaction found unfair
Morgan v. State Bar (1990) 51 Cal.3d 598
patent prosecution, compliance with 3-300 not required where attorney's fees are linked to the proceeds of the patent but attorney has no ability to summarily extinguish the client's ownership interest
LA 507 (2001)
post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
purchase of property which is the subject matter of the litigation
Silver v. State Bar (1974) 13 Cal.3d 134 [117 Cal.Rptr. 821, 528 P.2d 1157]
purchase of real property subject of collection effort on behalf of client
Marlowe v. State Bar (1965) 63 Cal.2d 304, 307 [46 Cal.Rptr. 326, 405 P.2d 150]
purchase of second deed of trust by wife of attorney deemed adverse to client
Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
quit claim deed and general power of attorney which permit attorney to summarily extinguish a client's property interest constitutes an adverse interest
Brockway v. State Bar (1991) 53 Cal.3d 51
representation of insurer and party adverse to insurance company
Anderson v. Eaton (1930) 211 Cal. 113, 116-117 [293 P. 788]
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
CAL 1981-57, CAL 1980-52, CAL 1979-49,
CAL 1977-46, CAL 1975-35, CAL 1969-18
LA 407 (1982)
security for fees
LA 492 (1998), LA 407 (1982), LA 398 (1982)
selling information regarding case to entertainment industry
LA 409 (1983)
settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver, does not require 3-300 compliance
CAL 2009-178
structured settlement, use of
CAL 1987-94
taking business clientele from a former client
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Actual or potential conflict
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)
Administrative agency attorneys
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
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 bankruptcy estate trustee had prior consultation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
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 purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
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]
attorney's agreement to indemnify a client's reasonable costs and expenses is not an adverse interest
LA 517 (2006)
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
charging lien in hourly fee agreement requires compliance with rule 3-300
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
- contingency fee agreements distinguished
CAL 2006-170
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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)
defense counsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
defined
LA 496 (1998), SF 1997-1
definition
CAL 2011-182
disclosure and consent per rule 3-300 not a cure when matter is governed by probate code
SD 1989-2
executor hiring attorney
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
Estate of Effron (1981) 117 Cal.App.3d 915, 928 [173 Cal.Rptr. 93]
fee dispute does not create adverse pecuniary interest
LA 521 (2007)
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 [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]

no adverse interest when attorney's fees come from settlement since client decided to accept settlement offer that would generate lower fees for attorney
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
pecuniary interests adverse to client
-subject to rule 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
subpoena served on current client A, who is a witness in prospective client B's matter
CAL 201-82
when trustee is also creditor
Vivitar Corporation v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
Adverse party
attorney files motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
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
CAL 1984-83
SD 1989-4, SD 1976-12
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)
-attorney for bankruptcy estate trustee had prior consultation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
-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
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
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]
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
attorney purchased judgment from opposing party seeks to enforce judgment against former client in the appeal on same matter as original representation
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
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
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
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]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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]
publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney office
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
Appearance of impropriety
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 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
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
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]
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
former employee of defendant may become a client of plaintiff's attorney and may communicate confidential information to that attorney
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
multiple and interconnected family entanglements results in an appearance of impropriety and undermines the integrity of the judicial system
Kennedy v, Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
standard has never been used by a California court as the sole basis for disqualification
In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
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 acting as class action class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
Attorney as partner or employee of two law firms
LA 511 (2003)
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
consultation in non-office setting
CAL 2003-161
consultation where potential client submits legal question via website
CAL 2005-168
-is not created by receipt of private information from potential client via an unsolicited email
SD 2006-1
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]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
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
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
-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
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
-former client
--exists when transaction involves funds obtained by representation
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
--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
attorney-trustee was removed when it was shown she was not disinterested(had an indirect relationship with debtor)
In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139
attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]
attorney for bankruptcy 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]
attorney for bankruptcy estate trustee had prior consulation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney for bankruptcy estate has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

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]
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
business dealings between attorney and client subject to scrutiny
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Rodgers v. State Bar (1989) 48 Cal.3d 300
Hunniecutt v. State Bar (1988) 44 Cal.3d 362
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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
fair market value is not determinative of whether a transaction is fair and reasonable to a client
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
full disclosure required
Beery v. State Bar (1987) 43 Cal.3d 802
Frazer v. State Bar (1987) 43 Cal.3d 564
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Passante, Jr. 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
lending money to client by attorn
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

-by attorney's spouse
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
moral turpitude found
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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 re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
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
-Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
stock promise to attorney is unenforceable
Passante, Jr. 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
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240
unsecured promissory note does not give attorney a present interest in client's property to trigger rule 3-300
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Business transaction with former client
no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transactiion
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
using funds obtained in the representation
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
-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
"Chinese Wall"
settlement confidentiality agreement
LA 512 (2004)
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 [193 Cal.Rptr. 148, 666 P.2d 5]
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)
CAL 2001-156
-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
-may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
-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 under contract to government agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
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
-vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
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
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]

Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
Government Code section 1090
-city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
Class action
Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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
conflict of interest when firm who employs attorney/plaintiff is counsel for the class for which attorney/plaintiff is a class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
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]
disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
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]
incentive agreement between class representatives and class counsel
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948
no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
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]
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
--expert witness is former client of attorney
LA 513 (2005)
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
-expert witness is former client of attorney
LA 513 (2005)
holder of the privilege
Evidence Code section 953
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)
Co-counsel
attorney's self-interest does not create conflict with client when attorney seeks indemnification in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Communicate with client
potential malpractice claim, facts related to
CAL 2009-178
where attorney has professional or financial interest in the subject matter
CAL 2009-178
Communication with treating physician
SD 1983-9
sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
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
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
People ex rel.Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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 2011-182, CAL 1976-37
LA 435 (1985), LA 418 (1983)
SD 2008-1, 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
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
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]
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
"Chinese wall"
-burden to show presence of screening is on the party sought to be disqualified
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) (2003) 241 F.Supp.2d 1100
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
-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]
-disqualification not required, marital relationship does not create assumption that lawyers violate duty of confidentiality
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
-district attorney
--recusal of entire office
---not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-elements of
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 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
-must be set up at a time when the potentially disqualifying event occurred
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
-public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
-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
-settlement confidentiality agreement
LA 512 (2004)

-steps which must be taken to set up an effective screen
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
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
--public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
-vicarious disqualification not required
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
--district attorney
---recusal of entire office
----not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-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
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
-vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
-vicarious disqualification of city attorney's office where in related matter city attorney previously represented private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
-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 of public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
-vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
-walling off of witness/employee of district attorney's office is less drastic measure than disqualification
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
-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]
common interest doctrine
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
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
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
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
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
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 firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
disqualification of attorney not required where party shared information of another party, with the adverse party, where there were simply overlapping interests, no joint clients privilege
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
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
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

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 [280 Cal.Rptr. 614]
disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
disqualification of defense counsel not required where plaintiff's expert witness was a former client of defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
disqualification of law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
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 [197 Cal.Rptr. 185]
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
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
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]
-for disqualification purposes, confidential information may include knowledge of a client's internal operations, policies, and litigation philosophies
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
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]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D.Cal. 1992) 809 F.Supp. 1383
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
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]
knowledge of attitudes, strengths, weaknesses strategy
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
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
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
multiple representation
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obtained from non-client and useful in representation in an action on behalf of a client
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
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
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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
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
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
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-attorney never performed services for former client of attorney's wife's previously disqualified firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
-automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that the attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
-disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
-due to similarity between the two cases and the overlapping factual issues common to both, father and daughter should be treated as a single unit for determining whether a conflict exists
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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]
-significant danger as a result of law firm's prior involvement in a divorce case where firm represented the father of the opposing party that the firm had acquired confidential information of the opposing party
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
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
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
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
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
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]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
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]

removal of expert for plaintiff not required where defense counsel had represented the expert ten years before and expert offered unqualified waiver of conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
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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
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
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)
-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client put attorney in the position of being the opposing side in the same litigation in which he represented former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
-defense attorney to prosecutor's office
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
-vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
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]
where public defender's office held no confidential information, conflict of interest did not exist where witness in current matter had been represented by former member of public defender's office
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
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
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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
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
CAL 1989-115
class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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
OC 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
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
State of Arizona ex rel. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
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
-insufficient to resolve a conflict in a lawyer's representation of two clients, one of whom implicated co-client in a fraudulent scheme while the latter declared that she had no involvement in the illegal activity
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
improper to request consent from client when a disinterested lawyer would conclude that the client should not agree to representation involving a conflict of interest under the circumstances
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
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
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes Ltd. (1993) 12 Cal.App.4th 74 [15 Cal. Rptr.2d 585]
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
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Ishmael v. Millington (1966) 241 Cal.App.2d 520, 526 [50 Cal.Rptr. 592]
necessity for written consent
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 500
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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]
-wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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 406 (1982)
LA 6 (1918)
-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]
unrelated action
61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)

where current expert for plaintiff was prior client of defense counsel, no disqualification of defense counsel required when expert gives unqualified waiver and consent
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Conservatorship proceedings
CAL 1989-112, LA 450 (1988), OC 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
-no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
Corporation as client
actual conflict defined
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Corporations
Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
In re Sidco (1993) 162 B.R. 299
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
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)
advising officers and directors when corporate control changes
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
attorney (employee) sues employer/client
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
-employment information versus legal services information
SD 2008-1
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]
-employer and management employees
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
-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]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
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 and of officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
CAL 2003-163
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]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 290 [301 P.2d 101]
representation of corporation not deemed representation of minority shareholder
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
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
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
CAL 2001-156
collective bargaining by government attorneys
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
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 [28 Cal.Rptr.2d 617]
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)
may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
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
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
plaintiff's expert waives potential conflict where defense counsel previously represented expert; expert need not be removed and defense counsel need not be disqualified
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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
McClure v. Thompson (9th Cir. (Oregon) 2003) 323 F.3d 1233
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]
actual conflict that adversely affects defense counsel's performance is required to find ineffective assistance of counsel
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
appointment of substitute or conflict counsel to evaluate a defendant's claim of incompentent advice regarding entry of a guilty plea
People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]
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
-no violation of defendant's Sixth Amendment rights where defense counsel previously represented prosecution witness's spouse in a previous case
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
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
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
CAL 1979-49

conflict occurs where public defender compelled by excessive caseload to choose between the rights of the various indigent defendants he or she is representing
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
-one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
court has duty to inquire into possibility of conflict of interest on part of defense counsel
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
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. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
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]
-no duty where no potential conflict of interest exists
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
-removal of defense counsel improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
-removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
-where court failed to inquire into potential conflicts, defendant must establish that conflict adversely affected counsel's performance
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
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]
death threat against public defender by defendant required court to appoint conflict counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
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) 13d 829 [213 Cal.Rptr. 521]
defense counsel good friend of defendant's roommate who was also a suspect
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
defense counsel left public defender's office and went to DA's office during case
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel married to bailiff
CAL 1987-93
defense counsel testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
defense counsel's separate retainer agreements with defendant and with defendant's family did not create a conflict of interest that affected counsel's performance
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
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
district attorney
-recusal of entire office
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
CAL 1980-52
---no prejudice where former client is witness against current client and Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
-potential witness of potential perpetrator is potential conflict and court has latitude to remove defense counsel over the objection of defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
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. (Idaho) 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
mere veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
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
not found where defendant claimed irreconciliable conflict based on peitioner dismissed lawsuit against the public defender's office and appointed pre-trial counsel
Foote v. Del Papa (9th Cir. (Nevada) 2007) 492 F.3d 1026
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 does not include right to any particular court-appointed counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
right to counsel includes right to waive potential conflict
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Burrows (1990) 220 Cal.App.3d 116 [269 Cal.Rptr. 206]
right to counsel may be forfeited by defendant's threatening conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
right to counsel may not be forfeited without defendant's voluntary, knowing and intelligent waiver
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
right to counsel, not infringed by court's denial of defendant's motion to substitute a retained counsel who had a conflict with a former client
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
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. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
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
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
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. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
-client may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
-lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
district attorney
-recusal of entire office
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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]

former client
-now witness
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. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
-defendant may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
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]
attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
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]
malpractice found where attorney failed to advise elder client of conflict where attorney would receive finder's fee and repayment of loan, by attorney to another client, from loan proceeds obtained in transaction
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
potential malpractice claim, facts related to
CAL 2009-178
requires full consent
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
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]
-interest in subject matter of the representation
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
-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)
where attorney has professional or financial interest in the subject matter
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Disqualification of counsel
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
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]
alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
appeal
-disqualification counsel is collaterally estopped from re-litigating issue of his breach of an ethical violation that had already been decided by court that ordered the disqualification
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

-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]
-standing to challenge disqualification
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
arbitrator's denial of motion to disqualify opposing counsel for conflict of interest was open to collateral attack
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
arbitration
-panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
associated counsel
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
attorney-client relationship
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
-associate who worked on plaintiff's case is brother-in-law to presiding judge
Mangini v. U.S. (9th Cir. (Montana) 2003) 314 F.3d 1158
-disqualification denied where the court found that new partner who switched sides had no involvement in the instant action and had not discussed the action with the attorneys at the new law firm and where the firm had not used the new partner's services relating to the instant action
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
-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
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
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]
-disqualification not proper unless an attorney-client relationship existed
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
attorney disqualified for an ethical violation generally not entitled to fees
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
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 relationship between class action counsel and class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
based on receipt of confidential information from a non-client
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr. 2d 425]
between the party and the attorney sought to be disqualified
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17
burden on client
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
-public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
"case-by-case" approach must be used by trial courts
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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]
choice of counsel of non-moving party must be taken into consideration
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
city attorney
-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
-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
class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
CAL 1980-52, CAL 1979-49
-public defender's workload so excessive to warrant removal
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
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]
defense counsel need not be disqualified where expert for plaintiff was former client of defense counsel but gives unqualified waiver
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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]
dependency proceedings
-actual conflict amongst multiple siblings requires disqualification from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
discussion with party concerned fees only
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
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
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
DCH Health Services Corp.(2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
disqualification not necessary where contract with city merely set forth a "framework" for representation and did not, by itself, create an attorney client relationship
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
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 even if attorney received confidential information about defendant, did not meet burden of showing the information could give plaintiff an unfair advantage or affect outcome of litigation
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

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 client never imparted confidential information to attorney -- now representing adverse party in same matter
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
disqualification of attorney not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
disqualification of attorney not required where no confidential information was disclosed
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
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 law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-disqualification not required where prosecutor published novel containing factual similarities to underlying case
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
-financial assistance to prosecutor's office did not disqualify district attorney
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
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. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
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People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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]
--erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
--not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
--not required where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-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
-without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
duty of loyalty does not apply where defense counsel previously had represented expert for plaintiff and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
duty of loyalty requires
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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 (C.D. Cal. 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
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
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Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
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]
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LA 501 (1999)
-city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
-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]
-limited exception where the tainted lawyer can show that there was no opportunity for confidential information to be divulged within the firm
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
-no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
-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
-not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-presumption of shared confidences rebutted by evidence 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
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
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]
immigration matters
-representation adverse to former corporate client's employees and officers in immigration matters
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
marital relationship insufficient to deprive party of choice of counsel
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

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
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
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
not required
-marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
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]
not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
"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
prejudice to non-moving party found to be, extreme where counsel had been long term counsel for non-moving and motion was brought in the middle of the case
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
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]
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
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]
prior representation of opposing party
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
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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]
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
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
CAL 1998-152, CAL 1993-133, LA 501 (1999)
-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 and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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]
prior representation of plaintiff's expert witness does not require disqualification where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
public defender
-where witness had been represented by former member of public defender's office and where current defendant was represented by the public defender's office and where no confidential information of witness was found, there was no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
raised on appeal from the final judgment
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
related matter, substantial relationship
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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]
-disqualification of attorney where same attorney was previously disqualified in a related case
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
-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
--public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
-vicarious disqualification of entire city attorney's office where in related matter city attorney previously represented private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644
sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
standards
-difference for subsequent representation than for simultaneous
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
standing to assert
-absent an attorney client relationship, party moving for disqualification generally does not have standing to assert a conflict of interest
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
temporary judge lacks authority to order disqualification of lawyer
Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]
timeliness of Marsden motion
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
timeliness of motion to disqualify
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
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
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
unrelated matter
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
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]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6,11
-expert witness in unrelated matter
--where plaintiff's expert was previously represented by defense counsel and where expert waives conflict, removal of expert not required and disqualification of defense counsel not required
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
-simulataneous representation of defendant and plaintiff's expert witness in an unrelated matter
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
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
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
vicarious disqualification of a firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
vicarious disqualification of a firm not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
vicarious disqualification of plaintiff's law firm required despite screening of former counsel for defendant who moves to and later leaves plaintiff's firm
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
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
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867
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]
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. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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]
-erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
-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
-not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of a third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
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]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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
post-nuptial agreement enforceable despite law firm's dual representation of husband and wife on estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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
violation of rule 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Draft, military, member of selective service appeal board represents appellants before other boards
LA(I) 1969-8
Dual capacity
attorney acting as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
attorney acting as expert witness against former client
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
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]
attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

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
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
Dual representation
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]
actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
actual conflict between Limited Liability Company and LLC member
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
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)
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's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
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
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 [28 Cal.Rptr.2d 617]
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]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
CAL 2003-163
concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
consent to potential conflict
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
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
dependency proceedings
-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.
In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
franchisee law firms of franchisor group representing multiple clients
LA 471 (1992), LA 423 (1983)
insurance company
-and insured
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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
mediation
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
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
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
Jessen v. Hartford Casualty Insurance Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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
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
CAL 2011-182, CAL 2003-163
actual conflict distinguished from direct conflict in evaluating ineffective assistance of counsel claim
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
attorney should not represent client if representation may be materially limited by attorney's duties to another client
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
criminal defendant has right to representation free from conflicts of interest and to assistance of counsel whose loyalties are not divided
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
defendant denied effective assistance of counsel when his attorney not only failed to speak on defendant's behalf at forfeiture of right to counsel hearing, but also testified against defendant
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
does not apply where defense counsel had previously represented plaintiff's expert
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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 (2001)
may supercede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense
SD 2004-1

no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
where attorney has professional or financial interest in the subject matter
CAL 2009-178
Duty to both insured and insurer
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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 44 (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]
attorney represents a client in an estate matter before the U.S. Tax Court while serving as a consultant to the IRS
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
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
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
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
-disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
law firm's dual representation of husband and wife in estate plan did not create a conflict of interest that voided post-nuptial agreement, in which law firm only represented husband
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
partnership represents
-member, trustee
LA 219 (1954)
successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice and there is no conflict of interest arising from the duty of loyalty or confidentiality in suing for malpractice
Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
trustee
-beneficiary as
LA 219 (1954)
violation of rule 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
Goldstein v. Lees (1975) 46 Cal.App.3d 614
charging lien in hourly fee agreement requires compliance with rule 3-300
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
-contingency fee agreements distinguished
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
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]
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]
-prosecution's witness' offer to pay for criminal defendant's legal fees impaired defense counsel's ability to impeach witness
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
defense of city employees pursuant to Gov. Code § 995 et seq.
-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
dispute does not create
LA 521 (2007)
government
-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
paid by co-defendant
-attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
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 510 (2003), LA 471 (1992), LA 439 (1986)
-by co-defendant in separate trial
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
-by corporation to minority shareholder's attorney
Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
-by insurer of client
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
LA 439 (1986), LA 352 (1976)
-by prosecution's witness who testified against criminal defendant
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
-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
-union pays for representation of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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 with regards to 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]
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

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 (C.D. Cal. 1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]
CAL 1993-132
CAL 1981-63
-not created by receipt of private information from potential client via an unsolicited email
SD 2006-1
presumption of undue influence
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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
Government Code section 1090
-city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
"noninterest" when city council, a member of which is a deputy county counsel, enters into contract for law enforcement services if interest is disclosed to city council and noted in official records and deputy county counsel-city council member may participate in the negotiations
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
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
Hunniecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
acceptance of employment
-adverse to
Arm v. State Bar (1990) 50 Cal.3d 763, 769 [268 Cal.Rptr. 741, 789 P.2d 922]
--knowledge of former clients' property and property rights involved in action
LA 31 (1925)
adverse interest to
-buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
-in litigation
LA 30 (1925)
business transaction with former client
-no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction with former client
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
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)
expert witness is former client of attorney
LA 513 (2005)
insurer of current opposing party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
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. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
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]

inducing client to offer of free use of client's vacation property
CAL 2011-180
Government attorneys
attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
city attorney
-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation
86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)
Government code section 1090
outside contractor attorney may be treated as an employee
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
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)
Immigration matters
representation adverse to former corporate client's employees and officers in immigration matters
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
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
Ineffective assistance of counsel
attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the defendant
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
Insurance cases
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
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]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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
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]
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)
-"cumis counsel" fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483
-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)
conflict of interest does not arise every time the insurer proposes to provide a defense under a reservation of rights...insured's right to independent counsel "depends upon the nature of the coverage issue, as it relates to the underlying case."
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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]
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]
Executive Aviation, Inc. v. National Insurance Underwriters (1971) 16 Cal.App.3d 799, 808-810 [94 Cal.Rptr. 347]
LA 501 (1999), LA 439 (1986)
duty owed to insured and insurer
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
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
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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]
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard v. O'Flaherty v. Belgum (1995) 38 Cal.App.4th 1229
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
-payment of insurer's reimbursement claims without client's consent may create conflict of interest
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
CAL 1995-139, CAL 1987-91, LA 464 (1991), LA 345 (1982), LA 344 (1974), SD 1987-1
fees
-"cumis counsel" fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483
-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
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
independent judgment
-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
-assured
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]
insurer's right to control defense provided to insured
-the right to control the defense includes what measures are cost effective provided there is no actual conflict of interest
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
laches -- delay in raising conflict of interest motion
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
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
reinsurer did not have attorney-client relationship with counsel retained by the previous insurer to defend the insured in the absence of an express agreement
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
representation of both insurer and insured to defeat third-party claim
Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
CAL 1987-91, LA 352 (1976)
-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]
representation of two insureds with potentially divergent interests requires disclosure
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
requires independent counsel for insured
California Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
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]
U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]
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]
CAL 1995-139
LA 501 (1999), LA 439 (1986), LA 424 (1984)
-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]
-insurer's control over insured's selected counsel
U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
-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]
rule 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]
withdrawal
LA 395 (1982), LA 344 (1974)
Insured's consent required for prior counsel to maintain role in case on behalf of insurer
SD 1987-1
Issues, attorney argues inconsistent positions
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]
CAL 1989-108
Joint powers arrangement
Joint Powers Act
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]
corporation and corporate director as co-defendants
LA 471 (1992)
Joint venture
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 about 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 nor during actual trial
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
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
Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
LA 500 (1999)
Malpractice case based, in part, on claimed breach of loyalty
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
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
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
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]
Minor's counsel
no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
Motion to vacate a foreign state judgment on the basis of the existence of a conflict of interest
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
Multiple representation
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 2011-182, CAL 1993-132, LA 471 (1992), LA 427 (1984), SF 1973-26, SF 1973-15
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]
actual versus potential conflict
LA 471 (1992), LA 427 (1984)
administrative proceeding
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
assistant district attorney representing county and private citizen
Dettamanti v. Lompoc Unions District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
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
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
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]
both sides
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
SD 1976-16
business firm and clients of business
-when attorney is partner in business
CAL 1969-18
class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
clients each demand the original file
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]
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 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
LA 493 (1998)
concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
concurrent representation of clients with adverse interests
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
CAL 2003-163
consent of all parties
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Image Technical Services v. Eastman Kodak Co. (N.D. Cal. 1993) 820 F.Supp. 1212
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
+In the Matter of Aguiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
LA 22 (1923), SD 1974-22
consultation with attorney, evidence of relationship
[See Attorney-Client Relationship, Consultation with, prima facia case of existence of.]
corporation and directors
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
CAL 1999-153
corporation and officers
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
county counsel represents a department of the county and an individual
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)
creating a conflict by the mere filing of a meritless cross-complaint should not establish a conflict between opposing attorney's clients where no previous conflict existed
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
criminal defendants by public defender's office
59 Ops. Cal. Atty. Gen.27, 28 (1/15/76; No. CV 72-278)
criminal proceeding
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
CAL 1979-49, CAL 1975-35, CAL 1970-22
criminal prosecution
-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
dependency proceeding
-actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.
In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]
-sanctions imposed against attorney for bringing frivolous conflict motions
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
dissolution of marriage
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
divorce action
-party and receiver appointed in same action
LA 52 (1927)
-post-nuptial agreement enforceable despite law firm's dual representation of husband and wife in estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
employer and employee-alien in an immigration matter
LA 465 (1991)
estate planning matter
-representation of testator and beneficiary
SD 1990-3
franchise group of law firms
LA 423 (1983)
husband and ex-wife in tax proceedings
Devore v. Commissioner of Internal Revenue Service (9th Cir. 1992) 963 F.2d 280
husband and wife in dissolution of marriage
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]
husband and wife in estate plan, and subsequent agreement for husband only
LA 448 (1987)
in-house counsel for organization represents outside company in merger with organization
LA 353
insurance company
-and insured
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
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]
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
--actual conflict
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
--and another party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
--attorney who is director subject to same conflicting interests as attorney for carrier
SF 1979-2
--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]
--withdrawal
LA 395 (1982), LA 344 (1974)
-and party adverse to insurer
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
-providing courtesy defense
--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]
limited and general partnerships
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
LA 461 (1990)

malpractice found where attorney failed to advise elder client of conflict where attorney also represented another person claiming to be the nephew of the elder in obtaining a loan against property owned by elder client's trust
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
minor and guardian
CAL 1988-96
no joint representation, where parties have simply overlapping interests
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
non-profit legal corporation created by a county board of supervisors does not give rise to a conflict of interest even if the corporation represents multiple parties with adverse interest
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
not found where attorney had a "framework" contract with former client for "as requested" future representation, but did not currently represent the client
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
of executor
-in individual capacity against co-executor
LA 72 (1934)
permanency hearing where one attorney represents two brothers creates conflict when court is considering post-termination sibling visitation issues
In re Cliffton B. (2000) 81 Cal.App.4th 415 [96 Cal.Rptr.2d 778]
preparation of answer for opposing party
LA 432 (1984)
privilege held between co-client
Evidence Code section 962
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
probate matter
-representation of decedent's spouse and executor
LA 23 (1923)
-withdrawal from
--when lawyer represents executor being sued by beneficiary
LA 23 (1923)
representation of corporation and of officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
CAL 2003-163
sale and purchase of stock of corporation
SF 1973-10
unauthorized representation
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
without consent of client
Gendron v. State Bar (1983) 35 Cal.3d 409, 410-411
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
workers' compensation insurance carrier and a claimant making a claim against one of the carrier's insureds
Smiley v. Director, Office of Workers' Compensation (9th Cir. 1992) 973 F.2d 1463
Obtaining loan from client
disclosure and written consent required
Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
Of counsel
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
firm's acceptance of client adverse to of counsel's client
CAL 1993-129
LA 516 (2006)
SF 1985-1(F)
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]
Office sharer
CAL 1979-50, LA 216
represent opposing sides
SD 1972-15
Opposing counsel
joins partnership
LA(I) 1962-2
Opposing party
represent
-client against after obtaining information from
LA 193 (1952)
Ordinance violation
city council member represents in
LA 273 (1962), SD 1969-1
Outside counsel or providers of outsourced legal services, use of
CAL 2004-165
LA 518 (2006)
Paid by third party
LA 510 (2003)
Partnership
attorney for
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
CAL 1994-137
-represents all partners
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
Wortham & Van Liew et al. v. Superior Court (1986) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
formation of
LA(I) 1967-11
member of partnership acting as counsel for partnership and another party transacting business with partnership
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
no conflict exists for attorney in representation when client partners pursue a common business goal
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
opposing counsel joins
LA(I) 1962-2
practices
-prosecutor
LA 377 (1978)
-when member is
--city attorney
LA(I) 1975-4
--city council member
CAL 1981-63, CAL 1977-46
LA(I) 1975-4
--prosecutor
LA 377 (1978)
prior representation re partnership agreement held not conflict in subsequent litigation covering partnership asset
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542 [152 Cal.Rptr. 47]
representation of both general and limited partners in partnership
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
LA 461 (1990)

representation of partner against another when represents partnership
LA 412 (1983)
represents
-against
--when associate before joining acted for other side
LA 363 (1976)
-custody proceedings
CAL 1976-37
-estate
--member against relative of client
LA(I) 1956-8
--member-executor/trustee
LA 219 (1954)
--when member before joining acted for other side
LA 269 (1960), LA 252 (1958), LA 246 (1957)
-in civil matter
--against city
---when member is city councilor
CAL 1981-63
-in criminal matter
--when member is
---city attorney
LA(I) 1975-4
---city councilor
CAL 1977-46
LA(I) 1975-4
---prosecutor
LA 377 (1978)
undertaking partnership with opposing counsel compromises client's interest and constitutes breach of fiduciary duty
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Partnership, business
regarding divorce
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
regarding termination agreement drafted by other counsel
LA(I) 1963-9
Personal interest in client's case
LA(I) 1974-8
Personal relationship between counsel
Rule 3-320, California Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1984-83
Personal relationship with client
Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]
CAL 1987-92
Physician
represent
-client's physician against client for unpaid witness's fee
LA(I) 1931-1
Police officer
also lawyer
LA 94 (1936)
defends criminal cases
LA 94 (1936)
Potential conflict
CAL 1988-9(I)
civil litigation
Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 899 [142 Cal.Rptr. 509]
civil proceedings
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575, 584 [184 P.2d 505]
criminal proceeding
-between co-defendants
CAL 1970-22
dissolution of marriage
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Prior representation
as corporate counsel for family corporation
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
of former client
-attorney seeks to become party adverse to former client in the same matter in which he had represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
of opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
sufficiency
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 549 [152 Cal.Rptr. 47]
Prosecuting attorney [See Conflict of interest, attorney general; commonwealth's attorney; district attorney.]
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)
private practice
-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)
representation of criminal defendant by member of firm acting as city prosecutor
LA 453
Public agency attorneys
attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
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]
participation in bonus program tied to savings by public agency
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
-defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

-excessive caseload and limited resources may require removal or substitution
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
-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
-witness for prosecution former client of public defender's office
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
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)
multiple representation
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
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)
Government Code section 1090
-city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
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 [28 Cal.Rptr.2d 617]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
SF 1997-1
Purpose of rule 3-310
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
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. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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]
erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
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]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

witness victim was former non-attorney employee in DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
Related matter
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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
disqualification of attorney where same attorney was previously disqualified in a related case
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902
Relationship with previously disqualified counsel and law firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
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
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
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]
CAL 2011-182, LA 506 (2001), LA 333 (1973)
subpoena served on current client, by prospective client constitutes an adverse interest
CAL 2011-182
both guardian and minor
CAL 1988-96
both interests of child and state
-in welfare proceeding
CAL 1977-45
both sides
SF 1973-15
multiple witnesses in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
party to reclaim rights from federal government/parties in whom rights are vested
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. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
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
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
People v. Bryant (1969) 275 Cal.App.2d 215 [79 Cal.Rptr. 549]
attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
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
Sixth amendment rights not violated where co-defendant raised conflict of interest based on a mere theorectical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
there is no constitutional right to pay for counsel with money that is subject to a valid prior claim by a third party
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
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)
general antagonisms between lawyer and client, specifically, regarding settlement are not necessarily "tangible conflicts"
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
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, OC 2003-02
defense attorney's "intimate" relationship with client found not to be a conflict
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
Sharing office space with another attorney
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90, CAL 1979-50
SD 1985-1, LA 216 (1953)
represent opposing sides
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)
Specially appearing attorneys
CAL 2004-165
Standing to assert
Allen v. Academic Games League of America (C.D. Cal 1993) 831 F.Supp. 785, 788
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
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]
aggrieved non-party had standing to disqualify client's counsel who had been previously disqualified in a related litigation involving non-party and client
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902
courts should be skeptical when disqualification motions are brought by opposing parties
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
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]
laches
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
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]
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
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
vicarious standing defined
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
where an attorney's continued representation threatens an opposing litigant with cognizable injury or would undermine the integrity of the judicial process, the trial court may grant a motion for disqualification, regardless of whether motion is brought by present or former client
Kennedy v, Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Substantial relationship
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
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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
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attorney seeks to substitute into appeal as the party adverse to his former client in the same matter in which he had originally represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
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-where disqualification for former representation would be futile
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-where former client, now expert witness for adverse party, waives conflict
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*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
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Gold v. Greenwald (1966) 247 Cal.App.2d 296 [55 Cal.Rptr. 660]
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-to enforce fee agreement
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-to show transaction fair
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-courts view attorney/client transactions with suspicion
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-must show validity of contract
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-use of confession of judgment against client
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Carlson v. Lantz (1929) 208 Cal. 134 [280 P. 531]
where city council member who is also a member of a law firm which seeks to represent the city raises the possibility that the member's personal considerations may conflict with the exercise of official judgment or discretion (Government Code section 1090)
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
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Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
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-recusal of entire office
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
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-public law office
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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]
not required where attorney never performed services for former client of public defender's office
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
not required where attorney never performed services for former client of attorney's wife's firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
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People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
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Waiver of
advance waiver of potential future conflict contained in a joint defense agreement found enforceable even though the waiver does not specifically state the exact nature of the future conflict
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both confidentiality and conflict of interest
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Alcocer v. Superior Court (1988) 206 Cal.App.3d 951
-client must be advised of the full range of the dangers and possible consequences of the conflicted representation and he must understand the ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
-court has discretion to deny substitution because of serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
-court has latitude to remove counsel where potential conflict exists, over objection by defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-no valid waiver found
Wheat v. U.S. (1988) 486 U.S. 153 [103 S.Ct. 1692
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
--no evidence that defendant understood any of the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
-valid waiver found
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Welfare proceeding
conflict between state and child
-disclosure by district attorney to court
CAL 1977-45

Will
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 beneficiary of holographic will
Maltaman v. State Bar (1987) 43 Cal.3d 924
attorney drafts will making secretary executor, then represents executor for fee
LA 382 (1979)
attorney who drafted was later employed as attorney for executor
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
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.
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, 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
prosecution witness is former client of attorney
SD 1974-15
Withdrawal [See Withdrawal.]
client prevents exercise of independent professional judgment
SD 1972-1
probate matter, from
-where lawyer defends executor in action brought by decedent's spouse to whom lawyer also giving legal advice
LA 23 (1923)
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]
representation of co-defendants
CAL 1970-22
Witness
attorney acting as
Milicevic v. Fletcher Jones Imports, Ltd. (9th Cir. (Nevada) 2005) 402 F.3d 912
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
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
--against present client
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
---in criminal proceeding
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
--witness
---against present client
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
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]
LA 513 (2005)
----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]
-no conflict found where defense counsel previously represented wife of prosecution witness
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)
expert witness for plainiff previously represented by defense counsel, need not be removed and defense counsel need not be disqualified where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
CONSERVATORSHIP PROCEEDINGS
Attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2

Attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20Cal.Rptr.3d 405]
Attorney plays greater role for making fundamental choices for client once court has raised competency of criminal defendant
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
Authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
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 rule 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
Reestablishing conservatorship by stipulation filed by conservatee's attorney
In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]
Right of prospective conservatee to effective assistance of counsel
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]

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)
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
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
Code of Civil Procedure sections 1211
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
Attorney misbehavior in office
Code of Civil Procedure section 1209, par. 3
Criminal
attorney held in
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
-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]
Due process requires that reasonable notice be given as to the charges and the opportunity to be heard
Little v. Kern County Superior Court (2002) 294 F.3d 1075
In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
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]
Inclusion of contemptuous statements ina document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
Judicial officers
power to punish for contempt
Code of Civil Procedure section 178
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
Mitigation
apology
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
apology to the court was insufficient to excuse or to purge attorney of contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
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]
Procedures differ for punishing direct, hybrid and indirect contempt
In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

CONTINGENCY 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
Attorney's fees paid in tort-based action were excludable from client's gross income
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074
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
Charging liens
contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170

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
ambiguity is a question of law
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
attorney abandonment of case
-quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
attorney may pay litigation costs for clients if representing on a charitable basis
SF 1974-4
between city and private attorney
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel.Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
Business and Professions Code section 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]
-statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
county attorney, private contingency fee contract
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
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]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
CAL 2007-170, CAL 1994-135
hybrid, hourly and contingent
SF 1999-1
hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
interest charged on advanced costs from payment until billing
LA 499 (1999)
lenders to attorneys for percentage of settlement
SF 1981-1
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
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
offset recovery not actually received by client
LA 458
strictly construed against attorney
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
voidable at option of client if Business and Professions Code section 6147(b) not complied with
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
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]
Costs
LA 517 (2006)
recovery of
LA 495 (1998)
Court award rebate to client
LA 523 (2009), 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 Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
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)
Governmental entities
contingency fee contract allowed where the government agency's case is brought on its own behalf, and not in the name of the public, to recover compensatory damages that the agency incurred for investigation and remediations costs
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
contingency fee contracts not allowed where, like criminal cases, neutrality of counsel is of critical concern when important constitutional liberty interests are at stake
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Health care provider
priority of attorney lien for fees and costs of litigation in relation to contractual medical lien
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
representing person seeking damages against
Business and Professions Code section 6146
Hybrid, hourly and contingent
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non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
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
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
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
attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
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
--attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
-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]
Minor's compromise
Probate Code sections 3500 et seq., 3600 et seq.
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
Law Offices of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
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]
Not unconscionable
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Notice of lien
Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
Offset recovery
LA 458
One hundred percent of the amount of liens compromised is an unreasonable and unconscionable fee
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Paid to expert witness
CAL 1984-79
Patent prosecution
LA 507 (2001)
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)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
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
Probate
extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Public entities
may contract with private attorneys on contingency fee basis under cerain circumstances, supervision by neutral governmental attorneys who retain control
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
Quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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
determination of reasonable fee
-trier of fact may not consider gontingency nature of fee in determination of quantum meruit
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
expert witness testimony permitted
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
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]
precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
voluntary withdrawal of counsel without cause
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Reasonableness of
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465
Reasonableness of in light of legislative activity
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
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 523 (2009), 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]
Settlement
attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure atty is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon
Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
Strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
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]
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
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 Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
-statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
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
Contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
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
Implied-in-fact
CAL 2003-161
Plain language reference to whether an attorney-client relationship is formed where potential client submits legal question via website
CAL 2005-168
relationship not created based on receipt of private information from potential client via an unsolicited email
SD 2006-1

CONTRACT ATTORNEY
Compensation paid to non-employee attorney hired to render services to firm's client
CAL 1994-138, LA 518 (2006), LA 473 (1993), LA 503 (2000)
out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Costs
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
LA 518 (2006)
Non-lawyers compensated for placing "temporary" attorneys with law firm
CAL 1992-126
Outsourcing legal services
LA 518 (2006)
Use of contract attorney, disclosure to client
CAL 1994-138, LA 518 (2006), 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)

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
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 divide statutory award of attorney's fees between attorney and client
LA 523 (2009)
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
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
-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 may be enforced under the California Arbitration Act (CAA) once the MFAA arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
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
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
Authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Bankruptcy
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730
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
Business and Professions Code sections 6147 and 6148 may not contemplate the wide variety of possible fee arrangements between attorneys and clients but any revision or expansion of statutes should be left to the legislature and not the courts
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Charging liens
contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
-not adverse interest requiring disclosure to client
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
Classic retainer distinguished from "framework" contract
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Contingent attorney's fee
charging liens
-contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
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 2006-170, 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
hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
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]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
LA 499 (1999)
to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
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 Business and Professions Code section 6147 not complied with Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
--failure to include provision that fee is negotiable
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Costs
attorney may agree to advance the reasonable expenses of prosecuting and defending client's matter and waiving the right to repayment by the client if there is no recovery
LA 517 (2006)
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
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]
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]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
-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]
OC 99-001
-arbitration provision within law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
"Framework" contract, where attorney and client provide a structure for future "as requested" representation, does not create a current attorney client relationship
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Government contract
requiring attorney's clients to waive attorney-client and work product privileges
LA 435 (1985)
those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
Hybrid, hourly and contingent
OC 99-001, SF 1999-1
agreement based on fixed hourly rate which provides for possible increases based on performance is valid, but without specific agreement to do a major adjustment only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
Illegal contract
attorney sharing in award from dissolution
Theisen v. Keough (1931) 115 Cal.App. 353 [1 P.2d 1015]
client compromising suit without consent of attorney
Calvert v. Stoner (1948) 33 Cal.2d 97 [199 P.2d 297]
LA 505 (2000)
contract with minor
Leonard v. Alexander (1942) 50 Cal.App.2d 385 [122 P.2d 984]
quantum meruit upon recovery
Rosenberg v. Lawrence (1938) 10 Cal.2d 590 [75 P.2d 1082]
when void, implied contract arises
Wiley v. Silsbee (1934) 1 Cal.App.2d 520 [36 P.2d 854]
Imputation of agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Indigent, non-contractual is statutory
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
Arnelle v. City & County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
Informal contract
ambiguity in contract construction
Miller v. Lantz (1937) 9 Cal.2d 544 [71 P.2d 585]
equitable lien created if fee not stated
Wagner v. Sariotti (1943) 56 Cal.App.2d 693
extrinsic evidence to establish fee
Shaw v. Leff (1967) 253 Cal.App.2d 437 [61 Cal.Rptr. 178]
intention of parties
Houge v. Ford (1955) 44 Cal.2d 706
interpretation of agreement
Benjamin v. Frenke (1940) 40 Cal.App.2d 736 [105 P.2d 591]
modification of agreement
Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212 [64 Cal.Rptr. 915]
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]
terms not in written agreement
McKee v. Lynch (1940) 40 Cal.App.2d 216
Invalid agreement
advertising legal services for reduced rates
SD 1975-13
attorney entitled to reasonable value of services rendered
Calvert v. Stoner (1948) 33 Cal.2d 97, 104 [199 P.2d 297]
fixed fee if suit dismissed
Hall v. Orloff (1920) 49 Cal.App. 745, 749 [194 P.2d 296]
Law firm employment agreements
arbitration provision
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
Modification of contract
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
Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
Walton v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]
LA 499 (1999), LA 479 (1994)
authorization for "additional fees" 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
lien against recovery in unrelated matter to secure fees owed
LA 496 (1998)
modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
must be in writing
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
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]
Oral agreements
Thomson v. Casaudoumecq (1962) 205 Cal.App.2d 549, 551 [23 Cal.Rptr. 189]
Hardy v. San Fernando Valley Chamber of Commerce (1953) 119 Cal.App.2d 523 [259 P.2d 728]
Harvey v. Ballagh (1940) 38 Cal.App.2d 348 [101 P.2d 147]
between attorney and beneficiary
Miller v. Price (1944) 66 Cal.App.2d 126 [152 P.2d 24]
discretion of trial court
Kendrick v. Gould (1921) 51 Cal.App. 712 [197 P. 681]
reasonable value of services rendered
Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
trial court has wide discretion in fixing fee
Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
Power of attorney clause
improper for attorney to routinely request from clients
LA 393 (1981)
Private attorney with governmental agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
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]
Providing for consequences of third-party funding of lawsuit
LA 500 (1999)
Providing for court awarded attorney 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]
LA 523 (2009)
district court had authority to award attorney fees for work done outside confines of litigation before court
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
except for fees specifically provided by statute, the measure and mode of compensation of attorneys is left to the agreement, express or implied of the parties (Code of Civil Procedure 1021)
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
vacation of judgment as part of post-judgment settlement effectively eliminates fee award
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
Providing for disposition of client files upon termination
LA 493 (1998)
Providing for repayment of costs of litigation
LA 495 (1998)
prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
Providing for trial court determination of prevailing party and award of attorney fees
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

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)
Public policy, contrary to; is a question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
Quantum meruit
statute of limitations for claims of
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
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]
Question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
Reasonable value implied when no fee specified
Buck v. Ewoka (1899) 124 Cal. 61 [56 P. 621]
Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
Hannon v. Goucher (1931) 117 Cal.App. 455 [4 P.2d 239]
in absence of agreement
Batcheller v. Whittier (1909) 12 Cal.App. 262 [107 P. 141]
nothing said as to payment
Cusick v. Boyne (1905) 1 Cal.App. 643 [182 P. 985]
valid contract but no agreement as to compensation
Elconin v. Yalen (1929) 208 Cal. 546 [282 P. 791]
when attorney unable to complete performance
Boardman v. Christin (1924) 65 Cal.App. 413 [224 P. 97]
Scope of representation
Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
LA 483 (1995), LA 476 (1995)
Severability of contract
doctrine of severance inapplicable where the attorney's services in business transactions with his client could not be separated into lawful and unlawful activities
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
Sports Service Contracts
Business and Professions Code section 6106.7
Substitution of attorney clause included by attorney
LA 371 (1977)
Term void as against public policy
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)
clause regarding dismissal of suit without both client and attorney's consent
Hall v. Orloff (1920) 49 Cal.App. 745
Unenforceable contract
incompetent person
Estate of Doyle (1932) 126 Cal.App. 646, 647 [14 P.2d 920]
minor may disaffirm
Spencer v. Collins (1909) 156 Cal. 298 [104 P.2d 320]
not in writing
-action will generally lie upon a common count for quantum meruit
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
Use of "Contract Attorney Services"
CAL 2004-165
Void if consideration is unlawful
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
Voidable
agreement voided where the attorney failed to disclose to the client material terms of their business transactions and to obtain the client's written consent, as required under rule 3-300
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
contingent attorney's fee agreement to represent plaintiff
-at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
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]
if violates attorney's ethical duties
Hulland v. State Bar (1978) 8 Cal.3d 440, 448
modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
written contingent fee contract
agreement not given to client in violation of Business and Professions Code sections 6068 (a) & 6147
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
written retainer agreement
failure to comply with Business & Professions Code section 6148
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
failure to enter into with client is in violation of Business and Professions Code, sections 6068 (a) and 6148 (a)
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
CORPORATION [See Attorney-client relationship.]
Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
Corporations Code section 15634
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
Upjohn v. U.S. (1981) 449 U.S. 383 [101 S.Ct. 677]
LA 389 (1981), LA 185 (1955)
Agent for, attorney acting as, to solicit athletic contracts
CAL 1968-13
Corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
Counsel for
brings suit against shareholder in unrelated matter
SD 1978-11
corporation and directors
owe fiduciary duties to all directors claiming funds held on behalf of the corporation
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
communicates with general counsel when suing subsidiary represented by local counsel
SD 1968-2
discloses unlawful act of officers or executives
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
LA 353 (1976)
-advises officer that his conduct was illegal
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

dissolution
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
duty to prevent client's communications with opposing party
LA(I) 1966-16
former
-represents
--against corporation
LA(I) 1936-1
--against officers
LA 139 (1941)
in-house attorneys come within the mandatory relief from default or dismissal provision of CCP § 473
Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]
in-house counsel entitled to award of 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)
informs directors of criminal record of a director
LA(I) 1965-14
may be sued for malpractice by bankruptcy trustee of "sham" corporation
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
must raise privilege for communications with client before merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
no automatic attorney-client relationship between corporate counsel and corporate directors
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
propriety of being
-represents
--corporation against director
LA(I) 1966-14
--employees
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relationship between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
rendering legal services to corporation employees
SD 1975-18
role of attorney as
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935-936 [197 Cal.Rptr. 185]
shareholder derivative suit
LA 397 (1982)
-prevailing party awarded attorney's fees under Corporations Code section 800
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
subsidiary also represented by corporate counsel
SD 1976-6
suspended corporation
-duty to inform the court of corporation's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
Director represents stockholder against corporation
LA(I) 1955-2
Enjoy attorney-client privilege
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198
displaced managers in merger may not assert the privilege over the wishes of current managers
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
investigate activities by in-house counsel that do not invlve legal advice may not be covered by the privilege
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
relationship between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
shareholder derivative action against corporation does not entitle shareholders to attorney-client privilege
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
In propria persona
Van Gundy v. Camelot Resorts, Inc. (1984) 152 Cal.App.3d Supp. 29
Incorporate
later represent against one incorporator
SD 1974-13
In-house counsel
award of attorney fees that compensates corporation's inside and outside counsel at the same rate may be an abuse of discretion
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
entitled to award of 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)
may state cause of action against employer for retaliatory discharge and breach of implied-in-fact contract
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
LA 389 (1981), SD 2008-1
officers of the court, subject to Code of Professional Responsibility
U.S. Steel Corporation v. United States (C.A. Fed. 1984) 720 F.2d 1465, 1468
Joint venture
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
LA 412 (1983)
Representation of corporation and board of directors in derivative suit
LA 397 (1982)
Representation of corporation and director
CAL 1999-153

Shareholder(s)
director represents shareholder against corporation
LA(I) 1955-2
may not pierce the privilege in that capacity
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1199
minority, not deemed represented by counsel for corporation
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Subsidiary
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113
Suspended corporation
attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
duty to inform the court of corporation's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
Trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

CORPORATION COUNSEL [See Client trust account. Confidences of the client. Corporation. Insurance company attorney. Law corporation.]

COSTS [See Advancement of funds. Client trust account. Expenses.]
Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
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Advance
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
CAL 1976-38
LA 517 (2006), LA 379 (1979)
Advanced costs by a law firm per terms of contingency fee agreement deductible as business expenses
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
Apportioning costs between insurer and insured
LA 424 (1984)
Assigned counsel's duty with respect to
LA 379 (1979)
Attorney's fees as costs
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Attorney's fees do not include expert witness fees
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Billing for costs and expenses
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
LA 499 (1999)
Contract attorney
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993
outsourcing of legal services
LA 518 (2006)
Costs incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10
In re Findley (9th Cir. 2010) 493 F.3d 1048
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
In re Taggart (2001) 249 F.3d 987
In the Matter of Mackenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rtpr. 571
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
payment of costs to State Bar under 2003 amendments to Business and Professions Code § 6086.10 are not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
retroactive application of amended statute
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
Criminal proceedings
assignment of costs and fees against criminal defendant requires notice, hearing, and evidence of actual costs
People v. Poindexter (1989) 210 Cal.App.3d 803 [258 Cal.Rptr. 680]
Donation of legal services and costs as prize
LA 434 (1984)
Error in awarding costs
family law 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]
prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
Expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Expert witnesses obtained through a medical-legal consulting firm
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
Failure to hold advance costs in client trust account
Aronin v. State Bar (1990) 52 Cal.3d 276
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Failure to refund unused advanced costs
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
Filing fee
client's inability to pay
Alexander v. Carson Adult High School (1993) 9 F.3d 1448
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
Interest charged on advanced costs from payment until billing
LA 499 (1999)
IRS pre-litigation activities in tax assessment case did not warrant litigation costs to taxpayer
Estate of Merchant v. Commissioner Internal Revenue Service (9th Cir. 1991) 947 F.2d 1390
Paid by lawyer
LA 499 (1999), LA 379 (1979), LA 149 (1944)
SF 1974-4
Pro bono representation
LA 379 (1979)
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
Recovery of, by party
Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]

cost of typing briefs for photocopying recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
necessarily incurred traveling expenses recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
Recovery of, defending a frivolous civil action
Kobzoff v. Los Angeles County Harbor/UCLA Medical Center (1998) 19 Cal.4th 851 [80 Cal.Rptr.2d 803]
Recovery of, upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
LA 495 (1998), SF 1985-2
Reimbursing public entity for costs in paying subpoenaed peace officers is the responsibility of litigant and litigant's counsel
Maddox v. City of Costa Mesa (2011) 193 Cal.App.4th 1098 [122 Cal.Rptr.3d 629]
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Trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
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Abuse of discretion
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306
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Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775
bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
Abuse of judicial process
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
Appointment of defense attorney for criminal defendant
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
Attorney's acts under Civil Code section 47(2) not privileged where damages do not stem directly from those acts
Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]
Attorney's deception in collection of debt not protected by judicial process' absolute privilege under Civil Code section 47
Carney v. Rotkin, Schmerin & McIntyre (1988) 206 Cal.App.3d 1513 [254 Cal.Rptr. 478]
Authority
Code of Civil Procedure section 128
appellate court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
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Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048
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Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170-1173
-court cannot sanction pro hac vice attorney for bad faith misconduct in a mannter that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
-court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
-court has no statutory authority to impose monetary sanctions against pro hac vice attorney for bad faith misconduct
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
-for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
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Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318
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In re Levander (9th Cir. 1999) 180 F.3d 1114
Chooses not to speak on ethical issues
United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354
Client's cross-examination of witnesses
People v. Davis (1984) 161 Cal.App.3d 796, 802-804
Discretion
court has discretion to take into consideration a criminal defendant's desire to have a particular attorney appointed at the public's expense
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
unreasonable application of clearly established federal law
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
Discretion with respect to attorney-client relationship
People v. Davis (1984) 161 Cal.App.3d 796, 802
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In re Ibarra (1983) 34 Cal.3d 277 [193 Cal.Rptr. 538, 666 P.2d 980]
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Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
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Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
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Electronic devices in courtroom
Rule 1.15, California Rules of Court
Federal courts
district court's reliance upon distinction that state bar makes between active and inactive members to limit practice of inactive attorneys is not improper exercise of court's rulemaking authority
In re North (9th Cir. 2004) 383 F.3d 871
have inherent and broad regulatory authority to make rules respecting admission, practice, and discipline of attorneys appearing in those courts
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631

new district court rule requiring that attorneys appearing before it must be members of that jurisdiction does not deprive attorney of his constitutionally-protected property interest in his license to practice law
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
Fraud on the court must harm the integrity of the judicial process
In re Levander (9th Cir. 1999) 180 F.3d 1114
Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
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Information disclosed to
LA(I) 1972-3
Informed about fee agreement
LA 261 (1959)
Jurisdiction
California Code of Civil Procedure 1008
-circumscribes courts' jurisdiction over applications to reconsider is strictly applied to applications or motions for reconsiderations and renewals of previous motions and not to any order to revisit an earlier ruling
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
refusal of a California court to give foreign state judgment full faith and credit where a party to the Arizona proceeding was denied due process under the Fifth and Fourteenth Amendments due to attorney's conflict of interest
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
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attorney attire in courtroom
Jensen v. Superior Court (1984) 154 Cal.App.3d 533 [201 Cal.Rptr. 275]
court has no statutory power to discipline pro hac vice attorney; that power rests exclusively with the Supreme Court and with the State Bar
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Responsibility, to ensure high standards of ethics
Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]
Unification of municipal and superior courts not intended to fundamentally alter existing rights and procedures or parity of treatment of the parties
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

COURT REPORTER
Duty to pay court reporter
CAL 1979-48
Improper to condition delivery of deposition transcripts on the former client's paying the reporter's fees
LA 425 (1984)
Ministerial officers of the court subject to the court's inherent authority over judicial proceedings
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]

CREDIT CARD [See Fee, financing of.]
Borrowing money without intent to repay it
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

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CRIMINAL CASE [See Conflict of interest, criminal proceeding. Ineffective assistance of counsel. Prosecutorial misconduct.]
Abandonment
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
by appellate counsel was good cause for substantial delay in filing of habeas petition
In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
Adequacy of appointed counsel
People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]
Appeal
California use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]
Communication with a represented party
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
Defense counsel's declarations regarding informant
People v. Oppel (1990) 222 Cal.App.3d 1146 [272 Cal.Rptr. 340]
Defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
LA 466 (1991)
Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude
In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
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tolling of habeas petition deadline when prisoner did not have access to file
Lott v. Mueller (9th Cir. 2002) 304 F.3d 918
Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
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United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Negotiation of private agreement to compromise civil claim arising from crime
CAL 1986-89
Negotiation of private agreement to prosecute crime
CAL 1986-89
Private prosecution
California law does not permit private prosecution of criminal case without presence of public prosecutor
People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]
Represent
defendant
-after representing party who is now prosecution witness
LA 366 (1977)
-defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

when client is complaining witness
SD 1974-15
Right of criminal defendant to consult privately with counsel
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(800) 843-9053
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In re Michael Brown (1995) 12 Cal.4th 205
-entitled to very little weight when attorney had practiced law for only seven years before start of misconduct
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
-may be considered as a mitigating factor although the present misconduct is serious
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-not mitigating factor where attorney only in practice for a brief time
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
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-slight credit
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prompt action to report employee embezzlement to police and to make amends to clients
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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:
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Public Reproval is not sufficient discipline after conviction for not paying tax amounts withheld from employee wages
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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
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Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
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San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
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Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
-where attorney for plaintiff formerly had borrower-lender relationship with defendant
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Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
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Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
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Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
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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]
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Gregori v. Bank of America (1989) 207 Cal.App.3d 291
Disqualification affirmed
alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Disqualification denied because former legal secretary of defendant became a client, not an employee of attorney for plaintiff
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
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People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
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People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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Financial stake in action
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24, 705 P.2d 347]
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
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
Interest in subject matter of the representation
no disqualification where attorney owned shares in a company that purchased shares from a client that the attorney represented
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
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
attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
disqualification may not be available when an attorney-client relationship never existed between the moving party and the attorney sought to be disqualified
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Motion brought by in propria persona party against opposing counsel
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
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 has no standing to assert conflict and no expectation of confidentiality
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Non-client litigant may have standing to move for disqualification of counsel in cases where they have a sufficient personal stake
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
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
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Not required even if attorney received confidential information about defendant because defendant did not meet burden of showing that the information could give plaintiff an unfair advantage or affect outcome of litigation
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Not required where no confidential information disclosed by current directors when their separate counsel had given permission for adverse counsel's communication with them
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
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
rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
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
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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]
attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
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
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr. 537] [36 Cal.Rptr.2d 537]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
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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 re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
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United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
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Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
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Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
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 611
Prior representation of plaintiff's expert witness does not required disqualification where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Public defender
prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
Raised on appeal from final judgment
requires showing that denial of motion affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
Required when attorneys change sides in factually related cases
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1000-1001
Review procedures for denial of motion to disqualify
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Risk of disclosure of confidential information
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
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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]
Services never performed 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
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Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Sixth Amendment
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In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
trial court's ex parte removal of counsel and ex parte substitution of new counsel, without the participation of defendant, infringed on the constitutional protections of defendant's free choice of counsel
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
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Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
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Timeliness of mitigation claims
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Vicarious disqualification to law firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
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City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
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People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
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City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
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Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
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Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
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People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
When attorney acts as witness
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When 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]
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Agreement to divide statutory awarded of attorney's fees between attorney and client
LA 523 (2009)
Attorney as partner or employee of two law firms
LA 511 (2003)
Attorneys' oral agreement to form joint venture to share legal fees held enforceable notwithstanding argument that such arrangement may have violated rules of professional conduct requiring clients' consent to share fees and waiver of conflict of interest
Jorgensen v. Cassiday (9th Cir. 2003) 320 F.3d 906
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Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
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-duty of successor attorney to pay matures upon occurrence of contingency
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-attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
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--failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
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Breckler v. Thaler (1978) 87 Cal.App.3d 189 [151 Cal.Rptr. 50]
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Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
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-post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
-right to share in proceeds from future business of new partnership
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-suspended lawyer
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-has no ownership or lien interest upon fees owed to firm by client
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CAL 2008-175
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Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
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Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
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Rule 3-102(a)(1), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
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LA 457
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attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
dispute among class counsel
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
Definition of term "associate" for purposes of rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
LA 511 (2003)
sharing in fees as partner or employee of two law firms
LA 511 (2003)

Definition of term "partner" and "partnership" for purposes of rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Disclosure to client
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Hawkins v. State Bar (1979) 23 Cal.3d 622, 628-629 [155 Cal.Rptr. 234, 591 P.2d 524]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
CAL 1994-138, SD 1987-2
failure to obtain client's written consent in compliance with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
-attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
rule 2-200 requires that client consent be obtained prior to a division of fees, but does not require that such consent be obtained prior to lawyers entering into a fee-splitting arrangement or the commencement of work on the client's matter
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Disclosure to court
attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
Outsourcing legal services
LA 518 (2006)
Paralegal fees under 42 USC 1997(e), 42 USC 1988, and 18 USC 3006A are subject to the same cap as attorney fees under Prison Litigation Reform Act
Perez v. Cate (9th Cir. 2011) 632 F.3d 553
Partnership dissolution
CAL 1985-86
division of post-dissolution profits from unfinished partnership business
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Quantum meruit
discharged attorney attempts to enforce contingent fee contract made with substituted counsel
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
discharged attorney attempts to enforce division of fees agreement with former co-counsel
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
discharged attorney entitled to reasonable value of services
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]
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]
failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
-attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
-failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
partnership entitled to
-for unfinished cases taken by departing partner
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
SF 1989-1
succeeding attorney's duty to honor withdrawing attorney's lien
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
under contingent fee contract, discharged attorney limited to quantum meruit recovery
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]
under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services
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]
-attorney precluded from recovering from former co-counsel
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
voluntary withdrawal without cause forfeits recovery
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Rationale underlying fee splitting prohibition
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Referral fee
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 593]
CAL 1994-138, LA 503 (2000), LA 486, LA 467, SD 1984-6
acceptance by attorney of "take it or leave it" referral fee constitutes accord and satisfaction
Thompson v. Williams (1989) 211 Cal.App.3d 566 [259 Cal.Rptr. 518]
acceptance of where firm represents carrier represents a conflict of interest
SD 1987-2
gift or gratuity
LA 503 (2000)
paid to attorney for executor from broker listing estate property
SD 1989-2
paid to attorney from doctor for referral of clients for medical services
LA 443 (1988)
referral of legal business, fee-splitting agreement is enforceable even if referring attorney had improper fee-splitting agreement with another, non-attorney; unclean hands doctrine does not apply
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
requires written disclosure to client and client's written consent
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200, and no case referral is involved
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Void under Business and Professions Code section 16600
Muggill v. Reuben H. Donnelley Corp. (1965) 62 Cal.2d 239
Frame v. Merrill, Lynch, Pierce, Fenner & Smith, Inc. (1971) 20 Cal.App.3d 668
With franchisor
LA 423 (1983)
With lay entity
barter organization
CAL 1981-60, CAL 1977-44
bona fide legal services program or activity
Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
business manager of client
LA 431 (1984)
collection agency
LA 522 (2009), LA 36 (1927)
consulting firm
LA 194 (1952)
consumer organization which arranged for employment
SF 1973-27
dead lawyer's estate
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
LA 361 (1976)
SD 1969-4, SD 1968-5
doctor
LA 443 (1988)
employment agency
CAL 1992-126, LA 359 (1976)
entity that helps persons get government loans
LA(I) 1976-5
financial management company
LA 372 (1978)
franchise group
LA 423 (1983)
group legal services organization
Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
independent contractor
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insurance company
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
CAL 1987-91
investment/portfolio manager
CAL 1999-154
lawyer
-who is not a partner, associate or shareholder
CAL 1994-138, LA 473 (1993)
lawyer referral service
Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600(B), Rules of Professional Conduct (operative as of May 27, 1989)
Sections 8.1-8.2, State Bar Minimum Standards for a Lawyer Referral Service
lay entity's for referral of business
LA 96 (1936), LA(I) 1965-7
lender to attorney of percentage of settlement
SF 1981-1
living trust marketers
CAL 1997-148
management company
LA 488 (1996)
medical-legal consulting service
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
medical liaison
CAL 1995-143
membership organization
LA 401 (1982)
non-profit referring organization
SF 1976-2, 1973-27
outsourced legal services
LA 518 (2006)
prepaid legal services organization
Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
property management firm
LA 461 (1990)
publishing company employees
LA 446 (1987)
spouse in marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
voluntary legal services organization
Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
With non-lawyers
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]

Kitsis v. State Bar (1979) 23 Cal.3d 857 [153 Cal.Rptr. 836, 592 P.2d 323]
In re Arnoff (1978) 22 Cal.3d 740, 745 [150 Cal.Rptr. 479, 586 P.2d 960]
Sawyer v. State Bar (1934) 220 Cal. 702 [32 P.2d 369]
McIntosh v. Mills (2004) 121Cal.App.4th 333 [17 Cal.Rptr.3d 66]
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
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In the Matter of Scapa and Brown (Review Dept.1993) 2 Cal. State Bar Ct. Rptr. 635
In the Matter of Jones (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411
CAL 1992-126
LA 510 (2003), LA(I) 1972-19
assistant
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675]
attorney, not licensed at time services performed
-may not be entitled to legal fees
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
bonuses to lay employee
LA 457
business associate
Alpers v. Hunt (1890) 86 Cal. 78, 87 [24 P. 846]
client
LA 523 (2009), LA 461 (1990)
-difference between original contingency fee and larger court award of fees
LA 447 (1987)
-refund of an overpayment
LA 515 (2005)
client assistant
LA 437 (1985)
collection agencies
LA 522 (2009)
corporate employer
LA 510 (2003)
dead lawyer's widowed spouse or estate
Rule 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
CAL 1975-34, LA 361 (1976), LA 162 (1947), LA(I) 1974-15, SD 1968-5
debt collection matter solicited in person by non-lawyer
LA 96 (1936)
disbarred attorney
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
doctor
LA 443
employee
LA 222 (1954), LA 190 (1952)
employer
LA 510 (2003)
employment agency
CAL 1992-126
expert witnesses provided by consulting service
CAL 1984-79
fee rebate to client
LA 523 (2009), LA 447 (1987)
fee sharing agreement unenforceable under doctrine of illegality of contract
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financial planning company
LA 510 (2003)
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independent contractor
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insurance adjuster
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investigator
-employed by attorney
--based upon contingent of recovery of unsatisfied judgment proper unless division of fees
LA 89 (1936)
investment/portfolio manager
CAL 1999-154
lawyer referral service
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 512 [255 P.2d 508]
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
living trust marketer
CAL 1997-148
management company
LA 488 (1996)
medical-legal consulting services
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
CAL 1984-79
medical liaison
CAL 1995-143
organized lender
SF 1981-1
outsourced legal services
LA 518 (2006)
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In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
LA 391, LA 457
-Prison Litigation Reform Act does not set a separate benchmark rate for paralegal fees
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private investigator
Lyons v. Swope (1957) 154 Cal.App.2d 598, 600 [317 P.2d 121]
professionals, other
-participating in service exchange
CAL 1981-60, CAL 1977-44, LA(I) 1965-18
real estate agents/broker
Provisor v. Haas Realty, Inc. (1967) 256 Cal.App.2d 850, 856 [64 Cal.Rptr. 509]
LA 384 (1980), LA 18 (1922)
-attorney/real estate licensee who shares a commission with a person who does not perform any act for which a license is required (the Real Estate Law, Bus. & Prof. Code §§ 10000-10580)
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
receiver
LA 44 (1927)
resigned attorney
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
-with charges pending
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
service exchange
CAL 1981-60, CAL 1977-44, LA(I) 1965-18

spouse in marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
tax consultant
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
tax specialist
employed by attorney
-to assist clients
LA 86 (1935)
DIVORCE [See Alimony. Collusion. Confidences of the client. Conflict of interest, divorce, multiple representation. Fees.]
Award of attorneys fees
tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
when other spouse is able to pay
In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464
Communication of confidences
LA 417 (1983)
Completion and filing of selected forms by divorce center
SD 1983-12
Contingent fee for [See Contingent fee, divorce.]
CAL 1983-72, LA 188 (1952)
Counsel for one party holding trust fund executes against other's share for back child support
LA(I) 1971-15
In propria persona
advise legal aid client how to obtain
SD 1972-6
Litigation privilege
absolute and protects attorney from derivative tort actions based on statements made in the context of dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
No fault
communicate with other party in
CAL 1996-145, LA 334 (1973)
Opposing party
fee paid by
LA 226 (1955)
Represent
client's spouse
LA 207 (1953), LA 192 (1952)
family corporation formerly
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
former client's spouse in
LA(I) 1971-8
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, SD 1977-6
-after consulting with other about divorce
SD 1984-2, SD 1975-1
-settlement
SD 1984-2
-subsequently other in related action
LA 231 (1955), LA(I) 1968-8
other spouse previously
SD 1984-2
party in and receiver
LA 51 (1927)
successive wives of same husband
LA(I) 1963-6
Rights of spouse to fees
In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212
DONATIONS [See Fee, donation of legal fees.]
Charitable
CAL 1982-65, SF 1974-4
Legal services
LA 434 (1984),
SD 1975-14, SD 1974-19
contingent upon bequest to certain organization
LA 428 (1984)
Merchandise
SD 1973-2
DRAFT, MILITARY
Member of selective service appeal board represents appellants before other boards
LA(I) 1969-8
DRUG ABUSE [See Alcohol abuse.]
DUAL PROFESSIONS [See Advertising. Conflict of interest. Law office. Practice of law.]
DUTIES OF ATTORNEY [See Candor. Professional liability. Withdrawal from employment.]
Business and Professions Code sections 6068, 6077, 6103
Rule 3-101(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1983-71
Abide by Rules of Professional Conduct, the American Bar Association, and applicable court decisions
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
Accept rulings of the court
People v. Davis (1984) 160 Cal.App.3d 970, 984
Action
encouraging commencement or continuation from corrupt motive
Business and Professions Code section 6068(c)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
Business and Professions Code section 6068(g)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
legal or just
-duty to counsel or maintain only
Business and Professions Code section 6068(c)
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
LA 464 (1991)
Address maintained on official records
In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
In the Matter of Peterson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73
Adequacy and effectiveness of counsel
People v. Garcia (1983) 147 Cal.App.3d 409
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
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]
Adequately research and know the law
Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
Adequately research triable issues of fact
Aloy v. Mash (1983) 144 Cal.App.3d 768, 773 [192 Cal.Rptr. 818]
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]
Adequately supervise [See Competence, Failure to adequately supervise. Employee.]
Adhere to Rules of Professional Conduct
People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]

Advance no fact prejudicial to honor or reputation of a party or witness, unless required by the justice of the cause
Business and Professions Code section 6068(f)
applies to the advance of prejudicial facts, but perhaps not prejudicial intimations
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
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]
-attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
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
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
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]
OC 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
no fiduciary duty
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (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]
Attorney's liability for fraud extends to non-clients
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
attorney's signature block on contract stating approval as to form and content not actionable misrepresentation
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
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
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
dishonesty to court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
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
-while attorney served on civil jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
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
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

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]
Class action
conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
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
failure to disclose to client that another attorney would represent her at a creditors' meeting and to obtain client's prior consent
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
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 re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
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
CAL 2011-182, CAL 2008-175, CAL 2003-163
basis for calculating fees
OC 99-001
client/plaintiff overpaid by defendant under settlement agreement
LA 520 (2007)
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]
counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
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
failure to communicate for two and a half years does not reasonably mean that client should have known that attorney had withdrawn or abandoned the case for purposes of tolling the statute of limitations on filing a malpractice action
Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
failure to communicate with board of corporation
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
gross negligence in failing to communicate may be deemed abandonment
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
may supercede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense
SD 2004-1
misleading client deliberately and depriving client of opportunity to preserve rights
Community Dental Services v. Tani (2002) 282 F.3d 1164
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
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)
potential malpractice claim, facts related to
CAL 2009-178
prohibited from advising a debtor to incur more debt because the debtor is filing for bankruptcy, rather than for a valid purpose. However, attorneys may talk fully and candidly about the incurrence of debt in contemplation of filing a

bankruptcy case. The inhibition of frank discussion serves no conceivable purpose within the statutory scheme
Milavetz v. United States (2010) __ U.S. __ [130 S.Ct. 1324]
radio call-in show format is unlikely to support a reasonable expectation of confidentiality, loyalty or competence
CAL 2003-164
"reasonable status inquiry" for purpose of B&P § 6068(m)
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
settlement offers
-which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
use of outside lawyers or outsourcing legal services
CAL 2004-165, CAL 1994-138
LA 518 (2006)
SD 2007-1
use of specially appearing attorney
CAL 2004-165
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)
conservatorship proceedings
-duty of counsel to perform in an effective and professional manner is implicit in statute (Welf. & Inst. Code § 5365) providing for appointment of attorney for proposed conservatee
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
obligation to anticipate reasonably foreseeable risks
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Comply with and be familiar with standards of professional conduct required of members of the State Bar of California, Civil Local Rule 11-4
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Comply with State Bar reporting requirements
California Rule of Court 9.20
Rule 1-311, Rules of Professional Conduct (operative as of May 27, 1989)
Business and Professions Code section 6068(j)
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
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
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
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)
LA 519 (2006)
duty to preserve client confidence and trust in attorney
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal Rptr.3d 256]
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 2010-179, CAL 1981-58, CAL 1987-93, CAL 1987-92
LA 506 (2001)
-after termination of the attorney-client relationship
LA 519 (2006)
duty to protect client confidences and secrets
-after death of client
Swidler & Berlin v. United States (1998) 524 U.S. 399
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)
Conflict of duties may require withdrawal
CAL 2003-163
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 McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
California Rules of Professional Conduct do not apply only to lawyers who are acting in their roles as advocates for others
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
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
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
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
Consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive
CAL 2009-177
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)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
Sorensen v. State Bar (1991) 52 Cal.3d 1036
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
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
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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
factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
representation of a minor client
LA 504 (2000)
Depositions, representing client at
instructions not to answer sanctionable
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
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)
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)
Dispute
conflict of interest not created by
CAL 2009-178
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
Duty to supervise
non-attorney employees
-permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
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
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
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)
outsourcing legal services
LA 518 (2006)
Failure to appear in numerous matters
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
Failure to communicate status of case to client
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
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 disclose expert witness notes
People v. Lamb (2006) 136 Cal.App.4th 575 [40 Cal.Rptr.3d 609]
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 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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Fidelity to client
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
Anderson v. Eaton (1930) 211 Cal. 113
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
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
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009
Hartford v. State Bar (1990) 50 Cal.3d 1139
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
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]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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
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
-attorney seeks to become party adverse to former client in the same matter in which he had represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
adverse party or non-client
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
-attorney breached duty as escrow holder
Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]
-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
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
breach of duty to a former client
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal Rptr.3d 256]
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
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]
fiduciary duties owed to former client even after termination of the relationship
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Zador v. Quan (1995) 31 Cal.App.4th 1285, 1293 [37 Cal.Rptr.2d 754]
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]
no duty to co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
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
Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
statute of limitations
Stoll v. Superior Court (1992) 9 Cal.App.4th 1362
successor counsel to prior counsel
CAL 2009-177
to client's prior attorney
CAL 2008-175
to non-client joint ventures
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)

to non-client, where a confidential relationship of trust and dependency was created
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
to third-party non-client
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boranian v. Clark (2004)123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
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
non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
Honesty
deception and concealment amounting to moral turpitude
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
dishonesty to court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
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
-misrepresentation to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
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
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
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 financial affairs of clients
attorney not permitted to be willfully ignorant on how the attorney's fees were paid when attorney was objectively on notice that the fees might have been derived from a pool of frozen assets
Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127
impractical and would unduly interfere with duties to clients
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
Investigate potential securities fraud
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
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. (Oregon) 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
Litigation privilege does not protect attorney's alleged fraudulent statement about insurance coverage
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
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
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
CAL 2011-182
attorney's duty of loyalty to client assignee for the benefit of creditors cannot be divided or diluted by a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
bonus program for public agency attorneys tied to savings by agency
SD 1997-2
breach may arise even if adversity involves attorney's own personal actions rather than another client's representation
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal Rptr.3d 256]
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
does not extend to a party that claims third-party beneficiary status and whose interests are potentially adverse to those of the client
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
may supercede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense
SD 2004-1
may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OC 95-001
no fiduciary duty owed to co-counsel where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
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]
self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
LA 506 (2001)
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]
Mediator
attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
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
OC 95-001
duty to report possible violation of court order
LA 394 (1982)
while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
No constitutional right to every defense
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
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
disregard of order by a workers' compensation judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
filing quiet title action in spite of injunction not to do so
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
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
lawyer failed to serve answer as ordered by court
Community Dental Services v. Tani (2002) 282 F.3d 1164
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
CAL 2009-177
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]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
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]
attorneys, by virtue of their professional position, must undertake certain special duties to avoid conduct that undermines the integrity of the adjudicative process
Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127
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
-attorney's signature block on contract stating approval as to form and content not actionable misrepresentation
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
making settlement offers which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
Opposing party
attorney by purchasing judgment against client seeks to become the party adverse to former client in the appeal on the same matter in which he had originally represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
attorney has duty to avoid knowingly making false statements and misrepresentations to non-clients
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
attorney may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
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
--dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
--settlement negotiation
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
-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]
-letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was not only protected by the litigation privilege but also protected under the anti-SLAPP statute
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]

-protects attorney conduct which is communicative in nature
Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
no California authority allows an attorney to disclose attorney-client communications or confidential information in defense of a lawsuit by a third party
LA 519 (2006)
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]
attorney for corporation owes no duty to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boranian v. Clark (2004)123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
non-fiduciary who is asked for or volunteers information in the course of a business negotiation must be truthful to non-client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
Partner's malpractice
associate's duty to disclose to client
LA 383 (1979)
Partnership dissolution
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
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. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
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. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
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
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]
Radio call-in show formal is unlikely to support reasonable expectation of confidentiality, loyalty, or competence.
no duty of confidentiality, loyalty, competence
CAL 2003-164
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 IRS
-cash receipts from any one transaction (or two related transactions) of $10,000 or more during one year
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
Internal Revenue Code section 6050(I)
to the State Bar
-address of attorney
Business and Professions Code section 6002.1
-civil judgement for fraud, misrepresentation and breach of fiduciary duty in a professional capacity
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
-conviction of attorney
Business and Professions Code section 6068(o)(5)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
-imposition of discipline
Business and Professions Code section 6068(o)(6)
-indictment or information
Business and Professions Code section 6068(o)(4)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
-judgment against attorney for moral turpitude
Business and Professions Code section 6068(o)(2)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
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)
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
Canatella v. California (9th Cir. 2002) 304 F.3d 843
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 Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
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 Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
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. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Pangelina (1984) 153 Cal.App.3d 1
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
attorneys generally must pursue all available legal theories although it is impossible to know in advance whether a potential theory will prevail
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
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]
should not interfere with attorney's duties under rule 3-200 or B&P § 6068(c)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
zeal must be subordinate to an attorney's paramount obligation to assure orderly administration of justice
Scott Moody, Inc. v. Staar Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
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
CAL 2007-174
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. (Oregon) 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
OC 99-002
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
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)

responsibility to monitor client trust account is nondelegable, notwithstanding even reasonable reliance on partner, associate, or responsible employee
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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 Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
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 522 (2009), LA 488 (1996)
OC 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
-pattern of similar constitutional violations by untrained employees was necessary to demonstrate deliberate indifference for purposes of failure to train, where exculpatory evidence was not produced as requested under *Brady*
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
outside lawyers or providers of outsourced legal services
CAL 2004-165, CAL 1994-138
LA 518 (2006)
SD 2007-1
paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
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
OC 94-002
-lack of supervision over paralegal which lead to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
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
Silberg v. Anderson (1990) 50 Cal.3d 205
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
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
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
estate planning
-duty to act with due care as to the interests of the intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304
-no duty owed to non-client potential beneficiary absent testator's express intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
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]
no duty to third party
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
non-fiduciary who is asked for or volunteers information in the course of a business negotiation must be truthful to non-client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
not to convert funds
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
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
class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
-counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
duty owed to client, not to potential beneficiary
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
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
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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 client's prior attorney
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
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
OC 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
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
Boranian v. Clark (2004)123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Hall v. Superior Court (2003) 108 Cal.App.4th 706 [133 Cal.Rptr.2d 806]
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
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
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]
attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
attorney for corporation owes no duty to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
attorney may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
estate planning
-attorney has duty to act with due care as to the interests of the intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
-attorney has no duty of care to non-client potential beneficiary absent testator's express intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
joint venture
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
limitations on liability do not apply to liability for fraud
-non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
no duty to third-party absent an intent to benefit third party
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
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]
wife, an attorney, was advised of potential conflict of interest orally and twice in writing, and wife voluntarily entered into the post-nuptial agreement while acting as her own attorney
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

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]
To third parties
estate planning
-attorney has duty to act with due care as to the interests of the intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
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)
Unpaid
settlement negotiations do not require attorney to withdraw
CAL 2009-178
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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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.]

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 is responsible for calendaring error regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
-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]
-calendaring paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
-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
Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]
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
Public agency attorney may be compelled, under threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

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)
Except 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)
extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
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]
Attorney for conservatee owes no duty to beneficiary of conservatee's estate
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Attorney-client relationship does not extend to beneficiaries
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
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 co-executor
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
Probate Code sections 10804 and 15687
LA 382 (1979), LA 347 (1975)
fees for services rendered to executor in individual capacity
Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
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)
Independent review required under Probate Code section 21350
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
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]
Liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
Partnership
represents
-member-executor/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
Reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
Successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Successor in interest may be liable for award of attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
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]
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
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
-successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
attorney's fees
-denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
-trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505
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)
trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
Will
will depository, Probate Code sections 700 et seq provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent
CAL 2007-173
will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests
CAL 2007-173

ETHICS COMMITTEES
State Bar of California:
Committee on Professional Responsibility and Conduct
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2107
Los Angeles County:
Professional Responsibility and Ethics Committee
Los Angeles County Bar Association
P. O. Box 55020
Los Angeles, California 90055
Telephone: (213) 627-2727
Marin County:
Ethics and Unauthorized Practice Committee
Marin County Bar Association
1010 "B" Street, Suite 419
San Rafael, California 94901
Telephone: (415) 453-8181
San Diego:
Legal Ethics and Unlawful Practice Committee
San Diego County Bar Association
1434 - 5th Avenue
San Diego, California 92101
Telephone: (619) 231-0781
San Francisco:
Legal Ethics Committee
Bar Association of San Francisco
685 Market Street, Suite 700
San Francisco, California 94105
Telephone: (415) 764-1600

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. (Oregon) 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
Attorney-client privilege survives corporate merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
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
State rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
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)
In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
"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
FACSIMILE 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
Arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Attorney's dismissal of fee action was an attempt to evade both mandatory fee arbitration award and the arbitral process as a whole
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Binding agreement
arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
Binding clause in retainer agreement
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Binding contract provision
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
CAL 1981-56
Binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the MFAA arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
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]
Client waiver of arbitration rights
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Correction of arbitration award
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
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]
OC 99-002
dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Public policy
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
Untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

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 re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
CAL 2006-170
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)
ambiguity is a question of law
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
arbitration clause
-binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the MFAA arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
-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, OC 99-001
charging liens
-contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
confidential nature of
Business and Professions Code section 6149
contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
court informed of
LA 261 (1959)
divorce
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
LA 261 (1959), LA 226 (1955)
evaluated at time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 2006-170
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
hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
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 [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]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
-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]
to divide statutory award of attorney's fees between attorney and client
LA 523 (2009)
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
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
on the basis of excusable negligence
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
order denying award of attorney fees to plaintiff who successfully opposes an anti-Slapp motion is not immediately appealable
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Oregon) 2005) 430 F.3d 1032
Appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]
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
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
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)
Apportionment of fee award between successful and unsuccessful claims
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
Arbitration [See Fee Arbitration.]
Business and Professions Code section 6200, et seq.
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
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]
arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
binding agreement
-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
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
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
CAL 1981-56
failure to comply with 6201(a) does not compel court to dismiss action
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
fee guarantor entitled to arbitrate fee dispute
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
initiation of a State Bar-sponsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
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]
LA 521 (2007), OC 99-002

public policy
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
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
untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587
vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
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
Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037
accrued interest on balance due
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
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 [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
judgment debtor was entitled to notice of judgment creditor's postjudgment fee application
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
post-judgment interest on attorney fees
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
quantum meruit
-attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
-legal services rendered to executor in individual capacity
Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
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 sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
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
contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
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)
vacation of judgment as part of post-judgment settlement effectively eliminates court awarded fees based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
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
Authority of arbitrator
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
Authority of court to compensate counsel
court may appoint counsel, but may not compensate without statutory authorization
San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
Authority of arbitrator to award fees under the terms of the controlling arbitration agreement
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
Authority of attorney
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
Award of attorney's fees
Civil Code section 51 (Unruh Civil Rights Act)
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
Civil Code section 54 et seq. (Disabled Persons Act)
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
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]
LA 523 (2009)
-limited to cases where the parties do not have an agreement as to award of fees
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
adjustment of award to account for unsuccessful claims
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
after dismissal of complaint
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
Parrott v. Mooring Townhomes Ass'n Inc. (2003) 112 Cal.App.4th 873 [6 Cal.Rptr.3d 116]

against government
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
Hoang Ha v. Schweiker (9th Cir. 1983) 707 F.2d 1104, 1106
-conflict between city ordinance and state statute
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city ordinance conflicts with state law which forbids unilateral recovery of fees by city
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city ordinance had retroactive application, which changed the legal consequences of past conduct by imposing new or different liabilities based on that conduct
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city rent control ordinance authorizes recovery of attorney fees only between landlords and tenants
Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
-fees awarded pursuant to a city council resolution
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
-fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state
Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]
-plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
-under Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
--court has discretion to deny fees if defendant can show the existence of special circumstances that would render the award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
-under California Tort Claims Act
--defense fees and costs awarded to public entity under CCP § 1038
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
-under Code of Civil Procedure 1021.5
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
--attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
--denied because lawsuit did not cause defendant's change in behavior
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Marine Forests Society v. California Coastal Commission (2008) 160 Cal.App.4th 867 [74 Cal.Rptr.3d 32]
--denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
-trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
-under Equal Access to Justice Act
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Le v. Astrue (9th Cir. 2008) 529 F.3d 1200
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
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
--award of fees should indicate exactly what fees are traceable to the government's bad faith litigation conduct
Rodriguez v. US (9th Cir. 2008) 542 F.3d 704
--fees award warranted when reckless conduct is combined with and additional factor, such as frivolousness, harassment, or improper purpose
Rodriguez v. US (9th Cir. 2008) 542 F.3d 704
-under Government Code § 12989.2
--fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state
Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]
-under Hyde Amendment (18 U.S.C. § 3006A)
U.S. v. Hristov (9th Cir. (Nevada) 2005) 396 F.3d 1044
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
-under U.S.C.A. § 7430
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Pacific Fisheries Inc. v. U.S. (9th Cir. (Washington) 2007) 484 F.3d 1103
against party, not attorney, for "costs of proof" in discovery requests for admission
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
allocation of fees
-not required where attorney also represented other parties who had no written contracts because work pertained to legal issues common to all the parties and

separation of attorney's activities into compensable and non-compensable time units was impossible
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
"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
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
-exceptions
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
--public interest and substantial benefit doctrine
---doctrine does not require a fee award merely because the litigation produced changes which were relatively minor and had no actual or concrete impact on the actions taken by the adverse party
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
-no equitable exception where party prevailed in showing that written contract was voided for lack of mutual assent
Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078
-rule applies to regents of defendant university who are constitutionally immune from the statutory fee-shifting provision of Labor Code § 218.5
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
-statutory authority for
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
-"third-party tort" exception
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
Americans with Disabilities Act
-district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
-fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
-fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
-fees granted where plaintiff enters into legally enforceable settlement agreement with defendant
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Anti-SLAPP (Strategic Lawsuits Against Public Participation)
-arising out of malicious prosecution action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
-defined
--burden of proving fees were covered by award following successful motion
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
--mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
--the issue in an Anti-SLAPP motion (to strike) is whether the challenged action was one arising from an activity protected by the anti-SLAPP statute CCP § 426.16 (i.e. public interest, protected speech or petitioning activity)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Oregon) 2005) 430 F.3d 1032
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
appellate work
-reduction in number of hours as duplicative unjustified where the court failed to take into account the differences between trial court and appellate work, which entails rigorous original work in its own right and which receives greater judicial scrutiny
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
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
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
-arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
-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]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
-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]
-authority of arbitrator to amend or correct a final award
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
-authority of arbitrator to award fees
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
-failure to comply with 6201(a) does not compel court to dismiss action
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
-fees and costs awarded in proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
-plaintiffs cannot be required to pay arbitral expenses and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-prevailing party
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]
-untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
assignment
-right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
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-litigant representing self in pro se
Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189 [198 Cal.Rptr. 447]
attorney's fees and costs to prevailing party
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
-absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-settlement offer that is silent on the issue of attorney fees and costs
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
authority of arbitrator to award fees
-may fashion relief that is just or fair
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
authority of arbitrator to determine whether the filing of a complaint before mediation barred award of fees
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
bankruptcy action
Lamie v. United States Trustee (2004) 540 U.S. 526 [124 S.Ct. 1023]
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 employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
-attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct
In re Suarez (9th Cir. BAP 2009) 400 B.R. 732
-attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
-attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
-attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
-automatic stay of proceedings
In re Stinson (9th Cir. BAP 2003) 295 B.R. 109
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. 769
-award of fees is void when underlying claim is in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
-award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract
In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204
-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]
-bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104
-bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

-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
-claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray
In re Ybarra (9th Cir. 2005) 424 F.3d 1018
-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
-creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nevada) 2003) 293 B.R. 227
-creditor's efforts to recover post-judgment attorney's fees incurred to enforce a judgment
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
-discharge applies to attorney fees and costs awarded against a debtor in an unsuccessful post-petition state court suit based on pre-petition causes of action
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609
-dischargeability of a contempt judgment
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
-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
-expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
-failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt
In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
-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
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567 [27 BankrCt.Dec. 201]
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
-in accordance with state law
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
-involuntary, debtors entitled to fees, costs and punitive damages in obtaining dismissal under 11 U.S.C. 303, though not for postdismissal motions themselves
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456
-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
-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
-"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
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
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
-self-appointed monitor of appellate proceedings by creditor not entitled to fees on the grounds that the validity of creditor's liens and the prospect of full payment were never at issue
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
-totality of circumstance test applied when awarding attorney's fee
Higgins v, Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
-trustee fees not proper for duties that are not practice of law
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
-waiver of fees and costs
--entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742

based on bad faith actions
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
Cassim v. Allstate Insurance Company (2004) 33 Cal.4th 780 [16 Cal.Rptr.3d 374]
Brandt v. Superior Court (1985) 37 Cal.3d 813 [210 Cal.Rptr. 211]
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
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]
-Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
-injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
based on underlying suit
Stanwood v. Green (9th Cir. 1984) 744 F.2d 714
basis for court decision
-attorney conduct
--justified by the vexatious, oppressive, obdurate, and bad faith conduct of litigation
Landsberg v. Scrabble Crossword Game Players, Inc. (9th Cir. 1984) 736 F.2d 485
--limits zealous advocacy
Lone Ranger Television v. Program Radio Corp. (9th Cir. 1984) 740 F.2d 718, 727
-attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
-condition precedent must be met
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
-court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
-court must articulate factors used to calculate award
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
--no general rule requiring trial courts to explain their decisions on motions seeking attorney fees
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
-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]
-district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
-explanation required of trial court's calculation in order to withstand review
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
-in dissolution matter, denial of attorney's fees under CC § 4370 (Family Law Act)
Brink v. Brink (1984) 155 Cal.App.3d 218, 223 [202 Cal.Rptr. 57]
-in dissolution matter, denial of attorney's fees under Family Code § 2030
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
-in dissolution matter, award of post-judgment interest on attorney fees
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
-plaintiff obtains some relief on merits of claim and is thus entitled to attorney's fees
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
basis of computation
City of Burlington v. Daugue (1992) 505 U.S. 557 [112 S.Ct. 2638]
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Jones v. Espy (9th Cir. 1993) 10 F.3d 690
State of Florida v. Dunne (9th Cir. 1990) 915 F.2d 542
D'Emanuele v. Montgomery Ward & Co. (9th Cir. 1990) 904 F.2d 1379
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
Boccato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804, 811-812 [204 Cal.Rptr. 727]

-burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
-consideration of indigent losing party's financial condition
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
-court must articulate factors used to calculate award
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
--no general rule requiring trial courts to explain their decisions on motions seeking attorney fees
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
-degree of success achieved by civil rights plaintiff a critical factor in determining the proper amount of attorney's fees
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-district court may cut the hours where lawyer does unnecessary duplicative work
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
-extent of plaintiff's success
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Cinevision Corp. v. City of Burbank (9th Cir. 1984) 745 F.2d 560, 581
Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
-in Title VII action
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
Maldonado v. Lehman (9th Cir. 1987) 811 F.2d 1341
-marital dissolution cases
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
-negative multiplier decreasing the lodestar is justified where amount of time attorney spent on class action 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]
-prevailing market rate in relevant community
--for action by corporate in-house counsel 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)
--under USCS section 928 (Longshore and Harbor Workers' Compensation Act)
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
-rule of practice, generally requires filing of cross-appeal to increase award
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
-social security cases
--lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
-value of an estate is a factor in setting fees in elder abuse cases
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
-where both frivolous and nonfrivolous claims are closely intertwined
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
"benchmark" fee calculation
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Brown Act
-court has discretion to award attorney fees where it found that legislative body of a local agency has violated the Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
-defendant must show that special circumstances exist to make award unjust
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
catalyst theory
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
civil rights cases
Civil Code section 51 (Unruh Civil Rights Act)
--fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
Texas State Teachers Association v. Garland Independent School District (1989) 489 U.S. 782 [109 S.Ct. 1486]
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114

Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Stewart v. Gates (9th Cir. 1993) 987 F.2d 1450
Trevino v. Gates (1995) 888 F.Supp. 1509
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-consent decree's silence as to attorney's fees not waiver for prevailing party
Muckleshoot Tribe v. Puget Sound Power & Light Co. (9th Cir. 1989) 875 F.2d 695
-costs or out-of-pocket expenses are recoverable only with respect to claims for which attorney's fees are recoverable
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963
-court erred in granting fees to prevailing defendant by dividing general fees equally across both frivolous and non-frivolous claims and by attributing a pro-rata share of the total fees to frivolous civil rights claims
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963
-denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
-fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions affecting state prisoners and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
-lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
-no basis for a bright-line prohibition on awarding fees to successful civil rights plaintiffs who are represented by their attorney-spouses
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
-party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-party who wins nominal damages for violation of their civil rights may be denied attorney's fees from those they sue
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
--three factors test
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
-party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
-plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
-proportionality of a fees award to the amount of damages recovered not an issue where plaintiff is able to isolate the time spent on successful claim or claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-settlement offers containing a fee-waiver provision under fee shifting statutes
CAL 2009-176
-spouse, attorney who represents spouse entitled to fees
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
-waiver of
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
claim for legal fees in Chapter 11 matter not time barred
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
class action
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Sneede v. Coye (1994) 856 F.Supp. 526
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Morganstein v. Esber (1991) 768 F.Supp. 725
LA 445 (1987)
-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]
-amount of fees determined to be reasonable in light of quantity and quality
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
-attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
-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
-award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
-awarded pursuant to Civil Code section 1717
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
-basis of award to an unnamed member of putative class who defeats class certification is not entitled to attorney's fees
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

-extra award allowed lawyer who creates common fund
Paul v. Graulty (9th Cir. 1989) 886 F.2d 268
-fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
-lodestar multiplier method
--adjustment based on benefit conferred on class by class counsel
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
Wininger v. SSI Management, L.P., (9th Cir. 2002) 301 F.3d 1115
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
--court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
--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]
--settlement shall not include attorney fees as portion of common fund established for benefit of class
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
-no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
-practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988
-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
-standing to appeal awards of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
--class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084
-standing to pursue an award of fees
--attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
--standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
-trial court has no inherent authority to sanction pro hac vice attorney for bad faith conduct by requiring payment of fees to opposing counsel
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
-when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
client security fund
-assisting applicant
Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367, 702 P.2d 525]
collections
LA 522 (2009)
common fund/equitable apportionment doctrine
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
State of Florida ex rel. Butterworth v. Exxon Corp. (9th Cir. 1997) 109 F.3d 602
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]
-passive beneficiary
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903
computation of under Code of Civil Procedure 998 offer
congressional intent
Elite Show Services Inc., v. Staffpro Inc. et al., (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
Kreutzer v. County of San Diego (1984) 153 Cal.App.3d 62, 75 [200 Cal.Rptr. 322]
consitutional immunity
-regents of defendant university, as an arm of the state, are immune from the fee-shifting provision of Labor Code § 218.5
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
contingency fee, court not limited to
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
contract for
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
De La Cuesta v. Superior Court (1984) 152 Cal.App.3d 945 [200 Cal.Rptr. 1]
-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]
-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
-basis for
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

-complete mutuality of remedy when contract purports to make recovery of attorney fees available to one or more parties
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
Harbor View Hills Community Association v. Torley (1992) 5 Cal.App.4th 343
-defendant-sellers in real estate care are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]
-did not provide for entitlement to fees award for either party under such facts
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
-governed by equitable principles
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]
-reciprocal provision
Nasser v. Superior Court (1984) 156 Cal.App.3d 52 [202 Cal.Rptr. 552]
-recovery of attorney's fees may be awarded notwithstanding an invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
-resolving ambiguity in contracts or insurance
American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]
-state reciprocity rule for attorney's fees by contract applies to damages based on federal law
United States v. Callahan (9th Cir. 1989) 884. F.2d 1180
-third party claimant who was not intended beneficiary of attorney fee clause in contract denied award
Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
contractual
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865
PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
Share v. Casiano-Bel-Air Homeowners Assn. (1989) 215 Cal.App.3d 515
California Teachers Assn. v. Governor's Board of the Simi Valley Unified School District (1984) 161 Cal.App.3d 393 [207 Cal.Rtpr. 659]
-absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-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]
LA 523 (2009)
--limited to cases where the parties do not have an agreement as to award of fees
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-agreement requiring patent licensor to indemnify licensee for attorney's fees for alleged infringement or violation of any patent, copyright, trademark, or other right did not require licensor to pay licensee's fees incurred in successfully defending against licensor's claim
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
-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
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-available for successfully defending or prosecuting an appeal
MST Farms v. C.G. 1464 (1988) 204 Cal.App.3d 304 [251 Cal.Rptr. 72]
-award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
-claim for attorney's fees on a breach of contract action must be based on a specific right agreed to by the contracting parties
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-condition precedent must be met to recover attorney fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
-denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467
-did not provide for entitlement to fees award for either party under such facts
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
-fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
-prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
-recovery of attorney's fees may be awarded notwithstanding an invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
-under CC § 1717, provision for attorney's fees may be awarded even if contract is invalid or unenforceable
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
--party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-under CC § 1717, provision for attorney's fees must be applied mutually and equally to all parties even if written otherwise
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
--decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-where attorney's fees clause in contract is phrased broadly enough, it may support an award of fees to prevailing party in an action alleging both contractual and tort claims
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
-where the attorney fee provision of a release agreement is narrowly drawn to actions to enforce the terms of a release, the provision cannot be extended to tort claims
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-where written contract was found to be voided for lack of mutual assent, attorney fees not available to prevailing party
Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078
contractual versus statutory
Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]
Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
-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
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-award on contract claims in accordance with Civil Code § 1717
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
Thompson v. Miller (2003) 112 Cal.App.4th 327 [4 Cal.Rptr.3d 905]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
--does not bar recovery of attorney's fees for non-contract claims voluntarily dismissed by the plaintiff if attorney's fees clause is broad enough to encompass non-contract claims
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
--party that prevails is entitled to attorney's fees only if it can prove it would had been liable for such fees if the opposing party had prevailed
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

--plaintiffs who were assigned developer's express indemnity cross-action against subcontractor were liable for attorney fees to subcontractor who prevailed in trial
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
--prevailing party status irrelevant when defendant was not a party to the underlying contract
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
---vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-computation of under CCP § 998 offer
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Mesa Forest Products, Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324
Wilson's Heating & Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
Harvard Investment Co. v. Gap Stores, Inc. (1984) 156 Cal.App.3d 704, 712-714 [202 Cal.Rptr. 891]
-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)
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
-attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
-effect of voluntary dismissal upon recovery of non-contractual causes of action
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
-Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
-fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
-indemnification agreement enforced
City of Watsonville v. Corrigan (2007) 149 Cal.App.4th 1542 [58 Cal.Rptr.3d 458]
-limitation on contingency contract under MICRA as codified in Bus. & Prof. Code § 6146
Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920, 925-926 [211 Cal.Rptr. 77]
-misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
-prevailing party entitled to attorney's fees under Civil Code section 1717 if opposing party has sought attorney's fees under it
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 507-509
-prevailing party entitled to fees under Code of Civil Procedure section 1032 even where no net recovery by prevailing party
Pirkig v. Dennis (1989) 215 Cal.App.3d 1560
-prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
-statute containing a unilateral fee shifting provision controls where all causes of action arise out of one transaction, notwithstanding a contract containing a fee award to prevailing party
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
-section 800 is a bond or security statute, not a liability statute, and as such, prevailing defendant was precluded from recovering fees and costs in excess of the posted bond
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
cost of litigation includes attorney fees and expert witness fees for purposes of applying automatic stay provisions
Pecsok v. Black (1992) 7 Cal.App.4th 456 [9 Cal.Rptr.2d 12]
court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous
Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299
court has discretion to consider the success or failure of the litigation as one factor in assessing attorney fees
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
court may require declaration before ordering
Lang v. Superior Court (1984) 153 Cal.App.3d 510, 517 [200 Cal.Rptr. 526]
-depends upon whether plaintiff is entitled to fees and whether court has discretion
Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192
court of appeal will not disturb trial court's decision on a party's request for attorney fees unless it is clearly an abuse of discretion
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
-trial judge in best position to evaluate value of attorney's services in courtroom
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
criminal law
-under Penal Code § 1202.4(f)(3)
In re Imran Q. (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
--allows restitution only for that portion of attorney fees attributable to the victim's recovery of economic damages
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
--victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
default judgment
-attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
defendants not entitled to attorney fees under the anti-SLAPP statute when plaintiff dismissed all claims against the moving defendants before they filed their motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
delay enhancement
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
delay in payment should be considered in determining award
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
despite party's failure to file noticed motion
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]
Disabled Persons Act (Civil Code section 54 et. Seq
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
discretion of appellate court
Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
discretion of arbitrator to award fees
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
discretion of district court
-abuse where quality of representation was used to reduce lodestar amount
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
-court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
discretion of trial court
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
-court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-court may appoint counsel, but may not compensate without statutory authorization
San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
-court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
-court may determine need of spouse for award of attorney's fees -- abuse of discretion where court exceeds bounds of reason
In re Marriage of Schaffer (1984) 158 Cal.App.3d 930, 935-936 [205 Cal.Rptr. 88]
-court may order one spouse to pay other spouse's attorney fees directly to attorney even after substitution form filed
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
-de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
-FEHA matter
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
-filing deadline for fee award is not triggered by an order granting summary judgment
Saben, Earlix & Associates v. Fillet (2005) 134 Cal.App.4th 1024 [36 Cal.Rptr.3d 610]
-to award fees, but only when just
Martin v. Franklin Capital Corp. (2005) 546 U.S. 132 [126 S.Ct. 704]
-trial judge in best position to evaluate value of attorney's services in courtroom
Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
Vella v. Hudgins (1984) 151 Cal.App.3d 515, 522 [198 Cal.Rptr. 725]
-trial judge's discretion to issue a fee reduction
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
Trask v. Superior Court (1994) 22 Cal.App.4th 346 [27 Cal.Rptr.2d 425]
-trial judge in best position to evaluate value of attorney's services in courtroom
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
-value of legal services a matter in which the trial court has its own expertise
PLMC Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1096
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
dissolution proceedings
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
district court required to consider twelve factors
Laborers' Clean-up Contract v. Uriarte Clean-up Service (9th Cir. 1984) 736 F.2d 516, 525
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
fees denied officers and directors who were not parties to a licensing agreement
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

each party is expected to pay own fees
Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509
effect of an appeal on
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
elder abuse by attorney
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
elder abuse cases
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
-fees denied where plaintiffs failed to prove causation by clear and convincing evidence
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
-value of an estate is a factor in setting fees
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
enforcement of foreign judgment
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
entitlement
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
-based on contract or statute
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
Wutzke v. Bill Reid Painting Service, Inc. (1984) 151 Cal.App.3d 36, 46-47
-entitlement to attorney's fees, but not the amount of the fee award is interlocutory. An appeal from a post judgement order awarding attorney's fees may be reviewed as to the entitlement and the amount of the fees awarded.
PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
-party is entitled to compensation for attorney's fees if opposing party would have been entitled to them
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
Equal Access to Justice Act
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
Le v. Astrue (9th Cir. 2008) 529 F.3d 1200
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
United States v. Rubin (9th Cir. 1996) 97 F.3d 373
Holt v. Shalala (9th Cir. 1994) 35 F.3d 376
-abuse of discretion not found
Williams v. Bowen (9th Cir. 1991) 934 F.2d 221; 966 F.2d 1259
-award denied
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Gray v. Secretary, Health and Human Services (1993) 983 F.2d 954
-award subject to offset to satisfy claimant's pre-existing debt to government
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
-applies to contested petitions for naturalization
Abela v. Gustafson (9th Cir. 1989) 888 F.2d 1258
-award should encompass fees incurred in subsequent litigation to protect that fee award
Spurlock v. Sullivan (1992) 790 F.Supp. 979; 783 F.Supp 474
Byrnes v. Riles (1984) 157 Cal.App.3d 1170 [204 Cal.Rptr. 100]
-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
-error to deny award on basis that the court lacked subject matter jurisdiction
United States v. 87 Skyline Terrace (9th Cir. 1994) 26 F.3d 923
-judicial relief required for prevailing party status to recover attorney fees under the Act
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
-navy officer who successfully challenged his discharge for stating that he was gay is entitled to attorney fees
Meinhold v. U.S. Dept. of Defense (C.D. CA 1997) 123 F.3d 1275
-standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
ERISA matter
-either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) __ U.S. __ [130 S.Ct. 2149]
excessive
-attorney fee award not excessive
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
-social security cases
--collection of fees in excess of those allowed by the court is a criminal offense (42 U.S.C. § 406(b)(2))
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]
Fair Debt Collections Practices Act (15 U.S.C. § 1692 et seq.)
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
family law
-abuse of discretion where court refused and failed exercise discretion; failed to make needs-base analysis and where court refused to review billing records
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

-bankruptcy court has exclusive jurisdiction in determining whether family law matters are exempted from the automatic bankruptcy stay
In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
-breach of spouse's fiduciary duty
In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]
-fees denied where litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
-fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)
Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]
-given wife's authorization, trial court had jurisdiction to order direct payment of attorney fees even after substitution form filed
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
-order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
family law 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]
family law court fee awards must be reasonable and based on factual showings
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
fee arbitration
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
fee award for appeal proper after paternity adjudication
Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
FEHA matter
-courts discretion to deny attorney fees
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
final judgment determining the prevailing party is a prerequisite for the district court to have jurisdiction to rule on a petition for fees
Scanlon v. Sullivan (9th Cir. 1992) 974 F.2d 107
final judgment for purposes of an order to pay attorney fees refers to a final determination made at trial
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
for number of hours worked
White v. City of Richmond (N.D. Cal. 1982) 559 F.Supp. 127, 131
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
frivolous appeal
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
general right to
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
Handicapped Children's Protection Act
-retroactive application of attorney's fees recovery permissible
Abu-Sahyun v. Palo Alto Unified School District (9th Cir. 1988) 843 F.2d 1250
if party prevails against the United States
Lacy v. Lehman (S.D.Cal. 1983) 563 F.Supp. 111
in anti-trust cases
Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378
-award goes to successful plaintiff, not to plaintiff's counsel
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
in bankruptcy proceedings permitted unless court abused discretion or erroneously applied the law
In re Intern. Environmental Dynamics, Inc. (9th Cir. 1983) 718 F.2d 322
-interest in post-petition attorney fees
In re Riverside-Linden Investment Co. (9th Cir. BAP 1990) 111 B.R. 298
in collective bargaining contract arbitration case preempted by federal law
Warehouse, Processing, Distribution Workers Union Local 26 v. Hugo Neu Proler Company (1998) 65 Cal.App.4th 732 [76 Cal.Rptr.2d 814]
inappropriate when opponent lacked notice
Mayer v. Wedgewood Neighborhood Coalition (9th Cir. 1983) 707 F.2d 1020
-amended party must be given opportunity to respond and contest personal liability before judgment is entered against him
Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]
indemnification clause
-fees denied where clause makes no reference to attorney's fees which were incurred under circumstances not addressed in the agreement
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
Individuals with Disabilities Education Act
Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
inherent power of federal court to amend
In re Levander (9th Cir. 1999) 180 F.3d 1114
INS matter
Commissioner, INS v. Jean (1990) 110 S.Ct. 2316
-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
insurance cases
Allstate Insurance Co. V. Superior Court (2007) 60 Cal.Rptr.3d 782
interest on award of attorney's fees pursuant to statutes governing post-judgment interest
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
interest on fees, attorney has standing to seek
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

interpleader funds
-award of attorney's fees from interest accrued on interpleader funds statutorily prohibited by Code of Civil Procedure section 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
IRS matter
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Smith v. Brady (9th Cir. 1992) 972 F.2d 1095
Huffman v. Commissioner of Internal Revenue (U.S. Tax Ct. 1992) 978 F.2d 1139
Bertolini v. Commissioner Internal Revenue Service (9th Cir. 1991) 930 F.2d 759
jurisdiction of court
-trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
labor management dispute
-denial of fees where district court erred in remanding case to state court
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
landlord-tenant cases
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
liability for, regardless who the recipient is
Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 21-22 [206 Cal.Rptr. 303]
limits on
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Leslie Salt Co. v. St. Paul Mercury Ins. Co. (9th Cir. 1984) 637 F.2d 657, 662
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
Moore v. American United Life Ins. Co. (1984) 150 Cal.App.3d 610, 643-644 [197 Cal.Rptr. 878]
-prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
lis pendens action
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
"lodestar" multiplier method of fee calculation
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
-adjustment of a lodestar figure serves to fix the attorney's fee at the fair market value for the particular action
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
-basic fee for comparable legal services in the community may be adjusted after consideration of several factors
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
-burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
-court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
-court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that hiring local counsel was impracticable
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
-court must articulate factors used to calculate award
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
-district court erred by awarding an inconsistent fee based on the lodestar and a flat fee method
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-federal district court in calculating lodestar amount for ERISA attorney fee, was required to explain its reduction in hourly rate
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
-increase in fees
--superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
-limited success
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]

-lodestar enhancement is discretionary, not mandatory
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
-lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-propriety of a multiplier is based on contingent risk and the amount of the multiplier is an open question entrusted to the court's discretion
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
-reduction in fees
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
--no fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
--reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
--victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
-related/unrelated claims
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]
-trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
malpractice action
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
-alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
-denial of fees where district court erred in remanding case to state court
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
market rate prevailing in relevant community used to determine award of attorney's fees
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
-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)
may be imposed when the lawsuit is frivolous, unreasonable, or without foundation
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
may include fees for appellate and post-remand services
-court instructions not necessary
Newhouse v. Roberts' Ilima Tours, Inc. (9th Cir. 1983) 708 F.2d 436, 441
Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
municipal court
-court may award attorneys' fees in excess of $25,000 jurisdictional amount
Stokus v. Marsh (1990) 217 Cal.App.3d 647
"more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
must be reasonable
Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378, 1385
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
-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
-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
mutuality of remedy when contract permits recovery of attorney fees
Jones v. Drain (1983) 149 Cal.App.3d 484, 490
needy spouse when other spouse is able to pay
In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464 [204 Cal.Rptr. 660]
negligence of plaintiff's attorney does not entitle defendant's attorney to award
Sooy v. Peter (1990) 220 Cal.App.3d 1305 [270 Cal.Rptr. 151]
no fees where plaintiff did not seek fees in requesting default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
no recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights
Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
no recovery of attorney's fees unless contractual condition precedent is met
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

no recovery of attorney's fees unless they are specifically authorized by contract, statute, or law
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]
no recovery of attorney's fees where petitioner fails to provide pre-lawsuit notification
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
not imposed when plaintiff presents a colorable claim and adverse jury verdict is less than unanimous
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
not limited by terms of contingency fee contract
Clark & Bunker v. City of Los Angeles (9th Cir. 1986) 803 F.2d 987
Vella v. Hudgins (1984) 151 Cal.App.3d 515, 519 [198 Cal.Rptr. 725]
not recoverable beyond surety's penal sum
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
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not recoverable unless they are specifically authorized by contract, statute, or law
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
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out-of-state attorney
-out-of-state attorney who merely assists California lawyer may recover attorney fees
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Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587
periodic payment
-attorney's fees not subject to
Orellana v. Mejia (1988) 203 Cal.App.3d 337 [249 Cal.Rptr. 828]
petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
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No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]
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Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587
prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
-defendants denied recovery when anti-SLAPP motion filed after plaintiff's voluntary dismissal of entire action without prejudice
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
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-defined
Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
--petitioner whose writ of mandate and complaint against defendant university ended in a favorable settlement was not considered to be an action within the meaning of Labor Code § 218.5 nor was the petitioner considered to be the prevailing party
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
--plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
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Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
-Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
-attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
--advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
---exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
-award improper where de minimus public benefit
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
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-award improper where remand to reconsider a perceived procedural defect did not result in change in the decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
-award of fees justified where court determined that vindication of a constitutional or statutory right fulfilled a fundamental legislative goal
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
-calculation for
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538, 552-553 [207 Cal.Rptr. 705]
-class action judgment against bank warrants award of attorneys' fees
Beasley v. Wells Fargo Bank, N.A. (1991) 235 Cal.App.3d 1383, opn. mod. 235 Cal.App.3d 1407
-criteria for award of fees
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Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
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Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Schmier v. Supreme Court (2000) 96 Cal.App.4th 873 [117 Cal.Rptr.2d 497]
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396 [4 Cal.Rptr.2d 35]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]
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Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
--supplemental fees request based on greater success on appeal
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
-denied on the grounds that in pro per party's petition for fees was untimely
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
-discovery may be allowed by the trial court
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
-effect of Budget Act on
Green v. Obledo (1984) 161 Cal.App.3d 678 [207 Cal.Rptr. 830]
-entitled to fees because action resulted in enforcement of an important right affecting the public interest
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
--fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
-family law
--fees denied where litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
-fees
Schwartz v. City of Rosemead (1984) 155 Cal.App.3d 547 [202 Cal.Rptr. 400]
-fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
-jurisdiction of trial court is retained to award costs and fees despite filing of compromise agreement by the parties
Folsom v. Butte County Association of Governments (1982) 20 Cal.3d 668 [186 Cal.Rptr. 589, 652 P.2d 437]
-no important right is vindicated
Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396
-standard for
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
Boccato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
--fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
-Supreme Court's exclusive discretion to fashion equitable awards of attorney fees
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Serrano v. Priest (1977) 20 Cal.3d 24 [141 Cal.Rptr. 315, 569 P.2d 1303]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

-test
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
--burden to plaintiffs compared with personal cost
Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
-unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
pro bono organization is entitled to an award of fees in child support cases
In re Marriage of Ward (1992) 3 Cal.App.4th 618 [4 Cal.Rptr.2d 365]
pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
pro se attorney litigant with an assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
probate matters
-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
-fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
-includes work reasonably performed by attorney to establish and defend own fee claim
Estate of Trynin (1989) 49 Cal.3d 868
-party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
-probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee
Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]
-trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
-under Probate Code section 17211(b)
Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
probation
-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]
proper despite party's failure to file noticed motion
California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]
purpose of the cost-shifting settlement -offer statute is to encourage the settlement of litigation without trial, by punishing the party who fails to accept a reasonable settlement offer from its opponent
Elite Show Services Inc., v. Staffpro Inc. et al., (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
purpose of statute
Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193
qui tam action
-denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
reasonableness of
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
Martino v. Denevi (1986) 182 Cal.App.3d 553, 558-559 [227 Cal.Rptr. 354]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]
-certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
-compensation sought by creditor's attorney in connection with an involuntary bankruptcy was permissible so long as the creditor met the statutory standard
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
-consideration of indigent losing party's financial condition
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
-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)
-court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that it was impracticable to hire local counsel
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
-court should look first to the contingent fee agreement, then test it for reasonableness
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
-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
-district court must provide a concise but clear explanation of its reasons for the fee award, even though it has discretion to determine a reasonable fee
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-fees award that was three times the compensatory damages awarded to plaintiff not necessarily a consideration in determining a reasonable fee
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-medical malpractice cases
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
-monitoring state officials' compliance with settlement
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
-no abuse of discretion found where court awarded fees even though attorney had about three years of licensure, had graduated from an unaccredited law school, and had experience mainly in another area of law
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
-rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
-reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-reduction of fees by trial court without identifying which factors made the requested hourly rates unreasonable
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-trial judge in best position to determine value of services
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
-under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
rebate portion to client
LA 523 (2009), LA 447 (1987)
recovery of costs and fees under a sister state judgment not prohibited under California law
Aspen International Capital Corporation v. Marsch (1991) 235 Cal.App.3d 1199
reviewable on appeal
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
Hadley v. Krepel (1985) 167 Cal.App.3d 677 [214 Cal.Rptr. 461]
Catello v. I.T.T. General Controls (1984) 152 Cal.App.3d 1009, 1012
Mackinder v. OSCA Development Co. (1984) 151 Cal.App.3d 728, 738-739
-appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]
-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]
-authority of arbitrator to amend or correct a final award
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
risk factor analysis
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
risk should be assessed when an attorney determines that there is merit to claim, likely before lawsuit is filed
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
sanctions for delay
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
-award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
sanctions where conduct frustrates a settlement and increases the cost of litigation
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
settlement agreement
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
-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]
-award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-CCP § 998 offer invalid if settlement is conditioned on confidentiality
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
-fees denied where the terms of the settlement agreement failed to establish that plaintiff was the prevailing party on the claims for which fees were sought
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
-statutory rule that there is no prevailing party where action is dismissed does not bar a fee award where prevailing party's right to recover fees arises under a fee-shifting statute
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-the fact that the settlement offer did not specify a particular amount of fees did not render it unenforceable
Elite Show Services Inc., v. Staffpro Inc. et al. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
-which include fee-waiver provisions under fee shifting statutes
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In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
shareholder derivative action
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
SLAPP action
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
-arising out of malicious prosecution action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
-attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
-attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
-burden of proving fees were covered by award following successful motion
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
-defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
-defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
-denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
-despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
-does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
-fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
-litigant who is only partially successful on anti-SLAPP motion entitled to recover attorney fees
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
-plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
-time limits for filing motion for attorney's fees do not commence to run until entry of judgment at the conclusion of litigation
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
-will revision considered protected activity for anti-SLAPP motion purposes
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
"SLAPPback"
-fees not recoverable
Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]
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-determination
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-determination of "reasonable fee" to attorney out of prevailing claimant's recovery
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
-fees awarded in successful social security claims reversed and affirmed for various reasons
Straw v. Bowen (9th Cir. 1989) 866 F.2d 1167
-limit on the award of attorney's fees at court hearings under 42 U.S.C. § 406(b) is not applicable to hearings before the Administration
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
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statutory authority for
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Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
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Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Jacobson v. Delta Airlines, Inc. (9th Cir. 1984) 742 F.2d 1202
Timms v. United States (9th Cir. 1984) 742 F.2d 489
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]

Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
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-defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
-False Claims Act provides for award of fees under rare and special circumstances
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-family law
In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]
-fees awarded pursuant to a city council resolution
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Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
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Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
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-standing to assert
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statutory limit
-award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-in excess of
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
--prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800
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-reasonably necessary
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--courts should review the contract to ensure that its fee provisions do not exceed the limit
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
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statutory threshold required to establish eligibility for fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
Filipino Accountants Assn. v. State Board of Accountancy (1984) 155 Cal.App.3d 1023 [204 Cal.Rptr. 913]
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Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Oregon Natural Resources Council v. Madigan (1992) 980 F.2d 1330
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249
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-award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
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-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
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-entitled to attorney fees based on workman's compensation lien amount
Raisola v. Flower Street, Ltd. (1988) 205 Cal.App.3d 1004
-under Code of Civil Procedure § 701.020 et seq.
--fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
Ilshin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award
Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
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time limits
-fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
-fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
to prevailing party
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
-absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
-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]
--limited to cases where the parties do not have an agreement as to award of fees
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-absent an express waiver of attorney's fees & costs in an CCP section 998 offer, prevailing party is entitled to compensation of expenses incurred in the lawsuit
Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
-action dismissed as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-action dismissed but fees awarded under contractual provision
Elms v. Builders Disbursements Inc. (1991) 232 Cal.App.3d 671 [283 Cal.Rptr. 515]
-action for negligent performance of contractual duties
Perry v. Robertson (1988) 201 Cal.App.3d 333 [247 Cal.Rptr. 74]
-action on contract
People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Bussey v. Affleck (1990) 225 Cal.App.3d 1162 [275 Cal.Rptr. 646]
Valley Bible Center v. Western Title Ins. Co. (1983) 138 Cal.App.3d 931, 933 [188 Cal.Rptr. 335]
--abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
-ADEA matter
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
-Americans with Disabilities Act
--district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
-anti-hate crime matter
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-anti-SLAPP suits
--arising out of malicious prosecution action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
--defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
--fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
--protected activity, fees permitted
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
--will revision considered protected activity for anti-SLAPP motion purposes
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
-apportionment 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
Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]
--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
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
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]
--court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
--prevailing party in action to forestall arbitration
Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
-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
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-attorneys fees may be awarded to taxpayer who incurred attorney's fees even if initially paid by others
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658

-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]
-attorney who acted per se in contract action may recover reasonable attorney fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
-bankruptcy matter
--fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
-bond not required to stay award pending an appeal
More Direct Response v. Callahan (1992) 10 Cal.App.4th 140 [12 Cal.Rptr. 573]
-California Public Records Act
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
-class actions
--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'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
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
--district court presiding over settlement fund had equitable power to award attorneys fees for work outside litigation immediately before court where that work helped create settlement fund
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
-Clean Water Act matter
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
--fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012
-constitutional right to free exercise of religion at issue
Friend v. Kolodzieczak (9th Cir. 1992) 965 F.2d 682
-construction contract fee provision not applicable to breach of limited partnership agreement
Pilcher v. Wheeler (1992) 2 Cal.App.4th 352
-contrary provision in lease contract
Beverly Hills Properties v. Marcolino (1990) 221 Cal.App.3d Supp. 7 [270 Cal.Rptr. 605]
-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)
-court was obligated to determine which of the litigants was the prevailing party where the statutory language makes a fees award mandatory, even though the lawsuit was resolved by a settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-defendant entitled to reasonable attorney's fees arising from defendant's petition to compel arbitration of a dispute between the parties arising under a lease agreement
Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865
-defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
-defendant prevails in Title VII action brought by EEOC
Equal Employment Opportunity Commission v. Bruno's Restaurant (9th Cir. 1992) 976 F.2d 521
-defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
-defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
-definition of prevailing party under Code of Civil Procedure § 1032 et seq.
Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
-denied where litigant was unable to materially alter the legal relationship of the parties by judgment or by consent decree
Kasza v. Whitman (9th Cir. (Nevada) 2003) 325 F.3d 1178
-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
-does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
-employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
-enforcement of foreign judgment
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
-environmental groups are not "prevailing parties" since they do not prevail against EPA
Idaho Conservation League, Inc. v. Russell (9th Cir. 1991) 946 F.2d 717
-Equal Access to Justice Act
--entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
--standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
--under 28 U.S.C.A. 2412(d)(1)(A)
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

-ERISA matter
–computerized research may be recovered as attorney fees
Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
--either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) __ U.S. __ [130 S.Ct. 2149]
--under 29 U.S.C. 1123(g)(1)
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Cann v. Carpenters' Pension Trust Fund for Northern California (1993) 989 F.2d 313
Bogue v. Ampex Corporation (9th Cir. 1992) 976 F.2d 1319
Downey Community Hospital v. Wilson (9th Cir. 1992) 977 F.2d 470
--under 29 U.S.C. 1332(g)(1)
Simonia v. Glendale Nissan/Infiniti Disability Plan (9th Cir. 2010) 608 F.3d 1118
--under 29 U.S.C. 1332(g)(2)(D)
Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-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 awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the mertis and motion was found to be meritless
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
-fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
-fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
-fees granted where plaintiff enters into legally enforceable settlement agreement with defendant
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
-fees reduced by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-FEHA matter
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
Young v. Exxon Mobil Corp. (2008) 168 Cal.App.4th 1467 [86 Cal.Rptr.3d 507]
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
Hon v. Marshall (1997) 53 Cal.App.4th 470 [62 Cal.Rptr.2d 11]
Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
-Government Code section 970 et seq.
--property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
-Government Code section 6250
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
-Government Code section 6259(c)
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
-Government Code section 6259(d)
Belth v. Garamendi (1991) 232 Cal.App.3d 896 [283 Cal.Rptr. 829]
-Government Code section 12965(b)
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
-Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
-Handicapped Children's Protection Act
Barlow/Gresham Union High School District v. Mitchell (9th Cir. 1991) 940 F.2d 1280
-hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
-IDEA (Individuals with Disabilities Education Act) matter
Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255
V.S. ex rel. A.O. v. Los Gatos-Saratoga Joint Union High School Dist. (9th Cir. 2007) 484 F.3d 1230
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
--attorney-parent not entitled to recover attorney fees for representing their children in IDEA proceedings
Ford v. Long Beach Unified School District (9th Cir. 2006) 461 F.3d 1087
--child and parent may be entitled to attorney fees as the prevailing party
Park, ex rel. Park v. Anaheim Union High School Dist. (9th Cir. 2006) 464 F.3d 1025
-includes a defendant in whose favor a dismissal is entered
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]

-Labor Code § 98.2
--former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
--"more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
-law providing for fees and cost to prevailing plaintiff applies to either party
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
-legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
-lis pendens action
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
Doyle v. Superior Court (1991) 226 Cal.App.3d 1355
--absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
-multiple prevailing parties
Hunt v. Fahnestock (1990) 220 Cal.App.3d 628 [269 Cal.Rptr. 614]
-no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
-no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
-not entitled to award of attorney's fees under CC § 1717 where party brings tort action on the grounds that the action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-notice of appeal may subsume later order setting the amounts of the award
Grant v. List & Lathrop (1992) 2 Cal.App.4th 993
-out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
-partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
-partially prevailing defendant not entitled following voluntary dismissal of entire action
Rosen v. Robert P. Warmington Co. (1988) 201 Cal.App.3d 939
-partially prevailing party subject to reduction in fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-party entitled to costs on appeal may establish legal basis to recover attorney's appellate fees
Butler-Rupp v. Lourdeaux (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]
-party prevails if he was able to achieve most or all of his litigation objectives
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
-peer review lawsuit
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
-petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
-plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
-plaintiff obtained some relief on merits of claim
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
-pleadings
Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 508 [207 Cal.Rptr. 508]
-prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
-prevailing party as defined by statute versus one defined by contract
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
-prevailing party is ascertained by pragmatic assessment of the parties' ultimate positions vis à vis their litigation objectives, not by technicalities of pleading and procedure
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
-prevailing party status irrelevant when defendant was not a party to the underlying contract
Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
-proper to award attorney fees to defendant attorney even though he was representing himself
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
--attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
-real estate purchase agreement
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Xuereb v. Marcus & Millichap, Inc. (1992) 3 Cal.App.4th 1338
-settlement agreement
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
-SLAPP action
--burden of proving fees were covered by award following successful motion
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
--partially successful motion constitutes prevailing party unless no practical benefit from bringing motion
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-standard for awarding attorney's fees under Endangered Species Act
Carson-Truckee Water Conservancy District v. Secretary of the Interior (9th Cir. 1984) 748 F.2d 523, 525-526
--catalyst theory applied
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
-standard for awarding attorney's fees under Equal Access to Justice Act
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
Beach v. Smith (9th Cir. 1984) 743 F.2d 1303, 1306-1307
McQuiston v. Marsh (9th Cir. 1983) 707 F.2d 1082, 1085
-summary judgment on complaint not appealable final judgment
Day v. Papadakis (1991) 231 Cal.App.3d 503 [282 Cal.Rptr. 548]
-trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
-trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
-under 18 U.S.C. § 3006(A)
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
-under 42 U.S.C. §§ 1983, 1988
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
-under 42 U.S.C. § 12205 (ADA)
--fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
-under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
-under Civil Code section 798.85
Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
-under Civil Code section 1354
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
-under Civil Code section 1717
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
--absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
--attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
--decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
--denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
--denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
--voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
-under Civil Code section 1942.4
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
-under Civil Code section 1942.5
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
-under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]

-under Code of Civil Procedure section 128.7
--attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
--criteria for recovery of fees and costs in opposing motion for sanctions
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
-under Code of Civil Procedure section 405.38
--in lis pendens action, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
--in lis pendens action, to challenge attorney fee award to prevailing party on motion to expunge, requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
-under Code of Civil Procedure section 425.16
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
--attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
--defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
--does not authorize an award of attorney fees against plaintiff's counsel
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
--litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
-under Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
--advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
---exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
--application of catalyst theory
Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
--attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
--does not preclude award of such fees in a family law case
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
--litigant's personal non-pecuniary interest may not be used to deny litigant recovery of legal fees under the statute
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
--must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
--party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
--requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
--right to attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
--trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
-under Code of Civil Procedure section 1032
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
-under Code of Civil Procedure section 1038
--no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
-under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
-under Endangered Species Act
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
-under Fair Credit Reporting Act
--certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA

§ 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
-under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
-under Government Code section 800
--finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
-under Labor Code § 218.5
--salaried employee entitled to recover attorney's fees in action for non-payment of wages
On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698]
-under Labor Code § 1194
Aleman v. AirTouch Cellular (2011) 202 Cal.App.4th 117 [134 Cal.Rptr.3d 643]
-under Labor Code § 4607
Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
-under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
-under Probate Code section 17211(b)
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
-under Song Beverly Act
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
-under Uniform Foreign Money Judgments Recognition Act
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
-under Uniform Trade Secrets Act
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
-under Vehicle Leasing Act
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249
-unsuccessful plaintiff
McLarand, Vasquez & Partners v. Downey Savings & Loan Assoc. (1991) 231 Cal.App.3d 1450 [282 Cal.Rptr. 828]
to prevailing party buyers of real property denied attorney fees as offset against purchase price
Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
tort claims
-award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-insured's assignment of a cause of action against an insurance company for tortious bad faith was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
-under Code of Civil Procedure section 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699
to VA patient not proper where government's position is substantially justified
Foster v. Tourtellotte (9th Cir. 1983) 704 F.2d 1109
trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
under 11 U.S.C. § 303
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456
under 11 U.S.C. § 330
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
under 15 U.S.C. § 15
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
under 15 U.S.C. § 784(a)(6)
-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
under 15 U.S.C. § 1117(a), fees may be awarded in exceptional trademark cases
K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079
Watec Co., Ltd. v. Liu (9th Cir. 2005) 403 F.3d 645
under 15 U.S.C. § 1117(c)
-election of statutory damages precludes award
K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079
under 15 U.S.C. § 1692 et seq.
-determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
under 15 U.S.C. § 1692k(a)(3)
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
under 17 U.S.C. § 505 (Copyright Act)
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
under 18 U.S.C. § 3006A (Hyde Amendment)
-denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
under 28 U.S.C. § 1447(c)
Moore v. Permanente Medical Group, Inc. (9th Cir. 1992) 981 F.2d 443
-standard for awarding fees turns on the reasonableness of the case from state court to federal court
Gardner v. UICI (9th Cir. 2007) 508 F.3d 559
under 28 U.S.C. § 1291
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
under 28 U.S.C. § 2412(d)
Jones v. Espy (1993) 10 F.3d 690
Oregon Natural Resources Council v. Madigan (9th Cir. 1992) 980 F.2d 1330
-social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
under 29 U.S.C. § 621 et seq.
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

under 29 U.S.C. § 794 (Rehabilitation Act)
-claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
under 29 U.S.C. § 1132(g)(1)
Hardt v. Reliance Standard Life Insurance Co. (2010) __ U.S. __ [130 S.Ct. 2149]
under 31 U.S.C. § 3729(a)(1), False Claims Act
-court must provide detailed findings in support of any award
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999
under 33 U.S.C. § 921(d)
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Oregon) 2005) 430 F.3d 1032
under 33 U.S.C. § 1365
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
under 42 U.S.C. § 406(a)
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
under 42 U.S.C. §§ 1983, 1988
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
under 42 U.S.C. § 1988
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Corder v. Gates (9th Cir. 1996) 104 F.3d 247
BFI Medical Waste Systems v. Whatcom (1993) 983 F.2d 911
Thomas v. Bible (1993) 983 F.2d 152
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
CAL 1994-136
-denied
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
-lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
-plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
-superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
under 42 U.S.C. § 2996
fees award to legal foundation on the grounds that such awards violated the Legal Services Corporation Act cannot be challenged in private litigation; sole remedy is through an administrative complaint with Legal Services Corporation
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
under 42 U.S.C. § 6972(e)
-release of EPA records pursuant to FOIA
Kasza v. Whitman (9th Cir. (Nevada) 2003) 325 F.3d 1178
under 42 U.S.C. § 9607
Key Tronic Corp. v. U.S. (1993) 984 F.2d 1025
Stanton Road Associates v. Lohrey Enterprises (1993) 984 F.2d 1015
under 42 U.S.C. § 12205 (ADA)
-claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
-fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
-fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
-prevailing party's conduct in unreasonably prolonging the litigation did not justify outright denial of fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
under 11 U.S.C.A. § 503(b)(4)
-statutory silence regarding expenses incurred by a creditor does not necessarily mean foreclosure of a fee award from the debtor estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
under 28 U.S.C.A. §2412(d)
-judicial relief required for prevailing party status to recover attorney fees under the Act
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
under 28 U.S.C.A. § 2412(d)(1)(B)
-fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
under Business and Professions Code § 17200 (Unfair Competition)
-denial of fees to city in its successful lawsuit against a landlord, as the city sued only under the unfair competition law, which does not allow for recovery of attorney's fees
People ex rel. City of Santa Monica v. Gabriel (2010) 186 Cal.App.4th 882 [112 Cal.Rptr.3d 574]
under California Environmental Quality Act
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]

under California Public Records Act
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
under Civil code section 51 et seq. (Unruh Civil Rights Act)
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
under Civil Code section 55
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
under Civil Code section 1717
In re Baroff (9th Cir. 1997) 105 F.Supp. 439
Bankruptcy of Job (9th Cir. 1996) 198 B.R. 768
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Trope v. Katz (1995) 11 Cal.4th 274 [45 Cal.Rptr.2d 241]
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Snyder v. Marcus & Millichap (1996) 46 Cal.App.4th 1099 [54 Cal.Rptr.2d 268]
Republic Bank v. Marine National Bank (1996) 45 Cal.App.4th 919 [53 Cal.Rptr.2d 90]
Honey Baked Hams, Inc. v. E. Robert Dickens (1995) 37 Cal.App.4th 421 [43 Cal.Rptr.2d 595]
Hsu v. Abbara (1995) 9 Cal.4th 863 [39 Cal.Rptr.2d 824]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faitz (1992) 9 Cal.App.4th 129
Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
-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]
-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
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-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]
-attorney who acted pro se in contract action may recover reasonable attorneys fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
-attorney's fees denied because prevailing party's tort action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-attorney's fees denied to transferee of patent and trademark rights on the basis of reciprocity, because licensor would not have been entitled to recovery of fees if it had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
-California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
-corporate in-house counsel entitled to reasonable fees
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
-court rule permitted trial court to exercise its discretion in awarding higher fees based on "lodestar" method under statute authorizing attorney fee awards
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
-denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467
-denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
-equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
-precluded where plaintiff voluntarily dismisses unlawful detainer matter sounding in contract
Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9
-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
-where both contract and statute govern award of attorney's fees, prevailing party may also be entitled to recovery of appellate fees
Butler-Rupp v. Lourdeaux (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]
under Civil Code section 1780
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
-prevailing party entitled to fees where statutory language which provides for such fees is mandatory
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
under Civil Code section 1794
Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
under Civil Code section 1798.48(b)
application of lodestar methodology by court in determining reasonable attorney's fees"
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
under Civil Code section 2981 (Rees-Levering Act)
award not barred by CCP § 1717
Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
under Civil Code section 3260
-claim to recover is a simple breach of contract claim and not a claim to recover a "retention," therefore fees are not recoverable
Yassin v. Solis (2010) 184 Cal.App.4th 524 [108 Cal.Rptr.3d 854]
under Civil Code section 3426 et seq. (Uniform Trade Secrets Act)
-denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
under civil rights statute
-anti-hate crime matter
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-denied when plaintiff did not establish violation of protected right
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
-lodestar calculation
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Davis v. City & County of San Francisco (9th Cir. 1992) 976 F.2d 1536
Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
-mere fact defendant prevails does not automatically result in award of fees
Coverdell v. Dept. of Social & Health Services (9th Cir. 1987) 834 F.2d 758, 770
--court's discretion -- test
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Sherman v. Babbitt (9th Cir. 1985) 772 F.2d 1476, 1478
-nominal damages received by plaintiff
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
--party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
-partial success of prevailing attorneys may reduce amount of fee awarded
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
--application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-waiver or limitation of attorney fees in section 1983 case must be clear and unambiguous
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
under civil rights statute appropriate only when action was frivolous, unreasonable, or without foundation
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
-attorney's fees denied where opposing party's claims were not frivolous, unreasonable, or without foundation
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Boatowners and Tenants Ass'n, Inc. v. Port of Seattle (9th Cir. 1983) 716 F.2d 669, 674
Parks v. Watson (9th Cir. 1983) 716 F.2d 646, 665
-party awarded attorney's fees to be paid by opposing counsel as sanction for filing frivolous brief
Hamblen v. County of Los Angeles (9th Cir. 1986) 803 F.2d 462, 465
under Clayton Act § 4
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
under Code of Civil Procedure 128.7
-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
-criteria for recovery of fees and costs in opposing motion for sanctions
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
under Code of Civil Procedure 386.6
-award of attorney's fees from the interest accrued on interpleader funds statutorily prohibited
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]

-fees denied where party failed to satisfy criteria for interpleader action
Wells Fargo Bank, N.A. v. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
under Code of Civil Procedure section 391.7 (vexatious litigant statute)
-not authorized where complaint was dismissed for failure to post security bond
Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]
under Code of Civil Procedure section 425.16
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
-defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
-defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
-does not authorize an award of attorney fees against plaintiff's counsel
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
-litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-motion to strike found to be frivolous or solely intended to cause unnecessary delay
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
-party prevailing on an anti-SLAPP motion may seek fee award through three different avenues
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839
-prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
under Code of Civil Procedure section 425.18
-fees not recoverable
Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]
under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
under Code of Civil Procedure section 580
-attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
under Code of Civil Procedure section 685.020 et seq.
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
-fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
under Code of Civil Procedure section 685.040
Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
under Code of Civil Procedure § 701.020 et seq.
-fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
Ilshin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
under Code of Civil Procedure section 720.260
-attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
under Code of Civil Procedure section 907
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
under Code of Civil Procedure section 916
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
-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]
under Code of Civil Procedure section 998
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698
Elite Show Services Inc., v. Staffpro Inc. et al., (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
-denied where settlement offer did not provide for sufficient time for acceptance
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
-entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
-plaintiff not liable for paying defendant's costs in defamation suit if defendant's offer of settlement is conditioned on confidentiality
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
-prevailing plaintiff in lemon law suit could recover only pre-offer fees and costs where compromise offer exceeded damage award
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
-settlement offer silent as to right to recover fees and costs does not constitute a waiver of that right
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
under Code of Civil Procedure section 1021
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
-party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
under Code of Civil Procedure section 1021.5
Cabrera v. Martin (9th Cir. 1992) 973 F.2d 735
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clannra (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
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]
Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]
Lerner v. Ward (1993) 13 Cal.App.4th 155 [16 Cal.Rptr.2d 486]
Planned Parenthood v. Aakhus (1993) 12 Cal.App.4th 1119
Cummings v. Benco (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
California Labor Federation AFL-CIO v. California Occupational Safety and Health Standards Board (1992) 221 Cal.App.3d 1547
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
-administrative appeal
Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
-advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
---exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
-against police department following plaintiff's voluntary release of civil liability by stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
-attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
-family law
--fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
-fees awarded to prevailing public entity against another public entity
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
-fees denied where remand to an administrative agency to reconsider a perceived procedural defect did not result in a change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]

-fees limited to persons who pursue public interest litigation at a cost that is out of proportion to any personal interests they might have in the outcome
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
-must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
-no provision under this statute, unlike CCP 128.5, giving courts authority to impose sanctions in the form of attorney fees for vexatious or "obdurate behavior"
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
-requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
-right of attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
-significant public benefit
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]
-supplemental fees request based on greater success on appeal
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
-time limit
attorney's fees incurred in post-judgment proceedings not time barred by rule 3.1702, California Rules of Court
Crespin v. Shewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
under Code of Civil Procedure section 1021.7
-no award of fees based on plaintiffs' pursuit of a legitimate appeal
Thompson v. City of Capitola (1991) 233 Cal.App.3d 465
under Code of Civil Procedure section 1032 et seq.
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
under Code of Civil Procedure section 1033.5
-plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
under Code of Civil Procedure section 1036
-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc., et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
under Code of Civil Procedure section 1038
-does not authorize attorney fees for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699
under Code of Civil Procedure section 1286.2
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
under Code of Civil Procedure section 2030
-attorney fees may not be awarded to prevailing attorney acting in pro per
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]
under Code of Civil Procedure section 2033.420
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
under Corporations Code section 317
-fees denied on the grounds that employer is a limited liability company and as such is governed by the Limited Liability Company Act (Corporations Code § 17000 et seq.) which contains no provision similar to section 317 in mandating indemnification for claims against its agents and employees
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
-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
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
under Corporations Code section 8337
-failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]
under Corporations Code section 15634
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
under Family Law Code section 272
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
under Family Law Code section 1101(g)
In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]
under Family Law Code section 2030
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
under Federal Rule of Civil Procedure section 11
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456
under Federal Rule of Civil Procedure section 17(c) to guard the interests of minors
Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177
under Federal Rule of Civil Procedure section 23(h)
-practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988
under Federal Rule of Civil Procedure section 37(c)(2)
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
under Federal Rule of Civil Procedure section 69(a)
Carnes v. Zamani (9th Cir. 2007) 488 F.3d 1057

under Government Code section 800
-finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
under Government Code section 6250
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
under Government Code section 12989.1 et seq. (discrimination in housing)
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
under Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
under Government Code section 38773 et seq.
-city ordinance which provided for unilateral recovery of attorney fees found invalid because it conflicted with state statute permitting recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
under Government Code section 51200 et seq. (the Williamson Act)
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
under Health & Safety Code section 13009.1
-fees not recoverable unless they are specifically authorized by contract, statute, or law
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]
under Health & Safety Code section 17980.7
City and County of San Francisco v. Ballard (2006) 136 Cal.App.4th 381 [39 Cal.Rptr.3d 1]
under Information Practices Act (California)
lodestar method in calculating attorney's fees
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
under Labor Code § 98.2
-former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
under Labor Code § 510
-failure to pay overtime compensation
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
under Labor Code § 2699
Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
under Labor Code § 2802
-fees denied on the grounds that the section 2802 is applicable to indemnification of employees sued by third parties, not to claims by employer against its own employees
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
under Labor Code §§ 3856 and 3860
-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]
under Labor Code § 5801
-attorney fees not automatically awarded to injured employee who prevailed in defending against employer's petition for writ of review
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
under Penal Code section 1202.4
-lodestar method not applicable in determining attorney fees in crime victim restitution awards
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
under Petroleum Marketing Practices Act
Chevron U.S.A. Inc. v. M&M Petroleum (9th Cir. 2011) 658 F.3d 948
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Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
under Probate Code section 17211(b)
Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
under Public Utilities Code § 1757 et seq.
-recalculation of fees to outside counsel retained by consumer group to assist in its work before a commission where outside counsel offered different services than in-house counsel
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
under Public Utilities Code § 1806 et seq.
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
under Song Beverly Act
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
under U.S.C.A. § 7430
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
-fees denied even though taxpayer prevailed on most significant issue on the grounds that statutory language does not include government's pre-litigation conduct
Pacific Fisheries Inc. v. U.S. (9th Cir. (Washington) 2007) 484 F.3d 1103
under Uniform Foreign Money Judgments Recognition Act
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
-foreign order to pay attorney fees unenforceable where constitutes support
In re Marriage of Lyustiger (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
under unlawful detainer action
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
under USCS section 928
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
under Welfare and Institutions Code §§ 15600 et seq.
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
-denial of fees to prevailing defendant where statute contains a unilateral fee shifting provision
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
under Welfare and Institutions Code § 15657
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]

undertaking action
-attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
unilateral recovery of attorney fees by city under local ordinance found invalid where it conflicted with state statute which provides for recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
United States liability for
Lauritzen v. Lehman (9th Cir. 1984) 736 F.2d 551
waiver of
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
LA 445 (1987)
-not presumed from silent record
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
vexatious litigant statutes does not authorize attorney fees award where complaint is dismissed for failure to post security bond
Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]
void
-in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
waiver of
-settlement agreements which include fee-waiver provisions under fee shifting statutes
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will not be disturbed absent abuse of discretion
-Americans with Disabilities Act
--district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
-court abused discretion by denying attorney fees to successful party in copyright lawsuit
Traditional Cat Assn. Inc. v. Gilbreath (9th Cir. 2003) 340 F.3d 829
-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
-no abuse of discretion shown
Rite Nail Packaging Corp. v. Berry Fast (1983) 706 F.2d 933, 936
Binet v. California Health and Welfare Agency (9th Cir. 1983) 704 F.2d 1465, 1473
-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
Hadley v. Krepel (1985) 167 Cal.App.3d 677, 682-683, 686-687 [214 Cal.Rptr. 461]
-Workers' Compensation lien fund and trial court's authority to allocate amount for attorney fees
Hartwig v. Farms (1992) 2 Cal.App.4th 1550
Workers' Compensation
Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
-award of fees to employee justified on the grounds that employer's petition for writ of review indisputably lacked merit
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
-burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
-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]
-successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act
Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044
-under Labor Code § 4607
Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
Award of compensation for law clerk and paralegal time reasonably spent on plaintiff's case
Richlin Sec. Service Co. v. Chertoff (2008) 128 S.Ct. 2007
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
ERISA matter under 29 U.S.C. 1332(g)(2)(D)
Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
Bankruptcy
attorney award of fees and costs for bad faith
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
attorney employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct
In re Suarez (9th Cir. BAP 2009) 400 B.R. 732
attorney cannot use confidences of former client to challenge client's 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 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 and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609
attorney's fees are administrative expenses that must be paid first
In re Shorb (1989) 101 B.R. 185
attorney's fees claim against lender's collateral barred where law firm negotiated and approved comprehensive waiver in loan agreement which bared surcharge or assessment against the collateral
In re Cooper Commons LLC (9th Cir. 2008) 512 F.3d 533
attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
automatic stay not applicable to attorney's efforts to collect previously agreed-upon fees for post-petition services
In re Hines (9th Cir. BAP 1998) 198 B.R. 769
award of fees is void when underlying claim is in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract
In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204
awarding interim fees to attorney in bankruptcy action
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 between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Banbkr.Ct.Dec. 1229]
bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104
bankruptcy court has jurisdiction to approve post-petition attorney fees
In re Knudsen Corporation (1988) 84 B.R. 668
bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
In re Levander (9th Cir. 1999) 180 F.3d 1114
bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))
-bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
-BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730
chapter 7 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]
chapter 7 estate trustee's attorney may be denied fees if attorney lacks disinterestedness or represents interests adverse to the interest of the estate
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
chapter 9 fee 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]
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In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592
claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray
In re Ybarra (9th Cir. 2005) 424 F.3d 1018
court had authority under tax code to pay debtor's attorney fees
In re Germaine (1993) 152 B.R. 619
creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236
delay in bankruptcy court's approval of payment does not entitle enhanced attorneys fees
In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
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disgorgement of attorney fees is allowed after violation of bankruptcy code and rules
In re Peterson (1994) 163 B.R. 665
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
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]
expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
failure to obtain court approval for employment of counsel may operate to deny payment of attorney fees
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 awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
fees for wife's attorney in dissolution dischargeable in bankruptcy
In re Gibson (1989) 103 B.R. 218
fees recoverable if they are linked to litigation seeking to enforce a contract
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs
In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558
no recovery of attorney's fees if chapter 7 bankruptcy estate trustee's attorney lacks disinterestedness or represents interests adverse to the interest of the estate
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
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Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
pro rata sharing of attorney fees properly awarded against co-owners
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
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In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

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Higgins v, Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
trustee expenses incurred in marketing & selling property & defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co - owner of property
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
trustee fees not proper for duties that are not practice of law
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
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In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
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-entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief
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In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
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the merits of a declaratory relief action must be resolved in the trial court's discretion
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
Billing
billing service, use of
LA 423 (1983), LA 374 (1978)
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CAL 1996-147, OC 99-001
"double billing"
CAL 1996-147, OC 99-001
fee 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]
"over-billing"
-district court may not reduce fees without identifying the hours spent inefficiently or providing any explanation of the particular degree of reduction
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
-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
OC 99-001
-fiduciary duty to clients, both civil and criminal, requires that fee agreements and billings be fair, reasonable, and fully explained to the client
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
-preparation of false and misleading billing statements involves moral turpitude
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
LA 522 (2009)
services of law clerks, legal assistants (paralegal), and secretaries
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LA 522 (2009)
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Severson, Werson et. al. v. Bollinger (1991) 235 Cal.App.3d 1569
LA 479
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LA 391 (1981)
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-on past due receivables
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Child custody cases
post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
Child support
Boutte v. Nears (1996) 50 Cal.App.4th 162 [57 Cal.Rptr.2d 655]
attorney's fees not classified as gross income in calculating child support obligations
M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]
child support act
-putative father's successful defense of paternity/reimbursement action does not include right to attorney fees
County of Santa Barbara v. David R. (1988) 200 Cal.App.3d 98 [245 Cal.Rptr. 836]
Civil Code section 51 et seq. (Unruh Civil Rights Act)
fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
Civil Code section 1717
absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
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

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
attorney litigating in propria persona
-an attorney litigating in propria persona cannot be said to incur compensation for his time and lost business opportunities
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
-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]
-may recover reasonable attorney fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
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]
award of attorney's fees applies mutually and equally to all parties even if written otherwise
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
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California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467
distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
mutuality of remedy when contract permits recovery of attorney fees
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
party that prevails is entitled to attorney's fees only if it can prove it would had been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
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CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
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absent class members not liable for employer's attorney's fees in overtime dispute
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amount of attorney's fees determined to be reasonable in light of quantity and quality
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
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
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
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Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
basis of award to an unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
dispute among class counsel
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
"lodestar" multiplier method when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
negative multiplier decreasing the lodestar 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]
settlement shall not include attorney fees as portion of common fund established for benefit of class
Staton v. Boeing Co. (9th Cir (Washington) 2003) 327 F.3d 938
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

standing to appeal awards of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
-class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084
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]
under Federal Rule of Civil Procedure 23(h), the practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

Collection of [See Collections.]
CAL 1982-68
attorney collection agency
-Business and Professions Code section 6077.5
-Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
bankruptcy action
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
bankruptcy court must scrutinize a law firm's unsecured claim for attorney's fees
In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462
billing service, use of
LA 423 (1983), LA 374 (1978)
collection agency, use of
LA 522 (2009), LA 373 (1978)
use of state procedure to execute federal judgment
In re Levander (9th Cir. 1999) 180 F.3d 1114

Confession of judgment signed by client to assure fee collection
improper
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

Conflict of interest
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
United States ex. Rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
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, 36-37 [267 Cal.Rptr. 896, 906-907]
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]
attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
no recovery of attorney's fees where attorney engaged in conflicting representation without obtaining informed written consent
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
where the attorney's ethical violation in question is a conflict of interest between the attorney and the client, the appropriate fee is zero
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

Conflict of interest, fees paid by co-defendant
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725

Conflict of interest, fees paid by third party
Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
CAL 1975-35

Conservatorship
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]

Contingent [See Contingent Fee.]

Contract
contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
contrary to law, policy, or morals
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 949-950 [203 Cal.Rptr. 879]
defendant-sellers in real estate care are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491
denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
denial of fees where contract is deemed to be entirely voided versus award of fees where a contract is found to be divisible, voidable, or rescindable
Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078
denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467
fee agreements and billings must be fair, reasonable, and fully explained to the client
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
social security cases
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
under Civil Code § 1717
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
-attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
-denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467
-distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
-misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-party claiming entitlement to fees estopped from later challenging the fees provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
-party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
Copyright Act
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
Costs
certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
County beneficiary of SSI benefits in debtor-creditor relationship with recipients of county funds no duty to share costs of plaintiff's attorney's fees
Neal v. County of Stanislaus (1983) 141 Cal.App.3d 534 [190 Cal.Rptr. 324]
Court has discretion to award under Criminal Justice Act
Matter of Baker (9th Cir. 1982) 693 F.2d 925
Court must consider relevant guidelines in setting fees
Fitzharris v. Wolff (9th Cir. 1983) 702 F.2d 836
Criminal law matter
lodestar method not applicable in determining attorney fees in crime victim restitution awards
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
Delay of client's matter to collect [See Unpaid fee.]
Business and Professions Code section 6128
CAL 1968-16
when court awards none
LA(I) 1962-4
Demand from third party
LA 226 (1955)
award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award
Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
Derivative action
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
Cziraki v. Thunder Cats, Inc. (2003) 111 Cal.App.4th 552 [3 Cal.Rptr.3d 419]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Determination of [See Bid for legal work.]
agreement
-in divorce
LA 226 (1955)
by statute and contract
Code of Civil Procedure section 1021
charge less than
-allowed by court
LA 65 (1931)
-schedule, custom, or statute
LA 102 (1937)
charge more than allowed by court
LA(I) 1962-4
quote specific amount for certain services
LA 342 (1973)
rate increased during representation
Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569
LA 479
-fee 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]

Discharge of attorney with cause
attorney entitled to collect for services rendered prior to misconduct
Moore v. Fellner (1958) 50 Cal.2d 330 [325 P.2d 857]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373]
attorney's behavior which undermines trust may be grounds for discharge
Moser v. Western Harness Racing Association (1948) 89 Cal.App.2d 1, 8 [200 P.2d 7]
client has implied right to discharge
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]
failure to use ordinary care furnishes cause for discharge
Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]
Disclosure in bankruptcy proceeding
LA 452
lien against client file
-void
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
Discounted as consideration for referrals
CAL 1983-75
Discretion of trial judge to award in county actions for recovery of support payments
County of Kern v. Ginn (1983) 146 Cal.App.3d 1107 [194 Cal.Rptr. 512]
Disgorgement of excessive fees by bankruptcy petition preparer for engaging in unauthorized practice of law
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
Disgorgement of fees and costs as equitable relief
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
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funds derived from illegal activity and used to pay attorney's fees may be subject to forfeiture
Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127
Dispute
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]
-limited to cases where the parties do not have an agreement as to award of fees
Beard v. Gary Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
action brought by criminal defendant against former counsel for billing improprieties is not necessarily a claim of legal malpractice
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
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]
between law firm and former shareholder
-former shareholder 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]
binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the MFAA arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
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 given benefit of doubt regarding modified contract for fees
Baron v. Mare (1975) 47 Cal.App.3d 304[120 Cal.Rptr. 675]
conflict of interest not created by
LA 521 (2007)
criminal defendant need not allege that he was innocent of the crime charged in order to bring an action against former law firm over a fee dispute
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
funds properly withdrawn from a client trust account under rule 4-100(A)(2) and later disputed by the client do not need to be re-deposited into the trust account
CAL 2006-171
governmental entity
-municipal indebtedness or liability limitations under article XVI, section 18 of the California Constitution
--contingency fee contract between attorney and city did not violate the constitutional municipal debt limitation because attorney's fees were neither a charge against the city's general fund nor an obligation to be by tax levies
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
jurisdiction issues
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
settlement check issued only to client, but delivered to attorney who has a lien
OC 99-002
under Civil Code section 2860 "cumis counsel" fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483
unnamed class member who failed to intervene at trial in a 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
with co-counsel
-terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
Dissolution
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
In re Marriage of Jovel (1996) 49 Cal.App.4th 575 [56 Cal.Rptr.2d 740]
In re Marriage of Munguia (1983) 146 Cal.App.3d 853 [194 Cal.Rptr. 199]
fees for wife's attorney in dissolution dischargeable in bankruptcy
In re Gibson (9th Cir. 1989) 103 B.R. 218
post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
rationale for awarding attorney's fees in dissolution of marriage cases
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
rights of spouse to
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212 [203 Cal.Rptr. 606]
District court
determination of
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Jeff D. v. Evans (9th Cir. 1984) 743 F.2d 648, 650-651

Diversity cases
award of fees based on the reasonableness of removal of the case from state court to federal court
Gardner v. UICI et al. (9th Cir. 2007) 508 F.3d 559
Division of, between attorneys or law firms associated on a particular matter
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
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Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
Division of, when partnership dissolves
Fox v. Abrams (1985) 163 Cal.App.3d 610 [21 Cal.Rptr. 260]
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Division of, when shareholder leaves firm
former shareholder 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]
duty to submit to bar association arbitration committee
LA 309 (1969)
hold client's papers
LA 330 (1972), LA(I) 1970-6
SD 1977-3, SF 1973-12
unilateral withdrawal of funds by attorney
LA 438 (1985)
Division when partnership dissolves
valuation of buyout price for dissociating partner
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
Donation of legal fees
LA 434 (1984)
contingent upon bequest to certain organization
LA 428 (1984)
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CAL 1982-65, SF 1973-27
Due an attorney on matters unrelated to the malpractice issue at bar
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
Each party must pay own
Code of Civil Procedure section 1021
Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509
Elder Abuse and Dependent Adult Civil Protection Act
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
value of an estate is a factor in setting fees and is consistent with rule 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
Employees of government may recover certain costs of defense if the action arose from acts or omissions in course of employment
City of Redondo Beach v. Delong (1981) 123 Cal.App.3d 1035 [177 Cal.Rptr. 77]
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Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
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U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
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-factors considered under CCP § 1021.5
--social security claimant timely files for attorney fees
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-fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
-prevailing market rates
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standard for awarding attorney's fees under Equal Access to Justice Act
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statutory basis for
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to prevailing party
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-must show that counsel's distinctive knowledge and skill were needful to the litigation in order to justify attorney fees above statutory cap
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
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U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
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U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
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Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
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United States v. 88.88 Acres of Land (9th Cir. 1990) 907 F.2d 106
ERISA matter
either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) __ U.S. __ [130 S.Ct. 2149]
Error in awarding fees
court erred in awarding attorney fees given limited success of plaintiffs' enforcement of consent decree
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous
Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299
district court erred in reducing attorneys fees under ERISA statute to amount well below prevailing market rate for ERISA plaintiff's attorneys of comparable skill
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
family law 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
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LA 237 (1956)
attorney for administrator claiming fees for extraordinary services
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
attorney for personal representative bills heir for services for which estate is liable
LA(I) 1956-7
decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
executor's attorney charges for performance of delegable duties of executor
Probate Code sections 10804 and 15687
LA 347 (1975)
executor's attorney's fee when secretary is executor
LA 382 (1979)
independent review required under Probate Code section 21350 et seq. is not met when attorney may be entitled to executor fees and the so called independent attorney shared office space with draftor
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
legal fees for administration chargeable to estate
Houghton v. Coberly (1962) 201 Cal.App.2d 820 [20 Cal.Rptr. 489]
reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
Excellent work does not justify enhanced fee; inadequate work may serve to reduce fee
Southwestern Media Inc. v. Rau (9th Cir. 1983) 708 F.2d 419
Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
Excessive
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Alexander v. Superior Court (1994) 22 Cal.App.4th 901 [27 Cal.Rptr.2d 732]
Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]
Goldstone v. State Bar (1931) 214 Cal. 490, 497 [6 P.2d 513]
argument that fees were too high unpersuasive where defendants were unable to point to any particular fee entries or claimed hours
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
negative multiplier decreasing the lodestar 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]
plaintiff failed to provide sufficient record on appeal to support its claim that the amount of fees awarded to defendant's attorneys for time spent on prior appeal was unreasonable
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
Exorbitant
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
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
exorbitant and unconscionable fee charged
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
CAL 1996-147, CAL 1994-135; OC 93-002

fee charged in excess of reasonable value of services does not of itself warrant discipline
Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402 [49 P.2d 832]
gross overcharge by attorney may warrant discipline
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
Bushman v. State Bar (1974) 11 Cal.3d 558, 562, 564 [113 Cal.Rptr. 904, 522 P.2d 312]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
test for impermissible overcharge -- "shock the conscience"
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207 Cal.Rptr. 302]
Expert witness fees
expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Failure to return unearned fees
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]
Bernstein v. State Bar (1990) 50 Cal.3d 221
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Ballard v. State Bar (1983) 35 Cal.3d 274
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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
more than minimal preliminary services required to justify retention of advanced fees
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
until after disciplinary action initiated
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Fair Debt Collection Practice Act
authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
False Claims Act provides for award of fees under rare and special circumstances
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999
defendant entitles to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
Family law
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
abuse of discretion where court refused and failed exercise discretion; failed to make needs-base analysis and where court refused to review billing records
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
child support obligations ordered by family court have priority over fees deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt
In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
fees denied under Code of Civil Procedure 1021.5 where litigant had done nothing to curtail a public right, but sought a judgment only to settle her private rights and those of her children, nothwithstanding the public benefit to others whose
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)
Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]
order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
Fee arbitration
Business and Professions Code sections 6200-6206
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
arbitration award becomes binding 30 days after notice of award
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
arbitrator's authority to determine own jurisdiction
-authority to rule on the issue does not always mean authority to make a binding (and hence unreviewable) ruling on the issue
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
binding agreement
-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
-independent review on issue of whether the parties agreed to binding arbitration
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
binding clause in retainer agreement
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

correction of arbitration award
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
notice of client's right to arbitrate a dispute must be given after dispute has arisen
OC 99-002
rejection of offer of binding arbitration
-where one party offers binding arbitration and the offeree rejects the offer, the offeror's offer is effectively rejected and cannot later be accepted by the offeree
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
waiver of due to filing pleading for affirmative relief
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587 [223 Cal.Rptr. 95]
Financing
CAL 2007-172, CAL 2002-159, CAL 1980-53
LA 308 (1968), SD 1983-1
Board Policy Statement (April 20, 1967) III.A.1., supra
credit card
LA(I) 1972-26
SD 1974-6, SD 1972-13, SD 1972-10
Board of Governors Policy Statement (April 20, 1967) III.A.1., supra.
through banks
LA 288 (1965)
through lending institutions
LA 288 (1965)
Finder's fee
Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609 [231 Cal.Rptr. 706]
For
alimony payments, processing of
LA(I) 1969-1
child support payments, processing of
LA(I) 1969-1
collections
LA 275 (1963), LA 263 (1959), LA(I) 1955-1
service of process by lay employee
LA(I) 1968-4
Foreclosures
statutory fees limitation applies to both judicial and non-judicial foreclosures
Bruntz v. Alfaro (1989) 212 Cal.App.3d 411 [260 Cal.Rptr. 488]
Forwarding fees
Rule 2-108(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 2-200, Rules of Professional Conduct (operative as of May 27, 1989)
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 635]
Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]
Dunne & Gaston v. Keltner (1975) 50 Cal.App.3d 560 [123 Cal.Rptr. 430]
CAL 1994-138, LA 486, LA 467
Freedom of Information Act
Kasza v. Whitman (9th Cir. (Nevada) 2003) 325 F.3d 1178
fees awardable if public benefit outweighs economic benefit
United Assn. of Journeymen Apprentices v. Department of the Army (9th Cir. 1988) 841 F.2d 1459
Government
city ordinance which provided for unilateral recovery of attorney fees found invalid because it conflicted Government Code section 38773 et seq. permitting recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
defense of city employees pursuant to Gov. Code § 995 et seq.
-city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
exception to award of attorney's fees
-where the public entity is the state itself & acts through its Attorney General whose public responsibility is to serve the interests of the state at large
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
fees awarded to city retirement board of members pursuant to a city council resolution authorizing payment of all expenses incurred in connection with any claim arising from any act or omission in the scope of their duties as board members
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
municipal indebtedness or liability limitations under article XVI, section 18 of the California Constitution
-contingency fee contract between attorney and city did not violate the constitutional municipal debt limitation because attorney's fees were neither a charge against the city's general fund nor an obligation to be by tax levies
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
retroactive application of city ordinance providing for recovery of attorney fees found invalid on the grounds that the ordinance changed the legal consequences of past conduct
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
under 26 U.S.C.A. § 7430
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Pacific Fisheries Inc. v. U.S. (9th Cir. (Washington) 2007) 484 F.3d 1103
under Code of Civil Procedure § 1021.5, prevailing public entity entitled to collect fees from another public entity
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]

under Code of Civil Procedure section 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699
Gross overcharge
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Bushman v. State Bar (1974) 11 Cal.3d 558, 563 [113 Cal.Rptr. 904]
Group legal services
LA(I) 1971-9, SD 1973-7
Guidelines for courts to follow [See Award of attorneys' fees. Sanctions.]
29 U.S.C section 1132(q)
Hummell v. S.E. Rykoff & Co. (9th Cir. 1980) 634 F.2d 446, 452-453
Guidelines for setting attorneys' fees
retirement branch
Sapper v. Lenco Blade, Inc. (9th Cir. 1983) 704 F.2d 1069, 1073
Handicapped Children's Protection Act
attorney's fees recoverable by plaintiff
McSomebodies v. San Mateo School District (9th Cir. 1990) 886 F.2d 1559
McSomebodies v. Burlingame Elementary School District (9th Cir. 1990) 886 F.2d 1558
Hybrid, hourly and contingent
OC 99-001, SF 1999-1
Illegal fee
Coviello v. State Bar (1953) 41 Cal.2d 273
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 2 [77 Cal.Rptr.2d 463]
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
LA 466, OC 99-001
a fee contract between an attorney and an applicant in a workers' compensation case, is not prohibited by the Labor Code; instead, the Workers' Compensation Appeals Board has authority to approve, increase, or reduce the fees within the contract
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
fees collected while engaged in UPL in another jurisdiction constitute
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
Immigration cases
Equal Access to Justice Act
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
Improper billing
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
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
LA 391 (1981), OC 99-001
Improper for court to withhold past-due SSI benefits for payment of attorney's fees
Bomen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
In propria persona client and advisor counsel share handling of case
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
Indigent person
Business and Professions Code section 6068(h)
CAL 1981-64
SF 1974-4
additional fee from family of
LA 245 (1957)
county hospital lien against indigent patient's tort recovery from third party subject to pro rata reduction for patient's reasonable attorney's fees
City and County of San Francisco v. Sweet (1995) 32 Cal.App.4th 1483 [38 Cal.Rptr.2d 620]
court should consider indigent losing party's financial condition before awarding reasonable attorney's fees to prevailing party
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
criminal cases
-right to ancillary defense services under Penal Code section 987.9
Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]
litigation cost not limited as tool to deny pro per litigant access to court
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
representation by legal aid foundation
-award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
Insurance agent may be liable for attorney fees incurred by insured
Saunders v. Cariss (1990) 224 Cal.App.3d 905 [274 Cal.Rptr. 186]
Insurance cases
award of attorney's fees to insurance company from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
Civil Code section 2860(c)
-disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

-insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
-no right to fee dispute where no determination of whether insurer has duty to defend
Intergulf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]
Civil Code section 2860 reactivity
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Cumis counsel
-insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
fees not recoverable from insurer in suits filed outside scope of policy terms
Olson v. Federal Insurance Co. (1990) 219 Cal.App.3d 252 [268 Cal.Rptr. 90]
-landlord's intentional discrimination in renting was willful conduct which precluded indemnification by liability insurer for costs and attorney fees
Combs v. State Farm Fire & Casualty Company (2006) 143 Cal.App.4th 1338 [49 Cal.Rptr.3d 917]
injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
insured entitled to reimbursement of attorneys fees incurred in a forfeiture proceeding
American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]
insurer's ability to recover attorney fees from insured
Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
Interest on unpaid [See Charge interest.]
California Constitution Art. 15
Usury section 1, par. 2
CAL 1980-53
LA 370 (1978), LA 374 (1978)
SD 1983-1, SD 1976-8
SF 1970-1
standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
Interim award of attorney's fees not an appealable collateral order
Hillery v. Rusher (9th Cir. 1983) 702 F.2d 848
Interim awards appropriate to party substantially prevailing
Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192
Interim bankruptcy
In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322
Interpleader funds
award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
fees denied where party failed to satisfy criteria for interpleader action pursuant to Code of Civil Procedure section 386.6
Wells Fargo Bank, N.A. v. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
Invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
IRS matter
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Jurisdiction of federal court
district court that presided over the underlying action denied law firm's motion to enforce a note on the grounds that the note was not collateral to the action and therefore outside of the court's supplemental jurisdiction
Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037
over Title VII claim for attorney's fees for legal work performed in state, local or administrative proceedings
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
Labor Management Act (§ 301)
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
Law clerks and paralegals
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
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
LA 391 (1981)
non-attorney collection agency employees
LA 522 (2009)
Lien
absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
as security for fees
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
CAL 2006-170, CAL 1981-62
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
client may by agreements to secure fees
United States v. Stonehill (9th Cir. 1983) 702 F.2d 1288
common fund doctrine does not apply to contractual medical lien holders 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]
duty to pay medical lien with client's consent
Rule 4-210(A), Rules of Professional Conduct
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
equitable lien for fees
Winslow v. Harold G. Ferguson Corp. (1944) 25 Cal.2d 274, 277 [153 P.2d 714]
County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
equitable lien theory does not apply to contractual lienholders in personal injury matters
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
no lien in absence of contract
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
physician's
CAL 1988-101
LA 368 (1977), LA 357 (1976)
prior attorney's lien
CAL 2008-175
priority of attorney liens
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
Cappa v. K & F Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
-attorney's lien is subordinate to an adverse party's right to offset judgments
Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]
-attorney's lien superior to claims of other creditors against a bankruptcy distribution
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
-attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
-in relation to medical lien in contingency fee case
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
settlement check issued only to client, but delivered to attorney who has a lien
OC 99-002
"Lodestar" multiplier method of fee calculation
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
Christensen v. Stevedoring Services of America (2009) 557 F.3d 1049
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
abuse of discretion where quality of representation was used to reduce
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
class action cases
Wininger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
probate matters
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Malpractice action
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Mandatory arbitration
Witkin, California Procedure 2d, Supp, Attorneys, section 106(A)ff.
Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
Mediation
agreement containing attorney fee provision was inadmissible, judicial estoppels provides no exception to mediation confidentiality
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]
defendant-sellers in real estate care are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491
no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
Medical malpractice
attorney not automatically entitled to the maximum contingency percentages under Business and Professions Code section 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
calculation under Business and Professions Code section 6146 when attorney has multiple clients
Yates v. Law Offices of Samuel Shore (1991) 229 Cal.App.3d 583 [280 Cal.Rptr. 316]
contract contingency fee limits in Business and Professions Code section 6146 are constitutional and to be followed even when clients agree to a higher fee contract
Shultz v. Harney (1994) 27 Cal.App.4th 1611
Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920 [211 Cal.Rptr. 77]
Shepard v. Browne, Greene, et al. (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]

Hathaway v. Baldwin Park (1986) 168 Cal.App.3d 1247
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
medical-legal consulting services entitlement to a contingent fee may be restricted by MICRA limitations
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
MICRA not applicable to medical procedure performed without patient's consent by doctor acting as agent of law enforcement
Ellis v. City of San Diego (9th Cir. 1999) 176 F.3d 1183
Membership fees
Business and Professions Code section 6140 et seq.
Minimum fee schedules
Goldfarb v. Virginia State Bar (1975) 421 U.S. 773 [95 S.Ct. 2004]
Trout v. Carleson (1974) 37 Cal.App.3d 337 [112 Cal.Rptr. 282]
no longer in effect
SD 1973-7
Minors' compromise
Probate Code sections 3500 et seq., 3600 et seq.
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
Sisco v. Cosgrove, Michelizzi, Schwabacher, Ward & Bianchi (1996) 51 Cal.App.4th 1302 [59 Cal.Rptr.2d 647]
Law Offices Of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]
court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case
Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177
trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
Must be licensed at time services performed to recover
Shapiro v. Paradise Valley Unified School District No. 69 (2004) 374 F.3d 857
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership
Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]
Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]
out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Mutuality of remedies
Smith v. Krueger (1983) 150 Cal.App.3d 752, 757 [198 Cal.Rptr. 174]
No attorney's fees as obligatee under contract that was not assumed
Wilson's Heating and Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
No award of attorney's fees when government takes no affirmative legal action
League of Women Voters of California v. F.C.C. (N.D. Cal. 1983) 568 F.Supp. 295, 301
No recovery of attorney's fees if a violation of Rules of Professional Conduct occurs
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
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]
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
denial of forfeiture motion on grounds that alleged ethical violations are irrelevant to the value of attorney's services to client
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
serious ethical violation required, forfeiture never automatic
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
No recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
No recovery of attorney's fees where attorney voluntarily withdraws without cause
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Nominal fee
printed upon professional card
LA 131 (1940)
None charged
charitable, educational, and religious organizations
SD 1974-19
for referrals from health plan
LA(I) 1931-3
for will
-leaving money for cause
LA 314 (1970), LA 196 (1952)
-to bank's customers
SD 1974-21 1/2
-to insurance broker's clients
SD 1976-6
labor union members
LA 151 (1944)
when client can pay
SD 1983-6
Non-payment of
by client
-lawyer declines to perform further services
SD 1973-3, LA 32 (1925)
Non-statutory award of attorney's fees
reasonable lodestar/risk factor
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268
Note and deed of trust to secure requires compliance with rule 5-101 (current rule 3-300)
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]

Note without deed of trust may not require compliance with rule 3-300
SF 1997-1
Out-of-state attorney's
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
LA(I) 1969-3
out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Paid by others
Rule 3-310(F), Rules of Professional Conduct
accessory of client in felony
LA(I) 1964-1
by corporation to minority shareholder's attorney
Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
by fee guarantor
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
by former employer
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
by government
-defending duties of legal services lawyer
CAL 1981-64
by individual homeowners of a condominium association
-payment of fees does not determine ownership of the attorney-client privilege
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
by insurer of client
-counsel is acting on the insurer's behalf and representing the insurer's own rights and interest as well as those of its insured
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
-Cumis counsel
--insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
-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]
LA 439 (1986)
by non-lawyer immigration service providers
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
by parent of client
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
by trust beneficiaries
-payment of fees does not determine ownership of the attorney-client privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
disclosure of identity
United States v. Blackman (1995) 72 F.3d 1418
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
fee financing plan
CAL 2002-159, OC 93-002
head of criminal organization
-to represent subordinate
CAL 1975-35
not privileged information
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
United States v. Hirsch (9th Cir. 1986) 803 F.2d 493
third party agrees to indemnify client's legal fees but not entitled to confidences or secrets
LA 471 (1992), LA 456 (1990)
Paid with funds belonging to receivership
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Paid with funds illegally gained
funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
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
Champion v. Superior Court (1988) 201 Cal.App.3d 777
Partnership dissolution
CAL 1985-86
division of post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Party must substantially prevail and government must have acted in bad faith to get attorney's fees
Guam Contractors Association v. U.S. Dept. of Labor (N.D. Cal. 1983) 570 F.Supp. 163, 170
Periodic payments
client recovery is annuity, attorney is entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
Permissive intervention by client's former attorney concerning attorneys' fees
Venegas v. Skaggs (9th Cir. 1989) 867 F.2d 527
Physician's
client's duty with respect to
LA 368 (1977), LA 357 (1976)
Post-judgment
fee awarded where one party petitioned to enforce judgment, even if settlement agreement did not provide for post-judgment fees
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
fees going to post-judgment collection costs not covered under terms of fees provision in pre-judgment contract
Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
judgment creditor is entitled to attorney's fees incurred in the defense of an a separate action on the enforcement of the judgment
Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
judgment creditor must request post-judgment attorney fees before the underlying judgment is fully satisfied
Carnes v. Zamani (9th Cir. 2007) 488 F.3d 1057
limitation on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act
Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]
limits imposed by Prison Litigation Reform Act did not burden prisoners' fundamental right of access to courts
Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990
limits imposed by Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

waiver
-unenforceable where statutory language specifically does not permit waiver of right to fees, notwithstanding an agreement to the contrary
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
Prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
Prevailing parties
Lucero v. Municipal Court (1993) 15 Cal.App.4th 784 [19 Cal.Rptr.2d 143]
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]
-limited to cases where the parties do not have an agreement as to award of fees
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
administrative hearings
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686 [30 Cal.Rptr.2d 922
-party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
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]
amended party must be given opportunity to respond and contest personal liability before judgment is entered against him
Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]
American with Disabilities Act
-defined
--plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
anti-SLAPP motion
-arising out of malicious prosecution action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
-burden of proving fees were covered by award following successful motion to strike
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
-defendants who fail to file an anti-SLAPP motion before the plaintiff's voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
-does not preclude anti-SLAPP defendant from recovering appellate attorney fees upon prevailing on appeal
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
-fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
-fees awarded to plaintiff where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
-mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
-no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-prevailing defendant-attorneys on an ant-SLAPP motion to strike are not entitled to attorney fees because they represented themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
-prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
-will revision considered protected activity for anti-SLAPP motion purposes
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
apportionment 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]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
-arbitrator's determination of, not subject to appellate review
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]

--plaintiffs cannot be required to pay arbitral expense and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-prevailing party in action to forestall arbitration
Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
attorney fee awarded to party who obtained court order incorporating settlement agreement which includes the requested remedy
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
bankruptcy matter
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
class actions
-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's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
-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
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
contract clear that party must attempt mediation before commencing litigation to recover attorney fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
costs not awarded under F.R. Civ. Proc. 54 where underlying claim was dismissed for lack of subject matter jurisdiction
Miles v. State of California (9th Cir. 2003) 320 F.3d 986
costs of suit that are routine and non-routine
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
defendant must show that original suit frivolous to recover
Fogerty v. Fantasy (1994) 114 S.Ct. 1023
defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
defendants not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
definition of prevailing party under Code of Civil Procedure § 1021.5
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
definition of prevailing party under Code of Civil Procedure § 1032 et seq.
Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
definition of prevailing party under Civil Code § 1780 et seq.
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
denied where litigant is unable to materially alter the legal relationship of the parties by judgment or by consent decree
Kasza v. Whitman (9th Cir. (Nevada) 2003) 325 F.3d 1178
entitled to attorney's fees even without formal judgment
Rutherford v. Pitchess (9th Cir. 1983) 713 F.2d 1416
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
ERISA matter
-either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) __ U.S. __ [130 S.Ct. 2149]
FEHA matter
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
general rule that pro se litigants, attorneys or not, cannot recover statutory attorney's fees
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
homeowner association dispute over election of board of directors
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
jurisdiction of court
-trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
may seek attorney's fees notwithstanding an invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
need not be named in contract to be entitled to fees
Plemon v. Nelson (1983) 148 Cal.App.3d 720 [190 Cal.Rptr. 196]
no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
no prevailing party status
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Escobar v. Bowen (9th Cir. 1988) 857 F.2d 644

Bankes v. Lucas (1992) 9 Cal.App.4th 365
-de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
-defendant who successfully completed diversion program in exchange for dismissal of charges not entitled to attorney fees
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
-no prelitigation attempt to settle
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
-plaintiff failed to meet the statutory requirements of a successful party where remand of the litigation to the administrative agency to reconsider a perceived procedural defect did not result in change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
-voluntary dismissal
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
--defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
--no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
-voluntary dismissal of suit against defendant did not necessarily establish defendant's entitlement to attorney's fees as prevailing party
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
-voluntary dismissal of suit after defendant withdrew disputed rule
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
partially prevailing plaintiff in civil rights action awarded fees where successful claim is isolated from unrelated or unsuccessful claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
party prevails if he was able to achieve most or all of his litigation objectives
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
prevailing buyers of real property denied attorney fees as offset against purchase price
Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
prevailing party as defined by statute versus one defined by contract
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
prevailing party in preliminary injunction entitled to attorney fees
Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092
prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
proper to award attorney fees to defendant attorney even though he was representing himself
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
recovery under purchase and sale agreements
The 3250 Wilshire Blvd. Building v. W.R. Grace and Co. (1993) 990 F.2d 487
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
settlement agreement
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
-which include fee-waiver provisions under fee shifting statutes
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SLAPP action
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
-conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
-partially successful motion constitutes prevailing party unless no practical benefit from bringing a motion
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
trial court must adequately explain the basis for the attorney fees award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
under 29 U.S.C. § 621 et seq.
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
under 42 U.S.C. §§ 1983, 1988
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
under Civil Code section 798.85
Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]
under Civil Code section 1354
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
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)
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
Thompson v. Miller (2003) 112 Cal.App.4th 327 [4 Cal.Rptr.3d 905]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr. 2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92
-absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
-attorney's fees denied because prevailing party's tort action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-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
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
-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]
-California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
-decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
-denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
-limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
-party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
-party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
-plaintiffs are not entitled to recover attorney fees because attorneys who represent themselves in litigation cannot recover attorney fees based on such representation
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]

-prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
-reduction of fees by 90% where court found litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
under civil rights statutes
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-in civil rights case, district court abused discretion in reducing attorney fee award
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
under Clean Water Act
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
-fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012
under Code of Civil Procedure section 405.38
-in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
under Code of Civil Procedure section 916 et seq
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
under Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App. 4th 217 [118 Cal.Rptr.3d 352]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
-must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
under Code of Civil Procedure section 1032
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
under Code of Civil Procedure section 1033.5
-plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
under Code of Civil Procedure section 1038, no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699
under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
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-catalyst theory applied
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under Equal Access to Justice Act
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
-standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) __ U.S. __ [130 S.Ct. 2521]
under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay the other spouse's attorney fee directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
under Family Code section 2030
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
under Government Code section 800
-finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
under Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
under Labor Code § 98.2
-former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
-"more favorable judgement" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]

under Labor Code § 1194
Aleman v. AirTouch Cellular (2011) 202 Cal.App.4th 117 [134 Cal.Rptr.3d 643]
under Penal Code § 1202.4(f)(3), trial court has authority to order a criminal defendant to pay restitution, including actual and reasonable attorney's fees directly to the victim
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
-victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
under Rees-Levering Auto Sales Financing Act
Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
under Song-Beverly Consumer Warranty Act
Dominguez v. American Suzuki Motor Corporation (2008) 160 Cal.App.4th 53 [72 Cal.Rptr.3d 354]
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
under Uniform Foreign Money Judgments Recognition Act
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
under Vehicle Leasing Act
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249
Workers' Compensation
Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
-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]
-successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act
Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044
-under Labor Code § 4607
Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
Prior attorney's claim for fees
Baca v. State Bar (1990) 52 Cal.3d 294 [276 Cal.Rptr. 169]
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
no violation found when successor attorney fails to reserve funds in trust to satisfy the prior attorney
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
Private Attorney General Doctrine
Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
calculation for lodestar or touchstone fees
-amount and items allowable -- factors
In re Washington Public Power Supply Systems Securities Litigation (1994) 19 F.3d 1291
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Press v. Lucky Stores, Inc. (1983) 34 Cal.3d 311, 317-318 [193 Cal.Rptr. 900, 667 P.2d 704]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
LA 515 (2005)
-based on time spent and reasonable hourly compensation
San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 754-756 [202 Cal.Rptr. 423]
-cannot be based on contingent fee -- must be based on time spent on base
Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1313-1314
-contingency fee agreement cannot justify lowering an otherwise reasonable lodestar fee
Quesada v. Thomason (9th Cir. 1988) 850 F.2d 537
-discovery may be allowed by the trial court
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
-fee award subsumes novelty, experience, complexity, and results obtained
Hunt v. County of Los Angeles (1988) 203 Cal.App.3d 87 [249 Cal.Rptr. 660]
-fees awarded under CCP § 1021.5 – rationale for award
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
-limited success against defendants may not warrant reduction of lodestar
Corder v. Gates (9th Cir. 1991) 947 F.2d 374
-multiplier to lodestar ensures counsel's acceptance of civil rights contingency cases
Bernardi v. Yeutter (9th Cir. 1991) 942 F.2d 562
-multiplier to lodestar no necessary to attack lawyers to meritorious contingency fee cases
Gomez v. Gates (1992) 804 F.Supp. 69
-objective
Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]
-over billing by attorney
Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300
-state obligation to reimburse county
County of Fresno v. Lehman (1991) 229 Cal.App.3d 340 [280 Cal.Rptr. 310]
-trial court must make findings to show lodestar calculation applied in welfare benefits litigation
Burkholder v. Kizer (1991) 235 Cal.App.3d 297
-trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Rebney v. Wells Fargo Bank, N.A. (1991) 232 Cal.App.3d 1344
-under Civil Code section 1717
Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92
causal connection between lawsuit and relief obtained required
Westside Community for Independent Living, Inc. v. Obledo (1983) 33 Cal.3d 348 [188 Cal.Rptr. 873, 657 P.2d 365]
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Boccato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]

criteria for awarding
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Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
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]
Leiserson v. City of San Diego (1988) 202 Cal.App.3d 725 [249 Cal.Rptr. 28]
denied on the grounds that in pro per party's petition for fees was untimely
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
denied when no important right or interest was vindicated by the plaintiff's action
Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
King v. Lewis (1990) 219 Cal.App.3d 552 [268 Cal.Rptr. 277]
Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193
-lawsuit to compel an agency to give a detailed explanation of its decision did not qualify as either a significant benefit or enforcement of an important right affecting the public interest
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
discretion of trial court
Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1311
enforcement effort alone did not justify fee award
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
entitled to fees because action resulted in enforcement of an important right affecting the public interest
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
fee award improper where de minimus public benefit
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 7]
fees granted for action that served to vindicate an important right
-factors considered under CCP § 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
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]
State of California v. County of Santa Clara (1983) 142 Cal.App.3d 608, 614-616 [191 Cal.Rptr. 204]
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
--attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
--award of fees improper when plaintiff has personal interest or individual stake in the matter
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
--must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
-fee awarded under CCP § 1021.5 -- rationale for award
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 75 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]

Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
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]
Satrap v. Pacific Gas & Electric (1996) 42 Cal.App.4th 72 [49 Cal.Rptr.2d 348]
Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686
Urbaniak v. Newton (1993) 19 Cal.App.4th 1837 [24 Cal.Rptr.2d 333]
Christward Ministry v. County of San Diego (1993) 13 Cal.App.4th 31
Zambrano v. Oakland Unified School District (1991) 229 Cal.App.3d 802 [280 Cal.Rptr. 454]
Bartling v. Glendale Adventist Medical Center (1986) 184 Cal.App.3d97,102-103 [228 Cal.Rptr. 847]
--award of fees improper when plaintiff has personal interest or individual stake in the matter
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
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
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
--requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
-fees and costs awarded for sheriff's distribution of anti-Bird material
California Common Cause v. Duffy (1987) 200 Cal.App.3d 730 [246 Cal.Rptr. 285]
-indirect benefit not sufficient
Smith v. County of Fresno (1990) 219 Cal.App.3d 532 [268 Cal.Rptr. 351]
-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
includes fees for appeal
Schmid v. Lovette (1984) 154 Cal.App.3d 466, 480 [201 Cal.Rptr. 424]
must be reconsidered on remand of case
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
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]
statutory authority
No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]
Pro bono
appointment of counsel for incarcerated, indigent civil defendant
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
court impressing attorney to represent pro bono an indigent client denies attorney equal protection under Fourteenth Amendment
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 347-349 [222 Cal.Rptr. 854]
partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
public service obligation of the bar
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faitz (1992) 9 Cal.App.4th 129
when attorney knows pro bono client has sufficient funds to pay legal fees
SD 1983-6
Probate
Probate Code section 17211(b)
Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
abuse of discretion in determining
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
attorney fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
extraordinary attorneys' fees for settlement of claim of estate of decedent determined by probate court, not settlement agreement
Estate of Baum (1989) 209 Cal.App.3d 744 [257 Cal.Rptr. 566]
ordinary/extraordinary fees distinguished
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 1 [77 Cal.Rptr. 2d 463]
Estate of Hilton (1996) 44 Cal.App.4th 890, 895
party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
petition for reimbursement of attorney's fees not subject to 60-day limit
Holloway v. Edwards (1998) 68 Cal.App.4th 94 [80 Cal.Rptr.2d 166]
probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee
Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]
probate code permits attorney's fees for out-of-state attorney rendering services for a California estate
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

sanctions for filing frivolous appeal on denial of extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr. 2d 463]
trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
Probate fee, statutory scale
Probate Code section 10800
Estate of Hilton v. Conrad N. Hilton (1996) 44 Cal.App.4th 890 [52 Cal.Rptr.2d 491]
Probate Code section 10810
out-of-state attorney entitled to statutory and extraordinary fees as deemed reasonable by the court
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
Probate Code section 10811
-extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
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
Promissory note or deed of trust
attorney take as security for fees
CAL 1981-62
LA 492
SF 1997-1
enforcement of a promissory note in federal court
Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037
Prosecutorial misconduct
denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
Public defenders
reimbursable cost of public defender's service is actual cost to county, not reasonable attorneys' fees
People v. Cruz (1989) 209 Cal.App.3d 560 [257 Cal.Rptr. 417]
Public interest case
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
attorney's fees paid by losing party in Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
-advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
--exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
-party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
exception to award of attorney's fees
-denial of fees to shareholder who brought shareholder class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
-where the public entity is the state itself & acts through its Attorney General whose public responsibility is to serve the interests of the state at large
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
fee shifting
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Serrano v. Priest (1977) 20 Cal.3d 25 [141 Cal.Rptr. 315, 569 P.2d 1303]
-no fee shifting in a class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
-successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
fees award to consumer group for its participation and work before a public utilities commission on rate stabilization
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
fees denied where remand to an agency of the litigation under the California Endangered Species Act to reconsider a perceived procedural defect did not result in change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Quantum meruit
attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. 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
discharged attorney attempts to enforce contingent fee contract made with substituted counsel
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
discharged attorney entitled to reasonable value of services
Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
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In the Matter of Respondent H (Review Dept.1992) 2 Cal. State Bar Ct. Rptr.234
CAL 2009-177
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]
failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
-attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
-failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
legal services rendered to executor in individual capacity
Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
no obligation for successor attorney to reserve funds in trust to satisfy the prior attorney's lien
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
partnership entitled to
-for unfinished cases taken by departing partner
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
prior counsel not required to endorse a settlement check that is jointly payable to attorney pending resolution of dispute. Attorney has affirmative duty to seek arbitration or judicial determination of the amount attorney is entitled to receive without delay
CAL 2009-177
proper basis for calculating quantum meruit value of client referral is how much of a benefit the previous attorney conferred on successor attorney that the latter unjustly retained
Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP (9th Cir. 2011) 664 F.3d 282
substituted-out attorney may recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149 [1 Cal.Rptr.2d 636]
succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
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succeeding attorney's duty to honor withdrawing attorney's lien
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
under contingent fee contract, discharged attorney limited to quantum meruit recovery
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]
under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services
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]
voluntary withdrawal without cause forfeits recovery
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
where services have been rendered under a contract which is unenforceable as against public policy
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
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]
-not signed by client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
Real estate transactions
partner in a law firm may represent seller in a real estate transaction and accept a commission in lieu of legal fees so long as no one in the firm who does not hold a real estate broker's license performs any act for which a license is required (the Real Estate Law, Bus. & Prof. Code §§ 10000-10580)
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
payment of a real estate commission in lieu of hourly legal fee is not per se illegal
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
Reasonable number of hours times reasonable fee (community standards) for civil rights cases
White v. City of Richmond (9th Cir. 1983) 713 F.2d 458
Reasonable only
despite contract when contract is invalid
Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
entitled if discharged
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
Reasonableness of
59 A.L.R.3d 152; 58 A.L.R.3d 235; 58 A.L.R.3d 201; 57 A.L.R.3d 584; 57 A.L.R.3d 550; 57 A.L.R.3d 475
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
approach factors considered
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
Shannon v. North Counties Trust Ins. Co. (1969) 270 Cal.App.2d 686, 689 [76 Cal.Rptr. 7]
Cline v. Zappettini (1955) 131 Cal.App.2d 723, 728 [281 P.2d 35]
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
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688-689 [149 P.2d 404]
bankruptcy
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-attorney employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
-creditor has burden of proving reasonableness of attorney fee claim
In re Atwood (9th Cir. BAP (Nevada) 2003) 293 B.R. 227
-trustee fees not proper for duties that are not practice of law
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
class action
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
Class plaintiffs v. Jaffe & Schlesinger, P.A. (9th Cir. 1994) 19 F.3d 1306
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
Jutkowitz v. Bourns, Inc. (1981) 118 Cal.App.3d 102, 108 [173 Cal.Rptr. 248]
Werchkull v. United California Bank (1978) 85 Cal.App.3d 981, 1005 [149 Cal.Rptr. 829]
-determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
contingent
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)
-because contract gambles on result, it may ask for greater compensation than would otherwise be reasonable
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
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]
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
-reasonableness judged by situation as it appeared to parties at time contract was entered
Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
corporations
Fed Mart Corp. v. Pell Enterprises, Inc. (1980) 111 Cal.App.3d 215, 224 [168 Cal.Rptr. 525]
court may consider settlement negotiations in deciding a reasonable attorney fee award
Ingram v. Oroudijan (9th Cir. 2011) 647 F.3d 925
court may rely on its own familiarity with legal market and customary rates in determining reasonableness of fees
Ingram v. Oroudijan (9th Cir. 2011) 647 F.3d 925
dissolution proceedings
-attorney's fees not matter of right but rests in discretion of trial court -- standard of review by appellate court
Hicks v. Hicks (1967) 249 Cal.App.2d 964, 969 [58 Cal.Rptr. 63]
-award of attorney's fees made at inception of divorce proceedings
Collins v. Welsh (1934) 2 Cal.App.2d 103, 109-110 [37 P.2d 505]
-award of excessive fee
Howard v. Howard (1956) 141 Cal.App.2d 233, 244 [296 P.2d 592]
-burden of and standard for establishing abuse of discretion
Crevolin v. Crevolin (1963) 217 Cal.App.2d 565, 572 [31 Cal.Rptr. 622]
-circumstances affecting award -- court may consider financial conditions of parties
Pope v. Pope (1951) 107 Cal.App.2d 537, 539-540 [237 P.2d 312]
-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
Thiesen v. Keough (1931) 115 Cal.App. 353, 362 [1 P.2d 1015]
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
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
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
Warner v. Warner (1950) 34 Cal.2d 838, 841-842 [215 P.2d 20]
-modification of custody award -- determination of reasonable attorney's fees
Straub v. Straub (1963) 213 Cal.App.2d 792, 799-800 [29 Cal.Rptr. 183]
-no abuse of discretion -- factors considered by appeals court on review
In re Marriage of Aylesworth (1980) 106 Cal.App.3d 869, 879-880 [165 Cal.Rptr. 389]

-reasonable fees -- factors considered by trial court
Anthony v. Anthony (1968) 156 Cal.App.2d 157-158 [66 Cal.Rptr. 420]
-reasonableness is a question of fact in discretion of trial court
Jones v. Jones (1955) 135 Cal.App.2d 52, 64 [286 P.2d 908]
-reasonableness of attorney's fee -- discretion of trial court -- factors considered -- standard of review
*In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 113-114 [113 Cal.Rptr. 58]
-reasonableness of attorney's fees -evidence -- review by appellate court
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 297-304 [149 Cal.Rptr. 918]
Smith v. Smith (1969) 1 Cal.App.3d 952, 958 [82 Cal.Rptr. 282]
-test for determining reasonable attorney's fees
Palmquist v. Palmquist (1963) 212 Cal.App.2d 322, 338-339 [27 Cal.Rptr. 744]
eminent domain proceedings
-may include factors other than hourly rates charged by top law firms
City of Oakland v. The Oakland Raiders (1988) 203 Cal.App.3d 78 [249 Cal.Rptr. 606]
-scope of appellate review
State of California v. Westover Co. (1956) 140 Cal.App.2d 447, 450 [295 P.2d 96]
-trial judge has discretion to set reasonable fee -- factors considered -- appellate standard of review
Mountain View Union High School District v. Ormonde (1961) 195 Cal.App.2d 89, 96 [15 Cal.Rptr. 461]
County of Riverside v. Brown (1939) 30 Cal.App.2d 747, 749-750 [87 P.2d 60]
People v. Thompson (1935) 5 Cal.App.2d 668, 670-672 [43 P.2d 606]
*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]
fee stipulation
-limited by reasonableness requirement
In re 268 Limited (9th Cir. BAP 1988) 85 B.R. 101
filiation proceeding
Berry v. Chaplin (1946) 74 Cal.App.2d 669, 678 [169 P.2d 453]
injunctions
Moore v. Maryland Casualty Co. (1929) 100 Cal.App. 658, 666 [280 P. 1008]
level of success
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
malicious prosecution
Peebler v. Olds (1945) 71 Cal.App.2d 382, 389 [162 P.2d 953]
Mills v. Friedman (1931) 119 Cal.App. 74, 81 [5 P.2d 901]
monitoring state officials' compliance with settlement
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
mortgage foreclosure proceedings
-amount of fee within discretion of trial court -- factors considered
Craw v. Craig (1914) 168 Cal. 351, 352 [143 P. 604]
Patten v. Pepper Hotel Co. (1908) 153 Cal. 460, 471-472 [96 P. 296]
-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
Woodward v. Brown (1897) 119 Cal. 283, 309 [51 P.2d 542]
-where fee issue properly put before jury, jury may fix fee without independent testimony as to reasonableness
Liebenguth v. Priester (1944) 64 Cal.App.2d 343, 345 [148 P.2d 893]
offer opinion about reasonableness of other lawyer's fee
LA 311 (1969)
partition proceeding
Watson v. Sutro (1894) 103 Cal. 169, 171 [37 P. 201]
pro bono [See Appointment of attorney by court, pro bono. Duties of attorney, pro bono.]
probate proceedings
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
LA 68 (1932), LA 66 (1931)
-court has discretion knowledge and experience to set reasonable fee without hearing evidence
Estate of Straus (1904) 144 Cal. 553, 557 [77 P. 1122]
-court has power to set fees independent of expert testimony
Estate of Duffill (1922) 188 Cal. 536, 552-554 [206 P. 42]
-evidence considered by jury in fixing reasonable fee
Mitchell v. Towne (1939) 31 Cal.App.2d 259, 265-267 [87 P.2d 908]
-evidence on reasonable value of services offered by witness attorneys
Freese v. Pennie (1895) 110 Cal. 467, 468-470 [42 P. 978]
-fees of attorneys for executors, administrators and guardians fixed by court -- court has discretionary power to set fee
Pennie v. Roach (1892) 94 Cal. 515, 518-519 [29 P. 956, 30 P. 106]
-opinions of professional witnesses not binding on court
Estate of Dorland (1883) 63 Cal. 218, 282
-reasonable fee primarily question of fact for trial court expert testimony unnecessary -- appellate standard of review
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
Estate of Schnell (1947) 82 Cal.App.2d 170, 175-176 [185 P.2d 854]
-superior court has discretion to determine fee -- standard of review by higher court
Estate of Adams (1901) 131 Cal. 415, 418-419 [63 P. 838]
public interest litigation
-Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
-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]
Coalition for L.A. County Planning etc. Interest v. Board of Supervisors (1977) 76 Cal.App.3d 241, 251 [142 Cal.Rptr. 766]
-discretion of trial court to set fees
Excelsior etc. School Dist. v. Lautrup (1969) 269 Cal.App.2d 434, 447 [74 Cal.Rptr. 835]
-trial court has unquestioned power to appraise value of services
Independent Iron Works, Inc. v. County of Tulare (1962) 207 Cal.App.2d 164, 167 [24 Cal.Rptr.361]

-trial judge in best position to determine value of services -- appellate standard of review -- factors considered
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Serrano v. Priest (1977) 20 Cal.3d 25, 48-49 [141 Cal.Rptr. 315, 569 P.2d 1303]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
reduction of fees by 90% where court determined that prevailing litigant had unnecessarily prolonged the litigation and that the majority of counsel's time was not reasonably incurred
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
securities fraud action
-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
to respective parties
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 560 [206 Cal.Rptr. 641]
trusts
Crocker v. Crocker First National Bank of San Francisco (1943) 60 Cal.App.2d 725, 730 [141 P.2d 482]
-inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
unrelated claims, unsuccessful
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
welfare proceedings
Horn v. Swoap (1974) 41 Cal.App.3d 375, 384 [116 Cal.Rptr. 113]
whole amount of the recovery
SD 1975-4
Reduced to match award
Chromalloy American Corp. v. Fischmann (9th Cir. 1983) 716 F.2d 683
Reduction of 90% of attorney's fees is not intended to punish a party's litigation conduct; rather, it is to reflect fees that were not reasonably expended
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
Referee's
Code of Civil Procedure section 1023
Referral fees [See Division of fees.]
Rules of Professional Conduct 2-200
Refund of fee advanced
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
attorney who undertakes representation of conflicting interests without consent must refund fees received after conflict arose
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
if unearned, except true retainer fee
United States v. Veon (1982) 549 F.Supp. 274, 283
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Represent in settlement when fee owed by client comes out of settlement
SD 1975-4
Represent self and co-counsel re contingent fee assigned to third party
SD 1972-1
Request for attorney's fees under Code of Civ. Proc. § 4370
standing to appeal denial of appeal
In re Marriage of Tushinsky (1988) 203 Cal.App.3d 136, mod. 203 Cal.App.3d 895e
Retainer
In re Montgomery Drilling Co. (Bankr. Ct. E.D. Cal. 1990) 121 B.R. 32, 37
In re C & P Auto Transport, Inc. (Bankr. Ct. E.D. Cal. 1988) 94 Bankr. Rptr. 682, 687
Matthew v. State Bar (1989) 49 Cal.3d 784, 787-788
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn. 4
Knight v. Russ (1888) 77 Cal. 410, 412 [19 P. 698]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1, 7 [56 Cal.Rptr.2d 41]
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 757
earned portion to be removed from trust account
SF 1973-14
paid by insurance broker to provide free wills to clients
SD 1976-6
"true" retainer is paid to secure an attorney's availability over a given time period and is not billed against as services are performed
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
Retroactive application of city ordinance providing for recovery of attorney's fees found invalid
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
RICO
funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
Sanctions [See Sanctions.]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 829
criteria for recovery of fees and costs in opposing motion for sanctions
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
frivolous appeal challenging trial court's denial of an extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr. 2d 463]
for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney's fees may not be awarded as a sanction under CCP § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
-award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]

frivolous action
-action not frivolous under CCP §128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
Security for
LA 492 (1998), LA 407 (1982), LA 398 (1982), LA(I) 1975-8, LA(I) 1972-2
attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
client's property falsely reported as stolen
LA 329 (1972)
confession of judgment
Hulland v. State Bar (1972) 8 Cal.3d 440, 450
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
debtor's counsel's prepetition security retainer are funds that generally remain the client's property until applied to the attorney's charges for services actually rendered
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730
financing fees by attorney recommending client take out mortgage loan on client's real property
CAL 2002-159
in general
SF 1997-1
insure collection of, inimical to client
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951
lien as
CAL 1981-62
note secured by deed of trust
-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
Droeger v. Friedman, Sloan & Ross (1991) 54 Cal.3d 26 [283 Cal.Rptr. 584]
-requires compliance with rule 3-300
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
LA 492 (1998)
priority of attorney's liens
Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
promissory note
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
CAL 1981-62, SF 1997-1
security agreements
-fee provision in security agreement did not serve as ground for awarding fees and costs to over-secured 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]
trial court's award of attorney's fees against plaintiff's counsel for violation of an in limine order was neither within the court's inherent powers nor was authorized by statute
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
trust deed
LA(I) 1975-8, LA(I) 1972-2
SD 1976-8
unsecured promissory note does not give attorney a present interest in client's property to trigger rule 3-300
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Settlement
Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
condition settlement on plaintiff's attorney waiving fees
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
CAL 2009-176, LA 445 (1987)
employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
lump sum settlement that includes attorney's fees may hinder plaintiff's ability to retain counsel
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
structured settlement, use of
CAL 1987-94
trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
SLAPP action
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
burden of proving fees were covered by award following successful motion to strike
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
defendants who fail to file an anti-SLAPP motion before plaintiff's voluntary dismissal of all causes of actions against them may not recover attorney fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
fees denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
to prevailing party
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
under Code of Civil Procedure 425.16
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-does not authorize an award of attorney fees against plaintiff's counsel
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
Splitting [See Division of fees.]
attorney conducting real estate business
SD 1969-2
with franchisor
LA 423 (1983)
Sports service contracts
Business and Professions Code section 6106.7
Standards applicable to attorney's fees
Church of Scientology of California v. United States Postal Service (9th Cir. 1983) 700 F.2d 486
Statutory attorney's fees to prevailing party
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]
client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Corporations Code section 317
-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
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
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
Equal Access Act
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Hoopa Valley Tribe v. Watt (N.D. Cal. 1983) 569 F.Supp. 943
hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
SLAPP action
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
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Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
-anti-SLAPP defendant may recover appellate attorney fees upon prevailing on appeal
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
-conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
-mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
-partially successful motion constitutes prevailing party unless no practical benefit from bringing motion
Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
under Civil Code section 3426
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
under Code of Civil Procedure section 405.38
-in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
under Song Beverly Act
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
under Vehicle Leasing Act
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249
Statutory limit
Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management Inc. (9th Cir. 2009) 567 F.3d 1137
Statutory limits for litigation of prison lawsuits
limitations for services performed before and after effective date of Prison Litigation Reform Act
Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990
limitations on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act
Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]
Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
Statutory prohibition
award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
Stipulated attorneys' fees
Workers' Compensation matter
Price v. Workers' Compensation Appeals Board (1992) 10 Cal.App.4th 959 [12 Cal.Rptr.2d 831]
Stocks pledged to secure fees improperly sold
Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]
Stock promise to attorney is unenforceable because of a violation of rule 3-300
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
Substituted counsel's
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
entitlement to recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
unpaid [See Fee, attempt to collect, discharge.]
LA 183 (1951)
SD 1972-17
-lien on client's settlement does not create any automatic rights to disputed fees
LA 438
-refuse substitution until paid
LA(I) 1966-10
Suit to recover
LA 362 (1976), LA 212 (1953)
claim in bankruptcy proceeding
In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462
LA 452 (1988)
court appointed attorney representing indigent clients is statutory not contractual
-may not sue for more
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693
disclosure of confidential information
LA 498 (1999)
judgment debtor was entitled to notice of judgment creditor's postjudgment fee application
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
United States District Court has ancillary jurisdiction over fee disputes arising from litigation pending before the district court
Curry v. Del Priore (9th Cir. 1991) 941 F.2d 730
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
withdraw before suing for fees
LA 476 (1994) LA 407 (1982), LA 362 (1976)
Trial court improperly withheld past due SSI benefits for payment of attorney's fees
Bowen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
Trial court's discretion to grant under Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
Common Cause v. Stirling (1983) 147 Cal.App.3d 518

court has discretion to deny fees if defendant can show the existence of special circumstances that would render such an award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
Trustee
entitled to reimbursement for attorney's fees only if litigation is necessary to preserve the trust
Terry v. Conlan (2005) 131 Cal.App.4th 1445 [33 Cal.Rptr.3d 603]
reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
Unconscionable
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
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)
contingent fee percentage calculation in view of de minimis time and labor
LA 458
court may refuse to enforce unconscionable contingent fee
Seltzer v. Robinson (1962) 57 Cal.2d 213, 218
discipline imposed for unconscionable fee
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
"double billing"
CAL 1996-147
exorbitant and disproportionate
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
exorbitant and unconscionable fee charged
Recht v. State Bar (1933) 218 Cal. 352, 353
extraordinary complex litigation required a high level of legal skills to obtain a favorable result, was not
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
fee charged in excess of reasonable value of services does not of itself warrant discipline
Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402
fee financing plan
OC 93-002
forty-five percent of the total judgment plus court awarded fees exceeded the limits of rule 4-200
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
gross overcharge by attorney may warrant discipline
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
Bushman v. State Bar (1974) 11 Cal.3d 558, 562-564 [113 Cal.Rptr. 904]
hybrid, hourly and contingent
OC 99-001, SF 1999-1
informed consent of client not obtained
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
law firm's costs are irrelevant to claim of unconscionable attorney fees charged to client
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
LA 518 (2006)
minors' compromise
-court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case
Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177
offset recovery used as basis for contingent fee calculation
LA 458
"over-billing"
preparation of false and misleading billing statements involves moral turpitude
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
OC 99-001
partnership agreement
-allocation of fees for unfinished cases taken by departing partner
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
-contract term providing that if attorney leaves 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
patent prosecution
LA 507 (2001)
procedural and substantive element
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
unauthorized and unnecessary research
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
unconscionable fee found to violate rule 4-200, Rules of Professional Conduct
Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 756
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
CAL 1994-135, OC 93-002, SF 1999-1
whether contingent fee charged is unconscionable determined at time contract entered into
Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
wholly disproportionate as to shock the conscience
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
Under Welfare and Institutions Code 730.6(a)
juvenile court's discretion to determine if actual and reasonable attorney fees and costs expended in collecting restitution even if some portion of these were spent in recovering general damages where economic damages are recoverable
In re Imran Q. (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
Undue influence, presumption of
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
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)
Uniform Foreign Money Judgments Recognition Act
enforcement of foreign judgment
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]

foreign order to pay attorney fees unenforceable where constitutes support
In re Marriage of Lyustiger (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
Uniform Trade Secrets Acts (CC § 3426 et seq.)
denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
United States civil rights actions
42 U.S.C. § 1983 actions
Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Holland v. Roeser (9th Cir. 1994) 37 F.3d 501
-a plaintiff unsuccessful at a stage of litigation necessary to an ultimate victory is entitled to attorney's fees even for the unsuccessful stage
Cabrales v. County of Los Angeles (1991) 496 U.S.924 [110 S.Ct. 2615]
-calculation of fee award must be explained
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Patton v. County of Kings (9th Cir. 1988) 857 F.2d 1379
-"degree of success" versus "proportionality" approaches in determining award of attorney's fees
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
-prevailing party's statutory right to seek attorney's fees is a substantive cause of action which shall not be assigned contractually
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
42 U.S.C. § 1988 actions
-calculation must be explained
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Wilcox v. City of Reno (9th Cir. 1994) 42 F.3d 550
Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
-computation of fees
Texas State Teachers Assn. v. Garland Indep. School Dist. (1989) 489 U.S. 1005 [109 S.Ct. 1486]
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
-denial of fees based on special circumstances under the traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-determining prevailing party status
Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
-Eleventh Amendment permits attorneys' fees enhancement to compensate for payment delay
Missouri v. Jenkins (1989) 491 U.S. 274 [109 S.Ct. 2463]
-federal official may be liable
Merritt v. Mackey (9th Cir. 1991) 932 F.2d 1317
-fee award denied when precedent did not clearly signal that questionable claim should not have been brought
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
-fees awards in civil rights case reviewed for abuse of discretion
Hensley v. Eckerhart (1983) 461 U.S. 424, 437
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Rock Creek Limited Partnership v. State Water Resources Control (9th Cir. 1992) 972 F.2d 274
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Hardin v. White Mountain Apache Tribe (9th Cir. 1985) 779 F.2d 476, 480
-fees not precluded by failure to achieve remedy sought when constitutional violations remedied
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
-hospital's wrongful life-sustaining efforts not "state action" for § 1988 fees
McMahon v. Lopez (1988) 199 Cal.App.3d 829 [245 Cal.Rptr. 172]
-nominal award of one dollar
Romberg v. Nichols (9th Cir. 1992) 953 F.2d 1152; amended at 970 F.2d 512
-partial attorney fees awarded
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
--application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-plaintiff obtained some relief on merits of claim
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
-plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
-plaintiff's environmental challenge to nuclear plant operations are entitled to unenhanced attorney's fees
Earth Island Institute v. Southern California Edison (1993) 838 F.Supp. 458
Guinn v. Dotson (1994) 23 Cal.App.4th 262
-Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
-reduction of "fees-on-fees" is warranted for counsel's time spent on unsuccessful "merits fees" request
Thompson v. Gomez (9th Cir. 1995) 45 F.3d 1365
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566

-successful challenge to application of city ordinance
Segundo v. Rancho Mirage City (9th Cir. 1989) 873 F.2d 1277
-superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) __ U.S. __ [130 S.Ct. 1662]
Unlawful detainer action
Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9]
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attachment motion
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
attempt to collect unreasonable fee, issue of entitlement to award of fees and costs
Schneider v. Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
bankruptcy action
attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
default against client without consulting
LA 174 (1950)
delaying client's case until fees paid
Business and Professions Code section 6128(b)
LA 356 (1976), LA 261 (1959)
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CAL 1980-53, LA 374 (1978), SD 1983-1
foreclose note for
LA(I) 1975-8
future services conditional on payment of fees due
LA 360 (1976)
hold client's papers
LA 330 (1972), LA(I) 1970-6
SD 1997-1, SD 1984-3. SD 1977-3, SF 1973-12
Board Policy Statement (Sept. 1971) III.A.2., supra
levy on client's spouse's property
LA(I) 1971-17
lien asserted [See File.]
LA 47 (1927), LA(I) 1970-1, SD 1997-1, SD 1984-3, SD 1977-3
notification to opposing counsel
SD 1969-3
paid with check not covered with funds
LA(I) 1947-3
refuse to continue or begin case
Business and Professions Code section 6128
LA 360 (1976), LA 356 (1976), LA 261 (1959), LA(I) 1967-9
SD 1978-7, SD 1973-3
service charge added to
LA 370 (1978), LA(I) 1972-4
SF 1970-1
substituted counsel's
-attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
LA 521 (2007), LA 183 (1951), LA 50 (1927)
SD 1972-17
suit for, requires attorney to withdraw
LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
threaten "dire consequences" and "increased costs" if not paid
LA(I) 1966-12
threaten to "take up with authorities"
LA(I) 1947-3
unconscionable
Priester v. Citizens National etc. Bank (1955) 131 Cal.App.2d 314 [280 P.2d 835]
use confidences of client to collect
LA 452, LA 159 (1945), LA(I) 1961-3
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Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]
withdraw
LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA 211 (1953), LA(I)1936-1
-before suing client for fees
LA 407 (1982), LA 362 (1976), LA 212 (1953)
withdrawal of client trust account funds to pay disputed represents executor for fee
LA 382 (1979)
Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel
may not be applicable to defendant's motion to withdraw plea containing the waiver
People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
White collar crime
under Penal Code § 186.11
-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
Withdrawal by attorney
attorney entitled to quantum meruit
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
-not available if attorney abandoned case
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Withdrawal of client trust account funds to pay disputed fee
LA 438 (1985)
Withdrawal of unrelated client monies to pay off debt of client
SD 1976-5
Workers' Compensation
burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act
Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044
under Labor Code § 4607
Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
Written fee agreement required
Business and Professions Code section 6147-6149

FICTITIOUS NAMES [See Advertising, fictitious names. Business activity, name for. Partnership, name.]
FIFTH AMENDMENT
Business and Professions Code section 6068(i)
Juvenile court proceedings
referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process
In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]
Public agency attorney may be compelled, under threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]
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Rules 2-111(A) and 8-101(B)(4), Rules of Professional Conduct (operative until May 26, 1989)
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Class Action
Former member of a class who opted out of the class has no right to the papers and property
LA 481 (1995)
Client
claims of multiple clients
CAL 1999-153
-multiple clients each demand the original
LA 493 (1998)
delivery to succeeding attorney
SD 1970-3
-consent of client
LA 112 (1937)
disposition of
-death of client
LA 491 (1997)
-partnership dissolves
CAL 1985-86, LA 405 (1982), LA(I) 1979-1
documents within an attorney's legal file belong to the client
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
following attorney to new firm
LA 405 (1982)
hold in fee dispute
LA 330 (1972), LA(I) 1970-6
SD 1997-1, SD 1984-3, SD 1977-3
SF 1973-12
lien
-against client file
--permissible if created by contract
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
-against non-payment of attorneys fees
--void
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
CAL 1994-134
SD 1997-1, SD 1984-3, SD 1977-3
-charging against funds not in attorney's possession, enforcement
Siciliano v. Fireman's Fund (1976) 62 Cal.App.3d 745 [133 Cal.Rptr. 376]
make available on withdrawal
SD 1997-1, SF 1996-1, SF 1990-1, SD 1984-3, SD 1977-3
-mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client
LA 509 (2002)
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SD 2001-1
return to
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LA 405 (1982), LA 362 (1976), LA 253 (1958), LA 112 (1937), LA 103 (1937), LA(I) 1962-2
SD 1997-1, SD 1984-3, SD 1977-3
SF 1984-1, SF 1975-4
right to
-inspect and copy while in possession of attorney
LA 103 (1936), SD 1997-1, SD 1984-3, SF 1973-12
-materials in
LA 197 (1952), LA 103 (1937)
SD 1997-1, SD 1984-3, SD 1977-3,
SF 1979-3, SF 1975-4
substituted counsel's duty with respect to [See right to]
LA(I) 1964-5, LA(I) 1959-4
SD 1970-3
willful failure to return client files
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
Condition delivery of deposition transcript on former client's payment of reporter's fees
LA 425 (1984)
Cost of making copies
SD 2001-1, SD 1977-3
SF 1984-1
Crime-fraud exception to attorney-client privilege does not apply to work product
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
Denied access to
tolling of habeas petition deadline when prisoner did not have access to file
Lott v. Mueller (9th Cir. 2002) 304 F.3d 918
Duty to deliver client's to
succeeding attorney
-consent of client
LA 112 (1937)
Electronic file
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People v. Mack (1995) 38 Cal.App.4th 1484 [45 Cal.Rptr.2d 1484]
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U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956
-may not be applicable to defendant's motion to withdraw plea containing the waiver
People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
Appearance by defendant in propria persona
People v. Longwith (1981) 125 Cal.App.3d 400
People v. Harris (1977) 65 Cal.App.3d 978 [135 Cal.Rptr. 668]
Appointed counsel's inactive status does not deny effective assistance of counsel
People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
Appointment of trial counsel to represent defendant on appeal
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]
standard of adequate representation by advisory counsel
People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
As grounds for reversal
People v. Pangelina (1984) 153 Cal.App.3d 1, 9-10 [199 Cal.Rptr. 916]
Attorney as material witness
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
Attorney disciplinary proceedings
does not presumptively mean that the attorney is incapable of providing effective assistance
Young v. Runnels (9th Cir. 2006) 435 F.3d 1038
Authority of counsel to exclusively control judicial proceedings
People v. Sims (1984) 158 Cal.App.3d 469, 482-483 [205 Cal.Rptr. 31]
Authority of court to order second defense counsel
Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318 [204 Cal.Rptr. 165]
Based on divided loyalty 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
Based on duty of loyalty
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
Basis for a motion for new trial, may be asserted as
People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]
Bizarre closing argument prejudicial to defendant and co-defendant
People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]
Breached duty of trust in egregious long term acts of deception intended to prevent defendant from discovering defalcations
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
Burden on client defendant to prove
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

People v. Young (1984) 159 Cal.App.3d 138, 155 [205 Cal.Rptr. 402]
People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]
People v. Zikorus (1983) 150 Cal.App.3d 324 [197 Cal.Rptr. 509]
proof required
People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
Certificate of probable cause required for appeal from conviction after entry of plea
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]
Claim of ineffective assistance is more appropriate in habeas corpus proceeding
counsel not given opportunity to explain failure to renew suppression of evidence
People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr.2d 196]
Client right to effective counsel
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a
right dependent on constitutional right to counsel
Miller v. Keeney (9th Cir. 1989) 882 F.2d 1428
Client's claim lacks merit
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
claim not guilty by reason of insanity lacked credible evidentiary support
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
client cannot show that attorney's representation fell below objective standard of reasonableness
United States v. Freeny (9th Cir. 1988) 841 F.2d 1000
"confessions & avoidance" tactic used by counsel does not constitute ineffective assistance of counsel
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
Closing argument did not demonstrate prejudice
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Closing argument not given at penalty phase was tactical, application of Strickland standard was not objectively unreasonable
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Closing argument unfocused and undercut own client's case
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Competence
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Shaw (1984) 35 Cal.3d 535 [198 Cal.Rptr. 788]
generally demanded of attorneys
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
tactical error results in incompetence
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
Conceding cause of death
a competent attorney would not have conceded the cause of death, where there were "tantalizing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
Conflict of interest
United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
People v. Hardy (1992) 2 Cal.4th 86, 135
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
Leverson v. Superior Court (1983) 34 Cal.3d 530, 538
active representation of conflicting interests deprives defendant of effective assistance of counsel
McClure v. Thompson (9th Cir. (Oregon) 2003) 323 F.3d 1233
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
appellate counsel should not be placed in the untenable position of urging his own incompetency at the trial level
United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078
People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]
attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the co-defendant
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
complete breakdown in communication with defendant
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
defense attorney's "intimate" relationship with client found not to be a conflict
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
defense counsel and district attorney personal relationship
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
defense counsel good friend of defendant's roommate who was also a suspect
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel left public defender's office and went to DA's office during case
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel's prior attorney-client relationship with a co-defendant who is a witness for the prosecution may be a conflict of interest
Bonin v. Vasquez (1992) 794 F.Supp. 957
defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
denial of Sixth Amendment claim not unreasonable where defendant claimed irreconcilable conflict based on petitioner's dismissed lawsuit against the public defender's office and appointed pre-trial counsel
Foote v. Del Papa (9th Cir. (Nevada) 2007) 492 F.3d 1026
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]
lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
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
no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
not found where alleged racial epithets were not used to describe appellant and did not affect representation
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

potential irreconcilable conflict between attorney and client requires inquiry
Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
Public Defender's prior representation of witness created conflict because of the inability of counsel to use the prior to impeach the witness, although, the conflict was not prejudicial, as counsel was able to impeach the witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
waiver
Maxwell v. Superior Court (1982) 30 Cal.3d 606, 612 [180 Cal.Rptr. 177, 639 P.2d 248]
People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
Alcocer v. Superior Court (1988) 206 Cal.App.3d 951 [254 Cal.Rptr. 72]
In re Darr (1983) 143 Cal.App.3d 500, 509 [191 Cal.Rptr. 882]
-court has latitude to remove counsel where potential conflict exists, over objection by defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
-no valid waiver found
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
-no waiver found
People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
Conflict of interest not found
Foote v. Del Papa (9th Cir. (Nevada) 2007) 492 F.3d 1026
*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
defendant's exclusion from in camera hearing related to defense counsel's potential conflict of interest constituted a structural error mandating a finding of prejudice
*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
Constitutional requirement of competence
Olson v. Superior Court (1984) 157 Cal.App.3d 780, 790 [204 Cal.Rptr. 217]
Control of proceedings
People v. Cretsinger (1984) 160 Cal.App.3d 938, 947 [207 Cal.Rptr. 40]
Court's failure to inquire into potential conflicts, requires defendant to establish that conflict adversely affected counsel's performance
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
Cross examination by defense counsel
prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
reinforcing prosecutors evidence
People v. Mastin (1981) 115 Cal.App.3d 978, 987 [171 Cal.Rptr. 780]
Cumulative effect of errors results in prejudice
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Decision to place defendant on the stand
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Decision to present testimony of court-appointed psychiatrist
People v. Haskett (1982) 30 Cal.3d 841, 864 [180 Cal.Rptr. 640, 640 P.2d 776]
Defendant counsel failed to read opponent's trial memorandum which contained the opening statement
Stewart v. C.I.R. (9th Cir. 1983) 714 F.2d 977
Defendant entitled to counsel free of conflicts
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
McClure v. Thompson (9th Cir. (Oregon) 2003) 323 F.3d 1233
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
*People v. Miramontes (1984) 161 Cal.App.3d 1108
Defendant not entitled to any specific appointed attorney
People v. Barr (1984) 159 Cal.App.3d 1129, 1146-1147 [206 Cal.Rptr. 331]
Defendant's agreement with counsel's tactical decision precludes ineffective assistance of counsel claim
Ames v. Endell (9th Cir. 1988) 856 F.2d 1441
Defendant's refusal to present a case in mitigation
People v. Howard (1992) 1 Cal.4th 1132 [5 Cal.Rptr.2d 713]
Defendant's right in criminal case to assistance of counsel
California Constitution, Art. I, § 15
Defense attorney's illness with Alzheimer's disease during criminal trial does not make counsel ineffective per se
Dows v. Wood (9th Cir. 2000) 211 F.3d 480
Defense attorney's mistaken theory of liability no basis for reversal
United States v. Cruz-Mendoza (9th Cir. 1998) 147 F.3d 1069
Delay, defendant not prejudiced where counsel required time to adequately prepare
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
Denial of effective assistance of counsel
People v. Barr (1984) 159 Cal.App.3d 1129, 1156-1158 [206 Cal.Rptr. 331]
Dependency proceedings
ineffective assistance of counsel claim requires showing of likelihood of more favorable ruling
In re Dawn L. (1988) 201 Cal.App.3d 35 [246 Cal.Rptr. 766]
Disbarred or suspended attorney before trial began
status of attorney at time of trial was not dispositive of ineffective assistance of counsel
U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054
Dishonesty
habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
Disqualification
*People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]
Drug addiction is not per se ineffective assistance of counsel
Bonin v. Vasquez (1992) 794 F.Supp. 957
Duty to consult with client about whether to appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
Duty to pursue meritorious defenses
People v. Monzingo (1983) 34 Cal.3d 926 [196 Cal.Rptr. 212]
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
Effect of tactical decision
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
People v. Trotter (1984) 160 Cal.App.3d 1217, 1224-1226 [207 Cal.Rptr. 165]
Entry of plea bargain
In re Artis (1982) 127 Cal.App.3d 699 [179 Cal.Rptr. 811]
Erroneous advice
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167

Evidentiary hearing
not required where claims were grounded in speculation, no mitigating evidence
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006
Ex parte communication between defendant attorney and sentencing court
People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]
Excessive caseload and/or limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
Failure by public defender to introduce newly-discovered evidence
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Failure of counsel to point out to court that defendant had not been warned that prior conviction would constitute a strike where court presumed the defendant had been warned
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
Failure of court to substitute appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
People v. Rhines (1982) 131 Cal.App.3d 498 [182 Cal.Rptr. 478]
People v. Missin (1982) 128 Cal.App.3d 1015 [180 Cal.Rptr. 750]
Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
Failure on appeal to raise failure of trial counsel to request certain jury instruction
*People v. Scobie (1973) 36 Cal.App.3d 97 [111 Cal.Rptr. 600]
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
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
*People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]
Failure to adequately investigate
Harrington v. Richter (2011) __ U.S. __ [131 S.Ct. 770]
Porter v. McVollum (2009) __ U.S. __ [130 S.Ct. 447]
Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
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Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Thompson v. Calderon (C.D. Cal. 1997) 120 F.3d 1045
Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
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In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
People v. Spring (1984) 153 Cal.App.3d 1199, 1208 [200 Cal.Rptr. 849]
attorney declined trial court's offer of continuance to allow for investigation of new evidence
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
cause of death, "tantalizing indications" that autopsy specimens had been contaminated raised serious questions, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
childhood abuse
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
childhood mitigation
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
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Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
Bonin v. Vasquez (1992) 794 F.Supp. 957
confession
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People v. Sanders (1990) 221 Cal.App.3d 350 [271 Cal.Rptr. 534]
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Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
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delay, not deficient under professional standards
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
diminished capacity defense
In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]
People v. Deere (1991) 53 Cal.3d 705 [808 P.2d 1181]
In re Sixto (1989) 48 Cal.3d 1247 [259 Cal.Rptr. 491]
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
due to excessive caseload and/or limited resources
-one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
evidence of organic brain damage, head trauma, borderline mental retardation from transcript of previous trial and CYA records
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
inattention, not reasoned strategic judgement
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
interview surviving witness
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investigator not obtained
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jailhouse informants
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mitigating evidence
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
-carefully tailored to preserve exclusion of damaging evidence
Wong v. Belmontes (2009) __ U.S. __ [130 S.Ct. 383]
pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
possible exculpatory circumstantial evidence
Jones v. Wood (9th Cir. (Washington) 2000) 207 F.3d 557
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
possibility of a defense based on mental incapacity
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Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Lambright v. Stewart (9th Cir. (Arizona) 2001) 241 F.3d 1201
Hendricks v. Calderon (9th Cir. 1995) 64 F.3d 1340
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605
In re Hwamei (1974) 37 Cal.App.3d 554 [112 Cal.Rptr. 464]
potential alibi defense
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
potential exculpatory evidence, medical evidence of alleged victim
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
reasonable professional judgment does not require interviewing all living relatives and therapists who treated defendant's parents
Bobby v. Van Hook (2009) __ U.S. __ [130 S.Ct. 13]
reward, whether witnesses knew that they would receive
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
serological evidence potentially exculpatory as to the penalty phase, although not to the conviction as there was other evidence placing the defendant at the crime scene
Duncan v. Ornoski (9th Cir. 2008) 528 F.3d 1222
social history
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strategy only, not ineffective assistance
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Failure to adequately investigate or prepare for penalty phase
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Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
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Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
Failure to adequately prepare for criminal trial
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
Failure to adequately research relevant law
*People v. McDowell (1968) 69 Cal.2d 737 [71 Cal.Rptr. 1]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
Failure to advise client in immigration matters
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Failure to advise client that making false statements on rental property application did not support conviction for making falsified financial statement
People v. Maguire (1998) 67 Cal.App.4th 1022 [79 Cal.Rptr.2d 573]
Failure to advise client to deny prior convictions
In re Yurko (1974) 10 Cal.3d 857, 866 [112 Cal.Rptr. 513]
Failure to advise/misadvise regarding immigration consequences of guilty plea
Padilla v. Kentucky (2010) __ U.S. __ [130 S.Ct. 1473]
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
People v. Chien (2008) 159 Cal.App.4th 1283 [72 Cal.Rptr.3d 448]
People v. Bautista (2004) 115 Cal.App.4th 229 [8 Cal.Rptr.3d 862]
Failure to advise of consequences of guilty plea, record does not provide evidence of whether attorney was ineffective or not
U.S. v. Jeronimo (9th Cir. 2005) 398 F.3d 1149, 1155
Failure to advise or inform client whether to accept plea bargain
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
Failure to appeal
In re Anthony J. (2004) 117 Cal.App.4th 718 [11 Cal.Rptr.3d 865]
Failure to appear at pretrial status conference
U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228
Failure to argue all arguable issues
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
In re Spears (1984) 157 Cal.App.3d 1203, 1210-1211 [204 Cal.Rptr. 333]
Failure to argue for dismissal of additional charges
People v. Santos (1990) 222 Cal.App.3d 723 [271 Cal.Rptr. 811]
Failure to argue mitigating circumstances
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
Failure to argue potentially meritorious defense
People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]
Failure to ascertain the truth of an allegation of a prior felony conviction
People v. Shells (1971) 4 Cal.3d 626 [94 Cal.Rptr. 275]
Failure to assert client's right
People v. Amerson (1984) 151 Cal.App.3d 165 [198 Cal.Rptr. 678]
Failure to assert diminished capacity defense
People v. Pensinger (1991) 52 Cal.3d 1210 [805 P.2d 899]
Failure to assist client in providing substantial assistance to the government
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
Failure to assure presence of a defense witness at trial
People v. Demerson (1970) 4 Cal.App.3d 263 [84 Cal.Rptr. 202]
Failure to attack composition of jury
*People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]
Failure to brief best argument for appeal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Failure to bring motion
People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]
Failure to call certain witnesses
Porter v. McVollum (2009) __ U.S. __ [130 S.Ct. 447]
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979

Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Mayfield (1993) 5 Cal.4th 142
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 583 [179 Cal.Rptr. 674]
expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
Failure to call self-defense witnesses
Wilson v. Henry (9th Cir. 1999) 185 F.3d 986
Failure to call the defendant to testify
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
Failure to challenge improper ruling of court
People v. Davis (1984) 160 Cal.App.3d 970 [207 Cal.Rptr. 18]
Failure to challenge suggestive lineup identifications on appeal
In re Smith (1970) 3 Cal.3d 192 [90 Cal.Rptr. 1]
Failure to challenge witness' invocation of Fifth Amendment
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
Failure to claim privilege in camera to admission of critical evidence
People v. Dorsey (1975) 46 Cal.App.3d 706, 718 [120 Cal.Rptr. 508]
Failure to communicate plea bargain accurately
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
Failure to communicate with client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
court restricted defendant from conferring, consulting or communicating with counsel
People v. Hernandez (2009) 178 Cal.App.4th 1510 [101 Cal.Rptr.3d 414]
Failure to communicate with client between arraignment and sentencing
People v. Goldman (1966) 245 Cal.App.2d 376 [53 Cal.Rptr. 810]
Failure to communicate with non-English speaking clients
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
Failure to consult and present experts in firearms evidence, serology and pathology, no prejudice shown therefore no need to decide whether counsel acted unreasonably
Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222
Failure to consult blood evidence expert within wide range of reasonable professional assistance
Harrington v. Richter (2011) __ U.S. __ [131 S.Ct. 770]
Failure to consult fingerprint expert
Schell v. Witek (1999) 181 F.3d 1094
Failure to consult with client about whether to appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
Failure to contact alleged alibi witness
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Branch (1969) 70 Cal.2d 200 [74 Cal.Rptr. 238]
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
People v. Lawrence (1980) 111 Cal.App.3d 630 [169 Cal.Rptr. 245]
In re Clarence B. (1974) 37 Cal.App.3d 676, 681 [112 Cal.Rptr. 474]
People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Byers (1970) 10 Cal.App.3d 410, 417 [88 Cal.Rptr. 886]
People v. Ricks (1958) 161 Cal.App.2d 674 [327 P.2d 209]
Failure to correct courts mistaken belief that defendant had been warned that prior conviction would constitute a strike
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
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]
People v. Jackson (1980) 28 Cal.3d 264, 292 [168 Cal.Rptr. 603, 618 P.2d 149]
Failure to disclose parole consequences of a guilty plea
Doganiere v. United States (9th Cir. 1990) 914 F.2d 165
Failure to elicit through cross-examination, that the witnesses knew they would receive a reward
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
Failure to enter pleas of not guilty by reason of insanity
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
In re Kubler (1975) 53 Cal.App.3d 799 [126 Cal.Rptr. 25]
withdrawal of insanity claim at NGI phase that had almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
Failure to examine court file on defendants prior conviction
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Failure to examine probation file before revocation hearing
People v. Gayton (2006) 137 Cal.App.4th 96 [40 Cal.Rptr.3d 40]
Failure to exercise peremptory challenges
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Failure to expressly state a claim
People v. Whitt (1984) 36 Cal.3d 724, 739-740 [205 Cal.Rptr. 810]
Failure to file a brief in compliance with applicable procedures
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921
Failure to file an opening brief
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
Failure to file timely notice of appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
no presumed prejudice
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
Failure to file written statement required by Penal Code section 1237.5
People v. Ivester (1991) 235 Cal.App.3d 328
Failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel
Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]
Failure to give timely notice of motion to suppress evidence
People v. Lewis (1977) 71 Cal.App.3d 817, 821 [139 Cal.Rptr. 673]
Failure to have semen sample taken from victim subjected to genetic typing
People v. Wilson (1982) 128 Cal.App.3d 132 [179 Cal.Rptr. 898]
Failure to impeach witness
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
with expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
Failure to inform defendant that prior felony convictions that were admitted could be used to impeach him if he testified
People v. Hill (1976) 64 Cal.App.3d 16, 30 [134 Cal.Rptr. 443]
Failure to interview eyewitnesses
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
People v. Bess (1984) 153 Cal.App.3d 1053 [200 Cal.Rptr. 773]
surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Failure to introduce evidence, defendant's statement to investigators
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Failure to introduce evidence which did not result in undermining of confidence in the outcome
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Failure to introduce exculpatory evidence
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Jones v. Wood (9th Cir. (Washington) 2000) 207 F.3d 557
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
by interviewing and calling surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
Failure to investigate/research
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
client's competence to accept plea bargain while under the influence of prescribed pain killers
United States v. Howard (9th Cir. 2004) 381 F.3d 873
Failure to make a closing argument
People v. Espinoza (1979) 99 Cal.App.3d 44 [159 Cal.Rptr. 803]
Failure to make all objections possible to prosecutor's questioning of witnesses
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]
Failure to make an opening statement
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]
Failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
Failure to make motions
People v. Saldana (1984) 157 Cal.App.3d 443, 459, 462-463 [204 Cal.Rptr. 465]
Failure to move for a change of venue
People v. Green (1980) 27 Cal.3d 1, 44 [164 Cal.Rptr. 1, 609 P.2d 468]
Failure to move for a continuance
People v. Adams (1974) 43 Cal.App.3d 697, 705 [117 Cal.Rptr. 905]
Failure to move for a dismissal of charges untimely raised in a superceding indictment
U.S. v. Palomba (9th Cir. 1994) 31 F.3d 1456
Failure to move for a mistrial following revelation of jurors' premature discussion of case
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
People v. Steger (1976) 16 Cal.3d 539, 551 [128 Cal.Rptr. 161]
Failure to move for a severance
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
People v. Reeder (1978) 82 Cal.App.3d 543, 556 [147 Cal.Rptr. 275]
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]
Failure to move for acquittal during trial
no error when motion was obviously a losing motion
U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054
Failure to move for substitution
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
Failure to move for the identity of an informant to be disclosed
People v. Cooper (1979) 94 Cal.App.3d 672, 681 [156 Cal.Rptr. 646]
Failure to move that victim be ordered to submit to psychiatric examination
People v. Belasco (1981) 125 Cal.App.3d 974 [178 Cal.Rptr. 461]
Failure to move to disqualify judge
People v. Beaumaster (1971) 17 Cal.App.3d 996, 1009 [95 Cal.Rptr. 360]
Failure to move to suppress evidence - Counsel not given opportunity to explain failure to renew suppression of evidence
People v. Hinds (2003) 108 Cal.App.4th 897,[134 Cal.Rptr. 196]
Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165
Toomey v. Bunnell (9th Cir. 1990) 898 F.2d 741
People v. Martinez (1975) 14 Cal.3d 533 [121 Cal.Rptr. 611]
People v. Jenkins (1975) 13 Cal.3d 749, 753 [119 Cal.Rptr. 705]
People v. Ibarra (1963) 60 Cal.2d 460 [34 Cal.Rptr. 863]
People v. Turner (1992) 7 Cal.App.4th 913
People v. Berry (1990) 224 Cal.App.3d 162 [273 Cal.Rptr. 509]
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
People v. Shope (1982) 128 Cal.App.3d 816 [180 Cal.Rptr. 567]
People v. Shelburne (1980) 104 Cal.App.3d 737, 743 [163 Cal.Rptr. 767]
People v. Willis (1980) 104 Cal.App.3d 433, 439 [163 Cal.Rptr. 718]
*People v. Piper (1980) 103 Cal.App.3d 102, 106 [162 Cal.Rptr. 833]
People v. Perry (1979) 100 Cal.App.3d 251, 264 [161 Cal.Rptr. 108]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
People v. Constancio (1974) 42 Cal.App.3d 533, 539 [116 Cal.Rptr. 910]
In re Golia (1971) 16 Cal.App.3d 775, 779 [94 Cal.Rptr. 323]
*People v. Hoffmann (1970) 7 Cal.App.3d 39 [86 Cal.Rptr. 435]
Failure to move to suppress witness in-court identification of defendant
People v. Harpool (1984) 155 Cal.App.3d 877, 885 [202 Cal.Rptr. 467]
Failure to move to withdraw guilty plea
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573
Failure to move to withdraw guilty pleas when court failed to treat offense as misdemeanor as part of a plea bargain
People v. Ham (1975) 44 Cal.App.3d 288, 292 [188 Cal.Rptr. 591]
Failure to move to withdraw where defender was provided inadequate investigative services by county
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
Failure to object and request an admonition on each occasion that hearsay evidence was offered which was admissible only against a co-defendant
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]
Failure to object to a structural error, not a frivolous claim
United States v. Withers (9th Cir. 2010) 638 F.3d 1055
Failure to object to admission of confession
Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175
Failure to object to admission of evidence
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

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]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Sundlee (1977) 70 Cal.App.3d 477 [138 Cal.Rptr. 834]
People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]
Failure to object to admission of evidence of other crimes allegedly committed by defendant
People v. Lanphear (1980) 26 Cal.3d 814 [163 Cal.Rptr. 601, 608 P.2d 689]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
People v. Stiltner (1982) 132 Cal.App.3d 216, 225 [183 Cal.Rptr. 790]
Failure to object to admission of identification made as result of an allegedly suggestive lineup
In re Banks (1971) 4 Cal.3d 337 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Mixon (1982) 129 Cal.App.3d 118 [180 Cal.Rptr. 772]
People v. Flores (1981) 115 Cal.App.3d 67, 80 [171 Cal.Rptr. 365]
Failure to object to admission of incriminating statements made by defendant
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
In re Wilson (1992) 3 Cal.4th 945 [13 Cal.Rptr.2d 269]
People v. Green (1982) 134 Cal.App.3d 587 [184 Cal.Rptr. 652]
People v. Borba (1980) 110 Cal.App.3d 989 [168 Cal.Rptr. 305]
People v. Jones (1979) 96 Cal.App.3d 820 [158 Cal.Rptr. 415]
to cellmate
People v. Whitt (1984) 36 Cal.3d 724 [205 Cal.Rptr. 810]
Failure to object to admission of Miranda waiver and subsequent statement
People v. Thomas (1974) 43 Cal.App.3d 862, 868 [118 Cal.Rptr. 226]
Failure to object to admission of prior convictions
People v. Taylor (1990) 52 Cal.3d 719 [801 P.2d 1142]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
Failure to object to filing of amended information
People v. Peyton (2009) 176 Cal.App.4th 642 [98 Cal.Rptr.3d 243]
Failure to object to improper impeachment of defendant by prosecutor
People v. Duran (1982) 132 Cal.App.3d 156 [183 Cal.Rptr. 99]
Failure to object to introduction into evidence of arguably suggestive pretrial identifications of defendant
People v. Nation (1980) 26 Cal.3d 169 [161 Cal.Rptr. 299, 604 P.2d 1051]
People v. Smith (1982) 134 Cal.App.3d 574 [184 Cal.Rptr. 765]
Failure to object to jury instructions did not violate due process
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Failure to object to jury instructions given
People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]
Failure to object to motion to amend the information
People v. Robinson (2004) 122 Cal.App.4th 275 [18 Cal.Rptr.3d 744]
Failure to object to prejudicial judicial conduct
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
People v. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]
Failure to object to prosecutor as witness and prosecutor's statements
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
Failure to object to prosecutor's closing argument commenting on defendant's decision not to testify
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]
Failure to object to prosecutor's prejudicial remarks during closing argument
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
Failure to object to prosecutor's questions to defendant
People v. Foster (9th Cir. 2003) 333 F.3d 982
Failure to object to prosecutor's reference to inculpatory testimony
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440
Failure to object to relevancy of drug use
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190
Failure to object to service of juror not ineffective assistance of counsel
Kimes v. United States (9th Cir. 1991) 939 F.2d 776
Failure to object to the shackling of defendant during the trial
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]
Failure to obtain blood test
People v. Ackerman (1991) 230 Cal.App.3d 1 [280 Cal.Rptr. 887]
Failure to obtain certificate of probable cause for appeal of conviction after guilty plea may result in dismissal
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]
Failure to obtain complete transcript of motion to suppress for purposes of appeal
People v. Barton (1978) 21 Cal.3d 513 [146 Cal.Rptr. 727, 579 P.2d 1043]
Failure to obtain DNA test in rape case did not constitute ineffective assistance of counsel
People v. Bravo (1993) 18 Cal.App.4th 1493
Failure to obtain investigator
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
Failure to participate in trial proceedings
People v. Shelly (1984) 156 Cal.App.3d 521 [202 Cal.Rptr. 874]
Failure to perform with reasonable competence
People v. Parsons (1984) 156 Cal.App.3d 1165, 1172-1173 [203 Cal.Rptr. 412]
Failure to persuade a defendant to plead guilty by insanity
People v. Geddes (1991) 1 Cal.App.4th 448
Failure to prepare
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Failure to prepare adequately for change of venue motion
In re Miller (1973) 33 Cal.App.3d 1005
Failure to prepare mental health expert at penalty phase
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Failure to prepare witnesses
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Failure to present and explain to jury the significance of all mitigating evidence
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

Failure to present any mitigating evidence during death penalty phase of trial
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Wallace v. Stewart (9th Cir. 1999) 184 F.3d 1112
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
In re Visciotti (1996) 14 Cal.4th 325 [58 Cal.Rptr.2d 801]
People v. Diaz (1992) 2 Cal.App.4th 1275
In re Jackson (1992) 4 Cal.App.4th 1107
In re Marquez (1992) 1 Cal.App.4th 584
Mak v. Blodgett (9th Cir. 1992) 970 F.2d 614
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
People v. Jackson (1980) 28 Cal.3d 264, 293 [168 Cal.Rptr. 603]
People v. Durham (1969) 70 Cal.2d 171, 192 [74 Cal.Rptr. 262, 449 P.2d 198]
chronic substance abuse
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
evidence that is potentially cumulative, not necessary
Bobby v. Van Hook (2009) __ U.S. __ [130 S.Ct. 13]
halfhearted mitigation only
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Failure to present at jury trial defendant's own theories that the effect of tax laws did not render ineffective assistance of counsel
United States v. Cochrane (1993) 985 F.2d 1027
Failure to present battered woman syndrome defense
In re Walker (2007) 147 Cal.App.4th 533 [54 Cal.Rptr.3d 411]
People v. Romero (1992) 15 Cal.App.4th 1519 [13 Cal.Rptr.2d 332]
Failure to present diminished capacity defense
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
People v. Haskett (1982) 30 Cal.3d 841, 852 [180 Cal.Rptr. 640, 640 P.2d 776]
*People v. Ramos (1982) 30 Cal.3d 553, 584-85 [180 Cal.Rptr. 266, 639 P.2d 908]
People v. Jackson (1980) 28 Cal.3d 264, 289 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Cook (1982) 135 Cal.App.3d 785, 795 [185 Cal.Rptr. 576]
People v. Stiltner (1982) 132 Cal.App.3d 216, 223 [183 Cal.Rptr. 790]
People v. Moringlove (1982) 127 Cal.App.3d 811, 821 [179 Cal.Rptr. 726]
Failure to present evidence of childhood abuse
Porter v. McVollum (2009) __ U.S. __ [130 S.Ct. 447]
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
Failure to present evidence of mental instability
Porter v. McVollum (2009) __ U.S. __ [130 S.Ct. 447]
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
United States v. Howard (9th Cir. 2004) 381 F.3d 873
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Lambright v. Stewart (9th Cir. (Arizona) 2001) 241 F.3d 1201
Hendricks v. Vasquez (9th Cir. 1992) 974 F.2d 1099
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
Failure to present evidence of pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Failure to present evidence of time and date of alibi
Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
Failure to present evidence on ability to form intent necessary for first-degree murder
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Failure to present evidence when there is no demonstration of any substantial or credible evidence is not ineffective assistance
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
Failure to present exculpatory expert testimony on blood evidence
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
Failure to present exculpatory statement
People v. Foster (1992) 6 Cal.App.4th 1 [7 Cal.Rptr.2d 748]
Failure to present psychiatric testimony at guilt phase did not prejudice defendant at penalty phase
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
Failure to present psychiatric testimony at penalty phases of capital cases did not constitute ineffective assistance of counsel
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Bonin v. Calderon (9th Cir. 1996) 77 F.3d 1155
*Bonin v. Calderon (9th Cir. 1995) 59 F.3d 815
Failure to present psychiatric testimony at penalty phase of capital case was ineffective assistance of counsel
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Failure to press for specific finding on what evidence was to be suppressed
People v. Ellers (1980) 108 Cal.App.3d 943, 951 [166 Cal.Rptr. 888]
Failure to prevent defendant from testifying
People v. Stiltner (1982) 132 Cal.App.3d 216,227 [183 Cal.Rptr. 790]
Failure to promptly bring a discovery motion to compel production of crucial defense witnesses
In re Schiering (1979) 92 Cal.App.3d 429 [154 Cal.Rptr. 847]
Failure to protect marital privilege
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
Failure to raise contentions of arguable merit on appeal
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Lang (1974) 11 Cal.3d 134 [113 Cal.Rptr. 9]
In re Walker (1974) 10 Cal.3d 764, 782 [112 Cal.Rptr. 177]
Failure to raise crucial defense
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
People v. Frierson (1979) 25 Cal.3d 142, 157 [158 Cal.Rptr. 281]
People v. Stanworth (1974) 11 Cal.3d 588, 607 [114 Cal.Rptr. 250]
In re Downs (1970) 3 Cal.3d 694 [91 Cal.Rptr. 612]
*People v. McDowell (1968) 69 Cal.2d 737 [73 Cal.Rptr. 1]
People v. Pinsky (1979) 95 Cal.App.3d 194 [157 Cal.Rptr. 13]
People v. Farley (1979) 90 Cal.App.3d 851, 864 [153 Cal.Rptr. 695]
In re Grissom (1978) 85 Cal.App.3d 840, 846 [150 Cal.Rptr. 96]
People v. Corona (1978) 80 Cal.App.3d 684 [145 Cal.Rptr. 894]
People v. Rodriguez (1977) 73 Cal.App.3d 1023 [141 Cal.Rptr. 118]
In re Miller (1973) 33 Cal.App.3d 1005 [109 Cal.Rptr. 648]

*People v. Welborn (1967) 257 Cal.App.2d 513 [65 Cal.Rptr. 8]
People v. Pineda (1967) 253 Cal.App.2d 443, 465 [62 Cal.Rptr. 144]
People v. Amado (1959) 167 Cal.App.2d 345 [334 P.2d 254]
autopsy specimen contamination was a possibility, further testing could have proven if it has occurred
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 126
Failure to raise defense of double jeopardy
People v. Belcher (1974) 11 Cal.3d 91, 101 [113 Cal.Rptr. 1]
People v. Medina (1980) 107 Cal.App.3d 364, 370 [165 Cal.Rptr. 622]
Failure to raise every defense
People v. Tirado (1984) 151 Cal.App.3d 341, 354-356 [198 Cal.Rptr. 682]
not required where almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
Failure to raise an ineffective assistance of counsel claim on direct appeal does not bar the claim from being brought in a later appropriate proceeding under Section 2255
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
United States v. Withers (9th Cir. 2010) 638 F.3d 1055
Failure to raise potentially meritorious defense
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Brubaker v. Dickson (1962) 310 F.2d 30
People v. Collie (1981) 30 Cal.3d 43, 49-58 [177 Cal.Rptr. 458, 634 P.2d 534]
People v. Pope (1979) 23 Cal.3d 412 [152 Cal.Rptr. 732]
People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]
People v. Rosales (1984) 153 Cal.App.3d 353, 361-362 [200 Cal.Rptr. 310]
People v. Ceballos (1980) 107 Cal.App.3d 23, 27 [165 Cal.Rptr. 430]
People v. Zimmerman (1980) 102 Cal.App.3d 647 [161 Cal.Rptr. 669]
People v. Avalos (1979) 98 Cal.App.3d 701, 712 [159 Cal.Rptr. 736]
People v. Chapman (1975) 47 Cal.App.3d 597, 608 [121 Cal.Rptr. 315]
People v. Langley (1974) 41 Cal.App.3d 339, 348 [116 Cal.Rptr. 80]
People v. Cortez (1970) 13 Cal.App.3d 317, 327 [91 Cal.Rptr. 660]
People v. Saidi-Tabatabai (1970) 7 Cal.App.3d 981, 987 [86 Cal.Rptr. 866]
People v. Glover (1967) 257 Cal.App.2d 502, 507 [65 Cal.Rptr. 219]
not found
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
Failure to raise statute of limitations argument on appeal
People v. Rose (1972) 28 Cal.App.3d 415 [104 Cal.Rptr. 702]
Failure to request a crucial jury instruction
People v. Camden (1976) 16 Cal.3d 808 [129 Cal.Rptr. 438]
Failure to request jury instructions as to lesser offenses
People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]
Failure to require prosecution to elect
People v. Dunnahoo (1984) 152 Cal.App.3d 548 [199 Cal.Rptr. 542]
Failure to research the law
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
People v. Rosales (1984) 153 Cal.App.3d 353, 361 [200 Cal.Rptr. 310]
Failure to seek evidence
People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]
Failure to seek severance
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
Failure to stipulate intent not at issue
People v. Rios (1992) 7 Cal.App.4th 507
Failure to stipulate to prior felony convictions
People v. Kent (1981) 125 Cal.App.3d 207 [178 Cal.Rptr. 28]
Failure to submit jury instructions on lesser included offenses
People v. Finney (1980) 110 Cal.App.3d 705, 711 [168 Cal.Rptr. 80]
Failure to subpoena a critical witness
People v. Williams (1980) 102 Cal.App.2d 1018, 1030 [162 Cal.Rptr. 748]
Failure to urge acceptance of favorable plea bargain
Perez v. Rosario (9th Cir. 2006) 459 F.3d 943
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
Failure to use reasonable diligence
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Schultz v. Harney (1994) 27 Cal.App.4th 1611, 1627
Alberton v. State Bar (1984) 37 Cal.3d 1, 13-14 [206 Cal.Rptr. 373]
Fee agreement
lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
Filing of "no issue brief"
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
filing of no issue appellate brief so that court may determine whether appeal is frivolous may also be applied to minor in juvenile delinquency proceedings
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
Fourth Amendment
Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165
counsel not ineffective when tactical choice made to forego
U.S. v. $30,400 in U.S. Currency & Jeremiah Haskins (1993) 2 F.3d 328
Habeas relief sought based upon tainted prior state conviction which was used to enhance sentence
Evenstad v. United States (9th Cir. 1992) 978 F.2d 1154
Habitual disregard for needs of clients
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
In propria persona
advisory counsel
People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
Inability of counsel to forthrightly admit deficient legal assistance or to withdraw when not provided with adequate support services. A principaled public defender may lose her/his job
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
Inactive attorney
People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
In re Johnson (1992) 1 Cal.App.4th 689
People v. Hinkley (1987) 193 Cal.App.3d 383 [238 Cal.Rptr. 272]
Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Insufficient declaration for appointment of second counsel under Keenan motion, no abuse of discretion found for denial of motion
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

Jury instruction
Lankford v. Arave (9th Cir. (Idaho) 2006) 468 F.3d 578
Juvenile dependency proceeding father accused of sexual abuse is entitled to effective assistance of counsel
In re Emilye A. (1992) 9 Cal.App.4th 1695
Lack of commitment
People v. Davis (1978) 85 Cal.App.3d 916, 929 [149 Cal.Rptr. 777]
Lack of competence
inadequately advised client regarding possibility of deportation
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
Lack of confidence by defendant in attorney's abilities
People v. Booker (1977) 69 Cal.App.3d 654, 668 [138 Cal.Rptr. 347]
Lack of diligence in preparation
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
People v. Jackson (1980) 28 Cal.3d 264, 288 [168 Cal.Rptr. 603]
In re Williams (1969) 1 Cal.3d 168 [81 Cal.Rptr. 784]
People v. Mayfield (1993) 5 Cal.App.4th 142
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 403 [119 Cal.Rptr. 378]
*People v. Hoffman (1970) 7 Cal.App.3d 39
due to excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
Lack of experience in capital cases
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Lack of zealous defense
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Strickland (1974) 11 Cal.3d 946 [114 Cal.Rptr. 632, 523 P.2d 672]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
due to excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
prior representation of government witness impaired defense counsel's duty to fully cross examine witness
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
Leading client to open door to wife's damaging testimony
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
Licensed attorneys who are not active members of the State Bar of California
effect on underlying matter
*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]
Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
Loyalty to client
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Mitigation strategy was factually unsupported and portrayed client inaccurately and unflatteringly
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Motion
evidence hearing not required in motion to vacate sentence because of ineffective assistance of counsel
Shah v. United States (9th Cir. 1989) 878 F.2d 1156
No right to counsel in habeas proceedings and hence no right to effective assistance of counsel
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
"No-merit brief" by appellate attorney does not violate constitutional right to effective assistance of counsel
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
"No-merit brief" by appellate attorney may violate constitutional right to effective assistance of counsel
*Davis v. Kramer (9th Cir. 1999) 167 F.3d 494
Not found
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
People v. Foster (9th Cir. 2003) 333 F.3d 982
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
additional mitigating evidence would probably not have resulted in a different outcome, defendant's crimes, and priors were brutal, and other mitigating evidence of his organic brain dysfunction had failed to persuade jury to reach a different verdict, California Supreme Court decision was not unreasonable
Samayoa v. Ayers (9th Cir. 2011) 649 F.3d 919
at guilt phase
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
at probation revocation hearing
United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661
defendant was not denied effective assistance of counsel because his counsel's decision to admit in opening statement to some of defendant's criminal wrongdoing
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
failure to advise client of collateral penalty (deportation)
U.S. v. Fry (9th Cir. (Nevada) 2003) 322 F.3d 1198
failure to call expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
failure to call self-defense witnesses
Wilson v. Henry (9th Cir. 1999) 185 F.3d 986
failure to conduct direct exam of witnesses because of perjury concern
People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr. 219]
failure to consult blood evidence expert
Harrington v. Richter (2011) __ U.S. __ [131 S.Ct. 770]
failure to establish that trial counsel failed to consult an expert or that such an expert would have been able to provide favorable testimony
People v. Datt (2010) 185 Cal.App.4th 942 [111 Cal.Rptr.3d 132]
failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel
Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]
failure to impeach witness
Horton v. Mayle (9th Cir. 2005) 408 F.3d 570
failure to investigate and present diminished capacity defense not ineffective assistance of counsel
In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]
failure to investigate jailhouse informants
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190
failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
failure to object not necessary where prosecutor's statements were not found to be prosecutorial misconduct
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr. 3d 253]
failure to object to admonishment in jury's presence
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
failure to object to prosecutor's closing argument commenting on defendant's decision not to testify
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]

failure to present case differently
United States v. Olson (9th Cir. 1991) 925 F.3d 1170
failure to present cumulative mitigating evidence was strategic
Bobby v. Van Hook (2009) __ U.S. __ [130 S.Ct. 13]
Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895
failure to present expert opinion testimony undermining prosecution's theory when it adds nothing to evidence already before jury
Ainsworth v. Calderon (9th Cir. 1998) 138 F.3d 77
People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]
failure to raise issue of letter suppressed by prosecution regarding possible immunity for witness
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
failure to raise weak issues
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605
failure to take positions contrary to law
In re Richardson (2011) 196 Cal.App.4th 647 [126 Cal.Rptr.3d 720]
failure to win suppression motion based on police interception of cordless telephone transmissions not ineffective assistance of counsel
People v. Chavez (1996) 44 Cal.App.4th 1144 [52 Cal.Rptr.2d 347]
humanizing evidence cumulative and more would have made little difference, and may have triggered admission of extremely damaging evidence
Wong v. Belmontes (2009) __ U.S. __ [130 S.Ct. 383]
result of penalty phase would have been no different where petitioner failed to show casual connection between family environment and murder
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
tactical decision to volunteer defendant's multiple prior convictions during direct examination
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
tactical decision to waive marital privilege
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
tactically justified concessions made during penalty phase, reasonable to establish credibility of defense counsel
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
where counsel advised against plea and where Marsden motions were waived by defendant's please of no contest
People v. Lovings (2004) 118 Cal.App.4th 1305 [13 Cal.Rptr.3d 710]
where defendant avers that counsel did not urge acceptance of plea offer based on prosecutor's mistaken belief regarding prior strike
Perez v. Rosario (9th Cir. 2006) 459 F.3d 943
withdrawal of insanity claim at NGI phase that had almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
"Nothing to lose" standard
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
Offering proof of client incompetence to stand trial over client objection
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
*People v. Bolden (1979) 99 Cal.App.3d 375
Penalty paid by counsel, appeal is moot
Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]
Permitting defendant to testify at preliminary hearing
People v. White (1981) 118 Cal.App.3d 767, 772
Plea bargain entered into by coercion
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
Plea bargain, immigration consequences not explained to client
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
"Plea bargain" not coercive unless counsel was aware of coercion
In re Ibarra (1983) 34 Cal.3d 277
Post indictment grand jury subpoena of target's counsel does not result in ineffective assistance of counsel
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
Prejudice by defendant's counsel for alleged deficiencies is not necessary if counsel's performance is not deficient
LaGrand v. Stewart (9th Cir. 1998) 133 F.3d 1253
Presentation of "irrelevant" testimony
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Psychiatrist used by defense counsel an exercise of appropriate professional judgement
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Public defender present at sentencing unfamiliar with defendant and facts of case
People v. Vatelli (1971) 15 Cal.App.3d 54, 61
Public defenders immune from suit
Federal Civil Procedure section 1983
Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558
exception to immunity
-failure of deputy public defender to properly investigate information leading to defendant's innocence is not immunized under Government Code § 820.2
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Public defender's office representing defendant had previously represented a witness in the case
People v. Anderson (1976) 59 Cal.App.3d 831, 843
Reduction of conviction makes allegation moot
People v. Spring (1984) 153 Cal.App.3d 1199, 1208
Refusal to allow defendant to testify
*People v. Strawder (1973) 34 Cal.App.3d 370, 381 [108 Cal.Rptr. 901]
Representation by different deputy public defenders at various stages of prosecution
People v. Martinez (1956) 145 Cal.App.2d 361, 366 [302 P.2d 643]
Request for new counsel
request not required to come through current counsel -- defendant may properly request
People v. Winbush (1988) 205 Cal.App.3d 987 [252 Cal.Rptr 722]
Reversal
People v. Jerome (1984) 160 Cal.App.3d 1087, 1095-1096 [207 Cal.Rptr. 199]
Right of every criminal defendant
adequacy of appointed counsel
People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
denial of defendant's motion for substitution of counsel without fist conducting proper inquiry is abuse of discretion to effective assistance of counsel
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
involuntary waiver of right to counsel where defendant forced to choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
timely request to substitute retained counsel for court appointed counsel
People v. Stevens (1984) 156 Cal.App.3d 1119, 1129 [203 Cal.Rptr. 505]

to discharge retained counsel
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
to effective assistance of counsel
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
McClure v. Thompson (9th Cir. (Oregon) 2003) 323 F.3d 1233
People v. Shelley (1984) 156 Cal.App.3d 521, 527-528 [202 Cal.Rptr. 874]
-court had no sua sponte duty to ensure that defendant would be represented by qualified, effective counsel after defendant was made aware that chosen counsel did not meet standards for appointed counsel and court's offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
-criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
Right to assistance of counsel implicated during period of client's incompetency
Rohan ex rel. Gates v. Woodford (9th Cir. 2003) 334 F.3d 803
Right to counsel
court's refusal to appoint indigent defendant's chosen attorney at re-sentencing did not violate due process
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006
criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
defendant deprived entirely of legal counsel, denied right to attorney acting in the role of an advocate
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
does not attach at arrest or at an extradition hearing
Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175
during interrogation
People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]
new counsel -- standard
People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]
People v. Marsden (1970) 2 Cal.3d 118, 123 [84 Cal.Rptr. 156]
People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
to effective assistance of counsel
-waiver of right to counsel not effective if defendant must choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
waiver of right
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
Role of defense attorney
People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a
Single counsel representing co-defendants with conflicting interests
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
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Lo v. Ashcroft (9th Cir. 2003) 341 F.3d 934
attorneys' inadequate assistance denied petitioner the opportunity to present his case at all
Ray v. Gonzales (9th Cir. 2006) 439 F.3d 582
client coerced into accepting volunteer departure under threat of counsel's withdrawal
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
counsel filed ultimately worthless motions, before the wrong court, and without filing fee
Singh v. Holder (9th Cir. 2011) 658 F.3d 879
counsel's unreasonable failure to investigate and present the factual and legal basis on asylum claim would itself amount to ineffective assistance of counsel; violation of Fifth Amendment right to due process
Lin v. Ashcroft (9th Cir. 2004) 377 F.3d 1014
denial of due process only if the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case
Torres-Chavez v. Holder (9th Cir. 2009) 567 F.3d 1096
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Singh v. Gonzales (9th Cir. 2005) 416 F.3d 1006
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Granados-Oseguera v. Gonzales (9th Cir. 2008) 546 F.3d 1011
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Morales v. Mukasey (9th Cir. 2008) 514 F.3d 893
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no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel
Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014
no plausible grounds for relief shown, no valid claim of due process ineffective assistance of counsel
Serrano v. Gonzales (9th Cir. 2006) 469 F.3d 1317
petitioner must first exhaust administrative remedies, petition to reopen required before hearing on IAC
Singh v. Napolitano (9th Cir. 2010) 649 F.3d 899
petitioner not entitled to relief where counsel had failed to file a "notice of appearance" and was therefore not considered petitioner's counsel, even though counsel was retained and had filed a brief on petitioner's behalf
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INVOLUNTARY ENROLLMENT AS AN INACTIVE MEMBER OF THE STATE BAR
Business and Professions Code section 6007

JUDGE [See Court. Letterhead. Political activity. Public office.]
California Code of Judicial Conduct
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-party cannot be compelled to accept a decision upon the facts a judge who did not hear the evidence in the case
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-judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
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-as officer
LA 116 (1937)
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LA 116 (1937)
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causes for
-conduct prejudicial to the administration of justice that brings the judicial office into disrepute
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In re Chargin (1970) 2 Cal.3d 617 [87 Cal.Rptr. 709, 471 P.2d 29]
-failure to perform duties within the meaning of Cal. Constitution, Art. VI, section 18
Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]
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In re Jensen (1978) 24 Cal.3d 72 [152 Cal.Rptr. 503, 593 P.2d 200]
-injudicious conduct
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512 [116 Cal.Rptr. 260, 526 P.2d 268]
-participation in negotiations for employment as dispute resolution neutral
Rossco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
-publicly commenting on pending cases
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-willful misconduct in office
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
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*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
disclosure of the votes of individual commission members on issues of judicial discipline following formal proceeding
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-location of hearings
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
membership
-propriety of lay persons on commission
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp.1, 11-12 [138 Cal.Rptr. 459, 564 P.2d 1]
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-discovery
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520 [116 Cal.Rptr. 260, 526 P.2d 268]
-notice, effect of procedural defect
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 519-520 [116 Cal.Rptr. 260, 526 P.2d 268]
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-may do so only on stipulation of all parties
Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
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*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 521-531 [116 Cal.Rptr. 260, 526 P.2d 268]
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*People v. Huff (1955) 134 Cal.App.2d 182 [285 P.2d 17]
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*People v. Montgomery (1941) 47 Cal.App.2d 1 [117 P.2d 437]
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Discretion, abuse
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Tri Counties Bank v. Superior Court (2008) 167 Cal.App.4th 1332 [84 Cal.Rptr.3d 835]
-denial of peremptory challenge deemed abuse of discretion where challenge was filed well within the specified 10-day period under section 170.6
Jonathon M. v. Superior Court (2006) 141 Cal.App.4th 1093 [46 Cal.Rptr.3d 798]
-does not apply to administrative law judges
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-granting of motion in excess of 60 days after peremptory challenge to trial judge became effective immediately was a nullity
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-judge is disqualified for speaking to previous ludge who was disqualified
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-peremptory challenge filed timely where proceeding is new and where previous case was closed
Manuel C. v. Superior Court (2010) 181 Cal.App.4th 382 [104 Cal.Rptr.3d 787]
-peremptory challenge takes effect instantaneously and irrevocably & later events do not cause a rescission of the challenge
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-threat to reduce spousal support by 50% if wife appealed ruling
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
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-plaintiff's remarks regarding his social contacts with presiding judge are not necessarily determinative of judge's bias
Jorgensen v. Cassiday (9th Cir. 2003) 320 F.3d 906
-showing of actual bias is not required for judicial disqualification under the due process clause, neither is the mere appearance of bias sufficient
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
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People v. Sheppard (1983) 143 Cal.App.3d 907 [192 Cal.Rptr. 427]
disqualified presiding judge loses jurisdiction over the matter and all subsequent orders and judgments are void
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-degree of affinity between husband and wife
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Sunkyong Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]
master calendar judge is married to counsel involved in a case; previously represented police officers; or was formerly a police officer may be subject to disqualification
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preliminary hearing judge not automatically disqualified from conducting criminal trial for same defendant
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statement of disqualification must be filed at earliest practical opportunity
Eckert v. Superior Court (Tebo) (1999) 69 Cal.App.4th 262 [81 Cal.Rptr.2d 467]
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
Disruptive and offensive conduct in courtroom of a judge who had recused himself from an attorney's case
Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]
Duty
obligation of judge by his oath to maintain the respect due to the court and to protect the integrity of the judiciary from groundless, insulting, contemptuous, scandalous, or impertinent attacks
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Election campaign
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-by attorney
--no duty to advise adversary
LA 387 (1980)
-judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
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Error in jury instructions and sentencing
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Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
Fair and true report of judicial proceedings is privileged and therefore not actionable
Grillo v. Smith (1983) 144 Cal.App.3d 868 [193 Cal.Rptr. 414]
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People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]
Failure to perform duties [See Censure, causes for, this section.]
Frivolous allegations against, attorney disciplined for
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
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Gifts and favors from litigants and counsel
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trial judge entering jury room and engaging in unreported , ex parte communications with the jury concerning issues of law relevant to the case was improper
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-judge contribute to publication cost
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Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 41-42 [207 Cal.Rptr. 171]
judge's abrupt ending of trial without allowing party to present case in chief was denial of due process
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]

ordering appearances of defendants for fee collection purposes
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 37-38, 43-46 [207 Cal.Rptr. 171]
prejudicial jury instructions, standard of miscarriage of justice
People v. Taylor (1984) 156 Cal.App.3d 552, 556-557 [203 Cal.Rptr. 40]
Presiding judge
authority to rule on opinion of another judge
Micro/Vest Corp. v. Superior Court (1984) 150 Cal.App.3d 1085 [198 Cal.Rptr. 404]
Pro tempore qualifications
Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
Promotion of corporation by
shares offered for sale to public
LA 53 (1927)
Quasi-judicial function of parole officials gives immunity relative to function prompting action
Anderson v. Boyd (9th Cir. 1983) 714 F.2d 906
Radio broadcast of court proceedings
LA 88 (1935)
Recusal
based on alleged violation of defendant's due process rights
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
California Supreme Court held that judge's refusal to recuse himself was not required because only the most "extreme facts" would require judicial disqualification on due process grounds
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
commissioner's bias against attorney
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
contempt proceedings involving attorney
-criminal
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
effect on rulings prior to judge's recusal
Bates v. Rubio's Restaurants Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]
failure of judge to disclose participation in substantial negotiations for employment as dispute resolution neutral
Rossco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
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]
general notice of change in calendar judge mailed by superior court's public information office was insufficient to deny petitioner's peremptory challenge
Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]
judge who rules in contested pretrial proceedings may not participate in appellate review in same case
Housing Authority of County of Monterey v. Jones (2005) 130 Cal.App.4th 1029 [30 Cal.Rptr.3d 676]
legal grounds -- impartiality
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
United States v. Arnpriester (9th Cir. 1994) 37 F.3d 466
Denardo v. Municipality of Anchorage (9th Cir. 1992) 974 F.2d 1200
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1247-1248
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
precludes any further action in the case by the judge
Geldermann, Inc. v. Bruner (1991) 229 Cal.App.3d 662 [280 Cal.Rptr. 264]
required if judge should have known of circumstances requiring disqualification, even absent actual knowledge
Liljeberg v. Health Services Acquisition Corporation (1988) 486 U.S. 847 [108 S.Ct. 2194]
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
threats against judge as basis for recusal
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
Reinstatement
California Government Code section 75060.6
after voluntary retirement due to disability
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
review of findings as to fitness to hold judicial office
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
Removal
California Constitution Article VI, section 18(c)
burden of proof
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
causes for
-"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]
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, 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]
effect on rulings
North Beverly Park Homeowners Association v. Bisno (2007) 147 Cal.App.4th 762 [54 Cal.Rptr.3d 644]
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]
procedure [See Commission on Judicial Performance, procedure.]
retirement for disability
In re Roick (1978) 24 Cal.3d 74 [154 Cal.Rptr. 413, 592 P.2d 1165]
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, [138 Cal.Rptr. 459, 564 P.2d 1]
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
special proceedings
-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]
standard of proof required
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]
Supreme Court Justice
California Constitution Article VI, section 18(e)
-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]
Represent/practice before
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]
Retirement [See Removal, retirement for disability.]
benefits
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
Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 453 [110 Cal.Rptr. 713, 516 P.2d 1]
-interest on, withheld pending litigation as to entitlement
*Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
pension rights [See Retirement, benefits.]
"salary" construed
Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 456 [110 Cal.Rptr. 713, 516 P.2d 1]
subsequent representation of one of the parties
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]
Sanctions [See Removal. Censure. Automatic disqualification.]
contempt of court [See Contempt.]
improper when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
dismissal of criminal complaint based on intentional eavesdropping by law enforcement was not an appropriate remedy
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
mitigating factors
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678, 706-708 [122 Cal.Rptr. 778, 537 P.2d 898]
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 regarding 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]
judge's abrupt ending of trial without allowing party to present case in chief was denial of due process
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]
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
for promotion of corporation
LA 53 (1927)
Willful misconduct in office [See Judge, Censure, causes for. Judge, removal, causes for.]
Witness
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
no absolute ban
People v. Fatone (1985) 165 Cal.App.3d 1164, 1183-1184 [211 Cal.Rptr. 288]
Writ of habeas corpus
allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel
In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]
defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
judge granted without adequate information to help a friend
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

JUDICIAL SALE
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)

JURISDICTION, ADVISE CLIENT TO LEAVE
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
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)
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]
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
CAL 1988-100
After trial
CAL 1987-95, CAL 1976-39
Court-imposed, post-trial restrictions pursuant to trial court's inherent authority
Townsel v. Superior Court (1999) 20 Cal.4th 1084 [86 Cal.Rptr.2d 602]
Ex parte communications between trial judge and a deliberating jury are prohibited
People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]
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]
Mock jury research
SD 2010-1
"Venire" defined
SD 2010-1

LABOR UNION
Emblem of on law firm letterhead
CAL 1971-24
Lawyer, government employee
as member of
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.
Failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership
Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]
Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]
Inapplicable to duly certified professional corporation
Business and Professions Code section 6127.5
Business and Professions Code sections 6160-6172
application for
Business and Professions Code section 6161
defined
Business and Professions Code section 6160
director
-shareholder must be licensed
--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
Nonprofit corporation
not required to register with State Bar of California as a law corporation
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
State Bar of California
-nonprofit corporation not required to register as a law corporation
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
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]
State Bar of California
action of reviewable by Supreme Court
Business and Professions Code section 6170
disciplinary power and authority
-nothing in this article affects or impairs
Business and Professions Code section 6172
investigation
Business and Professions Code section 6168
notice to show cause
Business and Professions Code section 6169
-hearing on
Business and Professions Code section 6169(b)(c)

-hearing prior to suspension not required
Business and Professions Code Section 6169(d)
Supreme Court of California
disciplinary power and authority
-nothing in this article affects or impairs
Business and Professions Code section 6172
review of action by State Bar
Business and Professions Code section 6170
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
Nonprofit corporation
not required to register with State Bar of California as a law corporation
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
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)
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
Failure to comply with minimumstandards for a lawyer referral service
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
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
Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

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)
percentage of income
LA(I) 1972-25
Confidential information disclosed
CAL 1979-50
Employed by several law firms
CAL 1980-50
Executor for opposing party's estate
LA 341 (1973)
Expert
handwriting
LA 46 (1927)
Fee for services
LA(I) 1973-7, LA(I) 1968-4
Holding out as attorney
Business and Professions Code section 6126
Investigator
LA 172 (1950), LA(I) 1956-2
Particular acts by
administrative agency practice
LA 143 (1943)
collections
SD 1978-4
correspondence
CAL 1971-24
LA(I) 1971-6
SD 1978-4
settlement
LA(I) 1972-19
Responsibility for acts of
Crane v. State Bar (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670]
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
SD 1974-5
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 [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.]
Bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))
BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
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
Fees
award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]

Legal Services Corporation has exclusive jurisdiction over compliance with 45 C.F.R. § 1642.2 by recipient legal aid foundations
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
Funding
award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
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
Lay person, participation in
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
SD 1983-4
Legal aid lawyer
withdrawal by
SF 1973-5
Legal services corporation including non-attorney shareholders
LA 444 (1987)
Program organized by non-profit corporation
LA(I) 1972-24
Public defender
offers to represent indigent before arraignment
LA(I) 1954-2
Representation of client who possess assets
SD 1983-6

LEGAL DIRECTORY [See Advertising, directory of lawyers. Solicitation of business, inclusion in list of approved practitioners.]
Certified law lists
SF 1975-3
Judicial office, former noted in
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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]
Attorney renders legal services to clients of financial planning company
LA 510 (2003)
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
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:
http//www.calbar.ca.gov
Text may be obtained from:
Legal Specialization Department
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)
Corporate litigation
LA(I) 1948-1
Division of community property
LA(I) 1948-1
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Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
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Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
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LA 310 (1969)
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LA 39 (1927)
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SD 1969-4
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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
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Rule 1-400, std. 8, Rules of Professional Conduct
CAL 1993-129, CAL 1986-88
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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
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LA 260 (1959)
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client for collections
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LIEN [See Attorney's lien. Fees, collection of.]
Absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
Attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
Attorney's lien is created and takes effect at the time fee contract is executed
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. 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
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
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
LA 352 (1976)

Judgment creditor denied recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights
Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
Notice
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708
County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
Farmers Insurance Exchange, et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Farmers Insurance Exchange v. Zerin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]
Kaiser Foundation Health Plan Inc. v. Aguiluz (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]
Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
CAL 2009-177, CAL 2008-175
attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Physician
CAL 1988-101, CAL 1991-28(I)
LA 478 (1994), LA 368 (1977), LA 357 (1976)
Priority of
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]
Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
attorney's lien is subordinate to an adverse party's right to offset judgments
Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]
attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
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Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
child support obligations have priority over attorney's fees on funds from liquidated assets deposited in attorney's client trust account in anticipation of legal services
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
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County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
exceptions to priority of attorney's lien
Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
-judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
judgment creditor's lien did not cover commercial tort claims
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Third party
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708
CAL 2008-175
attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
duty of attorney
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
Farmers Insurance Exchange v. Zerin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]
Kaiser Foundation Health Plan, Inc. v. Aquiluz (1996) 47 Cal.App.4th 302 [54Cal.Rptr.2d 665]
Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]
U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
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]
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
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-no duty to lender, where client owed no funds to the lender
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
exceptions to priority of attorney's lien
Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
White collar crime
under Penal Code § 186.11
-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

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Business and Professions Code section 6090.5
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]
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
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Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
filing of unredacted credit report is protected activity
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
law firm, acting as agents for a school district, is protected when petitioning on behalf of the citizenry by seeking to take private land for public use
Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638
settlement negotiations are acts in furtherance of person's right to petition under the statute
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was protected activity, even though employer had not yet filed a lawsuit
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]
underlying policy
Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
Frivolous actions under CCP § 128.7
toxic tort action against manufacturer had sufficient evidentiary support for case to survive a nonsuit
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
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]
Litigation privilege
Civil Code section 47(b)
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
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Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]
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Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]
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Aronson v. Kinsella (1997) 58 Cal.App.4th 254 [68 Cal.Rptr.2d 305]
Shartzer v. Israels (1997) 55 Cal.App.4th 1290
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Lafer v. Levinson (1995) 34 Cal.App.4th 117 [40 Cal.Rptr.2d 233]
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Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
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Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
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G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
litigation privilege cannot be used to defend against claims of legal malpractice and breach of fiduciary duty arising from the filing of an application by an attorney, since the filing was not carried out in anticipation of litigation nor was it intended to instigate an official investigation into wrongdoing
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
litigation privilege is inapplicable in an action by a former client against an attorney for breach of professional duties
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
litigation privilege may apply to various types of truth-seeking proceedings, including administrative, legislative and other official proceedings, and may extend to communications made prior thereto or afterwards
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
malicious prosecution is the only tort claim that falls outside the litigation privilege
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
principal purpose underlying the litigation privilege
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
protected activities under anti-SLAPP statute are not coextensive with the range of statements protected by the litigation privilege
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]
settlement negotiations
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
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People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
Litigation privilege does not protect attorney's alleged fraudulent statements about insurance coverage
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
Litigation privilege versus strategic lawsuits against public participation (SLAPP) action
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
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LA(I) 1974-3

Specially appearing attorney undertakes a limited association with the litigant's attorney of record, forms an attorney-client relationship with the litigant, and owes the litigant a duty of care
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
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
LOAN [See Conflict of Interest, Adverse Interest.]
Rule 4-210, Rule of Professional Conduct (operative as of May 27, 1989)
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Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Hall v. Harker (1999) 69 Cal.App.4th 836
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Tool Research & Engineering Corp. v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
sanction
-against defendant attorney improper
--dissolve protective order limiting use of financial information to lawsuit
Richards v. Superior Court (1978) 86 Cal.App.3d 265 [150 Cal.Rptr. 77]
unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit
Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
Anti-SLAPP
malicious prosecution action subject to Anti-SLAPP statutes
Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
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Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]
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scope of commerical speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal. Rptr. 3d 329]
Attorney may be held liable for continued prosecution of a case that lacks probable cause
Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
By attorney
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-dismissal of cross-complaint or counter claim by client in action to recover attorneys' fees
Minasian v. Sapse (1978) 80 Cal.App.3d 823 [145 Cal.Rptr. 829]
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Umansky v. Urquhart (1978) 84 Cal.App.3d 368 [148 Cal.Rptr. 547]
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*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
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Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299
Inadequate investigation of medical malpractice claim by attorney
dismissal of medical malpractice claim for failure to prosecute gave rise to
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]

mere reliance on client's description
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
In-depth investigation by attorney negates malicious prosecution for defamation action
Walsh v. Bronson (1988) 200 Cal.App.3d 259 [245 Cal.Rptr. 888]
Judgment reversed
Hall v. Harker (1999) 69 Cal.App.4th 836
Probable cause element
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]
attorney evaluating whether to file a case may generally rely on information provided by the attorney's client
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
client provided information
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
each claim advanced must be supported by
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
pleading on "on information and belief" not a shield from liability
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
test is whether reasonable attorney would have thought the claim objectively tenable
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Puryear v. Golden Bear Insurance Co. (1998) 66 Cal.App.4th 1188 [78 Cal.Rptr.2d 507]
Public entities are barred from bringing malicious prosecution suits but may recover costs defending against frivolous suits under CCP § 1038
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
Requires favorable termination reflecting the merits of the underlying action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]
Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]
Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 484 [197 Cal.Rptr. 768]
dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination
Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]
may occur at appellate level
Ray, as Receiver v. First Federal Bank of California (1998) 61 Cal.App.4th 315 [71 Cal.Rptr.2d 436]
Sanctions
Winick v. County of Sanitation District No. 2 of Los Angeles County (1986) 185 Cal.App.3d 1170, 1176 [230 Cal.Rptr. 289]
dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination element
Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]
issues resolved on routine sanction motion not entitled to collateral estoppel preclusive effect in later action for malicious prosecution
Wright v. Ripley (1998) 65 Cal.App.4th 1189 [77 Cal.Rptr.2d 334]
Statute of limitations
actions against attorneys, under CCP 340.6
Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]
MALPRACTICE [See Neglect. Professional liability.]
Action against public entity under California Tort Claims Act (Government Code section 900 et seq.)
failure to file late claim within one year after accrual of cause of action
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Action brought by criminal defendant against former counsel for billing improprieties is not necessarily a claim of legal malpractice
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
Acts constituting
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Barner v. Leeds (1998) 62 Cal.App.4th 1240 [73 Cal.Rptr. 2d 296]
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Kurinij v. Hanna and Morton (1997) 55 Cal.App.4th 853 [64 Cal.Rptr.2d 324]
*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
Tchorbadjian v. Western Home Insurance Co. (1995) 39 Cal.App.4th 1211 [46 Cal.Rptr.2d 370]
Thompson v. Halvonik (1995) 36 Cal.App.4th 657 [43 Cal.Rptr.2d 142]
Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 1]
Thomas v. Lusk, Jr. (1994) 27 Cal.App.4th 1709 [34 Cal.Rptr.2d 265]
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]
Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]
Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
to third parties
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Schick v. Bach, et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
Acts of privately retained counsel and publicly appointed counsel should be measured by the same standard of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Agreement to limit professional liability
CAL 2009-178, LA 489 (1997)
Anti-SLAPP
definitional focus of this statute is not the form of the plaintiff's cause of action; rather, it is the defendant's activity that gives rise to his or her asserted liability and whether that activity constitutes protected speech or petitioning
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
litigation tactics protected under Anti-SLAPP statute
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
statute not applicable to malpractice claim based on attorney's breach of loyalty
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Kolar v. Donahue, McIntosh & Hammerton (2006) 145 Cal.App.4th 1532 [52 Cal.Rptr.3d 712]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
statute not applicable to malpractice claim based on attorney's breach of professional duties in a non-litigation setting
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
CAL 1989-116, LA 489 (1997)
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
Assignability
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, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
bankruptcy estate representative pursing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705
shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Attorney self-interest does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Attorney sued by former client for legal malpractice may not cross-complain against plaintiff's present attorney for indemnity or contribution
Austin v. Superior Court (1999) 72 Cal.App.4th 1126 [85 Cal.Rptr.2d 644]
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
Attorney sued by former corporate client for malpractice is not entitled to receive costs of defense pursuant to Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Breach of fiduciary duty, failure to advise of conflict, failure to advise that an investment was inappropriate for client or refer to independent advisor, obtaining undisclosed profit from transaction
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
Burden of proof
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
attorney charged with spoilation of evidence has burden of showing that his negligence did not result in loss of meritorious case
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
client must prove causation in transactional matters
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
error on trial court for failing to instruct jury on issue of severability in legal malpractice case
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
By partner
associate's duty to disclose to client
LA 383 (1979)
Calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
"Case within a case" methodology must be used when legal malpractice involves negligence in the prosecution or defense of a legal claim
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]
Class action
standard of care to class action members
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
Co-counsel may not sue another for breach of fiduciary duty on theory that latter's malpractice in handling their mutual client's case reduced or eliminated the fees the former expected to realize from the case
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Collateral estoppel, effect of
respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
Criminal defendant must prove actual innocence in action for
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
an individual convicted of a criminal offense must obtain reversal of his or her conviction, or other exoneration by postconviction relief
Khodayari v. Mashburn (2011) 200 Cal.App.4th 1184 [132 Cal.Rptr.3d 903]
Dismissal of action may be a proper sanction where plaintiff allowed the entire file to be destroyed
Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]
Duty of attorney
to client, not potential beneficiary
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Duty to advise client of prior attorney's malpractice
no duty found
LA 390 (1981)
Elements of
criminal matter
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
patent matter
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
Emotional distress damages may not be recovered as a result of negligent legal malpractice
Camenisch v. Superior Court (1996) 44 Cal.App.4th 1689 [52 Cal.Rptr.2d 450]
Merenda v. Superior Court (1992) 3 Cal.App.4th 1
Equitable defense
unclean hands
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
Estate planning
liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304
Filing action not sufficient to preserve client's right to trial de novo after award of fees in mandatory fee arbitration
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041 [266 Cal.Rptr. 298]
Firm liable for acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
Firm not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Insufficient remedy
Community Dental Services v. Tani (2002) 282 F.3d 1164
Insurance
attorney's deadline to report malpractice claim to insurance carrier quitably tolled
Root v. American Equity Speciality Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]
firm's insurance doesn't cover attorney's alleged malpractice occurring outside conduct of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
insurance carrier cannot bring malpractice action against attorney it did not retain to defend insured
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
insurance company has right to bring malpractice action against the counsel it hired to defend its insured
Unigard Ins. Group v. O'Flaherty & Belgum (1997) 38 Cal.App.4th 1229
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]
Jurisdiction of California federal court over Florida matter
Sher v. Johnson (9th Cir. 1990) 911 F.2d 1357
Jurisdiction of California state court over malpractice case involving substantial question of federal law
Landmark Screens LLC v. Morgan, Lewis & Bocklus LLP (2010) 183 Cal.App.4th 238 [107 Cal.Rptr.3d 373]
Jurisdiction of state court
state court subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
Labor Code section 2802
attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
Legal malpractice carrier does not cover attorney's alleged malpractice occurring outside of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
Legal malpractice carrier has no duty to defend malicious prosecution action arising from conspiracy suit by attorney acting on own behalf
Johnson v. First State Insurance Co. (1994) 27 Cal.App.4th 1079 [33 Cal.Rptr.2d 163]

Legal malpractice carrier's liability for multiple claims which are not characterized as arising from a "single act"
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Company (1991) 233 Cal.App.3d 1184
Legal malpractice defendant not entitled to discover terms of plaintiff's settlement with regards to mitigating damages with insurer
Norton v. Superior Court (1994) 24 Cal.App.4th 1750 [30 Cal.Rptr.2d 217]
Legal negligence
plaintiff must prove "but for" alleged malpractice, the resulting contract would have been more favorable
Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]
Malpractice actions tolled while attorney continues to represent client
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Baright v. Willis (1984) 151 Cal.App.3d 303, 308 [198 Cal.Rptr. 510]
Malpractice by itself does not prove violation of rule 3-110(A) of Rules of Professional Conduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
Mediation
communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation
Wimsatt v. Superior Court (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]
Medical certification
Code of Civil Procedure sections 365, 411.30
Medical or health care provider
Business and Professions Code sections 6146, 6147
Code of Civil Procedure section 364
Paxton v. Chapman General Hospital (1986) 186 Cal.App.3d 110 [230 Cal.Rptr. 355]
communication with physician of opposing party
SD 1983-9
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]
represent
-against former physician client
LA(I) 1965-5
statute of limitations 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]
Meritless claims
no obligation to allege or advise a client on an unmeritorious claim
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
Multiple errors by attorney do not support multiple claims against attorney when only single injury results
Bay Cities Paving & Grading v. Lawyers Mutual Insurance Co. (1993) 5 Cal.4th 854 [21 Cal.Rptr.2d 691]
No action against attorney who is resigned as attorney of record prior to commission of alleged malpractice
Stuart v. Superior Court (1992) 14 Cal.App.4th 124 [18 Cal.Rptr.2d 142]
No duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
No triable issue of fact as to second attorney's assumption of responsibility for pending lawsuit during retained counselor's illness
Daniels v. DeSimone (1993) 13 Cal.App.4th 600 [16 Cal.Rptr.2d 615]
Omission
McCann v. Welden (1984) 153 Cal.App.3d 814 [200 Cal.Rptr. 703]
by one member of law firm imputed to others when more than one attorney works on case
Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]
Outside counsel
outside contractor attorney may be held liable to government agency for acts of self-dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
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
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Outside union counsel immune under Labor Management Relations Act
Breda v. Scott (1993) 1 F.3d 908
Probate cases
out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice
Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]
Professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
Public defender not immune from legal malpractice under statute granting discretionary immunity to public employees
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Public defenders not independent contractors for purpose of a government tort claim
Briggs v. Lawrence (1991) 230 Cal.App.3d 605
Public policy concerns barred first law firm from asserting indemnity claim against Cumis counsel with which it had concurrently represented company
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
Public policy concerns do not bar concurrent counsel from seeking indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Punitive damages
in underlying lawsuit
Ferguson v. Lieff, Cabraser, Heimann & Bernstein (2003) 30 Cal.4th 1037 [135 Cal.Rptr.2d 46]
Expansion Pointe Properties Limited Partnership v. Procopio (2007)152 Cal.App.4th 42 [61 Cal.Rptr.3d 166]
Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953
Jackson v. Johnson (1992) 5 Cal.App.4th 1350
Right to jury trial
Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
Sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]

Scope of expert testimony
Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
Settlement
Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]
breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
client needs to show "significant difference" between what the settlement was and what could have been awarded at trial in order to prove damages
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178
Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]
Signature of plaintiff's attorney omitted on complaint may not warrant dismissal of action with prejudice
Vaccaro v. Kaiman (1998) 63 Cal.App.4th 761 [73 Cal.Rptr.2d 829]
Spoilation of evidence
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
Special appearances
specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Standard of care to class action members
counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
Standing to sue
absent a direct attorney-client relationship, plaintiff & alleged beneficiary of a testamentary instrument may have no standing to bring malpractice against attorney-defendant
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
probate cases
-out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice
Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]
respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
Statute of limitations
actions against attorneys, under CCP 340.6
Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]
application of where attorney performs both legal and non-legal services
Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
barred legal malpractice claim brought more than one year after client retained other attorney to represent him in the same matter
Bennett v. McCall (1993) 19 Cal.App.4th 122
burden of proof
-for purposes of one-year-from-discovery limitation on commencing legal malpractice action, defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
California Tort Claims Act (Government Code section 900 et seq.)
-failure to file late claim with public entity within one year after accrual of cause of action
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
claims against former law firm not tolled when client continues to be represented in the same matter by the attorney who left the firm
Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
claims against former law firm tolled when client not continually represented in the same matter
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
doctrine of "equitable tolling" applies to legal malpractice limitation period
Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [247 Cal.Rptr. 296]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
does not begin to run until client suffers actual harm
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Caballero v. Gibson, Dunn & Crutcher (1997) 54 Cal.App.4th 1457 [63 Cal.Rptr.2d 594]
*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]
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Adams v. Paul (1995) 11 Cal.4th 583 [46 Cal.Rptr.2d 594]
*Pompilio v. Kosmo, Cho & Brown (1995) 39 Cal.App.4th 409 [46 Cal.Rptr.2d 409]
Marshall v. Gibson, Dunn & Crutcher (1995) 37 Cal.App.4th 1397 [44 Cal.Rptr.2d 339]
Levin v. Graham & James (1995) 37 Cal.App.4th 798 [44 Cal.Rptr.2d 69]
Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 327]
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*McElroy v. Biddison (1995) 32 Cal.App.4th 1164 [38 Cal.Rptr.2d 804]
Itt Small Business Finance Corp. v. Niles (1994) 9 Cal.4th 245 [36 Cal.Rptr.2d 552]
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Itt Small Business Finance Corp. v. Niles (1993) 19 Cal.App.4th 752
Finlayson v. Sanbrook (1992) 10 Cal.App.4th 1436 [13 Cal.Rptr.2d 406]
Laird v. Blacker (1991) 229 Cal.App.3d 159 [279 Cal.Rptr. 700]
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
Robinson v. McGinn (1987) 195 Cal.App.3d
-criminal conviction constitutes appreciable harm or "actual injury"
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Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
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-began to run when client was first forced to take legal action to rectify prior attorney's error
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 896]
Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]
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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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-actual injury
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-against former law firm
Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
-definition of "continuous representation" for purposes of
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
-"equitable tolling" under CCP §355 not applicable to CCP § 340.6 where plaintiff failed to file a timely action
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
-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
Rewald v. San Pedro Peninsula Hospital (1994) 27 Cal.App.4th 480 [32 Cal.Rptr.2d 411]
-statute of limitations for legal malpractice action tolled while attorney still represents client on related matters, even if client knows of attorney's negligence
Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
-statute of limitations for malpractice claims against former firm not tolled when client continues to be represented in the same matter by the attorney who left the firm
Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
-tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
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 if criminal malpractice claim is filed within one-year or four-year limitations period to plaintiff to timely pursue post-conviction remedies
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
-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]

-while attorney-defendant was absent from California
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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]
attorney for corporation owes no duty of care to shareholders
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Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
Where attorney successfully defends a client and later represents plaintiff in malpractice action against plaintiff's attorney in the same matter
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MILITARY PERSONNEL [See Attorneys of governmental agencies.]
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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]
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Appearance on own behalf as plaintiff
by disbarred or suspended attorney
-when action assigned subsequent to disbarment or suspension order
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Assault with a firearm warrants suspension but because of extensive mitigation does not involve moral turpitude
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purchase by attorney with intent to bring suit thereon
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Client reliance on attorney
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Collusion
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-misdemeanor
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In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
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Wolfrich v. United Services Automobile Association (1983) 149 Cal.App.3d 1206
-attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal
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In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
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In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848, 659 P.2d 1137]
Corruption
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-while attorney served on jury
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-misdemeanor
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improperly obtaining
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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
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"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
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judge systemically and routinely sold his office and his public trust
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-filing false documents under penalty of perjury
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-making misrepresentation to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
whether or not in course of relations as attorney
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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In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
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Drunkenness in public
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
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)
Evidence of debt
purchase by attorney with intent to bring suit thereon
Business and Professions Code section 6129
Ex parte communication with judge
judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
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Failing to maintain respect due courts
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Failure to appear in a probation violation proceeding
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Failure to maintain respect due to courts
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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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False or fraudulent insurance claim
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Business and Professions Code section 6106.5(a)
False or fraudulent statements in banking transactions
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Felony involving moral turpitude
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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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Gross carelessness and negligence constitutes a violation of an attorney's oath
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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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Illegal drug transactions
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Inadequate supervision of associate by attorney
duty to supervise
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
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basis for reversal of judgment in judicial proceeding
-report by clerk to State Bar
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Issuing checks with insufficient funds in account
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Knowledge of Rules of Professional Conduct is not an element of offense of misconduct
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Minors involved in illicit conduct as a result of attorney's activities
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Misappropriation of client funds
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Misappropriation of law partnership funds
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Misdemeanor
advertising or holding out as entitled to practice law following disbarment or during suspension
Business and Professions Code section 6126
collusion or consent to collusion with intent to deceive court or party
Business and Professions Code section 6128(a)
deceit or intent to deceive any court or party
Business and Professions Code section 6128(a)
defense in criminal action
-advising, aiding, or promoting when partner is district attorney or public prosecutor
Business and Professions Code section 6131(a)
delay of client's suit for attorney's own gain
Business and Professions Code section 6128(b)
for district attorney or public prosecutor to advise, take part in or receive valuable consideration in criminal defense
-where prosecuted action
Business and Professions Code section 6131(b)
purchase or interest in evidence of debt or thing in action, with intent to bring suit thereon
Business and Professions Code section 6129
receive funds for which attorney not laid out or become answerable for
Business and Professions Code section 6128(c)
Misdemeanor involving moral turpitude
Business and Professions Code section 6101
Misrepresentation
concealing terms of an insurance policy during settlement negotiation
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
of counsel
-basis for reversal of judgment in judicial proceeding
--report by clerk to State Bar
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to judge while attorney served on a jury
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Misrepresentation by suppressing exculpatory evidence
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Misrepresentation made to other side regarding insurance coverage
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Moral turpitude [See Moral Turpitude.]
act involving
-whether or not in course of relations as attorney
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--misrepresentation to judge while attorney served on a jury
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borrowing money without intent to repay it
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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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felony involving
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honest and reasonable belief, though mistaken, precludes a finding of moral turpitude
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judge systematically and routinely sold his office and his public trust
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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
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
Offensive and contemptuous conduct by attorney in court
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Offensive personality
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Outside contractor attorney may be held liable to government agency for acts of self-dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
Partnership
with non-lawyer
LA 510 (2003)
-prohibited if partnership activities constitute practice of law
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judge solicited the commission of perjury in a federal investigation
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Pro bono client, ignoring
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Pro hac vice attorney
censure for failure to follow local court rules
United States v. Summet (9th Cir. 1988) 862 F.2d 784
court cannot sanction pro hac vice attorney for bad faith misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
court may, in its discretion, revoke status of pro hac vice attorney for bad faith misconduct; it cannot impose monetary sanctions unless authorized by statute
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Public employees
attorney employee investigated for misconduct can be compelled, under threat of job discipline, to answer questions regarding his job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]
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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Reversal of judgment
based upon counsel's
-mandatory report by clerk to State Bar
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Settling a case without authority
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Suspended attorney
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Unauthorized representation
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Violence against spouse and others
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
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absent finding of moral turpitude
In re Morales (1983) 35 Cal.3d 1
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Willful failure to perform and communicate
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Willful violation of court order
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Willful violation of oath and duties as attorney
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Willful violation of oath and duties of attorney in court of law
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Willful violation of Rules of Professional Conduct
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Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
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Accepting a bribe
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Altering will so as to be admitted to probate
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Attorney's attempt to kill former client equals moral turpitude
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Attorney's name, allowing lay employee to use
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advising the conveyance of property for the purpose of defrauding the creditor of his client
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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
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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
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civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
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concealing adverse and material facts when he obtained the money from his client
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deceiving clients as to the status of their cases, and issuing insufficiently funded checks
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In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
invoices and binders of memoranda were created after thefact in an attemptto justify respondent's fees
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
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 [264 Cal.Rptr. 131]
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
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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]
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In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
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-failure to give proper accounting
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Rules 1-500 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1975-34
Retirement plan
may include lay employees
Rule 3-102(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
Separation agreements
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)
CAL 1975-34
With a non-lawyer
Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-310, Rules of Professional Conduct (operative as of May 27, 1989)
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
Johnson v. Davidson (1921) 54 Cal.App. 251 [202 P. 159]
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
LA(I) 1966-18
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CAL 1969-18
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LA(I) 1959-5
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SD 1983-4
financial management company
LA 372 (1978)
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LA 96 (1936)
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In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
investment company
SD 1984-1
living trust marketers
CAL 1997-148
management company
LA 488 (1996)
physician
LA 335 (1973)
prohibited, if any activities of partnership constitute practice of law
LA 96 (1936)
real estate
SF 1973-23
rule 3-103 extended to cover corporate business arrangement
LA 372 (1978)
shareholder of incorporated legal services entity
LA 444 (1987)
tax shelter investment promoter
SD 1984-1
With out-of-state attorney
LA 230 (1955), SD 1983-4, SF 1974-1
With out-of-state law firm
LA 392 (1981)
SF 1975-1
PARTNERSHIP, BUSINESS
Consumer affairs agency
SF 1983-4
Drafter of agreement for represents one partner against other re termination agreement prepared by other counsel
LA(I) 1963-9
Financial management company
LA 372 (1978)
With non-lawyer
LA 510 (2003)
PAYMENT OF PERSONAL OR BUSINESS EXPENSES [See Advancement of funds.]
Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Incurred by or for a client
Isrin v. Superior Court (1965) 63 Cal.2d 153, 164 [45 Cal.Rptr. 320, 403 P.2d 728]
PENDING PROCEEDINGS
Book published about
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
LA 369 (1977)
Ethics committee in Los Angeles will not answer inquiries about
LA(I) 1966-9
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Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
PENSION PLAN [See Division of fees.]
PERJURY [See Confidences of the client, disclosure, perjury. Trial conduct.]
CAL 1983-74, OC 2003-01
PERSONAL INJURY ACTION [See Automobile accident case.]
PHYSICIAN [See Malicious prosecution.]
Client's
duty with respect to fee of
LA 368 (1977), LA 357 (1976)
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LA(I) 1931-1
Lawyer duty with respect to medical liens
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
LA 478 (1994), LA 368 (1977), LA 357 (1976)
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LA 349 (1975), LA 331 (1973), LA(I) 1961-1
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
LA 368 (1977), LA 357 (1976)
common fund or "equal apportionment" doctrine does not apply to contractual medical lien holders in personal injury matters
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]
CAL 1995-49(I)
Medical malpractice
Business and Professions Code sections 6146, 6147
Code of Civil Procedure sections 364, 365, 411.30
Opposing party's treating physician
attorney communicating with
CAL 1975-33
SD 1983-9
sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Partnership with
LA 335 (1973)
Referral of legal business
LA(I) 1949-1
Referral of medical business to
LA 443 (1988)

POLITICAL ACTIVITY [See Letterhead, use for. Public office.]
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]
Judicial office
campaign contributions for
LA(I) 1972-21
candidate
-misrepresentation by
LA(I) 1974-11
-no uniform rules regulating conduct of in California
SF 1974-6
endorse or solicit endorsements for candidate
LA(I) 1972-21
Post-sentencing comment by prosecutor
SD 1974-8

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
California Rule of Court 9.42
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
Telephone: (415) 538-2100
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
Rules Governing the Practical Training of Law Students, The State Bar of California
For the full text of these rules, contact:
Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2100
Text available through State Bar's home page:
http://www.calbar.ca.gov
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
Contact:
Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2175

PRACTICE OF LAW [See Advertising. Foreign attorney. Law corporation. Law office. Legal specialization. Patent law. Professional liability.]
Adherence to beliefs may prove fitness to practice
Hightower v. State Bar (1983) 34 Cal.3d 150 [193 Cal.Rptr. 153, 666 P.2d 10]
Admission to the federal bar
federal district court could reasonably rely upon distinction that state bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871
Affiliation with out-of-state firm
LA 392 (1983)
Appearance by attorney
in small claims court
LA 105 (1936)
Associate attorney is agent of attorney
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
Associate changing firms
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
CAL 1985-86
LA 405 (1982)
LA 363 (1976)
Associate discovers malpractice of partner
LA 383 (1979)
Attorney
Business and Professions Code section 6180.14
placement service
LA 359 (1976)
Barter [See Bid.]
Circulating names of attorneys who fail to extend professional courtesies
LA 364 (1976)
Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

Clients' business
promotion by letter
-by attorney
--company engaged in bail bonds
LA 91 (1936)
Constitutional right to practice law free from unreasonable government interference
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
Consultation with an independent attorney regarding the client's case may be permitted
SD 1996-1
Corporations
terminated employee/attorney has no right of access to offices, files, corporate records, or employment because of ownership share
Voorhies v. Green (1983) 139 Cal.App.3d 989 [189 Cal.Rptr. 132]
Data processing service
use of by law firm
CAL 1971-25
Defined
In re Glad (9th Cir. 1989) 98 B.R. 976
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Farnham v. State Bar (1976) 17 Cal.3d 605
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542
People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535
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)
OC 94-002, SD 1983-4, SD 1983-7, LA 195
advisory counsel
-pro se defendants given assistance in courtroom without actual conduct of trial
Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407
co-counsel attorney may participate in trial with pro se defendant
Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407
Delegation of professional responsibility
to non-lawyer
-tax specialist
LA 86 (1935)
Donation of legal services [See Fees.]
Dual occupation/profession [See Commission, fees.]
CAL 1999-154, CAL 1982-69, CAL 1968-13
LA 477, LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975)
SD 1992-1, SD 1969-2
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
attorney also certified public accountant
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. Of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
LA 351 (1975), LA 225 (1955)
attorney also concert promoter
Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
attorney also dentist
SF(I) 1973-7
attorney also legal publisher operating out of attorney's office
LA 446 (1987)
attorney also physician
LA 477
attorney as sports agent
CAL 1968-13
city council member and deputy county counsel
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
Collection agency and law practice
Business and Professions Code section 6077.5
Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 414 U.S. 291 [115 S.Ct. 1489]
LA 124 (1939)
insurance agency and law practice
SD 1974-18
investment/portfolio manager
CAL 1999-154
management consulting company
-may not form company that acts as attorney's agent in solicitation of business
LA 446 (1987)
motion picture and theatrical agency and law practice
LA 84 (1935)
multidisciplinary practice
LA 510 (2003)
police officer badge and card while practicing law
-adverse interest
--accepting employment in criminal defense case
LA 94 (1936)
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88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
CAL 1982-69
LA 413 (1983), LA 384 (1980), LA 340 (1973)
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-acceptance of legal business referred from real estate business
LA 140 (1942)
Duty to supervise employees
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Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 95]
Palomo v. State Bar (1984) 36 Cal.3d 785
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
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CAL 1988-103, LA 488 (1996), OC 94-002
Employee duties to employer
Labor Code section 2650, et seq.
Fee sharing agreement
between departing partner and firm
-found to violate Rules of Professional Conduct
Champion v. Superior Court (1988) 201 Cal.App.3d 777
Fictitious name, use of
by attorney or law firm
Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77]
CAL 1982-66, LA 9 (1921)
fitness to practice
In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]
lawyer/firm to practice under company name
LA 26 (1925)
Fiduciary duty owed by partners of a dissolved partnership to each other
duty 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]

Franchise legal network
LA 423 (1983)
Goodwill of
Rule 2-300, Rules of Professional Conduct (operative as of May 27, 1989)
defined
Business and Professions Code section 14100
Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]
*In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
Burton v. Burton (1958) 161 Cal.App.2d 572 [326 P.2d 855]
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Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
Lyon v. Lyon (1966) 246 Cal.App.2d 519, 524 [54 Cal.Rptr. 829]
CAL 1985-86
-due to death of partner
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
-partner not entitled to compensation for good will
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
fill in blanks in forms
SD 1983-7
intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
measurement of goodwill value
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
payments of
-to heirs of deceased partners
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
CAL 1975-34, SD 1968-5
use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
valuation of
-in divorce or dissolution proceedings
In re Marriage of Fonstein (1976) 17 Cal.3d 738 [131 Cal.Rptr. 873]
*In re Marriage of Aufmuth (1979) 89 Cal.App.3d 446,463 [152 Cal.Rptr. 668]
*In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
Todd v. Todd (1969) 272 Cal.App.2d 786 [78 Cal.Rptr. 131]
--intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
--use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
Holding out as attorney
Business and Professions Code section 6126
Holding out as specialist [see Advertising]
Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
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Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
Inactive attorneys
federal district court could reasonably rely upon distinction that state bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871
In pro se
capital defendant who chooses to be represented by counsel generally entitled to present his case personally or to act as co-counsel at trial, but may make pro se motions regarding representation and substitution of counsel
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
preservation of constitutional right
United States v. Condo (9th Cir. 1984) 741 F.2d 238
waiver of right of counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
In propria persona client and advisor counsel share handling of case
Johnson, York, O'Connor & Caudill v. Board of County Commissioners of the County of Fremont (1994) 868 F.Supp. 1226
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
LA 483 (1995), LA 432 (1984), LA 502 (1999)
capital defendant who chooses to be represented by counsel is generally not entitled to present his case personally or to act as co-counsel at trial
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
Interference by government
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
Interference with business relations and contracts
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
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Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
elements of
Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
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Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
Interference with prospective business advantage
Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
elements of
Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
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Interference with prospective economic advantage or contractual relations
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure atty is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon
Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
elements of
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Investigator
use of by attorney
-where employed by client
LA 67 (1932)
Law firm liable for malicious prosecution based on acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
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LA 104 (1936)
Law practice defined
Rule 1-100(B)(1), California Rules of Professional Conduct (operative September 14, 1992)
Business and Professions Code section 6180.14
Lawyer defined
Evidence Code section 950
Rule 1-100(B)(3), California Rules of Professional conduct
Lawyer referral [See Lawyer referral, referral of legal business.]
Lay person may not represent another
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
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Legal research service
operated by attorneys
-constitutes practice of law
--advertising of
LA 301 (1967)
--incorporation
LA 301 (1967)
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Liability of firm for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
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-to attorney
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-by attorney
LA 115 (1937)
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LA 125 (1940)
Non-resident member performing legal services governed by California law
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Partner leaves firm and takes clients with him
allocation of fee
-former firm entitled to quantum meruit
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LA 114 (1937)
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LA 218 (1953)
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circulating names of attorneys who fail to extend professional courtesies
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LA 339
Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
Referral of legal business [See Referral of legal business.]
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Lyon v. Lyon (1966) 246 Cal.App.2d 519, 526 [54 Cal.Rptr. 829]
LA 361 (1976)
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Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]
SD 1968-5
-defined
Business and Professions Code section 14100
-violation
Rules 2-101, 2-104(B) and 2-108, Rules of Professional Conduct
valuation of law practice may require deduction of operating costs
*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
Sharing office space with
accountant
LA(I) 1968-1
another attorney not a partner
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90
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SD 1985-1
-not able to provide independent review as required under Probate Code section 21350
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
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SD 1974-23
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LA 216 (1953), LA(I) 1972-15
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SD 1972-7, LA 215 (1953)
investigator
LA(I) 1963-8
SD 1974-23
land developer
LA(I) 1968-1
management consulting company
LA 446 (1987)
publishing company
LA 446 (1987)
real estate broker
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LA 384 (1980), LA 140 (1942)
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CAL 1997-150, CAL 1986-90, SD 1985-1
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Holding out as
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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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Wright v. Williams (1975) 47 Cal.App.3d 802
Statutory service on attorney and employees
National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
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employment of
-to assist in advising client
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Trade name, use of
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Valuation of a law practice in a marital dissolution proceeding
*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
Valuation of a law practice when partnership dissolves
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
Work product [See Files and Work Product.]
PREPAID LEGAL SERVICES [See Group legal services.]
PRIVILEGED COMMUNICATIONS [See Confidences of the client, privilege]
Evidence Code section 950 et seq.
in camera review of communications to determine privilege
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
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]
Compelled disclosure
disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) __ U.S. __ [130 S.Ct. 599]
Condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
-new trustees succeeds to all the rights, duties and responsibilities of his or her predecessors
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Deceased client
People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]
LA 414
destruction of file
LA 491 (1997)
Defendant's former attorney allowed to testify as to defendant's threats against witnesses
U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Electronic communication technologies, utilization of
OC 97-002
Exceptions
corporation waived attorney-client and work product privileges when it shared documents with government
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
defendant did not waiver attorney-client and work product privileges when it shared documents with government
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
defendant's former attorney allowed to testify as to defendant's threats to commit act likely to result in death or substantial bodily harm
U.S. v. Alexander (9th Cir. (Montana) 2002) 287 F.3d 811
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Inadvertent disclosure [See Confidences of the Client, Inadvertent disclosure]
SD 1987-3
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]
Litigation privilege
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
Litigation privilege extends to demand letters under Civil Code section 47(b)
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]
is inapplicable in an action by a former client against an attorney for breach of professional duties
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]

may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to the earlier litigation
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
Litigation privilege is absolute and extends to alleged misrepresentations by opposing side
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
Probate Code section 16060 et seq.
confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Reports in public journals of judicial proceedings under Civil Code section 47(d)
Microsoft Corp. v. Yokohama Telcom Corp. (1998) 993 F.Supp. 782
Sixth Amendment's Confrontation Clause vs. attorney-client privilege
defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examiniation
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors
People v. Ervine (2009) 47 Cal.4th 745
Under Civil Code section 47
Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]

PRO BONO
Attorney disciplined for failure to communicate and perform for pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Federal courts authority under a specific statute to require an unwilling attorney to represent an indigent party
Mallard v. U.S. Dist. Court for the Southern District of Iowa (1989) 490 U.S. 296 [109 S.Ct. 1814]
Indigent's retention of privately obtained pro bono counsel is improper basis to deny an independent psychiatric examination at public expense
In re Conservatorship of Scharles (1991) 233 Cal.App.3d 1334
Partial pro bono fee arrangement did not preclude award of attorney's fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
Pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
Slight mitigating credit for pro bono service which was not great and was remote in time
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
Slight mitigating credit for pro bono work
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

PROBATE [See Estate. Purchasing property at probate, foreclosure or judicial sale.]

PROFESSIONAL LIABILITY [See Competence. Conflict of interest. Duties of attorney. Malpractice. Neglect. Negligence. Trial conduct.]
Hutchinson v. Gertsch (1979) 97 Cal.App.3d 605
Kirtland and Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]
Absolute privilege in the public's interest
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
Accrual of causes of action and limitation in malpractice action against attorneys
Baright v. Willis (1984) 151 Cal.App.3d 303
Krusesky v. Baugh (1982) 138 Cal.App.3d 562 [188 Cal.Rptr. 57]
Action against attorney for
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Adequacy of motion for summary judgment
Blanch v. Young (1984) 152 Cal.App.3d 1016 [200 Cal.Rptr. 9]
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Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
Agreement with client to arbitrate any malpractice claim
CAL 1977-47
Arbitration of claims for
client's agreement
-arbitration clause in attorney-client retainer agreement
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
-as condition to employment
Rule 3-400, Rules of Professional Conduct
CAL 1977-47
Assignability of chose in action for legal malpractice
Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]
legal malpractice claims sounding in tort or contract not assignable
Jackson v. Rogers & Wells (1989) 210 Cal.App.3d 336 [258 Cal.Rptr. 454]
Attorney's dissemination of information produced by adverse party and covered by protective order does not constitute tort
Westinghouse Electric Corp. v. Newman (1995) 39 Cal.App.4th 370 [46 Cal.Rptr.2d 151]
Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Attorney General
deputy attorney general immune from liability to person wrongfully accused following grand jury investigation
Harmston v. Kirk (1989) 216 Cal.App.3d 1410
Attorney-client relationship
consultation
-prima facie evidence of existence of
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]
specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Bankruptcy proceeding
standard of care
Enriquez v. Smith (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Breach of fiduciary duty
requirements to state a cause of action
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Pierce v. Lyman (1991) 1 Cal.App.4th 1093

-claims to strike under anti-SLAPP statute
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
violation of rules of professional conduct may be admitted as evidence of fiduciary breach
Mirabito v. Liccardo (1992) 4 Cal.App.4th 41
Burden of proof
attorney charged with spoilation of evidence has burden of showing that his negligence did not result in loss of meritorious case
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
client must prove causation in transactional matters
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
Co-counsel not liable for other counsel's fees due to his own malpractice which reduced or eliminated fees of other counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Co-counsel's duty to report counsel's
LA 313 (1969)
Code of Civil Procedure section 340.6
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
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]
Collateral estoppel, effect of
respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
Comparative fault doctrine
calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Conspiracy to violate legal ethics
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Conspiracy under Civil Code section 1714.10
Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
Evans v. Pillsbury, Madison & Sutro (1998) 65 Cal.App.4th 599 [76 Cal.Rptr.2d 679]
attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
claim against opposing counsel for fraud may be viable if the attorney's act caused harm to the plaintiff
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
suit for conspiracy against opposing counsel may be viable if attorney is found to have acted in furtherance of his private gain
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
Continued representation of clients regarding the specific subject matter in which alleged wrongful act or omission occurred
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]
"Continuity of representation" test
Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal Rptr. 3d 866]
Continuous representation tolls statutes
Von Rott v. Johnson (1983) 148 Cal.App.3d 608 [196 Cal.Rptr. 55]
Contributory negligence of client
Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]
Corporate counsel retained by corporation to defend against litigation was not agent of corporation for purposes of Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Counsel who may benefit from malpractice action informs party who may have such action against her counsel
LA 326 (1972)
Criminal defendant must prove actual innocence in action for
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
Damages
*Smith v. Lewis (1975) 13 Cal.3d 349, 361 [118 Cal.Rptr. 621]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]
Campbell v. Magana (1960) 184 Cal.App.2d 751 [8 Cal.Rptr. 32]
Pete v. Henderson (1954) 124 Cal.App.2d 487 [269 Cal.Rptr. 78]
calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
legal fees spent in an unsuccessful attempt to overturn marital settlement agreement did not represent tort damages, and thus, without evidence of any other recognized tort damages, case could only proceed as a fee dispute
Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]
Defense attorneys are not liable for unauthorized reading of victim's mental health records which they received through the prescribed judicial process
Mansell v. Otto (2003) 108 Cal.App.4th 265 [133 Cal.Rptr.2d 276]

Disclose information in action by client against co-counsel
LA 254 (1958)
Duty of attorney
advise client of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
advise client of potential liability from promulgating a false or misleading offering to investors
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44
advise client of prior attorney's malpractice
-no duty found
LA 390 (1981)
attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
class action members
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
no duty to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter because the alleged harm lacked foreseeability
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
report to the State Bar
Business and Professions Code sections 6068(o)(1),(2), 6086.8
settlement
-cannot prohibit the filing of State Bar complaint
Rule 1-500(B), Rules of Prof. Conduct
Business and Professions Code section 6090.5
-no duty to exonerate clients from fault in public eye
--no liability to counsel
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
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]
Duty owed in favor of third persons
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
Hall v. Superior Court (2003) 108 Cal.App.4th 706 [133 Cal.Rptr.2d 806]
Meighan v. Shore (1995) 34 Cal.App.4th 1025
Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
adverse party
-no duty allowed
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A [249 Cal.Rptr. 697]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]
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]
assumption of fiduciary duty as "escrow holder" for adverse party
Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
-prior counsel
CAL 2009-177
attorney advising client is liable to third party when reasonably foreseeable that advice will be transmitted to and relied upon by third party
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
Home Budget Loan v. Jacoby & Meyers Law Offices (1989) 207 Cal.App.3d 1277 [255 Cal.Rptr 483]
attorney employer
-client of
Donald v. Garry (1971) 19 Cal.App.3d 769 [97 Cal.Rptr. 191]
-disclosure that counsel represented only executor-trustee
Morales v. Field, DeGoff, Huppert & MacGowan (1979) 99 Cal.App.3d 307 [160 Cal.Rptr. 239]
-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]
attorney's duty of loyalty to client assignee for the benefit of creditors cannot be divided or diluted by a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
children of client in dissolution
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
children of criminal client
-attorney's duty to client does not sustain damages for emotional distress suffered by client's children
Holliday v. Jones (1989) 214 Cal.App.3d 465 mod. (1989) 215 Cal.App.3d 102
escrow agents
-generally, no duty
St. Paul Title Co. v. Meier (1986) 181 Cal.App.3d 948 [226 Cal.Rptr. 538]
first attorney who was to receive a percentage of fee of second attorney
Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
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]
investors in client's securities offering
Federal Deposit Insurance Company v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44
liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
lienholder
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negligent misrepresentation to non-client
Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
-non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
non-client
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
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Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Fox v. Pollack (1986) 181 Cal.App. 954 [226 Cal.Rptr. 532]
-attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
-law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
-non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
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Schick v. Bach et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
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Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
Norton v. Hines (1975) 49 Cal.App.3d 917 [123 Cal.Rptr. 237]
purchasers of client's property
Heliotis v. Schuman (1986) 181 Cal.App.3d 646 [226 Cal.Rptr. 509]
purchasers of client's stock
Goodman v. Kennedy (1976) 18 Cal.3d 335 [134 Cal.Rptr. 375, 556 P.2d 737]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
spouse of client who was to receive portion of proceeds of
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
standing for bringing action in professional negligence
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
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Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Heyer v. Flaig (1969) 70 Cal.2d 223 [74 Cal.Rptr. 225]
Lucas v. Hamm (1961) 56 Cal.2d 583, 588 [15 Cal.Rptr. 821]
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Garcia v. Borelli (1982) 129 Cal.App.3d 24 [180 Cal.Rptr. 768]
Ventura County Humane Society v. Holloway (1974) 40 Cal.App.3d 897 [115 Cal.Rptr. 464]
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Duty owed to insured by attorney retained by insurer
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 151 [65 Cal.Rptr. 406]
Duty owed to insurer by attorney retained by insurer
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
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Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Duty to refer client to a "specialist"
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]
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]
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David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Elements of cause of action
Harris v. Smith (1984) 157 Cal.App.3d 100, 104-105 [203 Cal.Rptr. 541]
Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
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in preparing findings in support of judgment in favor of client
Armstrong v. Adams (1929) 102 Cal.App. 677 [283 P. 871]
Existence of attorney-client relationship
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 39 [154 Cal.Rptr. 22]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
direct attorney-client relationship must be shown to exist between plaintiff and attorney-defendant when plaintiff alleges to be the intended beneficiary of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Exonerating personal liability
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
LA 489 (1997)
Failure to advise client of correct value of marital estate
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
Failure to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

Failure to advise client of spouse's community property
Gorman v. Gorman (1979) 90 Cal.App.3d 454 [153 Cal.Rptr. 479]
Failure to advise client to act promptly in retaining other counsel due to statute of limitations
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 41 [154 Cal.Rptr. 22]
Failure to arrange for service of summons
Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176 [98 Cal.Rptr. 837, 491 P.2d 589]
Failure to assert interest of wife in retirement benefits of husband in dissolution proceedings
*Smith v. Lewis (1975) 13 Cal.3d 349 [118 Cal.Rptr. 621, 530 P.2d 589]
Failure to clarify terms of settlement agreement with media
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
Failure to consult medical specialist where such consultation was not recommended by other medical specialists
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Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Co. (1991) 233 Cal.App.3d 1184
Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
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Hage v. Worthington, Park & Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
Failure to file cross-complaint
Banerian v. O'Malley (1974) 42 Cal.App.3d 604 [116 Cal.Rptr. 919]
Failure to file late claim against public entity within one year after accrual of cause of action
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Failure to file petition for change in client disability rating
Sprague v. Morgan (1960) 185 Cal.App.2d 519 [8 Cal.Rptr. 347]
Failure to file petition for discharge in bankruptcy
Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
Failure to file responsive pleadings
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
Failure to file timely notice of a motion for a new trial
Tuck v. Thuesen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
Failure to include husband's assets as community property
Raudebaugh v. Young (1978) 87 Cal.App.3d 364 [150 Cal.Rptr. 848]
Failure to obtain trial setting preference for aged client
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]
Failure to offer evidence to court about which attorney had serious doubts
Horo v. Lawton (1960) 787 Cal.App.2d 657 [10 Cal.Rptr. 98]
Failure to prepare a valid "Clifford Trust"
Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]
Failure to prepare or cause entry of judgment or verdict
Chavez v. Carter (1967) 256 Cal.App.2d 577 [64 Cal.Rptr. 350]
Failure to properly draft stipulation, order and judgment in divorce action
McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]
Failure to raise a defense of anti-deficiency statute
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Failure to raise available defenses in a criminal prosecution
Martin v. Hall (1971) 20 Cal.App.3d 414 [97 Cal.Rptr. 730]
Failure to research law
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865 [208 Cal.Rptr. 1]
Failure to serve summons and complaint
Troche v. Daley (1990) 217 Cal.App.3d 403
Kane, Kane & Kritzer, Inc. v. Altagen (1980) 107 Cal.App.3d 36 [165 Cal.Rptr. 534]
First attorney prohibited from cross-complaining for indemnity against the successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
First attorney cross-complaint for indemnity against former associate/successor attorney based on fraud proper
Williams v. Drexler (1988) 206 Cal.App.3d 373
Fraudulent scheme
attorney providing services to client not liable under racketeering law
Baumer v. Pachl (1993) 8 F.3d 1341
outside contractor attorney may be held liable to government agency for acts of dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
Immunity
attorney accused of conspiracy with a judge not entitled to federal law immunity
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007)150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
public entity is not liable for injury resulting from an act or omission from an employee of the public entity
County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]
Indemnification of attorneys who represented same client on same matter
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
Insurance
attorney's deadline to report malpractice claim to insurance carrier quitably tolled
Root v. American Equity Speciality Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]
law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
Invited error of defendant
Kessler v. Gray (1977) 77 Cal.App.3d 284 [143 Cal.Rptr. 496]
Jurisdiction
California court has subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
Liability of court appointed counsel to federal criminal defendant for negligence
Fern v. Ackerman (1979) 444 U.S. 193 [62 L.Ed.2d 355; 100 S.Ct. 402]
Liability of law firm
for malicious prosecution based on acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968

not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
vicarious liability for acts of a partner
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Liability of partner for attorney negligence
Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194]
for acts of other partners after leaving law firm
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934 [155 Cal.Rptr. 393]
Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
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Liability of subsequent tortfeasors
Goldfisher v. Superior Court (1982) 133 Cal.App.3d 12 [183 Cal.Rptr. 609]
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Parker v. Morton (1981) 117 Cal.App.3d 751 [173 Cal.Rptr. 197]
Rowell v. TransPacific Life Insurance Company (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
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-judgment may be non-dischargeable
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Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
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Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
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Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
-alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
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American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
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Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
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Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
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-breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
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-doctrine of "equitable tolling" applies to legal malpractice limitation period
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Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
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Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
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Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
-duty of attorney to advise client of imminent running of
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
prisoner may be entitled to equitable tolling where there were extraordinary circumstances; attorney who resigns, running "writ mill" may be extraordinary
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
tolled for bringing legal malpractice action while attorney still represents client on related matters, even if client knows of attorney's negligence
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
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 [25 Cal.Rptr.2d 162]
tolling of statute
Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]
-notice of claim by former client timely, relation-back doctrine applied where claim amended complaint alleging negligence pertain to specific acts of negligence contained in the original complaint
Pointe San Diego Residential Community LP v. Procoplo, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Successor attorney advising client of action against former attorney
LA 390 (1981)
Superceding negligence of second attorney retained
Cline v. Watkins (1977) 66 Cal.App.3d 174 [135 Cal.Rptr. 838]
Training of staff
pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
Transactional matters
client must prove causation
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Trust administrator's attorney's fees are compensable in litigation related to trust administration
Estate of Gump (1991) 1 Cal.App.4th 582 [2 Cal.Rptr.2d 269]

PROFESSIONAL SOCIETIES
Committees established for the maintenance of professional standards
immunity for liability
Civil Code section 43.7
Peer review committees
immunity for liability
Civil Code section 43.7
Professional standards, committees established for maintenance of
immunity for liability
Civil Code section 43.7

PROFESSIONALISM
California Attorney Guidelines of Civility and Professionalism
Attorney's must strive to maintain the highest standards of civility and professionalism and must be an example of lawfulness, not lawlessness
Scott Moody, Inc. v. Staar Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
Integrity of adversary system depends on the highest standard of ethics, civility, and professionalism in the practice of law
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]

PROPERTY
Client's property
attorney's duties
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)
-withdrawal from representation
Rule 2-111(A)(2), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
Sale of
auctioneer, attorney may act as
-where trust or deed of trust gives power of sale to trustee
Civil Code section 2924a
conduct sale
-attorney for trustee may
Civil Code section 2924a
trust or deed of trust gives power of sale to trustee
-attorney for trustee may conduct sale
Civil Code section 2924a
-auctioneer
--attorney may act as
Civil Code section 2924a

PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [See Estate. Purchasing property at probate, foreclosure, or judicial sale.]
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)
Refusal to return other party's
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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
Brady disclosures
no violation found where witnesses/notes of witnesses' statements which were not favorable to the defendant were not given to defense counsel but statements were given at trial and were not suppressed. No reasonable probability that disclosure of the information would have altered the trial results
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
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 during penalty phase that evidence favorable to defendant didn't exist, when prosecutor knew that it did exist
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
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 of defense counsel, not prejudicial
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
comment on counsel for defendant
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
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 demeanor
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
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]
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 request live line-up
People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]

comment on defendant's failure to testify
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
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. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]
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]
-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 prior jail time, brief and not prejudicial
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
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. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
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
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
People v. Delgado (1992) 10 Cal.App.4th 1837 [13 Cal.Rptr.2d 703]
comment on post-*Miranda* silence was harmless error
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
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. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
comment that SVP (sexually violent predator) would be placed in mental hospital
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
commenting on reasonable doubt instructions
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]

comments on defendants' characters: "pack of wolves" "little punk" "what a tough guy you are"
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
comments on jury being "conscience of community," lack of mercy shown victim, discounting of mitigating circumstances was not misconduct
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
comments within permissible argument
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
comparison of defendant to Hitler
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
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]
defendant's failure to call certain witnesses/introduct evidence
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
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
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
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. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr. 3d 253]
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1]
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
People v. Herring (1993) 20 Cal.App.4th 1066 [25 Cal.Rptr.2d 213]
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
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US v. Reyes (9th Cir. 2009) 577 F.3d 1069
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
harmless error
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
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]
-prosecutor's use of words, "conjured up" a witness effectively asserted that defense counsel suborned perjury
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
improper remarks regarding conduct of defendant
People v. Blagg (1970) 10 Cal.App.3d 1035, 1040 [89 Cal.Rptr. 446]
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Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
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People v. Kozel (1982) 133 Cal.App.3d 507, 518-519 [184 Cal.Rptr. 208]
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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]
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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]
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People v. Pineiro (1982) 129 Cal.App.3d 915 [179 Cal.Rptr. 883]
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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]
-prosecutor's statement that the burden was on the defendant to prove his innocence violated the defendant's 14th Amendment due process rights
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
no "guilt by association" argument where prosecutor made comments regarding sexual misconduct by Catholic priests
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr. 3d 253]
no "stand in the shoes of the victim" comment where prosecutor presented hypothetical situations for jurors to imagine the inability to remember details
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr. 3d 253]
objection by prosecutor to defense counsel's statements regarding reasonable doubt as misstatement of the law not found to be prosecutorial misconduct
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]

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-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]
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Hall v. Whitley (9th Cir. 1991) 935 F.2d 164
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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]
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People v. Roberts (1975) 51 Cal.App.3d 125, 135-137 [123 Cal.Rptr. 893]
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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
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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]
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People v. Ervine (2009) 47 Cal.4th 745
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]
-defense counsel's definition of reasonable doubt was a misstatement of the law
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
-use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
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]
use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
vouching by prosecutor not plain error
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440
vouching for the credibility or prestige of the district attorney's office
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
vouching for witness credibility
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
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
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
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]
claim of improper questioning of defendant forfeited where no objection by counsel
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
comment on defendant being a "danger", prejudice cured by court's admonishment to jury
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
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]
laughing and juvenile behavior by prosecutor demeans office but was not prejudicial
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
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]
propriety of questions to defendant regarding witness' truthfulness need not be decided where defendant did not show ineffective assistance of counsel
People v. Foster (9th Cir. 2003) 333 F.3d 982
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 regarding post-*Miranda* silence was harmless error
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
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
Delay, defendant not prejudiced
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
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
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
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
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
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]
Brady test not met where suppression of evidence is not materials
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
conversation, in bathroom between defendant and prosecutor where prosecutor allegedly offered fair treatment in exchange for cooperation found irrelevant at state court does not warrant evidentiary hearing
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

disclosure of rebuttal witnesses to defense's potential witnesses is required by due process and assures reciprocity
People v. Gonzalez (2006) 38 Cal.4th 932 [44 Cal.Rptr.3d 237]
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
U.S. v. Danielson (9th Cir. (Oregon) 2003) 325 F.3d 1054
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 correct perjured testimony
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
failure to disclose deal between prosecutor and star witness, immunity for testimony, Brady violation
Horton v. Mayle (9th Cir. 2005) 408 F.3d 570
failure to disclose evidence
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
-sanctions for failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
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
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
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
failure to provide exculpatory evidence
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
failure to show that prosecution presented false evidence
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
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]
location and nature of evidence disclosed, though police action may have been negligent, no denial of due process
Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222
knowingly presenting false evidence
Hayes v. Brown (9th Cir. 2005) 399 F.3d 972
manipulation of the evidence
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
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]
suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
suppression of letter to witness that witness would not be prosecuted for selling marijuana
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
suppression of witness location and information favorable to defense
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
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]
Ex parte communication with administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
Examination of witness or defendant
alleged influence of witness, even if true would not have resulted in actual prejudice and was harmless
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

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]
comment on defendant's failure to request live line-up
People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]
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 regarding 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. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
sanctions for failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
Failure to disclose exculpatory evidence
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
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 train
pattern of conduct needed to prove prosecutor's liability for failing to train employees in "Brady" obligations
Connick v. Thompson (2011) __ U.S. __ [1318 S.Ct. 350]
Failure to use diligence in obtaining evidence
People v. Rodriquez (1984) 152 Cal.App.3d 289, 295-296
Frivolous or bad faith litigation
denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Montana) 2003) 315 F.3d 1176
Goading a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409
Harmless misconduct
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
no egregious pattern of misconduct
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Immunity
§ 1983 claims
-prosecutors afforded absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747
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
county district attorney may not be entitled to qualifed immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment
Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572
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
lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007)150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
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]
Intent to cause mistrial test
People v. Batts (2003) 30 Cal.4th 660 [134 Cal.Rptr.2d 67]
Intentional violation of law
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
Interference with attorney-client relationship
Boulas v. Superior Court (1986) 187 Cal.App.3d 356
Intimidation of witnesses
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
People v. Warren (1984) 161 Cal.App.3d 961
People v. Bryant (1984) 157 Cal.App.3d 582, 592-595
violation of defendant's right to compulsory process not found when prosecutor not responsible for deportation of defendant's key witness
People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]
violation of defendant's right to compulsory process when prosecutor interferes with defendant's right to present witnesses on his behalf
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
Jury selection
prosecutor's discriminatory use of peremptory challenges
Ali v. Hickman (9th Cir. 2009) 571 F.3d 902
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
Misstatement of law inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
Misstatement of the law through use of a jigsaw to illustrate reasonable doubt standard
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]

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 murder victim's tragic life story
Tak Sun Tan v. Runnels (9th Cir. 2005) 413 F.3d 1101
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
Penalty phase
Biblical authority quoted in final argument does not require reversal of penalty judgment
People v. Sandoval (1992) 4 Cal.4th 155 [14 Cal.Rptr.2d 342]
Permissible advocacy
must contribute materially to the verdict
People v. Jackson (1984) 151 Cal.App.3d 153, 163
Pervasive misconduct was harmless
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
Plea Bargain
agreement that percipient witness/co-defendant not testify at trial, denied other co-defendant the right to compulsory process and due process under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
Post trial
jurors, communication with
Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 1976-39
post trial declaration of victim recanting allegation
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
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]
not shown, where prosecution failed to turn over to defense, a letter stating that witness would not be prosecuted for selling marijuana
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
Prejudice to defendant
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
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]
knowingly presenting false evidence
Hayes v. Brown (9th Cir. 2005) 399 F.3d 972

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
United States v. Jenkins (9th Cir. 2007) 504 F.3d 694
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
failure to use diligence in obtaining evidence
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
People v. Sharp (1983) 150 Cal.App.3d 13, 18
Private prosecution
California law does not permit private prosecution of criminal case without presence of public prosecutor
People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]
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]
no recusal required where prosecutor wrote a novel containing factual similarities of the underlying case
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
not required where less drastic alternatives such as walling off of witness/employee of district attorney's office would be effective
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
Relocation costs for witness, paid by prosecution not disclosed till after trial, no reasonable probability that disclosure would have altered the trial results, no Brady violation
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
Restitution hearing
California law does not permit private prosecution of criminal case without presence of public prosecutor
People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]
Retaliation against defendant
Morley v. Walker (1999) 175 F.3d 756
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]
advising rape victim of her right to refuse a psychiatric examination
People v. Mills (1978) 87 Cal.App.3d 302, 308 [151 Cal.Rptr. 71]
Brady and Napue claims, no reasonable probability that the outcome of the guilt phase would have been different
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
defendant is not required to show that prosecutor failed to turn over discovery materials it was obligated to produce at trial in order to obtain post-conviction discovery in capital crime case
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
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 deal between prosecutor and star witness, immunity for testimony, Brady violation
Horton v. Mayle (9th Cir. 2005) 408 F.3d 570
failure to disclose identity of an informant
People v. Rand (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]
failure to disclose police reports
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
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 defense, letter to witness, that witness would not be prosecuted for selling marijuana
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
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]
failure to produce evidence favorable to defendant
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
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. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Ruthford (1975) 14 Cal.3d 399, 406-409 [121 Cal.Rptr. 261, 534 P.2d 1341]
pretrial suppression does not bar retrial
Sons v. Superior Court (2004) 125 Cal.App.4th 110 [22 Cal.Rptr.3d 647]

suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
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]
comment by prosecutor on
-defense counsel's intentions
People v. Goldberg (1984) 161 Cal.App.3d 170, 190-191 [207 Cal.Rptr. 431]
-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 of conduct on verdict
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
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]
ex parte communication with administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
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]
material evidence bearing on credibility of key prosecution witness
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
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 [171 Cal.Rptr. 652]
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]
vouching for witness' credibility
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
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
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]
Vindictiveness
United States v. Jenkins (9th Cir. 2007) 504 F.3d 694
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
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
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
Miller-El v. Cockrell (2003) 537 U.S. 322 [123 S.Ct. 1029]
Ali v. Hickman (9th Cir. 2009) 571 F.3d 902
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
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]
-not found
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
Vouching
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
United States v. Molina (9th Cir. 1991) 934 F.2d 1440
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
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
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
Witness's absence not improperly effected by prosecutor
Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581
People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]
Witness credibility
expression of personal opinion
U.S. v. Kerr (9th Cir. 1992) 981 F.2d 1050
witness's recanting of claims
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

PUBLIC OFFICE [See Administrative agency. Court. Judge. Political activity.]
City attorney
acts as both advocate of city's position and advisor to neutral decision maker
Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]
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
--regarding 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)
state official role versus county administrative functionary for purposes of absolute or qualified immunity
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
welfare proceedings
-potential conflict between interests of state and child
--disclosure to court
CAL 1977-45
Public officials
entitled to qualified immunity for acts that do not violate clearly established constitutional rights of which a reasonable person would have known
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062

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
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
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]
Lee v. State Bar (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]
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] (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] (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:
In the 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 1.150
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 re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
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)
telephone
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
CAL 1966-5, LA 272 (1962), LA 182 (1951)
-district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment
Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572

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)
Referred by
adjuster
-who failed to settle claim
LA 59 (1930)
attorney to associate or partner
-who specializes in field of law
CAL 1967-10
business to partner who is lawyer
CAL 1969-18
client's employees
LA(I) 1973-10
consumer organization
LA(I) 1978-1, SD 1983-5, SD 1975-17, SF 1973-27
educational foundation
LA(I) 1977-2
foreign attorney
LA(I) 1959-3
insurance agent
LA(I) 1964-3
investigator
-employed by client
LA 67 (1932)
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)
management consulting company
LA 446 (1987)
membership organization
LA 401 (1982)
non-profit organization
SF 1976-2
physician
LA(I) 1949-1
real estate agent/broker
-in expectation of compensation
LA 18 (1922)
real estate business
LA 140 (1942)
-associated with lawyer
LA 140 (1942)
selling of legal services
LA 137 (1941)
suspended attorney
LA(I) 1937-1
traveler's aid
-no charge
LA 73 (1934)
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 Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
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
denied for failure to make restitution
In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
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 Jauregui (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
Consideration of reinstatement decisions from jurisdictions other than California
In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
Denied because of petitioner's insufficient showing of rehabilitation
In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
Moral character
unresolved tax delinquencies
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
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
Requirements for reinstatement
In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
petition for reinstatement requires reimbursement of discipline costs and reimbursement for payments made by the Client Security Fund
In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
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 Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 320
Standards same for disbarred and resigned with charges pending
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
Tax delinquencies not involving concealed assets
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
Testimony by members given in support of reinstatement is governed by rule 1-200(B) of the Rules of Professional Conduct
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
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 9.20, 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
Resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
With disciplinary charges pending
criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement
In the Matter of Jauregui (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)

CAL 2009-176, CAL 1988-104
LA 512 (2004), 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
Confidential settlement agreements
LA 512 (2004)
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 221 (b)(2) (request for review filed prior to ruling)
In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
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]
Rules 271 and 290
examined in connection with Section 6078 of Business and Professions Code and rule 9.19, California Rules of Court
In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85
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 301 (d) (filing of post-trial motion)
In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
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

Rule 662
In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

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
adopted as standard of professional conduct
-Federal District Court, Eastern District
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney ethics rules do not apply only to attorneys who are acting in their role as advocates for others
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
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]

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]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
govern discipline of attorneys and do not create disqualification standards for courts but may be used for guidance
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

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 and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
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 [28 Cal.Rptr.2d 617]
CAL 2001-155, CAL 1998-152, CAL 1996-145, CAL 1997-149, CAL 1997-148
LA 504 (2000), LA 470 (1992)
SD 2011-2, SD 1993-1, SD 1989-4
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
"lawyer" defined
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]

purpose of the rules
-protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Rules of Professional Conduct serve as an expression of public policy to protect the public
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
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]
Rule 1-110 Disciplinary Authority of the State Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
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
In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
Rule 1-120 Assisting, Soliciting, or Inducing Violations.
CAL 1993-128, CAL 1992-126
LA 522 (2009), LA 518 (2006)
Rule 1-200 False Statement Regarding Admission to the Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
Rule 1-300 Unauthorized Practice of Law.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
CAL 2001-155, SD 2007-1
Rule 1-310 Forming a Partnership With a Non-Lawyer.
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 1999-154, CAL 1995-142, CAL 1995-141
LA 518 (2006), LA 510 (2003), LA 488 (1996)
Rule 1-311 Employment of Disbarred, Suspended, Resigned, or Voluntary Inactive Member
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
Rule 1-320 Financial Arrangements With Non-Lawyers.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
McIntosh v. Mills (2004) 121Cal.App.4th 333 [17 Cal.Rptr.3d 66]
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
CAL 1999-154, CAL 1997-148, CAL 1995-143, CAL 1995-142, CAL 1995-141, CAL 1992-126
LA 523 (2009), LA 518 (2006), LA 515 (2005), LA 510 (2003), LA 488 (1996),
LA 461, LA 457, SD 1989-2
Rule 1-400 Advertising and Solicitation.
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Rubin v. Green (1993) 4 Cal.4th 1187
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
CAL 2004-167, CAL 2004-166, CAL 2004-165, CAL 2001-155, CAL 1999-154, CAL 1997-150, CAL 1997-148, CAL 1995-144, CAL 1995-143, CAL 1995-142, CAL 1995-141, CAL 1993-129
LA 494 (1998) LA 474, SD 1996-1, SD 1992-3, OC 93-001
Standard 1
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
Standard 4
SD 2000-1
Standard 5
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Standard 8
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
LA 516 (2006)
Standard 9
LA 516 (2006), LA 511 (2003)
Use of former employer's client lists for solicitation purposes
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Rule 1-500 Agreements Restricting a Member's Practice.
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
CAL 2009-176
LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990)
Rule 1-600 Legal Service Programs.
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
CAL 1997-148, CAL 1992-126, LA 500 (1999)
Rule 1-650 Limited Legal Services Programs
CAL 2011-182
Rule 1-700 Member as Candidate for Judicial Office
Rule 1-710 Member as Temporary Judge, Referee, or Court-Appointed Arbitrator
LA 514 (2005)
Rule 2-100 Communication With a Represented Party.
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Jackson v. Ingersoll-Rand (1996) 42 Cal.App.4th 1163
Continental Insurance Company v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 2011-181, CAL 2009-178, CAL 1996-145, CAL 1993-133, CAL 1993-131, CAL 1991-125, CAL 1989-110,
LA 508 (2002), LA 502 (1999), LA 490, LA 487, LA 472
SD 2011-2, SD 2005-1
public officer, board committee or body exception
-not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
Rule 2-200 Financial Arrangements Among Lawyers.
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
CAL 2004-165
LA 518 (2006), LA 503 (2000), LA 486, LA 473 (1993),
LA 470 (1992), LA 467 (1992)
association of outside counsel not a basis for exemption from rule 2-200 requirements
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
does not apply to partnership agreements with respect to fees from unfinished cases taken by departing partner
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
-attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
-failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
purpose of the rule
-protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
use of client confidential information in action to recover unpaid attorney referral fees
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
Rule 2-300 Sale or Purchase of a Law Practice of a Member, Living, or Deceased.
LA 475 (1993)
Rule 2-400 Discriminatory Conduct in a Law Practice (operative March 1, 1994)
Rule 3-100
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
CAL 2011-182, CAL 2010-179, CAL 2008-175, CAL 2007-173, CAL 2005-168, CAL 2003-161
LA 520 (2007)
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Rule 3-110 Failing to Act Competently
Oliveros v. County of Los Angeles (2004) 120 Cal.App.4th 1389 [16 Cal.Rptr.3d 638]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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 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 Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
CAL 2011-182, CAL 2010-179, CAL 2008-175, CAL 2007-173, CAL 2005-168, CAL 2004-165, CAL 2003-164, CAL 2003-163, CAL 2003-162, CAL 2003-161, CAL 2002-158, CAL 1997-150, CAL 1992-126
LA 522 (2009), LA 521 (2007), LA 518 (2006), LA 512 (2004), LA 504 (2000),

LA 502 (1999), LA 488 (1996), LA 471 (1992)
SD 2007-1, SD 1997-2
attorney violates 3-110(A) when he failed to represent client with undivided loyalty, to exercise independent judgment on client's behalf, and to act in client's best interests
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
negligent legal representation by itself does not prove misconduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Rule 3-120
OC 2003-02

Rule 3-200 Prohibited Objectives of Employment.
Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
CAL 1996-146
LA 522 (2009), LA 502 (1999)
high ethical and professional standards of an attorney and an officer of the court require him to inform client that an attorney is precluded from pursuing an appeal that is frivolous or taken for the purpose of delay
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

Rule 3-210 Advising the Violation of Law.
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
CAL 2003-162, CAL 1996-146
LA 522 (2009), LA 520 (2007), LA 502 (1999)
SD 1993-1

Rule 3-300 Avoiding Adverse Interests.
In re Tallant (9th Cir. 1998) 218 B.R. 58
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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 Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr.
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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
CAL 2009-178, CAL 2006-170, CAL 2003-164, CAL 2002-159, CAL 1999-154, CAL 1995-140, CAL 1995-141, CAL 1994-135, CAL 1994-136, CAL 1993-130, CAL 1989-116
LA 521 (2007), LA 507 (2001), LA 496 (1998), LA 492 (1998), LA 477 (1994)
OC 93-002
SD 1992-1, SD 1989-2, SF 1997-1
attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

Rule 3-310 Avoiding the Representation of Adverse Interests.
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180, fn. 4 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
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 [28 Cal.Rptr.2d 617]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
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]
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
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]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Wyshak (Review Dept. 1999) 4 Cal State Bar Ct. Rptr. 70
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
CAL 2011-182, CAL 2009-178, CAL 2004-165, CAL 2003-164, CAL 2003-163, CAL 2003-162, CAL 2003-161, CAL 2002-159, CAL 2002-158, CAL 2001-156, CAL 1999-154, CAL 1999-153, CAL 1998-152, CAL 1997-148, CAL 1995-141, CAL 1995-140, CAL 1995-139, CAL 1993-138, CAL 1993-129, CAL 1993-128, CAL 1992-126, CAL 1989-116, CAL 1989-113
LA 521 (2007), LA 513 (2005), LA 507 (2001), LA 506 (2001),
LA 502 (1999), LA 501 (1999), LA 500 (1999), LA 492 (1998),
LA 471 (1992), LA 468 (1992), LA 465 (1991), LA 463, LA 461, LA 462, LA 459 (1990), LA 379
SD 2006-1, SD 1997-2, SD 1990-3, SD 1989-4
OC 95-002, OC 94-003
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
paragraph (B)
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
paragraph (E)
Kirk v, First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
-no conflict where the court found that the partner who switched sides had no involvement in the instant action and had not discussed the action with the attornerys at the new law firm and where the firm had not used the new partner's services relating to the instant action
Openwave Systems, Inc. v. Myriad France S.A.S. (2011) WL 1225978, 2011 U.S. Dist. Lexis 93147
paragraph (F)
LA 510 (2003)
-fees paid by 3rd party payor
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
Rule 3-320 Relationship With Other Party's Lawyer.
SD 1989-4
34 Santa Clara L. Rev. 1157 (1994)
Rule 3-400 Limiting Liability to Client.
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
CAL 2009-178, CAL 1992-127, CAL 1989-116
LA 502 (1999), LA 489(1997), LA 471 (1992)
Rule 3-500 Communication.
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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CAL 2009-176, CAL 1994-136, CAL1994-135
LA 512 (2004)

Rule 3-600 Organization as Client
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Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
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*Ronson v. Superior Court (1994) 24 Cal.App.4th 94
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*Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
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client coerced into accepting settlement under threat of attorney's withdrawal
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LA 509 (2002)
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Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Rule 4-100 Preserving Identity of Funds and Property of a Client.
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
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CAL 2006-170, CAL 1994-136, CAL 1994-135, CAL 1988-101
LA 523 (2009), LA 521 (2007), LA 515 (2005), LA 507 (2001),
LA 505 (2000), LA 499 (1999), LA 479 (1994),
LA 467 (1992), LA 458 (1990)
OC 99-001, SF 1999-1
elder abuse cases
-W & I Code § 15657.1 incorporates rule 4-200 by reference
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
Rule 4-210 Payment of Personal or Business Expenses Incurred by or for a Client.
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
CAL 1996-147
LA 517 (2006), LA 499 (1999), LA 495 (1998)
SF 1989-1
Rule 4-300 Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review.
LA 455
Rule 4-400 Gifts From Client.
CAL 2011-180
LA 462
Rule 5-100 Threatening Criminal, Administrative, or Disciplinary Charges.
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
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CAL 1991-124, CAL 1989-106, CAL 1983-73
LA 469 (1992)
SD 2005-1
Rule 5-110 Performing the Duty of Member in Government Service.
CAL 1989-106, CAL 1991-24(I)
Rule 5-120 Trial Publicity (operative October 1, 1995).
Rule 5-200 Trial Conduct.
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
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Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
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In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
CAL 2008-175
LA 522 (2009), LA 504 (2000), LA 502 (1999), LA 497 (1999), LA 482 (1995), LA 464 (1991)
OC 95-001, OC 94-003
SD 2011-1, SD 1990-2
attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Rule 5-210 Member as Witness.
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
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CAL 1993-133
case law articulates an exception not found in Rule 5-210 permitting an attorney to act as a witness where the evidence is otherwise not available
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
Rule 5-220 Suppression of Evidence.
R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]
LA 497 (1999), LA 466 (1991)
Rule 5-300 Contact With Officials.
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
LA 514 (2005), OC 94-001
allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel
In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]
technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
Rule 5-310 Prohibited Contact With Witnesses.
CAL 1997-149
Rule 5-320 Contact With Jurors.
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
SD 2010-1

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Rule 1-100 Rules of Professional Conduct, In General. [See Admission to the bar.]
CAL 1975-33
LA 342 (1973)
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Rule 1-101 Maintaining Integrity and Competence of the Legal Profession. [See Admission to the bar.]
Rule 2-101 Professional Employment. [See Advertising. Business activity. Solicitation.]
Business and Professions Code section 6105
CAL 1988-105, CAL 1987-91, CAL 1986-90, CAL 1982-68, CAL 1982-67, CAL 1982-66, CAL 1982-65, CAL 1981-61, CAL 1981-60, CAL 1981-56, CAL 1980-54
LA 449 (1988), LA 446 (1987), LA 434 (1984), LA 430 (1984), LA 423 (1983), LA 421 (1983), LA 413 (1983), LA 419 (1983), LA 404 (1983), LA 392 (1983), LA 401 (1982), LA 385 (1980), LA 384 (1980), LA 381 (1979)
SF 1980-1, SF 1979-1
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LA 444 (1987), LA 401 (1982)
SD 1983-6
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CAL 1976-40, CAL 1975-32
LA 336 (1973), LA 326 (1972), LA 311 (1969)
SD 1976-4, SD 1976-2, SD 1974-16, SD 1969-6
Rule 2-107 Fees for Legal Services. [See Fees.]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
Roa v. Lodi Medical Group, Inc. (1982) 129 Cal.App.3d 318, 329 [181 Cal.Rptr. 41]
Estate of Effron (1981) 117 Cal.App.3d 915, 926 [173 Cal.Rptr. 93]
In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 296 [149 Cal.Rptr. 918]
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CAL 1987-94, CAL 1987-91, CAL 1988-12(12), CAL 1983-72, CAL 1982-67, CAL 1982-65, CAL 1980-53
LA 431 (1984), LA 416 (1983), LA 413 (1983), LA 391 (1981),
LA 370 (1978), LA 360 (1976)
SD 1982-69, SD 1976-4, SD 1975-4
Rule 2-108 Financial Arrangements among Lawyers. [See Division of fees. Referral of legal business.]
Moran v. Harris (1982) 131 Cal.App.3d 913
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LA 423 (1983), LA 413 (1983), LA 392 (1983), LA 385 (1980)
SD 1978-5, SD 1977-2, SD 1976-13, SD 1976-12
SF 1981-1, SF 1977-1
Rule 2-109 Agreements Restricting the Practice of a Member of the State Bar. [See Restrictive covenant between lawyers.]
CAL 2009-176, LA 468 (1992), LA 445 (1987)
Rule 2-110 Acceptance of Employment. [See Acceptance of employment.]
CAL 1982-65
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Rule 2-111 Withdrawal From Employment. [See Substitution of attorney. Termination of attorney-client relationship. Withdrawal from employment.]
Kirsch v. Duryea (1978) 21 Cal.3d 303, 310-311 [146 Cal.Rptr. 218]
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People v. Goldstein (1982) 130 Cal.App.3d 1024, 1032 [182 Cal.Rptr. 207]
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*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
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LA 371 (1977), LA 367 (1977), LA 362 (1976),
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district attorney called as witness
*People v. Superior Court (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
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CAL 1988-103, CAL 1982-68, CAL 1987-91
LA 436 (1985), LA 426 (1984), LA 413 (1983),
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LA 359 (1976), LA 338 (1973), LA 327 (1972)
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CAL 1984-79

Rule 3-102 Financial Arrangements With Non-lawyers. [See Division of fees.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
CAL 1982-65, CAL 1981-60, CAL 1977-44, CAL 1975-34
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LA 401 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976),
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Rule 3-103 Forming a Partnership With a Non-lawyer [See Business activity, partnership. Misconduct, partnership. Partner, non-lawyer.]
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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
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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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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)
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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
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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.]
CAL 1981-55, CAL 1976-38
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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
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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.]
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SD 1983-10
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
Rule 7-103 Communicating With an Adverse Party Represented by Counsel. [See Adverse party.]
CAL 1979-49, CAL 1977-43, CAL 1975-33
LA 442 (1987), LA 416 (1983), LA 411 (1983), LA 410 (1983), LA 397 (1982), LA 389 (1981), LA 376 (1978), LA 375 (1978), LA 369 (1977), LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 334 (1973), LA 315 (1970)
SD 1984-5, SD 1983-11, SD 1983-9, SD 1983-2, SD 1978-9, SD 1978-8, SD 1978-6, SD 1978-4, SD 1978-3, SD 1976-14, SD 1972-5, SD 1968-2
SF 1973-25
Rule 7-104 Threatening Criminal Prosecution. [See Threatening criminal prosecution.]
CAL 1983-73
SD 1984-2, SD 1978-9, SD 1978-6, SD 1978-3
SF 1975-6
Rule 7-105 Trial Conduct. [See Trial conduct.]
LA 408 (1982), LA 394 (1982)
SD 1983-3, SF 1977-2
Rule 7-106 Communication With or Investigation of Jurors. [See Contact with jurors. Jurors, communication with or investigation of.]
CAL 1988-100, CAL 1987-95, CAL 1976-39
Rule 7-107 Contact With Witnesses. [See Witness.]
CAL 1983-74, LA(I) 1975-3, SD 1984-4
subsection (A)
CAL 1984-76
subsection (C)
CAL 1984-79
Rule 7-108 Contact With Officials. [See Contact with officials. Judges.]
LA 387 (1981), LA 343 (1974)
subsection (B)
CAL 1984-78
LA 451 (1988)
Rule 8-101 Preserving Identity of Funds and Property of a Client. [See Client trust account.]
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
CAL 1988-97, CAL 1975-36
LA 454, LA 438 (1985), LA 407 (1982), LA 388 (1981), LA 357 (1976)
SD 1976-5
SF 1984-1, SF 1980-1, SF 1976-2
subsection (B)(3)
SF 1984-1

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
LA 346 (1975), LA 342 (1973)
SD 1976-13, SD 1976-11, SD 1976-9, SD 1976-8, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-15, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-16, SD 1974-11, SD 1974-9, SD 1974-7, SD 1974-3, SD 1973-10, SD 1973-8, SD 1973-6, SD 1972-16,SD 1972-9, SD 1969-7, SD 1969-6,
SF 1976-2, SF 1975-3
Rule 2-102 Publicity in General. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1975-32
LA 349 (1975), LA 346 (1975), LA 328 (1972), LA 327 (1972), LA 316 (1970), LA 307 (1968)
SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-7, SD 1974-11, SD 1974-10, SD 1973-8, SD 1973-10, SD 1973-4, SD 1973-14, SD 1972-16, SD 1969-6
SF 1976-2
Rule 2-103 Professional Notices, Letterheads, Offices, and Law Lists. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1982-66, CAL 1975-32, CAL 1971-24
LA 384 (1980), LA 349 (1975), LA 346 (1975), LA 345 (1975), LA 340 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972), LA 325 (1972), LA 324 (1971), LA 320 (1970), LA 310 (1969), LA 306 (1968)
SD 1976-11, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-16, SD 1975-15, SD 1975-14, SD 1975-11, SD 1975-9, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-11, SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-6, SD 1973-1, SD 1972-16, SD 1969-6, SD 1969-5, SD 1969-4
SF 1976-2, SF 1975-3, SF 1975-1, SF 1974-5, SF 1974-1
Rule 2-104 Recommendation for Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)
CAL 1977-44, CAL 1977-42, CAL 1975-32
LA 339 (1973), LA 336 (1973), LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 322 (1971), LA 313 (1969), LA 311 (1969)
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
SF 1976-2, SF 1975-3
Rule 2-106 Specialization. (Repealed by order of Supreme Court, effective April 1, 1979.)
SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-16, SD 1975-15
SF 1976-2
Rule 1 (Rules of Professional Conduct, In General)
CAL 1971-27, CAL 1971-24, CAL 1970-22, CAL 1970-20, CAL 1969-18, CAL 1967-8, CAL 1967-12, CAL 1967-11, CAL 1967-10, CAL 1966-5, CAL 1965-3
LA 339 (1973), LA 336 (1973), LA 335 (1973), LA 323 (1971), LA 320 (1970), LA 287 (1965)
SD 1974-6, SD 1972-17, SD 1972-2
SF 1973-26, SF 1973-23, SF 1973-7, SF 1972-1
Rule 2 (Advertising and Solicitation)
CAL 1982-65, CAL 1972-29, CAL 1971-27, CAL 1971-24, CAL 1970-20, CAL 1969-19, CAL 1969-18, CAL 1969-17, CAL 1968-15, CAL 1968-13, CAL 1967-12, CAL 1967-10,

CAL 1967-8, CAL 1967-7, LA 342 (1973), LA 340 (1973), LA 336 (1973), LA 335 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 324 (1971), LA 322 (1971), LA 321 (1971), LA 319 (1970), LA 318 (1970), LA 316 (1970), LA 314 (1970), LA 313 (1969), LA 308 (1968), LA 307 (1968), LA 303 (1968), LA 301 (1967), LA 299 (1965), LA 298 (1965), LA 297 (1965), LA 296 (1965), LA 294 (1966), LA 293 (1965), LA 289 (1965), LA 287 (1965), LA 286, LA 285 (1964), LA 281 (1963), LA 280 (1963), LA 268 (1960), LA 262 (1959), LA 260 (1959), LA 258 (1959), LA 257 (1959),LA 256 (1959), LA 255 (1958), LA 250 (1958), LA 247 (1957), LA 244 (1957), LA 241 (1957), LA 240 (1957), LA 236 (1956), LA 235 (1956), LA 227 (1955), LA 225 (1955), LA 224 (1955), LA 221 (1954), LA 215 (1953), LA 214 (1953), LA 210 (1953), LA 209 (1953), LA 206 (1953), LA 201 (1952), LA 200 (1952), LA 199 (1952), LA 198 (1952), LA 196 (1952), LA 187 (1951), LA 185 (1951), LA 184 (1951), LA 181 (1951), LA 180 (1951), LA 179 (1951), LA 178 (1950), LA 175 (1950), LA 173 (1950), LA 172 (1950), LA 171 (1950), LA 169 (1949), LA 167 (1948), LA 165 (1947), LA 164 (1947), LA 163 (1947), LA 160 (1945), LA 158 (1945), LA 157 (1945), LA 156 (1945), LA 155 (1945), LA 153 (1945), LA 152 (1945), LA 151 (1945), LA 150 (1945), LA 148 (1944), LA 147 (1943), LA 145 (1943), LA 142 (1943), LA 140 (1942), LA 137 (1941), LA 135 (1941), LA 134 (1940), LA 131 (1940), LA 128 (1940), LA 127 (1940), LA 122 (1939), LA 119 (1938), LA 110 (1937), LA 107 (1936), LA 104 (1936), LA 101 (1936), LA 100 (1936), LA 98 (1936), LA 97 (1936), LA 96 (1936), LA 95 (1936), LA 92 (1936), LA 90 (1935), LA 87 (1935), LA 85 (1935), LA 84 (1935), LA 83 (1935), LA 71 (1933), LA 70 (1933), LA 65 (1931), LA 64 (1930), LA 63 (1930), LA 62 (1930), LA 58 (1928), LA 55 (1928), LA 43 (1927), LA 42 (1927), LA 38 (1927), LA 34 (1927), LA 29 (1925), LA 28 (1925), LA 26 (1925), LA 25 (1923), LA 24 (1923), LA 17 (1922), LA 13 (1921), LA 12 (1921), LA 11 (1921), LA 8 (1920), LA 3 (1917), LA 1 (1917)
SD 1975-17, SD 1975-16, SD 1975-14, SD 1975-5, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-16, SD 1974-11, SD 1974-10, SD 1974-9, SD 1974-7, SD 1974-3, SD 1973-14, SD 1973-10, SD 1973-8, SD 1973-6, SD 1973-4, SD 1973-1, SD 1972-9, SD 1969-6, SD 1968-4
SF 1974-2, SF 1973-27, SF 1973-11, SF 1973-7, SF 1972-1

Rule 3 (Touting, Division of Fees, Aiding Unauthorized Practice of Law, Exploitation of Lawyer's Services)
CAL 1982-65, CAL 1975-34, CAL 1971-24, CAL 1969-18
LA 344 (1974), LA 339 (1973), LA 338 (1973), LA 335 (1973), LA 332 (1973), LA 328 (1972), LA 327 (1972), LA 325 (1972), LA 314 (1970), LA 306 (1968), LA 301 (1967), LA 299 (1966), LA 298 (1966), LA 295 (1966), LA 292 (1965), LA 286 (1965), LA 279 (1963), LA 277 (1963), LA 270 (1962), LA 262 (1959), LA 249 (1958), LA 240 (1957), LA 222 (1954), LA 194 (1952), LA 190 (1952), LA 166 (1947), LA 162 (1947), LA 156 (1945), LA 151 (1945), LA 149 (1944), LA 137 (1941), LA 135 (1941), LA 106 (1936), LA 99 (1936), LA 96 (1936), LA 89 (1935), LA 80 (1935), LA 73 (1934), LA 69 (1933), LA 61 (1930), LA 59 (1930), LA 54 (1927), LA 44 (1927), LA 36 (1927), LA 35 (1927), LA 18 (1922), LA 16 (1922), LA 12 (1921), LA 4 (1917)
SD 1975-18, SD 1975-17, SD 1975-13, SD 1974-23, SD 1974-21 1/2, SD 1974-17, SD 1974-7, SD 1972-10, SD 1969-6
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Rule 4 (Avoiding Adverse Interests)
CAL 1981-62
LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959), LA 228 (1955)
SF 1973-16, SF 1973-12

Rule 5 (Accepting Employment Adverse to Client)
LA 344 (1974), LA 341 (1973), LA 333 (1963), LA 276 (1963), LA 269 (1962), LA 266 (1959), LA 262 (1959), LA 252 (1958), LA 246 (1957), LA 231 (1955), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 192 (1952), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 117 (1937), LA 77 (1934), LA 74 (1934), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 30 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)
SD 1976-10, SD 1975-1, SD 1974-15, SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1972-1, SD 1970-2, SD 1969-1, SD 1968-3
SF 1973-22, SF 1973-19, SF 1973-15, SF 1973-10, SF 1973-6

Rule 6 (Disclosure to a Client of Relation with Adverse Party and Interest in Subject Matter)
LA 333 (1973), LA 276 (1963), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 141 (1943), LA 117 (1937), LA 108 (1936), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)
SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3,
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Rule 7 (Representation of Conflicting Interests)
CAL 1970-22
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)
SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3
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Rule 8 (Purchase of Property at Probate, Foreclosure, or Judicial Sale)

Rule 9 (Duty in Respect to Client's Funds and Property)
LA 149 (1944)
SF 1973-14, SF 1970-3

Rule 10 (Advising Commencement, Prosecution or Defense of a Case Unless Consulted or Related)
LA 331 (1973), LA 326 (1972), LA (1969), LA 163 (1947), LA 158 (1945), LA 122 (1939), LA 93 (1936), LA 62 (1930)

Rule 11 (Advising Violation of the Law)
LA 47 (1927), LA 41 (1927)

Rule 12 (Communicating With an Adverse Party Represented by Counsel)
CAL 1979-49, CAL 1975-33, CAL 1965-3
LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 326 (1972), LA 315 (1970), LA 234 (1956), LA 350 (1975), LA 213 (1953)
SD 1978-8, SD 1968-2
SF 1973-25, SF 1973-4

Rule 13 (Acceptance of Employment for Purpose of Harassment, Delay, or Spite)
LA 208 (1953)

Rule 14 (Disclosure to Public Body of Professional Capacity)

Rule 15 (Advising Person to Avoid Service of Process or to Secret Self, or Otherwise Make Testimony Unavailable)

Rule 16 (Communicating with Judge not in Open Court, in Absence of Opposing Counsel)
LA 56 (1928), LA 37 (1927)
Rule 17 (Trial Conduct, Misquotation to and Deception of Judge)
Rule 18 (Advising Inquirers in Respect to Specific Legal Questions through the Media)
CAL 1972-29, CAL 1969-17, CAL 1967-12
LA 318 (1970), LA 307 (1968), LA 299 (1966), LA 286 (1965), LA 221 (1954), LA 200 (1952), LA 186 (1951), LA 175 (1950), LA 87 (1935), LA 34 (1927), LA 8 (1920)
SD 1974-16, SD 1969-6
Rule 19 (Employment of Unlicensed Person to Appear on Behalf of Member before a Board or Agency
LA 332 (1973), LA 166 (1947), LA 156 (1945), LA 143 (1943)
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Rule 20 (Participation of Members in a Legal Aid Plan)
SD 1978-2, SD 1975-17, SD 1974-19, SD 1974-9
Rule 22 (Division of Fees Among Lawyers)
LA 332 (1973)
Rule 23 (Furnishing Legal Services Pursuant to Arrangement for Prepaid Legal Services)
SD 1975-13

RUNNERS AND CAPPERS [See Solicitation of business.]
Business and Professions Code sections 6076, 6150-6154
Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Runners and Cappers Act
In re Arnoff (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]
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Younger v. State Bar (1974) 12 Cal.3d 274, 287 [113 Cal.Rptr. 829]
Honoroff v. State Bar (1958) 50 Cal.2d 202, 205
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People v. Kitsis (1977) 77 Cal.App.3d Supp. 1, 6 [143 Cal.Rptr. 537]
Hutchins v. Municipal Court (1977) 61 Cal.App.3d 77 [132 Cal.Rptr. 758]
People v. Levy (1935) 8 Cal.App.2d Supp. 763
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In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
In the Matter of Nelson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
CAL 1995-143
Agent
Business and Professions Code section 6151(b)
Defined
Business and Professions Code section 6151(a)
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
Business and Professions Code section 6152(b)
Unlawful acts
Business and Professions Code section 6152(a)

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
In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518

SANCTIONS [See Acceptance of employment.]
Corralejo v. Quiroga (1984) 152 Cal.App.3d 871 [199 Cal.Rptr. 733]
Abuse of discovery
Guzman v. General Motors Corp. (1984) 154 Cal.App.3d 438, 445-447 [201 Cal.Rptr. 246]
Abuse of discretion in imposing
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
court cannot sanction pro hac vice attorney for misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
court has no statutory authority to impose monetary sanctions against pro hac vice attorney for misconduct, but in its discretion, court may revoke attorney's status
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
district court did not give attorney notice or opportunity to be heard
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
under Penal Code § 1054.5(c)
-before excluding witness testimony court must consider and exhaust all other sanctions
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
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 for failure to appear at oral argument without adequate justification
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
Against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
Against attorney for motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Against attorney is reviewable only after final judgment is entered
Sanders Associates v. Summargraphics Corp (1993) 2 F.3d 394
order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision
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
Against the attorney for violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
Agreement regarding allocation of future sanction payments may be ethical with adequate disclosure to the client
CAL 1997-151
Arbitration proceedings
arbitrator's award of sanctions proper for mishandling of inadvertently received privileged documents
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
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
Falstaff Brewing Corp. v. Miller Brewing Co. (9th Cir. 1983) 702 F.2d 770
filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
improper for violation of Rule of Professional Conduct
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
in dissolution matter
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
Authority of court
Code of Civil Procedure section 128.5
-inherent authority of appellate court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 828-829
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Rush v. Weinzettl (1993) 14 Cal.App.4th 66 [17 Cal.Rptr.2d 354]
attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
bankruptcy court has the power to disbar or suspend for misconduct
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
court allowed to impose sanctions on its own motion, but attorney must be afforded procedural due process protections pursuant to CCP § 177.5
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
court may not impose sanction summarily and orally from the bench; CCP § 177.5 requires that sanction be written and contain a detailed recitation of the conduct or circumstances justifying such sanction
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]
People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5 [204 Cal.Rptr. 563]
-award of "reasonable expenses" as sanction under CCP § 437c does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
improper sanctions imposed when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
Foxgate Homeowners' Association, Inc. v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
inherent power
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
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]
Awarded by the court
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
after rendering of verdict
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
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
in order to be awarded, a compensatory award must be linked to a harm caused by attorney's statement; large non-compensatory awards are akin to criminal contempt
Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024
Bad faith
no bad faith violation found where attorney did not, in fact, violate the district court's order
Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024
Bankruptcy court
against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

authority to impose its own sanctions and to refer the matter to the State Bar
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
consideration of ABA standards to categorize misconduct and to identify the appropriate sanction
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
court did not err when it imposed discovery sanctions against attorney/debtor for transferring property with intent to hinder, delay or defraud creditor
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
imposition of sanctions against attorney for filing bankruptcy petition without corporate authorization and failing to conduct reasonable inquiry was appropriate
In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64
Complaint filed without legal or factual justification
Ramsey v. City of Lake Elsinore (1990) 220 Cal.App.3d 1530 [269 Cal.Rptr. 198]
Copyright action under 17 U.S.C. § 505
Neft v. Vidmark, Inc. (9th Cir. 1991) 923 F.2d 746
Deposition
instructions not to answer sanctionable
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper
In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19
Discovery sanctions
complaint need not specify by dollar amount the attorney fees that will be incurred and sought in a case ultimately resolved by a default judgment entered as a terminating sanction
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
discovery sanctions against attorney may be a significant development and should be communicated to the client
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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
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
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)
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]
dismissal of special circumstance allegation improper as discovery sanction
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
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Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
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Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
trustee lacked standing to appeal order awarding discovery sanctions against counsel
In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372
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sanctions levied on party not the attorney for the party
Lockary v. Kayfetz (9th Cir. 1992) 974 F.2d 1166
sanctions levied only on lawyers, not law firms
Pavelic & LeFlor v. Marvel Entertainment Group (1989) 493 U.S. 120
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award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
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evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
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DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
For contempt of court
inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
it was improper for trial court to impose multiple punitive contempt judgments for attorney's failure to pay discovery sanctions
In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
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Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
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Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
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*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

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sanctions under CCP § 128.5 require notice of grounds and opportunity to respond
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Imuta v. Nakano (1991) 233 Cal.App.3d 1570
dismissal of special circumstance allegation improper as discovery sanction
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
failure of law firm to disclose corporate client's suspended status is sanctionable even though firm did not engage in any abuse of the discovery process
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision and thus not immediately appealable
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
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Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
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and for bad faith, vexatious, wanton, or oppressive reasons
Int'l. Union of P.I.W v. Western Indus. Main. (9th Cir. 1983) 707 F.2d 425, 428
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-order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
in frivolous habeas corpus petitions, sanctions should be imposed sparingly, except in most egregious cases, so as not to discourage use of the writ
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For obstreperous actions of counsel
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For violation of protective order
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For waste of court's resources
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Harsh judicial words constitute sanction only if they are expressly identified as reprimand
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Imposed by State Bar against disciplined attorneys under Business and Professions Code § 6086.13
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In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
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court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
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*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
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Not properly imposed on client for alleged failure of counsel to adhere to court rule
Estate of Meeker (1993) 13 Cal.App.4th 1099 [16 Cal.Rptr. 825]
On attorney and client
Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]
appropriate method for dealing with unjustified litigation
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 873-874 [254 Cal.Rptr. 336]
Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Probate court
award of monetary sanctions and attorney's fees improper for violation of Rule of Professional Conduct
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Prosecutor
failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
Public defender
not imposed for filing misleading emergency petition where factual omission resulted from mistake
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
Reciprocal Discovery Rule
In re Thomas F. (2003) 113 Cal.App.4th 1249 [7 Cal.Rptr.3d 19]
Reliance on State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
Reporting of sanctions
court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
Scheduling depositions and serving subpoenas when opposing counsel is known to be out of the country
Tenderloin Housing Clinic, Inc. v. Sparks (1992) 8 Cal App. 4th 299
State Bar discipline imposed for repeated sanctions
Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
Trial court award of attorney fees
Benson v. Greitzer (1990) 220 Cal.App.3d 11 [269 Cal.Rptr. 201]
Two requirements: just and related to particular claim as to discovery
Wyle v. R.J. Reynolds Industries, Inc. (9th Cir. 1983) 709 F.2d 585, 591
Under Code of Civil Procedure section 128.5
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
bad faith intentional concealment of evidence
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]

bad faith required for sanctions
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Muega v. Menocal (1996) 50 Cal.App.4th 868 [57 Cal.Rptr.2d 697]
Javor v. Dellinger (1992) 2 Cal.App.4th 1258
On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568
-evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
bad faith submission of forged documents
Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]
bad faith violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
duty to report the imposition of sanctions to State Bar not excused solely because of the pendency of an appeal
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 867
filing a frivolous lawsuit
Andrus v. Estrada (1995) 39 Cal.App.4th 1030
filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
order must specify attorney misconduct
Jansen Associates, Inc. v. Codercard Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]
require written notice of hearing
O'Brien v. Cseh (1983) 148 Cal.App.3d 957 [196 Cal.Rptr. 409]
"reasonable expenses" cannot be read to amount to consequential damages
Brewster v. Southern Pacific Transportation Co. (1991) 235 Cal.App.3d 701
Under Code of Civil Procedure section 128.7, the purpose is to deter frivolous actions and give the offending party the opportunity to withdraw or correct the pleading
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]
action not frivolous under CCP §128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
attorney's fees may not be awarded as a sanction under Code of Civil Procedure §128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
Under Code of Civil Procedure section 177.5
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr. 2d 308]
calculated decision to violate a court order
Scott Moody, Inc. v. Staar Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
imposition of monetary sanctions for failing to obey court order is within discretion of the trial court
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
no statutory authority under CCP §177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
when attorney leaves courtroom after being told not to leave
Seykora v. Superior Court (1991) 232 Cal.App.3d 1075
Under Code of Civil Procedure sections 2030(1) and 2023(b)(1)
discovery sanctions not available to attorney who litigates in propria persona
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Under Code of Civil Procedure section 2033
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
Under Penal Code § 1054.5
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
Vexatious litigant
attorney appearing for client is not a litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
Violation of the Rules of Professional Conduct
technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
When defendant and attorneys fail to appear at deposition
Rockwell International Inc. v. Pos-A-Traction Industries (9th Cir. 1983) 712 F.2d 1324, 1326

SEARCH WARRANT FOR LAW OFFICE
Penal Code sections 1524, 1525
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
United States v. Mittleman (1993) 999 F.2d 440
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

SEMINARS
LA 286 (1965), LA 221 (1954)
SD 1974-16, SD 1974-21

SETTLEMENT
Acceptance of settlement offers
subsequent rejection
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
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]
Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
Authority of attorney
Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]
Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]

general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
By attorney representing insured defendant for amount above policy limit
LA 239 (1957)
Check issued only to client, but delivered to attorney who has a lien
OC 99-002
Class action
abuse of discretion
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
class member has standing to appeal final award of costs and fees which were payable by defendants independently rather than from class settlement
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
court must have sufficient information to make an informed evaluation on fairness
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
settlement shall not include attorney fees as portion of common fund established for benefit of class
Staton v. Boeing Co. (9th Cir. (Washington) 2003) 327 F.3d 938
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]
Client cannot be located
LA 441 (1987)
Client may negotiate settlement with opposing party without authorization from the attorneys involved in the case
In re Marriage of Hasso (1991) 229 Cal.App.3d 1174
Client objects
LA 49 (1927)
Communication of written offer
Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
Communication with opposing party about
SD 1978-8
by client
LA 375 (1978)
SF 1973-25
counsel of opposing party refuses to acknowledge offer
LA 350 (1975)
not represented by counsel
LA 170 (1949)
represented by absent counsel
SD 1968-2
represented by counsel
LA 350 (1975)
Communications made during confidential mediation cannot be disclosed without express waiver of parties
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
Eisendrath v. Superior Court (2003) 109 Cal.App.4th 351 [134 Cal.Rptr.2d 716]
Confidential settlement agreement
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]
Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]
LA 512 (2003)
renders CCP § 998 offer invalid
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
Condition settlement on plaintiff's attorney waiving fees
Venegas v. Mitchell (1990) 110 S.Ct. 1679
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
CAL 2009-176, LA 505 (2000), LA 445 (1987)
Conflicting instructions from insurance company and assured
LA 344 (1974)
Corporation's settlement proceeds are claimed by individual members of the board of directors
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
Defense misrepresented principal benefits of settlement
Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]
Deposition of opposing counsel to inquiry of bad or unreasonable conduct of defendant in settlement process
Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]
Disclosure of death of client
LA 300 (1967)
Duty to inform opposing party of mistake
no duty found
LA 380 (1979)
Endorsement of client check
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
Enforceable where attorney stipulated to waiver of mediation confidentiality; client consent not required as substantial rights not affected
Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
Exonerate client in public eye, attorney no duty to
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
Insurance defense matter
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
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]
Judgment call
settlements are often protected judgment calls of attorney
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
Lay person who is adjuster, with
SD 1978-8
Lay person who is employee
LA 277 (1963), LA(I) 1972-19
Malpractice claim
breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]

settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178
Marital settlement agreements
attorney approval not required for parties in dissolution matter to enter into a written marital settlement agreement
In re Marriage of Hasso (1991) 229 Cal.App.3d 1174
scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Minor's compromise
trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
Negotiation for an in propria persona litigant
LA 502 (1999)
Negotiations not to prosecute
CAL 1986-89
No client consent obtained
Sampson v. State Bar (1974) 12 Cal.3d 70 [115 Cal.Rptr. 43]
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]
CAL 1994-136
Offer
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Cassin v. Financial Ind. Co. (1958) 160 Cal.App.2d 631 [325 P.2d 228]
fee-waiver offer to plaintiff is not ethically prohibited
CAL 2009-176
informing client of written offer to settle
Rule 3-510, Rules of Professional Conduct
plaintiff entitled to award of attorney's fees as prevailing party where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
settlement offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
settlement offer under Code of Civil Procedure section 998, that is silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
Oral acceptance of settlement offers
subsequent rejection
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Represent in settlement when fee owed by client comes out of settlement
LA 350 (1975)
SD 1975-4
Requires client's consent
Elyaoudayan v. Hoffman (2003) 104 Cal.App.4th 1421 [129 Cal.Rptr.2d 41]
Sampson v. State Bar (1974) 12 Cal.3d 70, 82
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497
LA 505 (2000)
Restricts right of attorney to practice law
Rule 1-500, Rules of Professional Conduct
Revocation of settlement offer
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Stop payment of check for
LA(I) 1966-5
Structured settlement, use of
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Franck v. Polaris E-Z Go Division of Textron (1984) 157 Cal.App.3d 1107, 1116, 1119
31 A.L.R.4th 96 (1984)
31 Am.Jur. Trials 605 (1984)
70 A.B.A.J. 67 (May 1994)
CAL 1994-135, CAL 1987-94
Unauthorized settlement
client coerced into accepting settlement under threat of attorney's withdrawal
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
client may not accept benefits of a settlement negotiated by that client's attorney and, at the same time, disavow the settlement to the extent that it is against the client's perceived interest
Hurvitz v. St. Paul Fire & Marine Ins. Co. (2003) 109 Cal.App.4th 918 [135 Cal.Rptr.2d 703]
no client consent or knowledge
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Sampson v. State Bar (1974) 12 Cal.3d 70, 82 [115 Cal.Rptr. 43]
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]
Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 480-481 [219 Cal.Rptr. 52]
CAL 1994-135, LA 441 (1987)
ratification, client enforcement of beneficial part of
City of Fresno v. Baboian (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]
Under Code of Civil Procedure 998
court has discretion in evaluating the reasonableness of the settlement offer or its refusal
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
expert witness fees awarded to public entity where plaintiffs failed to raise at trial the issue of the award's financial impact on them or to create a factual record to resolve the issue in their favor
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
withdrawal of oral acceptance
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Workers' Compensation cases
claimant's attorney is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
Written offer of, communication to client
Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

SEXUAL RELATIONS WITH CLIENT

Rule 3-120, Rules of Professional Conduct.
Business & Professions Code Section 6106.9
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]
CAL 1987-92, OC 2003-02
SMALL CLAIMS COURT
Attorney's appearance in
LA 105 (1936)
SOLICITATION OF BUSINESS [See Advertising. Business activity. Fee. Lay intermediaries. Referral of legal business. Runners and cappers.]
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CAL 1988-105
LA(I) 1974-6, LA(I) 1972-16, LA(I) 1959-2,
Acceptance of employment resulting from unsolicited advice
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Ambulance chasing
Tonini v. State Bar (1956) 46 Cal.2d 491, 497
Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]
Waterman v. State Bar (1939) 14 Cal.2d 224 [93 P.2d 95]
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Clark v. State Bar (1931) 214 Cal. 281, 284 [4 P.2d 944]
Dudney v. State Bar (1931) 214 Cal. 238, 239 [4 P.2d 770]
Dahl v. State Bar (1931) 213 Cal. 160 [1 P.2d 977]
Irving v. State Bar (1931) 213 Cal. 81 [1 P.2d 2]
Howe v. State Bar (1931) 212 Cal. 222 [298 P. 25]
Smallberg v. State Bar (1931) 212 Cal. 113 [297 P. 916]
Shaw v. State Bar (1931) 212 Cal. 52 [297 P. 532]
Smith v. State Bar (1930) 211 Cal. 249 [294 P. 1057]
Townsend v. State Bar (1930) 210 Cal. 362 [291 P. 837]
SD 2000-1
investigation service in personal injury matters
CAL 1995-144, LA 474 (1993)
Announcement to clients
of association of firm specializing in tax matters
LA 119 (1938)
Assigned counsel, by
Business and Professions Code section 6152(d)
SD 1968-4
Attorney remunerates another for soliciting or obtaining professional employment
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 510 [225 P.2d 508]
Hildebrand v. State Bar (1941) 18 Cal.2d 816, 824 [117 P.2d 860]
Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
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LA 342 (1973)
Broadcasting [See Advertising, Broadcasting and Solicitation, Radio or television.]
Brochure
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LA 419 (1983)
Business activity as means for
LA 262 (1959), LA(I) 1965-3
By adjustment of fees
lower fees
-in return for guaranteed additional work
LA 322 (1971)
By attorney
of attorney
CAL 1981-61
of clients
-engaged in dual occupation
--real estate business
CAL 1981-61
LA 446 (1987), LA 413 (1983), LA 140 (1942)
of those with interests similar to those of existing client
SD 1976-3
By attorney at hospital
Business and Professions Code sections 6150-6154
Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 450
Mitton v. State Bar (1958) 49 Cal.2d 686, 688 [321 P.2d 13]
Hildebrand v. State Bar (1941) 18 Cal.2d 816, 822 [117 P.2d 860]
Fish v. State Bar (1931) 214 Cal. 215, 221 [4 P.2d 937]
By attorney's investigator
Rose v. State Bar (1989) 49 Cal.3d 646, 659
LA 474 (1993)
By business card delivered to accident victim at scene of accident
SD 2000-1
By heir hunter
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
By insurance company attorney
representation of assured
LA 336 (1973)
By lay employee
LA 381 (1979)
By lay entity
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
CAL 1995-143, CAL 1995-144, LA 474 (1993)
attorney employed by
-to advise, counsel and represent employees of
LA 137 (1941)
client for own counsel
LA(I) 1975-1, SD 1974-20
contract to acquire tax title to property
-involving referral to lawyer for compensation
LA 135 (1941)
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LA 257 (1959)
management consultant company
LA 446 (1987)
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LA 140 (1942)
-associated with attorney
LA 140 (1942)
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LA 314 (1970), LA 158 (1945), LA 155 (1945), LA 148 (1944), LA(I) 1934-1
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LA 349 (1975), LA 262 (1959), LA 151 (1944), LA(I) 1948-3
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By legal research service
operated by attorneys
-constitutes practice of law
LA 301 (1967)
By letter
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Primus (1978) 436 U.S. 412, 416 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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]
Utz v. State Bar (1942) 21 Cal.2d 100, 105 [130 P.2d 377]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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LA 404 (1983), LA 24 (1923), LA 3 (1917)
SD 1992-3, SD 1983-5, OC 93-001

of creditors
-advising of claims of which unaware
--offering to represent on percentage basis
LA 122 (1939)
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]
target mail
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 816 [25 Cal.Rptr.2d 816]
targeted to specific potential clients
CAL 1995-142, CAL 1988-105
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to members of trade association
-announce resignation of public office and opening of private practice
LA 127 (1940)
-announce specialized legal services
LA 127 (1940)
to other lawyers
-describing qualifications
LA 29 (1925)
-offering to represent in other jurisdictions
LA 71 (1933)
-requesting referral
CAL 1981-61, SF 1970-2
to prospective clients
CAL 1980-54, SD 1983-5
-advising of meritorious claims
LA 404 (1983), LA 62 (1930)
By mail [See supra, by letter.]
card, professional
-designation of specialized legal services
LA 127 (1940)
-to other lawyers
LA 419 (1983), LA 127 (1940)
target mail
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
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-statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
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SD 1983-5
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-opening law office, announcement of
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-claims against corporation
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-prior to certification
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In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
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44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
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]
Central Hudson Gas & Electric Corp. v. Public Service Comm. Of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
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Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54
Former attorney-employees
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Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
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LA 8 (1917)
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LA 93 (1936)
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-series of articles on tax problems
LA 87 (1935)
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Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233, 453, P.2d 737]
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Internet advertising
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-if approved by court
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Of claims against corporation
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-who will receive part of recovery
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-in radio or television programs
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--answering questions on law submitted by listeners
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LA 299 (1966)
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-religious organization members, referred to attorney employed by
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Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
attorney agrees to use and compensate for services
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Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]
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LA 474 (1993)
attorney supplies "capper" with list of potential clients
Business and Professions Code section 6154
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LA 474 (1993)
contract secured by is void, use of
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Brotherhood of Railroad Trainmen v. VA (1964) 377 U.S. 1 [845 S.Ct. 1113, 12 L. Ed 2d 89]
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LA 494 (1998)
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-where no office
LA 134 (1940)
Target mail
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In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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
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PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
Court's inherent authority to appoint special master to assist in examining documents seized from attorney's offices and in ruling on privilege does not include the power to require parties to bear the cost of a special master's services
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origins of the State Bar Act. [See part I.A. to this Compendium, at Cross Reference Table.]
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Business and Professions Code sections 6000-6228
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Civil Code section 43.95
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Civil Code section 1141.18 (c)
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Education Code section 94360
Education Code section 94361
Government Code section 10307
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Penal Code section 13825
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Offices:
Los Angeles:
1149 South Hill Street
Los Angeles, California 90015
Telephone: (213) 765-1000
Sacramento:
915 "L" Street, Suite 1260
Sacramento, California 95814
Telephone: (916) 444-2762
San Francisco:
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2000
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]
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75 Ops. Cal. Atty. Gen. 137 (9/3/92; No. 92-202)
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CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Enforceability of State Bar rules concerning delegates participating in the State Bar Conference of Delegates
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Federal courts may require membership in the State Bar of California to assure the character and moral fitness and to bring any misconduct to the attention of the State Bar
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nonprofit corporation
-not required to register as a law corporation
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In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
State Bar prosecutors have absolute immunity from monetary liability for performance of prosecutorial functions
Wu v. State Bar of California (C.D. CA 1996) 953 F.Supp. 315
Statutory privileges and immunities protect State Bar and staff from action brought by a disbarred attorney
Rosenthal v. Vogt (1991) 229 Cal.App.3d 69 [280 Cal.Rptr. 1]
Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney
Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]
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Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
STATUTE OF LIMITATIONS [See Professional Liability.]
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Habeas petition
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SUBPOENA
Grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship
U.S. v. Bergeson (9th Cir. (Oregon) 2005) 425 F.3d 1221
Of attorney information regarding client [See Search warrant.]
Prosecutor is not automatically entitled to subpoena a lawyer to testify against his client before a grand jury merely because the information sought is not privileged
U.S. v. Bergeson (9th Cir. (Oregon) 2005) 425 F.3d 1221
Protection from discovery
-subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity
Cooley v. Superior Court (2006) 140 Cal.App.4th 1039 [45 Cal.Rptr.3d 183]

SUBSTITUTION OF COUNSEL [See Withdrawal.]
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*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
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People v. Turner (1992) 7 Cal.App.4th 913
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People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
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Client has absolute right to
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*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
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In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
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Excusable neglect not found when attorney fails to file for trial de novo as a result of taking over a large case load from another attorney including the arbitration matter
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Failure to file substitution form constitutes negligence and may not be imputed to the client
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*People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]
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SUIT AGAINST CLIENT [See Fee, unpaid.]
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-purpose of imposition of requirement to comply with Rule 9.20
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-abuse of discretion or error of law
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Attorney's fees paid in tort-based action were excluded from client's gross income
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074
Contingency fee portion of settlement recovery constitutes taxable income
C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]
Determination of whether attorney's fees are to be included in gross income involves how federal law operates in light of a state's definition of attorney's rights in the action
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074
Failure of attorney to pay
In re Fahey (1973) 8 Cal.3d 842, 849-854
Fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
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Client may have a reasonable belief that attorney continued the client's representation even though attorney had not communicated with the client for two and a half years
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Code of Civil Procedure section 286 requires notice to a party that his attorney has died
California Water Service v. Sidebotham & Son (1964) 224 Cal.App.2d 715 [37 Cal.Rptr. 1]
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Little v. Caldwell (1894) 101 Cal. 553 [36 P. 107]
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Unwin v. Barstow-San Antonio Oil Co. (1918) 36 Cal.App. 508 [172 P. 622]
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Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]
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-attorney in an action may be changed at any time
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-executors had absolute right to change attorneys at any stage of probate proceedings
Estate of McManus (1963) 214 Cal.App.2d 390 [29 Cal.Rptr. 543]
-if discharged without cause, client liable for compensation and damages
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
-may change attorneys at any stage of action even if contingent fee exists
Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
-may discharge attorney at any time unless attorney has vested interest
Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]
-plaintiff was without authority to substitute an attorney adverse to interests of associates
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-retained attorney in criminal case
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-right of a litigant to change attorneys at any stage of a proceeding
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-right to change attorney at any state in action absence any relation of attorney to subject matter
Meadow v. Superior Court (1963) 59 Cal.2d 610 [30 Cal.Rptr. 824, 381 P.2d 648]
-right to discharge attorney even if attorney rendered valuable services
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
-to prohibit discharge, attorney must have a "power coupled with an interest"
People v. Metrim Corp (1960) 187 Cal.App.2d 289 [9 Cal.Rptr. 584]
-wrongfully discharged under contingent fee contract entitled same compensation as if completed contemplated services
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-client's motion to discharge counsel does not require showing of incompetency
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-court discretion for continuance
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-right to discharge retained counsel
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
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-corporate attorney cannot take sides in a serious dispute between owners (dissolution)
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-agreement did not result in a contract coupled with an interest
Fields v. Potts (1956) 140 Cal.App.2d 697 [295 P.2d 965]
-contingent fee contract and assignment were ineffectual to create a power coupled with an interest
Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
-interest must be specific, must be in the subject matter of the litigation and must be beneficial
Redevelopment Agency v. Superior Court (1961) 195 Cal.App.2d 591 [16 Cal.Rptr. 45]
-interest not created by execution of a contingent fee contract
Bandy v. Mt. Diablo Unified School Dist. (1976) 56 Cal.App.3d 230 [126 Cal.Rptr. 890]
-must be a specific, present, and coexisting interest in the subject of the power or agency
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
-must be an interest in the thing itself
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]

-no exception when the relation of the attorney to subject matter arises from his employment
Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]
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-defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
-order preventing attorneys from representing clients contrary to wishes of all those involved
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-over attorney's and defendant's consistent and repeated objections
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Dismissal of case may not terminate attorney-client relationship
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Not necessary to terminate prior agreement where there was only a framework for future representation, contract was not self effectuating, it required reciprocal actions by attorney and client
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Objective standard governs end of relationship
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Undue influence
attorney used party's financial entanglements to coerce an agreement with plaintiff
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LA(I) 1965-16

THIRD PARTY [See Client Trust Account. Conflict of Interest, Fee, paid by third party. Duties of attorney. Liens. Professional liability.]

THREATENING ADMINISTRATIVE ACTION WITH EEOC
CAL 1984-81

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Client of attorney
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Filing of Bar complaint as a prohibited act of extortion
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CAL 1989-106, SF 1975-6
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CAL 1991-124
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-prosecutor effectively calling defense attorney a liar
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OC 95-001
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Admonishment of defense counsel by trial court in front of jury was proper for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
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-advise adversary of contribution to campaign committee of presiding judge in case
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-disclosure
--counsel married to bailiff
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--counsel married to court reporter
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-in admission proceedings
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-in criminal matter defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime
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-refusal to accept
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In re Holmes (1983) 145 Cal.App.3d 934
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In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
defense attorney's isolated reference to the possible penalty did not warrant summary contempt
Watson v. Block (9th Cir. 1996) 102 F.3d 433
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Little v. Kern County Superior Court (2002) 294 F.3d 1075
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Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
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In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
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-presiding judge may defer contempt adjudication to another judge
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-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
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Duty to disclose adverse case in controlling jurisdiction
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-client's prior criminal conviction
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-attorney cannot assume extension of time to answer without communication from opposing counsel
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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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Light v. State Bar (1939) 14 Cal.2d 328 [94 P.2d 35]
In re Wharton (1896) 114 Cal. 367 [46 P. 172]
In re Knott (1887) 71 Cal. 584 [12 P. 780]
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Spearz v. State Bar (1930) 211 Cal. 183, 187 [294 P. 697]
Following conclusion of case, the issue of whether law firm should have been disqualified is moot
Nakano v. United States (9th Cir. 1983) 698 F.2d 1059, 1060
Free speech right of the attorney at issue
Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
Gentile v. State Bar of Nevada (1991) 501 U.S. 1030 [111 S.Ct. 2720]
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--denied where plaintiff had probable cause to sue defendant
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
--notification of State Bar
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-against attorney and client for delay
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-motion devoid of merit, bad faith
Karwasky v. Zachay (1983) 146 Cal.App.3d 679 [194 Cal.Rptr. 292]
Frivolous matter
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County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
attorney appearing for client is not litigant for purposes of being sanctioned as vexatious litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
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In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
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In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
unlawful workplace activity below some threshold level of significance not an issue of public interest for purposes of anti-SLAPP motion to strike, even though it implicates public policy
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
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Immunity
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Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
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
Improper remarks about opposing party during trial corrected by sustained objections and court's admonishment
West v. Johnson & Johnson Products, Inc. (1985) 174 Cal.App.3d 831 [220 Cal.Rptr. 437]
trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
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-must be reported by clerk to State Bar
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Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
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Media and press statements
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Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
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Misconduct by counsel
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-must be reported by clerk to State Bar
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no misconduct found in lawyer's aggressive solicitation of improper opinion testimony
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prosecutor effectively calling defense counsel a liar
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Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
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In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
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Lebbos v. State Bar (1991) 53 Cal.3d 37
attorney knowingly presents false statements which tend to deceive/mislead the court
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
Davis v. State Bar (1983) 37 Cal.3d 231
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In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
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co-counsel for criminal defendant conspire to procure improper dismissal of case by falsely representing whereabouts of client
In re Richardson (1930) 209 Cal. 492, 499
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Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
Di Sabatino v. State Bar (1980) 27 Cal.3d 159
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concealment of suspended corporate client's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
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In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
defense misrepresented principal benefits of settlement
Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]
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Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476
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Ainsworth v. State Bar (1988) 46 Cal.3d 1218
fees requested where none incurred and no supervision of non-attorneys
LA 522 (2009)
knowingly presenting a false statement intending to mislead the court
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litigation privilege
-dismissal of defamation action against law firm justified
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
-judicial or litigation privilege as bar to tort actions based on misrepresentations in context of proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
-may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to earlier litigation
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
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Bach v. State Bar (1987) 43 Cal.3d 848, 855-856 [239 Cal.Rptr. 302]
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Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
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]
pre-signed verification forms
Drociak v. State Bar (1991) 52 Cal.3d 1085
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Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
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Bruns v. State Bar (1931) 213 Cal. 151, 155
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Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 473 [169 Cal.Rptr. 581, 619 P.2d 1005]
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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
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In re Lincoln (1929) 102 Cal.App. 733, 741
Misrepresentation by counsel, willful
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In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
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Misstatement of the law
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failure to disclose to court attorney's purchase of principal estate asset while representing executrix
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Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
failure to disclose to judge earlier order affecting same parties; knowing failure to disclose to judge intended use of granted ex parte order
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People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
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-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]
Solicitation of perjured testimony
In re Allen (1959) 52 Cal.2d 762, 768 [344 P.2d 609]
Special appearances
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]
Statement
use of one that may have been improperly obtained
LA 376 (1978)
Subornation of perjury
attorney instructs client to commit perjury
Paonessa v. State Bar (1954) 43 Cal.2d 222, 226

attorney may not knowingly allow witness to testify falsely, whether he or she is criminal defendant or otherwise
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664]
criminal defendant insists on testifying perjuriously, appropriate and necessary for defense counsel to present request to withdraw
People v. Brown (1988) 203 Cal.App.3d 1335
knowingly countenance the commission of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448]
lack of sufficient evidence to prove attorney advised client to commit perjury
In re Petersen (1929) 208 Cal. 42, 52 [280 P. 124]
no duty to offer on client's behalf testimony which is untrue (in criminal proceeding)
In re Branch (1969) 70 Cal.2d 200, 212 [74 Cal.Rptr. 233]
penalty
In re Jones (1929) 208 Cal. 240, 242-243 [280 P. 964]
presentation of known false claim to insurance company by attorney
People v. Benson (1962) 206 Cal.App.2d 519, 530 [23 Cal.Rptr. 908]
procure and countenance the commission of perjury
In re Allen (1959) 52 Cal.2d 762, 767 [344 P.2d 609]
public defender questions veracity of criminal defendant's witnesses
In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]
requires proof of corrupt agreement between attorney and witness
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
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
Suppression of evidence
Penal Code section 135
Tape recorder, use during trial
People v. Ashley (1990) 220 Cal.App.3d 919 [269 Cal.Rptr. 769]
Two attorneys may question a deponent when deponent has agreed
Rockwell International Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325
Verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
Vexatious litigant
attorney appearing for client is not litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
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
Violation of lawful court order
money sanctions
-not applicable to advocacy of counsel
Code of Civil Procedure section 177.5
Voir dire
defendant in a criminal case may not engage in purposeful race discrimination in the exercise of peremptory challenges
Georgia v. McCollum (1992) 505 U.S. 42 [112 S.Ct. 2348]
denial of defense request to voir dire on racial bias not an abuse of discretion peremptory challenge based on gender violated Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
People v. Chaney (1991) 234 Cal.App.3d 853
proposition 115 restrictions on jury voir dire by counsel not in violation of U.S. Constitution
People v. Adam (1991) 235 Cal.App.3d 916
prosecutor's peremptory challenge of sole black juror
People v. Christopher (1991) 1 Cal.App.4th 666
Withdrawal when client commits perjury
LA(I) 1974-7
Withdrawal when client intends to commit perjury
CAL 1983-74, LA 362 (1976), OC 2003-01
Yield to rulings of court
Business and Professions Code section 6103
Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
whether right or wrong
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
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Rule 5-120, Rules of Professional Conduct (operative October 1, 1995).
TRUST ACCOUNT [See Client's trust account.]
TRUSTEE [See Assignment. Bankruptcy. Estate, trustee.]
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against attorney for trustee
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
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Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
Attorney as trustee, client as beneficiary
Probate Code sections 15687 and 16004(c)
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
Schneider v. State Bar (1987) 43 Cal.3d 784
duty to third party
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
Attorney-client privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) __ U.S. __ [131 S.Ct. 2313]
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
Breach of trustee fiduciary duty
Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234
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Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
Cannot assign legal malpractice claim by trustee of bankruptcy estate
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]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705
Employs himself as counsel for trustee
LA(I) 1966-2
Escrow holder
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
Legatee for testamentary trust
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Non-attorney trustee who represents trust in action to protect trust property engages in unauthorized practice of law
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
Receiver entitled to attorney-client privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
Standing to sue corporate attorneys of "sham" corporation for malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
Trustee as client of attorney
Probate Code section 16247
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

UNAUTHORIZED PRACTICE OF LAW
Business and Professions Code sections 6125, 6126
Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
Advertising as entitled to practice law
contempt of court
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misdemeanor
Business and Professions Code section 6126
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Business and Professions Code section 6127(b)
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advising non-lawyer who performs services in forming corporations for charge
LA 69 (1933)
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CAL 1969-18
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LA 359 (1976)
-independent contractor for
LA 327 (1972)
by client
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-advising agent concerning legality of
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LA 80 (1935)
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-for employees
--directs employees to one attorney
LA 292 (1965)
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Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746, 355 P.2d 490]
LA 402 (1982)
employees of dual practice brokerage/law firm
LA 413 (1983), LA 384 (1980)
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LA 372 (1978)
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LA 426 (1984)
SD 2007-1
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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 (Florida 1992) 613 So.2d 426
out-of-state lawyer
-renting office to
--where public might be misled to believe person admitted in California
LA 99 (1936)
outsourced legal services
LA 518 (2006)
SD 2007-1
partnership with doctor providing legal services
LA 335 (1973)
Rule 1-311, allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
uncharged violation of rule 1-300(A) considered in aggravation and involved moral turpitude
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
Arbitration
Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]
certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
Assuming and acting as attorney without authority
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-arbitration representatives
Code of Civil Procedure section 1282.4
-California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
-hired as "consultant" who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
-lawyer renting office to
--where public might be led to believe person admitted in California
LA 99 (1936)
resigned attorney may not represent parties in state administrative hearings
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suspended from practice, while
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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
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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
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76 Cal. Ops. Gen. 193 (8/30/93; opn. no. 93-303)
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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 regarding 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)
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Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
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out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
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 9.44, 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
Business and Professions Code section 6127
contempt of court
Business and Professions Code section 6127(b)
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
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]
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
lawyer
-disbarred or under suspension
Business and Professions Code sections 6125, 6126, and 6127
Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]
-resigned with charges pending mid-trial
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
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)
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889, 543 P.2d 257]
-use of terms "Legal Aid," "Legal Aid Services," "Legal Services"
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
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 [268 Cal.Rptr. 789, 789 P.2d 922]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
while living out-of-state, indicating only that respondent was licensed in California, no indication such as "only" in California or "not licensed" in other state
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
Immigration matters
use of Notarios or Notarios publicos
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Inactive member
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121

Individuals with Disabilities Education Act (IDEA) allows parents to prosecute claims under the act on their own behalf without representation by counsel
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
Ineffective assistance of counsel
People v. Johnson (1990) 224 Cal.App.3d 52
in-house counsel representing insureds
CAL 1987-91
Internet advertising
CAL 2001-155
Investigation service
in personal injury matters
-not agree to collect any claim for damages
--not practice of law
LA 81 (1935)
Lay person
may not represent another
Simon v. Hartford Life, Inc. (9th Cir. 2008) 546 F.3d 661
Mossanen v. Manfared (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
J.W., a minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]
Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]
may not represent unincorporated association in court
Clean Air Transport Systems v. San Mateo County Transit District (1988) 243 Cal.Rptr. 799
referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
represents before administrative agency
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
LA 195 (1952)
resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
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]
Legal services corporation which includes non-attorney see shareholders
LA 444 (1987)
Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
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
CAL 1987-91
use of attorney's by non-lawyer
CAL 1969-18
Licensed attorneys practicing in another jurisdiction where they are not licensed including in a federal court which required membership in the state where resident resided and practicing in that state
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
Licensed attorneys who are not active members of the State Bar of California
certification of non-resident, out-of-state attorney arbitration representatives
Code of Civil Procedure section 1282.4
effect on underlying matter
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
*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]
Gomez v. Roney (1979) 88 Cal.App.3d 274
-criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
out-of-state attorneys
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
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
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]
-subject to liability for malpractice
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
outsourced legal services
LA 518 (2006)
SD 2007-1
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
CAL 1997-148
Medical-legal consulting service
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
Name of attorney
use of, by non-lawyer
LA 16 (1922)
Non-lawyers
In re Peterson (1994) 163 B.R. 665
bankruptcy petition preparers
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
-bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

-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]
certified law student
People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]
certified public accountant
Zelkin v. Caruso Discount Corp. (1960) 186 Cal.App.2d 802, 805-806 [9 Cal.Rptr. 220]
Agran v. Shapiro (1954) 127 Cal.App.2d Supp. 807, 815 [273 P.2d 619]
collection agencies
LeDoux v. Credit Research Corp. (1975) 52 Cal.App.3d 451, 454 [125 Cal.Rptr. 166]
Cohn v. Thompson (1932) 128 Cal.App.Supp. 783, 787
LA 522 (2009)
contract negotiation
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
corporation
-Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
-need not be represented by counsel before administrative agencies
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
-representation by, prohibited in court of law
Merco Constr. Eng. Inc. v. Municipal Court (1978) 21 Cal.3d 724 [147 Cal.Rptr. 631, 581 P.2d 636]
corporation formation
LA 69 (1933)
divorce center
SD 1983-12
effect on underlying matter
Russell v. Dopp (1995) 36 Cal.App.4th 765 [42 Cal.Rptr.2d 768]
City of Downey v. Johnson (1968) 263 Cal.App.2d 775 [69 Cal.Rptr. 630]
People ex rel.Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
eviction service
People v. Landlords Professional Services (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]
executor of estate
City of Downey v. Johnson (1968) 263 Cal.App.2d 775, 778 [69 Cal.Rptr. 830]
heir hunter
Estate of Butler (1947) 29 Cal.2d 644, 651 [177 P.2d 16]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Estate of Collins (1968) 268 Cal.App.2d 86, 92 [73 Cal.Rptr. 599]
immigration consultants
-no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel
Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014
insurance adjuster
Insurance Code section 14000 et. seq.
Insurance Code section 15002 et. seq.
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
insurance company
Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]
law clerks
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Johnson v. Davidson (1921) 54 Cal.App. 251, 257 [202 P. 159]
SD 1983-7, SD 1974-5
law students
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
SD 1983-7, SD 1974-1, SD 1973-9
living trust marketers
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 (Florida 1992) 613 So.2d 426
CAL 1997-148
negotiate reaffirmation agreement with chapter 7 debtors
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
notary public
Biakanja v. Irving (1958) 49 Cal.2d 647 [320 P.2d 16]
Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507 [120 Cal.Rptr. 207]
76 Ops. Cal. Atty. Gen. 193 (8/30/93; No. 93-303)
outsourced legal services
LA 518 (2006)
paralegals
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364, fn.3
LA 522 (2009), OC 94-002
-appearance before Workers' Compensation Appeals Board
CAL 1988-103
-general guidelines
SD 1983-7, SD 1976-9
parents may prosecute claims under the Individuals with Disabilities Education Act without representation by counsel
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
penalties and other effects
In re Carpenter (1931) 213 Cal. 122 [1 P.2d 983]
Mickel v. Murphy (1957) 147 Cal.App.2d 718, 722 [305 P.2d 993]
probation officer
In re Steven C. (1970) 9 Cal.App.3d 255, 265 [88 Cal.Rptr. 97]
providing small claims, para-court services in partnership with attorney
SD 1983-4
real estate brokers
People v. Sipper (1943) 61 Cal.App.2d Supp. 844, 846-847 [142 P.2d 960]
resigned attorney
-attorney allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
In the Matter of Tamir Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
scrivener
-petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
Taub v. Weber (9th Cir. 2004) 366 F.3d 966

trustee represents interests of beneficiaries
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
unlawful detainer assistants
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
Out-of-state attorneys
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]
bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate
In re Peterson (1994) 163 B.R. 665
California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
foreign attorney's declaration of fault entitled client to relief under CCP § 473
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
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Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
see also:
40 So.Cal. L.Rev. 569
11 ALR 907
19 Stanf.L.Rev. 856
Outsourced legal services
LA 518 (2006)
SD 2007-1
Participate in activity that assists unauthorized practice of law
LA 286 (1965)
as partner in agency conducting small claims court actions
SD 1983-4
renting law office
-to out-of-state lawyer
--where public led to believe person admitted in California
LA 99 (1936)
Partnership with non-lawyer
LA 444 (1987), LA 372 (1978), LA 335 (1973)
Power of attorney
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
Alexander v. Robertson (9th Cir. 1990) 882 F.2d 421
Porter v. State Bar (1990) 52 Cal.3d 518
People ex rel.Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
Practice in jurisdiction, outside of California, where attorney is not licensed
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
Practice of law, defined
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Morgan v. State Bar (1990) 51 Cal.3d 598
Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
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)
OC 94-002, SD 1983-4, SD 1983-7
Preparation of legal documents
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
Prepare petition for court of another state
LA 218 (1953)
Pro hac vice
Rule 9.40, California Rules of Court
Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
Shapiro v. Paradise Valley Unified School District No. 69 (2004) 374 F.3d 857
defendant not entitled to pro hac vice representation by attorney who failed to follow court rules
United States v. Ries (9th Cir. 1996) 100 F.3d 1469
duties of associate counsel
People v. Cooks (1983) 141 Cal.App.3d 224 [190 Cal.Rptr. 211]
out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
Questions about 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)
Representation by non-lawyer in court of law prohibited
Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
Merco Const. Eng. v. Municipal Court (1978) 21 Cal.3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]
Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
Sanctions
guarantee of right to counsel denied when representation is provided by an attorney who has submitted a resignation with disciplinary charges pending and placed on inactive status
In re Johnson (1992) 1 Cal.App.4th 689

monetary award against law firm proper sanction for aiding in unauthorized practice of law
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal.Bankr.Ct.Rep. 80]
voiding judgment inappropriate where it neither protects judicial integrity nor vindicates interests of parties
Alexander v. Robertson (9th Cir. 1989) 882 F.2d 421
Retail Clerks Union Joint Pension Trust v. Freedom Food Center, Inc. (9th Cir. 1991) 938 F.2d 136
Special hearings
administrative proceeding
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
-resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
alcohol beverage control appeals board
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
city council proceedings
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 543 [86 Cal.Rptr. 673, 496 P.2d 353]
justice court proceedings
Gray v. Justice's Court (1937) 18 Cal.App.2d 420, 423 [63 P.2d 1160]
patent
Sperry v. Florida (1963) 373 U.S. 379 [83 S.Ct. 1322, 10 L. Ed. 2d 428]
Schroeder v. Wheeler (1932) 126 Cal.App.367 [14 P.2d 903]
public utilities commission proceedings
Consumers Lobby Against Monopolies v. PUC (1979) 25 Cal.3d 891, 913 [160 Cal.Rptr. 124, 603 P.2d 41]
80 Ops. Cal. Atty. Gen. 221 (8/5/97; No. 97-409)
securities arbitration proceedings
Linsco/Private Ledger v. Investers Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]
workers' compensation proceedings
Eagle Indemnity Co. v. Industrial Accident Commission (1933) 217 Cal. 244, 247 [18 P.2d 341]
CAL 1988-103
-disbarred or suspended attorney may be excluded from participation in Workers' Compensation proceedings
Title 8 CA Administration Code section 10779
-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]
State Bar Act of 1927
Section 47.49
People v. Ring (1937) 26 Cal.App.2d Supp. 768, 771
Transactional matter
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Treble damages in civil action caused by unlicensed persons
CCP § 1029.8
Unfair business practices and unlawful advertising
Business and Professions Code section 17200
Unincorporated association
lay person may not represent in court
Clean Air Transport Systems v. San Mateo County Transit District (1988) 243 Cal.Rptr. 799
"Writ mill"
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

UNPOPULAR CAUSE
Business and Professions Code section 6068(h)
UNREPRESENTED PERSON [See Communication, Not represented by counsel.]
USURY
California Constitution Art. 15, Usury § 1, par. 2
on past due receivables
CAL 1980-53
LA 374 (1978), LA 370 (1978)
SD 1983-1, SD 1976-8, SF 1970-1
Enforce usurious claim
LA 44 (1927)
VIOLATION OF THE LAW [See Advising violation of the law.]
WILL [See Estate. Trustee.]
Attorney as beneficiary
undue influence
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
LA 462 (1990)
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 who drafted will was later employed as attorney for executor
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
Counsel for organization drafts for those leaving money to it
LA 428 (1984), LA(I) 1966-17
Failure to advise client regarding requirements governing presumptively disqualified donees may lead to liability to intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
Given to executor after incompetency of client
LA 229 (1955)
Person who must sign will is a client regardless of who has sought out and employed the attorney
SD 1990-3
Will depository
Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent
CAL 2007-173
Will revision considered protected activity for anti-SLAPP motion purposes
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests
CAL 2007-173
WIRETAPPING [See Recording.]
WITHDRAWAL FROM EMPLOYMENT [See Conflict of interest. Files. Public office. Substitution of counsel.]
Code of Civil Procedure section 284, et seq.
Rule 3.1362, California Rules of Court
Rules 2-111 and 8-101, Rules of Professional Conduct (operative until May 26, 1989)
Rules 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
Appeal
indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
Associate leaving law firm
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 1985-86, LA 405 (1982)

Attorney appointed by court to represent a minor
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609
Attorney as advisor for an in propria persona litigant
LA 502 (1999)
Attorney as witness
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Kirsch v. Duryea (1978) 21 Cal.3d 303, 310 [146 Cal.Rptr. 218, 578 P.2d 935]
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
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LA 399 (1982)
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Attorney who might be called as witness not required to withdraw with written consent of client
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Attorney-client relationship not established
LA(I) 1968-7
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LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
Break-down in communications asserted as basis for withdrawal but court does not agree
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
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
counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
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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]
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LA 441 (1987)
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CAL 1983-74, OC 2003-01
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LA 362 (1976)
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-veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
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LA 251 (1958)
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Client conduct renders continued representation unreasonably difficult
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OC 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
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SD 1983-6
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People v. Strozier (1993) 20 Cal.App.4th 55 [24 Cal.Rptr.2d 362]
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Hodcarriers, etc. Local Union v. Miller (1966) 243 Cal.App.2d 391 [52 Cal.Rptr. 251]
SD 1972-1
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In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
becoming apparent
LA 333 (1973), LA 219 (1954)
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CAL 2003-163
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-where client's interests become adverse
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
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People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
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People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Contract for employment
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LA 371 (1977)
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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
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LA 504 (2000)
Determination whether to grant or deny motion to withdraw as counsel of record lies within sound discretion of trail court
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
Discharge of attorney
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
Disclosure of client confidence or secret during withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1129 [78 Cal.Rptr.2d 494]
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Dissolution of law firm
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Failure to execute a substitution of attorney
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Former client, not party, objects to representation
LA(I) 1976-3
"Framework" agreement for future representation did not require withdrawal to terminate contract which was not self effectuating because it required reciprocal actions by attorney and client, there was no current representation
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
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]
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may be denied if attorney fails to provide even general information regarding nature of ethical dilemma
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Neglect [See Neglect.]
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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
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Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
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Attorney as
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