Proposed Rule 8.1 [RPC 1-200]
"False Statement Regarding Application for Admission to Practice of Law"

(**Draft # 4.1, 10/16/09**)

Summary: Proposed Rule 8.1, which prohibits certain conduct in applying to be admitted to practice law in California, substantially follows Model Rule 8.1, with three principal departures. See Introduction.

Comparison with ABA Counterpart

Rule	Comment
☐ ABA Model Rule substantially adopted	☐ ABA Model Rule substantially adopted
☐ ABA Model Rule substantially rejected	☐ ABA Model Rule substantially rejected
☑ Some material additions to ABA Model Rule	☑ Some material additions to ABA Model Rule
☑ Some material deletions from ABA Model Rule	☑ Some material deletions from ABA Model Rule
☐ No ABA Model Rule counterpart	☐ No ABA Model Rule counterpart

Primary Factors Considered

☑ Existing California Law

Rule	RPC 1-200; Cal. Rules of Court, Rules 9.40 to 9.46.
Statute	Bus. & Prof. Code §§ 6062, 6068(c),(d),(e); Code Civ. Pro. § 1282.4
Case law	

☐ State Rule(s) Variations (In addition, see provided excerpt of selected state variations.)

☐ Other Primary Factor(s)

Rule Revision Commission Action/Vote to Recommend Rule Adoption

(14 Members Total – votes recorded may be less than 14 due to member absences)

Approved on 10-day Ballot, Less than Six Members Opposing Adoption ☐

Vote (see tally below) ☑

Favor Rule as Recommended for Adoption ___9___
Opposed Rule as Recommended for Adoption __1___
Abstain ___2___

Approved on Consent Calendar ☐

Approved by Consensus ☐

Minority/Dissenting Position Included on Model Rule Comparison Chart: ☐ Yes ☑ No

Stakeholders and Level of Controversy

☑ No Known Stakeholders

☐ The Following Stakeholders Are Known:

☐ Very Controversial – Explanation:

☐ Moderately Controversial – Explanation:

☑ Not Controversial

COMMISSION FOR THE REVISION OF THE RULES OF PROFESSIONAL CONDUCT

Proposed Rule 8.1* False Statement Regarding Application for Admission to Practice Law

October 2009
(Draft rule following consideration of public comment.)

INTRODUCTION: Proposed Rule 8.1 substantially follows ABA Model Rule 8.1 with three principal departures: (1) proposed Rule 8.1 addresses statements made in connection with applications for "admission to practice law", whereas Model Rule 8.1 more narrowly addresses statements made in connection with applications for "admission to the bar" (a difference that is explained in paragraph (d) of the proposed Rule); (2) unlike Model Rule 8.1, proposed Rule 8.1 does not address statements made in connection with disciplinary proceedings; and (3) proposed Rule 8.1 imposes a more stringent standard on applicants with respect to their own applications for admission (prohibiting both false statements of material fact *and* failure to disclose a material fact) than on members with respect to *other* persons' applications for admission (prohibiting false statements of material fact). However, similar to the Model Rule paragraph (c) of the proposed Rule states that both applicants and lawyers in connection with an application for admission must not fail to correct a material misapprehension in matter. Paragraph (d) and Comment [4] to Proposed Rule also provide illustrations of the various proceedings that constitute "applications for admission to practice law" in California and pertinent related authority.

Conduct in relation to a disciplinary proceeding is not addressed in this rule because the Commission considers the State Bar Court to be a "tribunal" within the meaning of proposed Rule 3.3. A lawyer's conduct before a tribunal, including statements made to a tribunal, is covered in Rule 3.3 rather than in this rule.

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* Proposed Rule 8.1, Draft 4.1 (10/16/07).

ABA Model Rule **Rule 8.1 Bar Admission And Disciplinary Matters**	**Commission's Proposed Rule*** **Rule 8.1 False Statement Regarding Application for Admission to Practice of Law**	**Explanation of Changes to the ABA Model Rule**
An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:	~~An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:~~	The title of proposed Rule 8.1 has been revised from Model Rule 8.1 to emphasize that the rule prohibits (1) the making of a false statements (2) in connection with applications for "admission to practice law" and not solely (as in Model Rule 8.1) to applications for "admission to the bar," and provides examples of the broader concept of "admission to practice law" in paragraph (c) and Comment [2]. The expanded scope of the proposed Rule is intended to provide greater public protection. The proposed Rule does not address statements made by a member in connection with disciplinary matters.
	(a) An applicant for admission to practice law shall not knowingly make a false statement of material fact or knowingly fail to disclose a material fact in connection with that person's own application for admission.	Unlike the Model Rule, the proposed Rule creates a two-tier standard, (1) prohibiting an applicant for admission from knowingly making a false statement or knowingly failing to disclose a material fact in connection with the applicant's own application for admission (paragraph (a)) and (2) prohibiting a lawyer from knowingly making a false statement in connection with another's application for admission (paragraph (b)).
(a) knowingly make a false statement of material fact; or	(~~a~~b) A lawyer shall not knowingly make a false statement of material fact~~; or~~ in connection with another person's application for admission to practice law.	See Explanation of Changes for paragraph (a), above.

* Proposed Rule 8.1, Draft 4.1 (10/16/07). Redline/strikeout showing changes to the ABA Model Rule

ABA Model Rule **Rule 8.1 Bar Admission And Disciplinary Matters**	**Commission's Proposed Rule*** **Rule 8.1 False Statement Regarding Application for Admission to Practice of Law**	**Explanation of Changes to the ABA Model Rule**
(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.	~~(b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.~~	The proposed Rule does not impose an affirmative obligation to respond to a lawful demand for information, because the Commission did not believe that the omissions described should be the basis for discipline. See below for that part of Model Rule paragraph (b) that addresses disclosures to correct misapprehensions.
	(c) An applicant for admission to practice law, or a lawyer in connection with an application for admission, shall not fail to disclose a fact necessary to correct a statement known by the applicant or the lawyer to have created a material misapprehension in the matter, except that this Rule does not authorize disclosure of information otherwise protected by Rule 1.6.	The part of paragraph (b) of the Model Rule requiring an applicant and a lawyer (in connection with application for admission) to disclose a fact necessary to correct a known misapprehension in the matter is adapted in proposed paragraph (c). The Commission believes that this affirmative obligation is an appropriate basis for discipline.
	(d) As used in this Rule, "admission to practice law" includes admission or readmission to membership in the State Bar; reinstatement to active membership in the State Bar; an application for permission to appear pro hac vice; and any similar provision relating to admission or certification to practice law in California or elsewhere.	Proposed Rule 8.1 provides illustrations of some of the diverse proceedings encompassed by the term, "admission to practice law," in new paragraph (d) for guidance, and Comment [4] to the proposed Rule lists additional examples.

ABA Model Rule **Rule 8.1 Bar Admission And Disciplinary Matters Comment**	**Commission's Proposed Rule** **Rule 8.1 False Statement Regarding Application for Admission to Practice of Law Comment**	**Explanation of Changes to the ABA Model Rule**
[1] The duty imposed by this Rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this Rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.	[1] A person who makes a false statement in connection with that person's own application for admission to practice law may be subject to discipline under this Rule after that person has been admitted. ~~The duty imposed by this Rule extends to persons seeking admission to the bar as well as to lawyers. Hence, if a person makes a material false statement in connection with an application for admission, it may be the basis for subsequent disciplinary action if the person is admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by this Rule applies to a lawyer's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a lawyer to knowingly make a misrepresentation or omission in connection with a disciplinary investigation of the lawyer's own conduct. Paragraph (b) of this Rule also requires correction of any prior misstatement in the matter that the applicant or lawyer may have made and affirmative clarification of any misunderstanding on the part of the admissions or disciplinary authority of which the person involved becomes aware.~~	The proposed Comment states the first part of Model Rule Comment [1] in a more concise manner, stating that an applicant for admission who makes a material false statement in connection with that application may be subject to subsequent discipline if admitted. The proposed Rule omits the second part of Model Rule Comment [1] noting that the duty imposed by the rule applies both to a member's statements both with respect to his or her own application for admission and with respect to another person's application for admission because it merely repeats the rule as revised. However, like Proposed Rule 8.1, Comment [1] to the Proposed Rule omits any reference to statements made in connection with disciplinary proceedings.

ABA Model Rule **Rule 8.1 Bar Admission And Disciplinary Matters Comment**	**Commission's Proposed Rule** **Rule 8.1 False Statement Regarding Application for Admission to Practice of Law Comment**	**Explanation of Changes to the ABA Model Rule**
[2] This Rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this Rule.	[2] This Rule is subject to the provisions of the Fifth Amendment of the United States Constitution and corresponding provisions of state constitutions. ~~A person relying on such a provision in response to a question, however, should do so openly and not use the right of nondisclosure as a justification for failure to comply with this Rule.~~	This is the first sentence of Model Rule Comment [2]. It is included because the Commission agrees with substantive point and omitting it may engender unnecessary questions.
[3] A lawyer representing an applicant for admission to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including Rule 1.6 and, in some cases, Rule 3.3.	[3] A lawyer representing an applicant for admission ~~to the bar, or representing a lawyer who is the subject of a disciplinary inquiry or proceeding, is governed by the rules applicable to the client-lawyer relationship, including Rule 1.6 and, in some cases, Rule 3.3~~ to practice law is governed by the rules applicable to the lawyer client relationship, including Rule 1.6. A lawyer representing a lawyer who is the subject of a disciplinary proceeding is not governed by this Rule but is subject to the requirements of Rule 3.3.	Comment [3] to Proposed Rule 8.1 substantially tracks Comment [3] to the Model Rule, except that it uses terminology that is more appropriate for California (i.e., substitutes "admission to practice law" for "admission to the bar" and substitutes "disciplinary proceeding" for "disciplinary inquiry"). That part of the Model Rule comment addressing a lawyer who represents an applicant is covered by proposed Comment [5].

ABA Model Rule Rule 8.1 Bar Admission And Disciplinary Matters Comment	Commission's Proposed Rule Rule 8.1 False Statement Regarding Application for Admission to Practice of Law Comment	Explanation of Changes to the ABA Model Rule
	[4] The examples in paragraph (c) are illustrative. As used in paragraph (c), "similar provision relating to admission or certification" includes, but is not limited to, an application by an out-of-state attorney for admission to practice law under Business and Professions Code section 6062; an application to appear as counsel pro hac vice under Rule of Court 9.40; an application by military counsel to represent a member of the military in a particular cause under Rule of Court 9.41; an application to register as a certified law student under Rule of Court 9.42; proceedings for certification as a Registered Legal Services attorney under Rule of Court 9.45 and related State Bar Rules; certification as a Registered In-house Counsel under Rule of Court 9.46 and related State Bar Rules; certification as an Out-of-State Attorney Arbitration Counsel under Rule of Court 9.43, Code of Civil Procedure section 1282.4, and related State Bar Rules; and certification as a Registered Foreign Legal Consultant under Rule of Court 9.44 and related State Bar Rules.	See Explanation of Changes for paragraph (d), above.
	[5] This Rule shall not prevent a lawyer from representing an applicant for admission to practice in proceedings related to such admission. Other laws or rules govern the responsibilities of a lawyer representing an applicant for admission. See, e.g., Bus. & Prof. Code § 6068(c), (d) & (e)); Rule 3.3.	The comment adapts that part of Model Rule Comment [3] that addresses a lawyer who represents an applicant. See above explanation of changes to Comment [3].

Rule 8.1 False Statement Regarding Application for Admission to Practice Law

(Comparison of the Current Proposed Rule to the initial Public Comment Draft)

(a) An applicant for admission to practice law shall not knowingly make a false statement of material fact or knowingly fail to disclose a material fact in connection with that person's own application for admission.

(b) A lawyer shall not knowingly make a false statement of material fact in connection with another person's application for admission to practice law.

(c) An applicant for admission to practice law, or a lawyer in connection with an application for admission, shall not fail to disclose a fact necessary to correct a statement known by the applicant or the lawyer to have created a material misapprehension in the matter, except that this Rule does not authorize disclosure of information otherwise protected by Rule 1.6.

(~~c~~d) As used in this Rule, "admission to practice law" includes admission or readmission to membership in the State Bar; reinstatement to active membership in the State Bar; an application for permission to appear pro hac vice; and any similar provision relating to admission or certification to practice law in California or elsewhere.

Comment

[1] A person who makes a false statement in connection with that person's own application for admission to practice law may~~, *inter alia*,~~ be subject to discipline under this Rule after that person has been admitted.

[2] This Rule is subject to the provisions of the fifth amendment of the United States Constitution and corresponding provisions of applicable state constitutions.

[3] A lawyer representing an applicant for admission to practice law is governed by the rules applicable to the client lawyer relationship, including Rule 1.6. A lawyer representing a lawyer who is the subject of a disciplinary proceeding is not governed by this Rule but is subject to the requirements of Rule 3.3.

[~~2~~4] The examples in paragraph (~~c~~d) are illustrative. As used in paragraph (~~c~~d), "similar provision relating to admission or certification" includes, but is not limited to, an application by an out-of-state attorney for admission to practice law under Business and Professions Code section 6062; an application to appear as counsel pro hac vice under Rule of Court ~~983~~9.40; an application by military counsel to represent a member of the military in a particular cause under Rule of Court ~~983.1~~9.41; an application to register as a certified law student under Rule of Court ~~983.2~~9.42; proceedings for certification as a Registered Legal Services attorney under Rule of Court ~~964~~9.45 and related State Bar Rules; certification as a Registered In-house Counsel under Rule of Court ~~964~~9.46 and related State Bar Rules; certification ~~as a Registered Legal Services attorney under Rule of Court 964 and related State Bar Rules; certification as a Registered Legal Services attorney under Rule of Court 964 and related State Bar Rules; certification~~ as an Out-of-State Attorney Arbitration Counsel under Rule of Court ~~983.4~~9.43, Code of Civil Procedure section 1282.4, and related State Bar Rules; and certification as a Registered Foreign Legal Consultant under Rule of Court ~~988~~9.44 and related State Bar Rules.

[~~3~~5] This Rule shall not prevent a lawyer from representing an applicant for admission to practice in proceedings related to such admission. Other laws or rules govern the responsibilities of a lawyer representing an applicant for admission. See, e.g., Bus. & Prof. Code § 6068(c), (d) & (e)); Rule ~~5-200~~3.3.

Rule ~~1-200~~8.1 False Statement Regarding Application for Admission to ~~the State Bar~~Practice Law

(Comparison of the Current Proposed Rule to Current California Rule)

(a) ~~(A) A member~~An applicant for admission to practice law shall not knowingly make a false statement ~~regarding a~~of material fact or knowingly fail to disclose a material fact in connection with ~~an~~that person's own application for admission ~~to the State Bar~~.

~~(B) A member shall not further an application for admission to the State Bar of a person whom the member knows to be unqualified in respect to character, education, or other relevant attributes.~~

(b) ~~(C) This rule~~A lawyer shall not ~~prevent~~knowingly make a ~~member from serving as counsel~~false statement of ~~record for an applicant~~material fact in connection with another person's application for admission to practice ~~*in proceedings related to such admission*~~law.

(c) An applicant for admission to practice law, or a lawyer in connection with an application for admission, shall not fail to disclose a fact necessary to correct a statement known by the applicant or the lawyer to have created a material misapprehension in the matter, except that this Rule does not authorize disclosure of information otherwise protected by Rule 1.6.

(d) As used in this Rule, "admission to practice law" includes admission or readmission to membership in the State Bar; reinstatement to active membership in the State Bar; an application for permission to appear pro hac vice; and any similar provision relating to admission or certification to practice law in California or elsewhere.

~~***Discussion:***~~

~~For purposes of rule 1-200 "admission" includes readmission.~~

Comment

[1] A person who makes a false statement in connection with that person's own application for admission to practice law may be subject to discipline under this Rule after that person has been admitted.

[2] This Rule is subject to the provisions of the fifth amendment of the United States Constitution and corresponding provisions of applicable state constitutions.

[3] A lawyer representing an applicant for admission to practice law is governed by the rules applicable to the client lawyer relationship, including Rule 1.6. A lawyer representing a lawyer who is the subject of a disciplinary proceeding is not governed by this Rule but is subject to the requirements of Rule 3.3.

[4] The examples in paragraph (d) are illustrative. As used in paragraph (d), "similar provision relating to admission or certification" includes, but is not limited to, an application by an out-of-state attorney for admission to practice law under Business and Professions Code section 6062; an application to appear as counsel pro hac vice under Rule of Court 9.40; an application by military counsel to represent a member of the military in a particular cause under Rule of Court 9.41; an application to register as a certified law student under Rule of Court 9.42; proceedings for certification as a Registered Legal Services

attorney under Rule of Court 9.45 and related State Bar Rules; certification as a Registered In-house Counsel under Rule of Court 9.46 and related State Bar Rules; certification as an Out-of-State Attorney Arbitration Counsel under Rule of Court 9.43, Code of Civil Procedure section 1282.4, and related State Bar Rules; and certification as a Registered Foreign Legal Consultant under Rule of Court 9.44 and related State Bar Rules.

[5] This Rule shall not prevent a lawyer from representing an applicant for admission to practice *in proceedings related to such admission*. Other laws or rules govern the responsibilities of a lawyer representing an applicant for admission. See, e.g., Bus. & Prof. Code § 6068(c), (d) & (e)); Rule 3.3.

Rule 8.1 False Statement Regarding Application for Admission to Practice Law

(Commission's Proposed Rule – Clean Version)

(a) An applicant for admission to practice law shall not knowingly make a false statement of material fact or knowingly fail to disclose a material fact in connection with that person's own application for admission.

(b) A lawyer shall not knowingly make a false statement of material fact in connection with another person's application for admission to practice law.

(c) An applicant for admission to practice law, or a lawyer in connection with an application for admission, shall not fail to disclose a fact necessary to correct a statement known by the applicant or the lawyer to have created a material misapprehension in the matter, except that this Rule does not authorize disclosure of information otherwise protected by Rule 1.6 and Business and Professions Code section 6068(e).

(d) As used in this Rule, "admission to practice law" includes admission or readmission to membership in the State Bar; reinstatement to active membership in the State Bar; an application for permission to appear pro hac vice; and any similar provision relating to admission or certification to practice law in California or elsewhere.

Comment

[1] A person who makes a false statement in connection with that person's own application for admission to practice law may be subject to discipline under this Rule after that person has been admitted.

[2] This Rule is subject to the provisions of the fifth amendment of the United States Constitution and corresponding provisions of applicable state constitutions.

[3] A lawyer representing an applicant for admission to practice law is governed by the rules applicable to the lawyer-client relationship, including Rule 1.6 and Business and Professions Code section 6068(e). A lawyer representing a lawyer who is the subject of a disciplinary proceeding is not governed by this Rule but is subject to the requirements of Rule 3.3.

[4] The examples in paragraph (d) are illustrative. As used in paragraph (d), "similar provision relating to admission or certification" includes, but is not limited to, an application by an out-of-state attorney for admission to practice law under Business and Professions Code section 6062; an application to appear as counsel pro hac vice under Rule of Court 9.40; an application by military counsel to represent a member of the military in a particular cause under Rule of Court 9.41; an application to register as a certified law student under Rule of Court 9.42; proceedings for certification as a Registered Legal Services attorney under Rule of Court 9.45 and related State Bar Rules; certification as a Registered In-house Counsel under Rule of Court 9.46 and related State Bar Rules; certification as an Out-of-State Attorney Arbitration Counsel under Rule of Court 9.43, Code of Civil Procedure section 1282.4, and related State Bar Rules; and certification as a Registered Foreign Legal Consultant under Rule of Court 9.44 and related State Bar Rules.

[5] This Rule shall not prevent a lawyer from representing an applicant for admission to practice in proceedings related to such admission. Other

laws or rules govern the responsibilities of a lawyer representing an applicant for admission. See, e.g., Rule 3.3; Business and Professions Code sections 6068(c), (d) and (e).

Rule 8.1: False Statement Regarding Application for Admission to Practice

STATE VARIATIONS

(The following is an excerpt from *Regulation of Lawyers: Statutes and Standards* (2009 Ed.) by Steven Gillers, Roy D. Simon and Andrew M. Perlman.)

California: Rule 1-200 provides as follows:

(A) A member shall not knowingly make a false statement regarding a material fact or knowingly fail to disclose a material fact in connection with an application for admission to the State Bar.

(B) A member shall not further an application for admission to the State Bar of a person whom the member knows to be unqualified in respect to character, education, or other relevant attributes.

(C) This rule shall not prevent a member from serving as counsel of record for an applicant for admission to practice in proceedings related to such admission.

Colorado: Rule 8.1(a) also applies to "readmission" and "reinstatement."

Georgia has adopted a Rule 9.3, entitled "Cooperation with Disciplinary Authority," which provides as follows: "During the investigation of a grievance filed under these Rules, the lawyer complained against shall respond to disciplinary authorities in accordance with State Bar Rules." Comment 2 to this provision states: "Nothing in this Rule prohibits a lawyer from responding by making a Fifth Amendment objection, if appropriate. However, disciplinary proceedings are civil in nature and the use of a Fifth Amendment objection will give rise to a presumption against the lawyer."

Illinois: Rule 8.1(b) provides that a lawyer "shall not further the application for admission to the bar of another person known by the lawyer to be unqualified in respect to character, education, or any other relevant attribute."

Michigan adds the following new language to its version of ABA Model Rule 8.1:

(b) An applicant for admission to the bar

(1) shall not engage in the unauthorized practice of law (this does not apply to . activities permitted under MCR 8.120), and

(2) has a continuing obligation, until the date of admission, to inform the standing committee on character and fitness, in writing, if any answers in the applicant's affidavit of personal history change or cease to be true.

New York: DR 1-101(A) makes a lawyer subject to discipline if the lawyer "has made a materially false statement in, or has deliberately failed to disclose a material

fact requested in connection with, the lawyer's application for admission to the bar." Rule 1-101(B) provides as follows: "A lawyer shall not further the application for admission to the bar of another person that the lawyer knows to be unqualified in respect to character, education, or other relevant attribute."

Ohio: Rule 8.1 (a) deletes the opening phrase "[a]n applicant for admission to the bar." According to the Ohio Supreme Court's note, Rule 8.1(b) clarifies the "unwieldy" language of the ABA Model Rule but does not lower the standard of candor expected of a lawyer in bar admission or disciplinary matters.

Virginia: Rule 8.1 adds language to cover certifications required to be filed as a condition of maintaining or renewing a law license. Virginia also moves the second clause of Rule 8.1(b) to separate subparagraph (c), and adds Rule 8.1(d), which makes separate violation to obstruct a lawful investigation by an admissions or disciplinary authority."

Rule 8.1 False Statement Regarding Application for Admission to Practice Law.
[Sorted by Commenter]

TOTAL = 2 **Agree = 2**
Disagree = __
Modify = __
NI = __

No.	Commenter	Position[1]	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	Los Angeles County Bar Association	A			Supports as drafted.	No response required.
2	San Diego County Bar Association	A			Supports as drafted.	No response required.

[1] A = AGREE with proposed Rule D = DISAGREE with proposed Rule M = AGREE ONLY IF MODIFIED NI = NOT INDICATED