

Proposed Rule 3.10 [5-100]

“Threatening Criminal, Administrative, or Disciplinary Charges”

(Draft #4, 8/12/08)

Summary: This Rule will repeat the substance of existing California Rule of Professional Conduct 5-100. There is no model rule counterpart. The Rule prohibits a lawyer from threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute. It reflects California disciplinary decisions that preceded the adoption of the 1975 Rules of Professional Conduct and has also been applied in civil cases. See Introduction.

Comparison with ABA Counterpart

Rule	Comment
<input type="checkbox"/> ABA Model Rule substantially adopted	<input type="checkbox"/> ABA Model Rule substantially adopted
<input type="checkbox"/> ABA Model Rule substantially rejected	<input type="checkbox"/> ABA Model Rule substantially rejected
<input type="checkbox"/> Some material additions to ABA Model Rule	<input type="checkbox"/> Some material additions to ABA Model Rule
<input type="checkbox"/> Some material deletions from ABA Model Rule	<input type="checkbox"/> Some material deletions from ABA Model Rule
<input checked="" type="checkbox"/> No ABA Model Rule counterpart	<input checked="" type="checkbox"/> No ABA Model Rule counterpart

Primary Factors Considered

Existing California Law

Rules	RPC 5-100
Statute	
Case law	<p><i>See, e.g., Lindenbaum v. State Bar</i> (1945) 26 Cal. 2d 565; <i>Libarian v. State Bar</i> (1952) 3 Cal. 2d 328; and <i>Arden v. State Bar</i> (1959) 52 Cal. 2d 310; <i>Bluestein v. State Bar</i> (1974) 13 Cal. 3d 162; <i>Kinnamon v. Staitmen & Snyder</i> (1977) 66 Cal. App. 893; <i>Crane v. State Bar</i> (1981) 30 Cal. 3d 117; <i>In the Matter of Rodriguez</i> (Rev. Dept. 1993) 2 State Bar Ct. Rptr. 480.</p>

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

- Other Primary Factor(s)

Threats to present criminal, administrative, or disciplinary complaints in order to gain an advantage in a civil dispute have long been prohibited by decisional law in this State. A Rule of Professional Conduct should memorialize the substance of those decisions so that lawyers have clear notice that such conduct is prohibited. Repealing the existing rule would incorrectly suggest that such conduct would be permissible in the future.

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 10
Opposed Rule as Recommended for Adoption 1
Abstain 0

Approved on Consent Calendar

Approved by Consensus

Minority/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 3.10* Threatening Criminal, Administrative, or Disciplinary Charges*

October 2009

(Draft rule following consideration of public comment.)

INTRODUCTION:

Proposed Rule 3.10 is based on current California Rule 5-100, which makes a lawyer subject to discipline and civil liability for threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute. That rule is based on 1975 California Rule of Professional Conduct 7-104. That, in turn, was based on American Bar Association Disciplinary Rule 5-105(a). Both the current and proposed Rule reflect California disciplinary decisions that preceded the adoption of the 1975 Rules of Professional Conduct. See, e.g., *Lindenbaum v. State Bar* (1945) 26 Cal. 2d 565; *Libarian v. State Bar* (1952) 3 Cal. 2d 328; *Arden v. State Bar* (1959) 52 Cal. 2d 310. The current rule and predecessors have also been applied in civil cases. See, e.g., *Kinnamon v. Staitmen & Snyder* (1977) 66 Cal. App. 893. The current American Bar Association Model Rules contain no counterpart to this rule. The Commission decided to retain the substance of the existing California Rule and to expand the Comment to describe its scope.

The current California Rule applies regardless of whether there is a civil action pending. A threat made before a formal civil action has been commenced also comes within the rule.

The Commission published for public comment a proposed expansion of Comment [2] that would have outlined the application of the Rule to proposed release-dismissal agreements in which prosecutors might agree to drop criminal charges in exchange for a defendant's agreement not to pursue a civil complaint against arresting officers or a government entity. The comments and criticisms regarding that proposed expansion were to the effect that it would give too much authority to prosecutors. The Commission rescinded most of that proposal in light of the comments.

* Proposed Rule 3.10, Draft 4 (8/12/08).

INTRODUCTION (Continued):

The Commission's conclusion was that the applicability of the rule to that process should play out on a case by case basis in light of the facts. As a result of the deletion of most of the proposed language, the only expansion of proposed Comment [2] exempts from the rule an offer of a civil compromise in accordance with a statute such as Penal Code sections 1377-78, and the comments on this subject became moot.

Variation in Other Jurisdictions. Most states do not have a rule similar to existing California Rule 5-100. Colorado, South Carolina, Virginia, the District of Columbia, Louisiana, and Maine have similar rules. Hawaii, Idaho, Connecticut, Georgia, New Jersey, and Tennessee limit their rules to threats of criminal charges and do not include threats of criminal or disciplinary charges.

Minority. A minority of the Commission recommends against adoption of proposed Rule 3.10 for the reasons the ABA omitted such a rule from the Model Rules in 1983. The drafters of the Model Rules viewed a similar prohibition in former ABA Model Code DR 7-105(A) (1969), on which California Rule 5-100 is based, as overly broad and unnecessary. Threats of criminal prosecution or administrative charges that amount to extortionate conduct under the law are adequately covered under proposed Rule 8.4(b) which expands on Model Rule 8.4(b). Proposed Rule 3.10 is considerably broader than the rule in the few states that retain the earlier ABA Model Code rule which is limited to threats of criminal prosecution. What constitutes a "threat" under the proposed rule is incapable of adequate definition to inform lawyers in advance what conduct is prohibited. As drafted, the proposed Rule would unreasonably impede legitimate negotiation tactics in criminal and civil matters. There is no showing of a need to depart from the Model Rules by having a separate rule that prohibits extortionate conduct in addition to proposed Rule 8.4, which regulates lawyer misconduct.

<p align="center">California Rule 5-100 No Comparable ABA Model Rule</p>	<p align="center">Commission's Proposed Rule* Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges</p>	<p align="center">Explanation of Changes to Current California Rule 5-100</p>
<p>(A) A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.</p>	<p>(Aa) A memberlawyer shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.</p>	<p>Because there is no Model Rule similar to existing California Rule of Professional Conduct 5-100, the comparisons in this table are to the existing California rule.</p> <p>The Commission changed "member" to "lawyer" to track the Model Rule's convention of referring to lawyers rather than to members.</p>
<p>(B) As used in paragraph (A) of this rule, the term "administrative charges" means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.</p>	<p>(Bb) As used in paragraph (Aa) of this ruleRule, the term "administrative charges" means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.</p>	<p>Proposed paragraph (b) is identical to current rule 5-100(B), except that the reference to paragraph (a) is now lower case, and the word "rule" has been capitalized.</p>

* Proposed Rule 3.10, Draft 4 (8/12/08). Redline/strikeout showing changes to the current California Rule (no ABA Model Rule counterpart)

<p align="center"><u>California Rule 5-100</u> No Comparable ABA Model Rule</p>	<p align="center"><u>Commission's Proposed Rule*</u> Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges</p>	<p align="center"><u>Explanation of Changes to Current California Rule 5-100</u></p>
<p>(C) As used in paragraph (A) of this rule, the term "civil dispute" means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.</p>	<p>(C) As used in paragraph (A) of this rule <u>Rule</u>, the term "civil dispute" means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.</p>	<p>Proposed paragraph (c) is substantially the same as existing California Rule 5-100(C). The definition of "civil dispute" will now apply to all parts of the proposed new Rule.</p>

<p align="center"><u>ABA Model Rule</u> No Comparable ABA Model Rule Comment</p>	<p align="center"><u>Commission's Proposed Rule</u> Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges Comment</p>	<p align="center"><u>Explanation of Changes to the California Rule 1-710</u></p>
	<p>[1] This Rule prohibits a lawyer from threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute and does not apply to a threat to bring a civil action. It also does not prohibit actually presenting criminal, administrative, or disciplinary charges, even if doing so creates an advantage in a civil dispute. Whether a lawyer's statement violates this Rule depends on the specific facts. (See, e.g., <i>Crane v. State Bar</i> (1981) 30 Cal.3d 117 [177 Cal.Rptr 670].) A statement that the lawyer will pursue "all available legal remedies," or words of similar import, by itself does not violate this Rule.</p>	<p>Comment [1] is new and does not appear in current California rule 5-100. The Commission added this comment in order to describe the scope of the proposed Rule and to make clear that whether a lawyer's statement violates the Rule depends on the facts and circumstances in which the statement is made. The limitations on the scope of the Rule stated in the proposed Comment are consistent with existing California law. For example, current California rule 5-100 only prohibits threatening criminal or similar charges to gain an advantage in a civil dispute. Actually filing such charges is not prohibited, even if doing so is for the purpose of gaining an advantage in a civil dispute. See, e.g., Los Angeles County Bar Association Formal Opinion 469 (1993).</p>

<p align="center"><u>ABA Model Rule</u> No Comparable ABA Model Rule Comment</p>	<p align="center"><u>Commission's Proposed Rule</u> Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges Comment</p>	<p align="center"><u>Explanation of Changes to the California Rule 1-710</u></p>
<p>Rule 5-100 is not intended to apply to a member's threatening to initiate contempt proceedings against a party for a failure to comply with a court order.</p>	<p>[2] This Rule 5-100 is does not intended to apply to (i) a member's threatening threat to initiate contempt proceedings against a party for a failure to comply with a court order; or (ii) the offer of a civil compromise in accordance with a statute such as Penal Code sections 1377-78.</p>	<p>This Comment, which is based on the first Discussion paragraph to current rule 5-100, has been reworded to make it active voice and to clarify that the Rule do not apply in two situations. The first exception is substantially the same as in current rule 5-100. The second exception is to make clear that, if a person has been injured by an act constituting a misdemeanor, and that person has a remedy by a civil action, a prosecutor may offer to compromise the misdemeanor action in accordance with Penal Code sections 1377-78 without fear of violating this Rule.</p> <p>The version of this Rule circulated for public comment contained a more lengthy description of circumstances in which release-dismissal agreements in criminal cases might or might not violate this Rule. However, the Commission deleted most of those sentences in light of adverse public comment.</p>
<p>Paragraph (B) is intended to exempt the threat of filing an administrative charge which is a prerequisite to filing a civil complaint on the same transaction or occurrence.</p>	<p>[3] Paragraph (B) is intended to exempt exempts the threat of filing an administrative charge which is a prerequisite to filing a civil complaint on the same transaction or occurrence.</p>	<p>Comment [3] is substantially the same as the second paragraph of the Discussion in current rule 5-100. The Comment now affirmatively states the exemption instead of couching it in terms of the intent of the drafters.</p>
<p>For purposes of paragraph (C), the definition of "civil dispute" makes clear that the rule is applicable prior to the formal filing of a civil action.</p>	<p>For purposes of paragraph (C), the definition of "civil dispute" makes clear that the rule is applicable prior to the formal filing of a civil action.</p>	<p>The Commission recommends deleting the last Discussion paragraph of current rule 5-100 as unnecessary. Proposed paragraph (c) of the Rule expressly refers to a "potential controversy," thereby obviating this paragraph.</p>

Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges

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

- (a) A lawyer shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.
- (b) As used in paragraph (a) of this Rule, the term “administrative charges” means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a ~~quasicriminal~~ quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.
- (c) As used in this Rule, the term “civil dispute” means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.

COMMENT

- [1] This Rule prohibits a lawyer from threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute and does not apply to a threat to bring a civil action. It also does not prohibit actually presenting criminal, administrative, or disciplinary charges, even if doing so creates an advantage in a civil dispute. Whether a lawyer's statement violates this Rule depends on the specific facts. (See, e.g., *Crane v. State Bar* (1981) 30 Cal.3d 117 [177 Cal.Rptr 670].) A statement that the lawyer will pursue “all

available legal remedies.” or words of similar import. by itself does not violate this Rule.

- [2] This Rule does not apply to (i) a threat to initiate contempt proceedings for a failure to comply with a court order; or (ii) the offer of a civil compromise in accordance with a statute such as Penal Code sections 1377-78. ~~This Rule also does not apply to an offer made in good faith by a lawyer who represents a governmental agency to settle all, or a portion of, the civil, administrative, and criminal aspects of the case. For example, where there is a good faith basis for believing that a defendant in a civil action who has not yet been criminally charged might be criminally liable for his or her conduct, a lawyer representing a governmental agency would be acting in good faith if the lawyer offers to pursue a settlement of all aspects of the defendant's case, including any potential criminal liability, so as not to have the government incur the further expense of a criminal investigation. On the other hand, a lawyer representing a governmental agency would not be acting in good faith if, without a good faith basis for believing that criminal liability might be established, the lawyer were to offer not to seek the filing of criminal charges in return for the defendant's agreement not to file a claim for false arrest against law enforcement personnel or the government.~~
- [3] Paragraph (b) exempts the threat of filing an administrative charge which is a prerequisite to filing a civil complaint on the same transaction or occurrence.

Rule ~~5-100~~3.10 Threatening Criminal, Administrative, or Disciplinary Charges

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

- (a) ~~(A)~~ A ~~member~~ lawyer shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.
- (b) ~~(B)~~ As used in paragraph (A) of this ~~rule~~ Rule, the term “administrative charges” means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.
- (c) ~~(C)~~ As used in ~~paragraph (A) of this rule~~ Rule, the term “civil dispute” means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.

[177 Cal.Rptr 670].) A statement that the lawyer will pursue “all available legal remedies,” or words of similar import, by itself does not violate this Rule.

- [2] This Rule ~~5-100 is~~ does not intended to apply to (i) a ~~member's threatening~~ threat to initiate contempt proceedings ~~against a party~~ for a failure to comply with a court order; or (ii) the offer of a civil compromise in accordance with a statute such as Penal Code sections 1377-78.
- [3] Paragraph ~~(B)~~ is intended to exempt exempts the threat of filing an administrative charge which is a prerequisite to filing a civil complaint on the same transaction or occurrence.

~~For purposes of paragraph (C), the definition of “civil dispute” makes clear that the rule is applicable prior to the formal filing of a civil action.~~

~~Discussion:~~ Comment

- [1] This Rule prohibits a lawyer from threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute and does not apply to a threat to bring a civil action. It also does not prohibit actually presenting criminal, administrative, or disciplinary charges, even if doing so creates an advantage in a civil dispute. Whether a lawyer's statement violates this Rule depends on the specific facts. (See, e.g., *Crane v. State Bar* (1981) 30 Cal.3d 117

Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges
(Commission’s Proposed Rule – Clean Version)

- (a) A lawyer shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute.
 - (b) As used in paragraph (a) of this Rule, the term “administrative charges” means the filing or lodging of a complaint with a federal, state, or local governmental entity which may order or recommend the loss or suspension of a license, or may impose or recommend the imposition of a fine, pecuniary sanction, or other sanction of a quasi-criminal nature but does not include filing charges with an administrative entity required by law as a condition precedent to maintaining a civil action.
 - (c) As used in this Rule, the term “civil dispute” means a controversy or potential controversy over the rights and duties of two or more parties under civil law, whether or not an action has been commenced, and includes an administrative proceeding of a quasi-civil nature pending before a federal, state, or local governmental entity.
- [2] This Rule does not apply to (i) a threat to initiate contempt proceedings for a failure to comply with a court order; or (ii) the offer of a civil compromise in accordance with a statute such as Penal Code sections 1377-78.
 - [3] Paragraph (b) exempts the threat of filing an administrative charge which is a prerequisite to filing a civil complaint on the same transaction or occurrence.

Comment

- [1] This Rule prohibits a lawyer from threatening to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute and does not apply to a threat to bring a civil action. It also does not prohibit actually presenting criminal, administrative, or disciplinary charges, even if doing so creates an advantage in a civil dispute. Whether a lawyer’s statement violates this Rule depends on the specific facts. (See, e.g., *Crane v. State Bar* (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670].) A statement that the lawyer will pursue “all available legal remedies,” or words of similar import, by itself does not violate this Rule.

STATE VARIATIONS – CA RULE, NO ABA COUNTERPART

California Rule 5-100 Threatening Criminal, Administrative, or Disciplinary Charges

Jurisdictions with provisions similar to California:

Colorado

[Rule 4.5\(a\)](#) A lawyer shall not threaten criminal, administrative or disciplinary charges to obtain an advantage in a civil matter nor shall a lawyer present or participate in presenting criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

South Carolina

[Rule 4.5](#) A lawyer shall not present, participate in presenting, or threaten to present criminal or professional disciplinary charges solely to obtain an advantage in a civil matter.

Virginia

[Rule 3.4\(i\)](#) [A lawyer shall not] Present or threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

District of Columbia

[Rule 8.4\(g\)](#) [It is professional misconduct for a lawyer to] Seek or threaten to seek criminal charges or disciplinary charges solely to obtain an advantage in a civil matter.

Louisiana

Rule of Professional Conduct 8.4(g) [It is professional misconduct for a lawyer to] Threaten to present criminal or disciplinary charges solely to obtain an advantage in a civil matter.

Maine*

Rule 3. Code of Professional Responsibility. 3.6 Conduct During Representation. (C) Threatening Prosecution. A lawyer shall not present, or threaten to present, criminal, administrative, or disciplinary charges solely to obtain an advantage in a civil matter.

*This rule is no longer effective. The Maine Rules of Professional Conduct (which follow the ABA numbering system and do not include a specific provision on threatening to present charges) became effective on 8/1/2009.

Jurisdictions with provisions relating only to threats of criminal charges:

Hawaii – [Rule 3.4\(i\)](#)

Idaho - [Rule 4.4\(a\)\(4\)](#)

Connecticut – [Rule 3.4\(7\)](#)

Georgia – [Rule 3.4\(h\)](#)

New Jersey – [Rule 3.4\(g\)](#)

Tennessee – [Rule 4.4\(b\)](#)

Other Resources:

ABA Article, [Making Threats](#), (October 2008), discussing history of prohibition against threats and state bar rules and ethics opinions on the subject. Note: some rule citations no longer effective and/or amended.

[ABA Formal Opinion 92-363](#) *Use of Threats of Prosecution in Connection with a Civil Matter* (1992).

**Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges.
[Sorted by Commenter]**

TOTAL = 7 Agree = 3
Disagree = 2
Modify = 2
NI =

No.	Commentator	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
1	COPRAC	A			None	No response necessary.
2	Evan A. Jenness	D			Comment [2] exception for government lawyers should be removed because it endorses extortion and encourages the type of government misconduct that gives rise to civil claims against the government (e.g. permitting government lawyer to give criminal defendant a pass on criminal charges in exchange for releasing his civil rights claims arising from the arrest leading to the charges).	Commission did not make the requested revision, in part, because the concept is present in the existing rule and the Commission is not aware of any authority citing the comment language as a justification for misconduct.
3	Los Angeles County Bar Association (Toby J. Rothschild)	M			Replace the word "present" in paragraph (a) with "initiate" because most lawyers cannot actually file or present criminal, administrative or disciplinary charges. Amend Comment [1] to read: "By itself, a statement that the lawyer will pursue 'all available legal remedies,' or which contains words of similar import, does not violate this Rule." Delete "who represents a governmental agency" from Comment [2] so that the governmental and private attorneys are treated equally.	Commission did not make the requested revision, in part, because the word "present" is the term used in the existing rule and changing that term might be misconstrued as a change in substance or policy. Commission revised the comment to address the commenter's concern. Commission revised the comment to address the commenter's concern.

¹ A = AGREE with proposed Rule

D = DISAGREE with proposed Rule

M = AGREE ONLY IF MODIFIED

NI = NOT INDICATED

**Rule 3.10 Threatening Criminal, Administrative, or Disciplinary Charges.
[Sorted by Commenter]**

**TOTAL = 7 Agree = 3
Disagree = 2
Modify = 2
NI =**

No.	Commentator	Position ¹	Comment on Behalf of Group?	Rule Paragraph	Comment	RRC Response
4	National Association of Criminal Defense Lawyers (John Wesley Hall)	D			<p>Comment [2] authorizes behavior by government lawyers that would amount to extortion.</p> <p>Qualification that government lawyer's actions be in good faith does help because an individual may be guilty of extortion even if he threatens to pursue well founded criminal charges.</p>	<p>Commission did not make the requested revision, in part, because the concept is present in the existing rule and the Commission is not aware of any authority citing the comment language as a justification for misconduct.</p> <p>See above response. Also, Commission deleted the language referring to "good faith."</p>
5	Orange County Bar Association (Trudy Levindofske)	A			None	No response necessary.
6	San Diego County Bar Association (Heather L. Rosing)	M			Comment [2]: replace "good faith" standard with a "probable cause" standard.	Commission deleted the language that was the basis of the commenter's concern.
7	Santa Clara County Bar Association (Christine Burdick)	A			None	No response necessary.