

MINUTES

FOR THE

ATTORNEY ETHICS ADVISORY COMMITTEE

February 20, 2020

9:30 a.m.

State Courts Building, 1501 West Washington Street, Phoenix, Arizona
Conference Room 109

Present

Hon. Paul McMurdie (Chair)
Hon. John Napper (Vice Chair)
Kimberly Demarchi
Anne Schrock
Charles Thomson
Geoffrey Trachtenberg
Angela Woolridge

Telephonically Present

Sheena Singh Chiang
Maria Hubbard
Regina Nassen
Maret Vessella
Michael Aaron

Absent

Hon. Kim Ortiz
Jon Sands

Staff

Michelle Martinez
Brianna Farmer
Christine Davis
Ashley Mahoney
Ashleigh Hansen
Dominique Cidro

Guests

Ann Ching
Patricia Sallen
Nancy Greenlee

9:30 a.m. Call to Order, Welcome and Introductions

Hon. Paul McMurdie, Chair

No. 1 Review and Approve January 30, 2020 Minutes

Motion: Approve January 30, 2020 Minutes
Moved by: Charles Thomson
Second: Geoffrey Trachtenberg
Motion Passed 9-0-5

No. 2 Discussion and possible action regarding:

- o Ethics Opinion Request EO-20-0003

Hon. Paul McMurdie presented.

EO-20-0003 addresses the question of whether it is ethical for a bankruptcy lawyer to use a credit line to pay for funding for bankruptcy fees.

Motion: Establish a subcommittee to further review EO-20-0003.
Moved by: Geoffrey Trachtenberg
Second: Charles Thomson
Motion Passed 9-0-5

Subcommittee will include Geoffrey Trachtenberg, Hon. Paul McMurdie and Charles Thomson.

Note: Hon. John Napper joined the meeting after vote.

- o Ethics Opinion Request EO-20-0004

Hon. Paul McMurdie presented.

EO-20-0004 addresses the question of whether it is ethical for a lawyer to become involved in a case revolving around the use of medical marijuana when there is conflict between state and federal law.

The Committee requested State Bar Ethics Counsel, Christine Davis, to conduct research on what other jurisdictions have done regarding conflict between the state's Medical Marijuana Act and federal law.

Motion: Establish a subcommittee to further review EO-20-0004
Moved by: Hon. John Napper
Second: Charles Thomson
Motion Passed 10-0-4

Subcommittee will include Hon. Paul McMurdie, Hon. John Napper, Regina Nassen and Maret Vessella.

Note: Sheena Chiang joined the meeting after vote.

- EO-19-0003 Public Comments

Angela Woolridge discussed the public comments received regarding EO-19-0003.

The comments generally revolved around the limitations of social workers and defined what encompasses one to mandatory report. The lawyer must make the determination and acknowledge that the person being hired or referred to may have the duty to report and with this the lawyer must disclose with client.

Committee requested the subcommittee to further review the submitted comments and provide an edited draft at the next scheduled meeting.

Note: Michael Aaron joined the meeting.

- Former State Bar Ethics Opinion 15-02

Agenda item deferred.

No. 3 Update and possible action regarding Ethics Opinion drafts:

- EO-19-0004/0005/0007

Brianna Farmer presented EO-19-0004/0005/0007 final draft with the dissenting members' comment added.

The Committee approved the draft to be posted for public comment.

- EO-19-0006

Hon. John Napper and Regina Nassen presented EO-19-0006 final draft for discussion and approval.

Motion: Approve draft and post for public comment.

Moved by: Geoffrey Trachtenberg

Second: Charles Thomson

Motion Passed 12-0-2

- EO-19-0010

Sheena Chiang presented.

The Committee suggested the subcommittee add citations to the states mentioned in the draft and edit the language to clarify what constitutes a waiver by the client for confidential information to be released.

The Committee will provide the subcommittee any additional edits within the next 2 weeks. Charles Thomson will draft a dissent.

Motion: Subcommittee edit draft opinion and present final draft at next scheduled meeting.

Moved by: Hon. John Napper

Second: Geoffrey Trachtenberg

Motion Passed 11-1-2

- EO-20-0001

Charles Thomson presented.

EO-20-0001 reviews State Bar's Ethics Opinion 09-02, which addresses the issue of confidentiality when a lawyer is fired or withdraws from a case regarding transfer to new council.

The Committee will provide the subcommittee any additional edits within the next 2 weeks.

Motion: Subcommittee edit draft opinion and present final draft at next scheduled meeting.

Moved by: Hon. John Napper

Second: Kimberly Demarchi

Motion Passed 12-0-2

- EO-20-0002

Angela Woolridge presented.

EO-20-0002 reviews State Bar's Ethics Opinion 95-03, which addresses recordings of telephonic conversations of opposing council.

The Subcommittee will develop an outline to provide to the Committee at the next scheduled meeting.

No. 4 Discussion and possible action regarding topics to be addressed at future meetings

No new topics discussed.

No. 5 Call to Public

None.

Next Meeting:

Thursday April 30, 2020

9:30 a.m.

Adjourned: 10:44 am