

“1975” CALIFORNIA RULES OF PROFESSIONAL CONDUCT

(Effective from January 1, 1975 to May 26, 1989)

Revised Rules Approved by Order of the Supreme Court Filed December 31, 1974 together with subsequent revisions.

The following revision constitutes the first complete revision of the Rules of Professional Conduct. The first set of Rules of Professional Conduct were approved by the Supreme Court effective May 24, 1928. For the last official printing of the former revision of the Rules, see (1969) 1 Cal.3d Rules amended 1972 and 1973.

Rule 1-100 Rules of Professional Conduct, In General

These rules of professional conduct, adopted by the Board of Governors of the State Bar of California, pursuant to the provisions of the State Bar Act, shall become effective upon approval by the Supreme Court of California. When so approved, these rules shall be binding upon all members of the State Bar, and the wilful breach of any of these rules shall be punishable as provided by law. Nothing in these rules is intended to limit or supersede any provision of law relating to the duties and obligations of attorneys or the consequences of a violation thereof. The prohibition of certain conduct in these rules is not to be interpreted as an approval of conduct not specifically mentioned. These rules may be cited and referred to as "Rules of Professional Conduct of the State Bar of California".

Wherever in these rules reference is made to a law firm or association, such reference shall also apply to a law corporation.

Rule 1-101 Maintaining Integrity and Competence of the Legal Profession

A member of the State Bar shall not further the application for admission to practice law of another person known by him to be unqualified in respect to character, education, or other relevant attribute. 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.

Rule 2-101 General Prohibition Against Solicitation of Professional Employment

(Repealed by order of Supreme Court, effective April 1, 1979.)

Rule 2-101 Professional Employment

This rule is adopted to foster and encourage the free flow of truthful and responsible information to assist the public in recognizing legal problems and in making informed choices of legal counsel.

Accordingly, a member of the State Bar may seek professional employment from a former, present or potential client by any means consistent with these rules.

(A) A "communication" is a message concerning the availability for professional employment of a member or a member's firm. A "communication" made by or on behalf of a member shall not:

- (1) Contain any untrue statement; or
- (2) Contain any matter, or present or arrange any matter in a manner or format which is false, deceptive, or which tends to confuse, deceive or mislead the public; or
- (3) Omit to state any fact necessary to make the statements made, in the light of the circumstances under which they are made, not misleading to the public; or
- (4) Fail to indicate clearly, expressly or by context, that it is a "communication"; or
- (5) State that a member is a certified specialist unless the member holds a current certificate as a specialist issued by the California Board of Legal Specialization pursuant to a plan for specialization approved by the Supreme Court; or
- (6) Be transmitted in any manner which involves intrusion, coercion, duress, compulsion, intimidation, threats or vexatious or harassing conduct.

(B) No solicitation or "communication" seeking professional employment from a potential client for pecuniary gain shall be delivered by a member or a member's agent in person or by telephone to the potential client, nor shall a solicitation or "communication" specifically directed to a particular potential client regarding that potential client's particular case or matter and seeking professional employment for

pecuniary gain be delivered by any other means, unless the solicitation or "communication" is protected from abridgment by the Constitution of the United States or by the Constitution of the State of California. A potential client includes a former or present client.

Notwithstanding the foregoing, nothing in this subdivision (B) shall limit or negate the continuing professional duties of a member or a member's firm to former or present clients, or a member's right to respond to inquiries from potential clients.

(C) A member or member's firm shall not solicit or accept professional employment offered or obtained through the acts of an agent, runner or capper, which acts would be in violation of law, or which, if performed by a member of the State Bar, would be in violation of subdivisions (A) or (B) of this rule 2-101.

(D) The Board of Governors of the State Bar shall formulate and adopt standards as to what "communications" will be presumed to violate subdivisions (A) or (B) of this rule 2-101. The standards shall have effect exclusively in disciplinary proceedings involving alleged violations of these rules as presumptions affecting the burden of proof. "Presumption affecting the burden of proof" means that presumption defined in Evidence Code sections 605 and 606. The standards formulated and adopted by the Board, as from time to time amended, shall be effective and binding on members of the State Bar.

(E) The member shall retain for one year a true and correct copy or recording of any "communication" made by written or electronic media pertaining to the member or the member's firm. Upon written request, the member or the member's firm shall make any such copy or recording available to the State Bar, and, if requested, shall provide to the State Bar the evidence of the facts upon which any factual or objective claims contained in the "communication" are based. (Adopted by order of Supreme Court, effective April 1, 1979.)

Rule 2-102 Publicity in General

(Repealed by order of Supreme Court, effective April 1, 1979.)

Rule 2-102 Legal Service Programs

(A) The participation of a member or a member's firm in a bona fide program, activity or organization that furnishes, recommends, or pays for legal services, including but not limited to group, prepaid and voluntary legal service organizations, programs or activities is encouraged, and is not, of itself, a violation of these rules. A program or activity is not bona fide if its organization or operation allows any third person, organization or group to interfere with or control the performance of the member's duties to his or her clients; or allows unlicensed persons to practice law; or allows any third person, organization or group to receive directly or indirectly any part of the consideration paid to the member of the State Bar except as permitted by these rules; or would violate rule 2-101.

(B) The participation of a member of the State Bar in a lawyer referral service established, sponsored, supervised and operated in conformity with the Minimum Standards for a Lawyer Referral Service in California (hereinafter "Standards") is encouraged, and is not, of itself, a violation of these rules. The Board of Governors of the State Bar shall formulate and adopt the Standards, which, as from time to time amended, shall be effective and binding on members of the State Bar. (Amended by order of Supreme Court, effective April 1, 1979.)

Rule 2-103 Professional Notices, Letterheads, Offices and Law Lists

(Repealed by order of Supreme Court, effective April 1, 1979.)

Rule 2-104 Recommendation of Professional Employment

(Repealed by order of Supreme Court, effective April 1, 1979.)

Rule 2-105 Advising Inquirers Through the Media on Specific Legal Problems

(Repealed by order of Supreme Court, effective February 20, 1985.)

Rule 2-106 Specialization

(Repealed by order of Supreme Court, effective April 1, 1979.)

Rule 2-107 Fees for Legal Services

(A) A member of the State Bar shall not enter into an agreement for, charge or collect an illegal or unconscionable fee.

(B) A fee is unconscionable when it is so exorbitant and wholly disproportionate to the services performed as to shock the conscience of lawyers of ordinary prudence practicing in the same community. Reasonableness shall be determined on the basis of circumstances existing at the time the agreement is entered into except where the parties contemplate that the fee will be affected by later events. Among the factors to be considered, where appropriate, in determining the reasonableness of a fee are the following:

- (1) The novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.
- (2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.
- (3) The amount involved and the results obtained.
- (4) The time limitations imposed by the client or by the circumstances.
- (5) The nature and length of the professional relationship with the client.
- (6) The experience, reputation, and ability of the lawyer or lawyers performing the services.
- (7) Whether the fee is fixed or contingent.
- (8) The time and labor required.
- (9) The informed consent of the client to the fee agreement.

Rule 2-108 Financial Arrangements Among Lawyers

(A) A member of the State Bar shall not divide a fee for legal services with another person licensed to

practice law who is not a partner or associate in the member's law firm or law office, unless:

- (1) The client consents in writing to employment of the other person licensed to practice law after a full disclosure has been made in writing that a division of fees will be made and the terms of such division; and
- (2) The total fee charged by all persons licensed to practice law is not increased solely by reason of the provision for division of fees and does not exceed reasonable compensation for all services they render to the client.

(B) Except as permitted in subdivision (A), a member of the State Bar shall not compensate, give or promise anything of value to any person licensed to practice law for the purpose of recommending or securing employment of the member or the member's firm by a client, or as a reward for having made a recommendation resulting in employment of the member or the member's firm by a client. A member's offering of or giving a gift or gratuity to any person licensed to practice law, who has made a recommendation resulting in the employment of the member or the member's firm, shall not of itself violate this rule, provided that the gift or gratuity was not offered in consideration of any promise, agreement or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future. (Amended by order of Supreme Court, effective October 1, 1979.)

Rule 2-109 Agreements Restricting the Practice of a Member of the State Bar

(A) A member of the State Bar shall not be a party to or participate in an agreement, whether in connection with the settlement of a lawsuit or otherwise, if the agreement restricts the right of a member of the State Bar to practice law.

(B) Nothing in subdivision (A) of this rule shall be construed as prohibiting such a restrictive agreement which:

- (1) is a part of an employment or partnership agreement between members of the State Bar provided said restrictive agreement does not survive the term of said partnership or employment; or

(2) requires payments to a member of the State Bar upon his permanent retirement from the practice of law.

Rule 2-110 Acceptance of Employment

A member of the State Bar shall not seek or accept employment to accomplish any of the following objectives, nor shall the member do so if he knows or should know that the person solicited for or offering the employment wishes to accomplish any of the following objectives:

(A) Bring a legal action, conduct a defense, or assert a position in litigation, or otherwise take steps, solely for the purpose of harassing or maliciously injuring any person or to prosecute or defend a case solely out of spite.

(B) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification or reversal of existing law.

(C) Take or prosecute an appeal solely for delay, or for any other reason not in good faith. (Amended by order of Supreme Court, effective April 1, 1979.)

Rule 2-111 Withdrawal from Employment

(A) In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a member of the State Bar shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) In any event, a member of the State Bar shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

(3) A member of the State Bar who withdraws from employment shall refund promptly any part of a fee paid in advance that has not been earned. However, this rule shall not be applicable to a true retainer fee which is paid solely for the purpose of insuring the availability of the attorney for the matter.

(4) If upon or after undertaking employment, a member of the State Bar knows or should know that the member ought to be called as a witness on behalf of the member's client in litigation concerning the subject matter of such employment, the member may continue employment only with the written consent of the client given after the client has been fully advised regarding the possible implications of such dual role as to the outcome of the client's cause and has had a reasonable opportunity to seek the advice of independent counsel on the matter. In civil proceedings, the written consent of the client shall be filed with the court not later than the commencement of trial. In criminal proceedings, the written consent need not be filed with the court but the member has the duty, before testifying, of satisfying the court that such consent has been obtained from the client if representing the defendant. The member may continue employment and the client's consent need not be obtained in the following circumstances:

(a) If the member's testimony will relate solely to an uncontested matter; or

(b) If the member's testimony will relate solely to a matter of formality and there is not reason to believe that substantial evidence will be offered in opposition to the testimony; or

(c) If the member's testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or his firm to the client; or

(d) If the member is representing the People, if the member obtains the consent of the head of the particular office representing the People, and if the member's continued representation is not inconsistent with the principles of recusal. (Amended by order of the Supreme Court, effective November 1, 1979.)

(5) If, after undertaking employment in contemplated or pending litigation, a member of the State Bar learns or it is obvious that he or a lawyer in his firm may be called as a witness other than on behalf of his client, he may continue the representation until it is apparent that his testimony is or may be prejudicial to his client.

(B) Mandatory Withdrawal.

A member of the State Bar representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a member of the State Bar representing a client in other matters shall withdraw from employment, if:

- (1) He knows or should know that his client is bringing a legal action, conducting a defense, asserting a position in litigation, or otherwise having steps taken for him solely for the purpose of harassing or maliciously injuring any person or solely out of spite, or is taking or prosecuting an appeal merely for delay, or for any other reason not in good faith; or
- (2) He knows or should know that his continued employment will result in violation of these Rules of Professional Conduct or of the State Bar Act; or
- (3) His mental or physical condition renders it unreasonably difficult for him to carry out the employment effectively.

(C) Permissive Withdrawal.

If Rule 2-111(B) is not applicable, a member of the State Bar may not request permission to withdraw in matters pending before a tribunal and may not withdraw in other matters, unless such request or such withdrawal is because:

- (1) His client:
 - (a) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law; or
 - (b) Personally seeks to pursue an illegal course of conduct; or
 - (c) Insists that the member of the State Bar pursue a course of conduct that is illegal or that is prohibited under these Rules of Professional Conduct or the State Bar Act; or
 - (d) By other conduct renders it unreasonably difficult for the member of the State Bar to carry out his employment effectively; or

(e) Insists, in a matter not pending before a tribunal, that the member of the State Bar engage in conduct that is contrary to the judgment and advice of the member of the State Bar but not prohibited under these Rules of Professional Conduct or the State Bar Act; or

(f) Deliberately disregards an agreement or obligation to the member of the State Bar as to expenses or fees; or

(2) His continued employment is likely to result in a violation of these Rules of Professional Conduct or of the State Bar Act; or

(3) His inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal; or

(4) His mental or physical condition renders it difficult for him to carry out the employment effectively; or

(5) His client knowingly and freely assents to termination of his employment; or

(6) He believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

Rule 3-101 Aiding Unauthorized Practice of Law

(A) A member of the State Bar shall not aid any person, association, or corporation in the unauthorized practice of law.

(B) A member of the State Bar shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

Rule 3-102 Financial Arrangements With Non-Lawyers

(A) A member of the State Bar or the member's firm shall not directly or indirectly share legal fees except with a person licensed to practice law except that:

- (1) An agreement by a member of the State Bar with member's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the member's death,

to his or her estate or to one or more specified persons.

(2) A member of the State Bar who undertakes to complete unfinished legal business of a deceased member of the State Bar may pay to the estate of the deceased member of the State Bar or other person legally entitled thereto that proportion of the total compensation which fairly represents the services rendered by the deceased member of the State Bar.

(3) A member of the State Bar or the member's firm may include employees not members of the State Bar in a retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

(B) A member of the State Bar shall not compensate or give or promise anything of value to any person or entity for the purpose of recommending or securing employment of the member or the member's firm by a client, or as a reward for having made a recommendation resulting in employment of the member or the member's firm by a client. A member's offering of or giving a gift or gratuity to any person or entity, which has made a recommendation resulting in the employment of the member or the member's firms, shall not of itself violate this rule, provided that the gift or gratuity was not offered in consideration of any promise, agreement or understanding that such a gift or gratuity would be forthcoming or that referrals would be made or encouraged in the future. (Amended by order of Supreme Court, effective October 1, 1979.)

(C) A member of the State Bar shall not compensate or give or promise anything of value to any representative of the press, radio, television or other communication medium in anticipation of or in return for publicity of the member, the member's firm, or any other attorney as such in a news item, but the incidental provision of food or beverages shall not of itself violate this subdivision. (Amended by order of Supreme Court, effective April 1, 1979.)

Rule 3-103 Forming a Partnership With a Non-Lawyer

A member of the State Bar shall not form a partnership with a person not licensed to practice law if any of the activities of the partnership consist of the practice of law.

Rule 4-101 Accepting Employment Adverse to a Client

A member of the State Bar shall not accept employment adverse to a client or former client, without the informed and written consent of the client or former client, relating to a matter in reference to which he has obtained confidential information by reason of or in the course of his employment by such client or former client.

Rule 5-101 Avoiding Adverse Interests

A member of the State Bar shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless (1) the transaction and terms in which the member of the State Bar acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing to the client in manner and terms which should have reasonably been understood by the client, (2) the client is given a reasonable opportunity to seek the advice of independent counsel of the client's choice on the transaction, and (3) the client consents in writing thereto.

Rule 5-102 Avoiding the Representation of Adverse Interests

(A) A member of the State Bar shall not accept professional employment without first disclosing his relation, if any, with the adverse party, and his interest, if any, in the subject matter of the employment. A member of the State Bar who accepts employment under this rule shall first obtain the client's written consent to such employment.

(B) A member of the State Bar shall not represent conflicting interests, except with the written consent of all parties concerned.

Rule 5-103 Purchasing Property at a Probate, Foreclosure or Judicial Sale

A member of the State Bar shall not directly or indirectly purchase property at a probate, foreclosure or judicial sale in an action or proceeding in which such member or any partner or associate of such member appears as attorney for a party or is acting as executor, trustee, administrator, guardian or conservator.

As used in this rule, the term "associate" means an employee or fellow employee who is a member of the State Bar.

Rule 5-104 Payment of Personal or Business Expenses Incurred by or for a Client

(A) A member of the State Bar shall not directly or indirectly pay or agree to pay, guarantee, or represent or sanction the representation that he will pay personal or business expenses incurred by or for a client, prospective or existing and shall not prior to his employment enter into any discussion or other communication with a prospective client regarding any such payments or agreements to pay; provided this rule shall not prohibit a member:

- (1) with the consent of the client, from paying or agreeing to pay to third persons such expenses from funds collected or to be collected for the client; or
- (2) after he has been employed, from lending money to his client upon the client's promise in writing to repay such loan; or
- (3) from advancing the costs of prosecuting or defending a claim or action or otherwise protecting or promoting the client's interests. Such costs within the meaning of this subparagraph (3) shall be limited to all reasonable expenses of litigation or reasonable expenses in preparation for litigation or in providing any legal services to the client.

(B) Nothing in Rule 5-104 shall be deemed to abrogate any of the provisions set forth in Rules 5-101 through 5-103.

(C) Nothing in this Rule 5-104 shall prohibit a member of the State Bar from reading or showing this Rule to a prospective client and describing the nature and extent of the conduct prohibited by this rule.

Rule 5-105 Communication of Written Settlement Offer

A member of the State Bar shall promptly communicate to the member's client all amounts, terms and conditions of any written offer of settlement made by or on behalf of an opposing party. As used in this rule, "client" includes a person employing the member of the State Bar who possesses the authority to accept an offer of settlement, or, in a class action, who is a representative of the class. (Added by order of Supreme Court, effective March 15, 1979.)

Rule 6-101 Failing to Act Competently

(A) (1) Attorney competence means the application of sufficient learning, skill, and diligence necessary to discharge the member's duties arising from the employment or representation.

(2) A member of the State Bar shall not intentionally or with reckless disregard or repeatedly fail to perform legal services competently.

(B) Unless the member associates or, where appropriate, professionally consults another lawyer who the member reasonably believes is competent, a member of the State Bar shall not

(1) Accept employment or continue representation in a legal matter when the member knows that the member does not have, or will not acquire before performance is required, sufficient time, resources and ability to, perform the matter with competence, or

(2) Repeatedly accept employment or continue representation in legal matters when the member reasonably should know that the member does not have, or will not acquire before performance is required, sufficient time, resources and ability to, perform the matter with competence.

(C) As used in this rule, the term "ability" means a quality or state of having sufficient learning and skill and being mentally, emotionally and physically able to perform legal services. (Amended by order of Supreme Court, effective October 21, 1983.)

[Publisher's Note: The text of former rule 6-101, which was in effect from January 1, 1975 to October 23, 1983 is reprinted below for your convenience.]

A member of the State Bar shall not willfully or habitually

(1) Perform legal services for a client or clients if he knows or reasonably should know that he does not possess the learning and skill ordinarily possessed by lawyers in good standing who perform, but do not specialize in, similar services practicing in the same or similar locality and under similar circumstances unless he associates or, where appropriate, professionally consults another lawyer who he reasonably believes does possess the requisite learning and skill;

(2) Fail to use reasonable diligence and his best judgment in the exercise of his skill and in the application of his learning in an effort to accomplish, with reasonable speed, the purpose for which he is employed.

The good faith of an attorney is a matter to be considered in determining whether acts done through ignorance or mistake warrant imposition of discipline under Rule 6-101.

Rule 6-102 Limiting Liability to Client

A member of the State Bar shall not attempt to exonerate himself from or limit his liability to his client for his personal malpractice. This rule shall not prevent a member of the State Bar from settling or defending a malpractice claim.

Rule 7-101 Advising the Violation of Law

A member of the State Bar shall not advise the violation of any law, rule or ruling of a tribunal unless he believes in good faith that such law, rule or ruling is invalid. A member of the State Bar may take appropriate steps in good faith to test the validity of any law, rule or ruling of a tribunal.

Rule 7-102 Performing the Duty of Member of the State Bar in Government Service

A member of the State Bar in government service shall not institute or cause to be instituted criminal charges when he knows or should know that the charges are not supported by probable cause. If, after the institution of criminal charges, a member of the State Bar in government service having responsibility for prosecuting the charges becomes aware that those charges are not supported by probable cause, he shall promptly so advise the court in which the criminal matter is pending.

Rule 7-103 Communicating With an Adverse Party Represented by Counsel

A member of the State Bar shall not communicate directly or indirectly with a party whom he knows to be represented by counsel upon a subject of controversy, without the express consent of such counsel. This rule shall not apply to communications with a public officer, board, committee or body.

Rule 7-104 Threatening Criminal Prosecution

A member of the State Bar shall not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil action nor shall he present or participate in presenting criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

Rule 7-105 Trial Conduct

In presenting a matter to a tribunal, a member of the State Bar shall:

(1) Employ, for the purpose of maintaining the causes confided to him such means only as are consistent with truth, and shall not seek to mislead the judge, judicial officer or jury by an artifice or false statement of fact or law. A member of the State Bar shall not intentionally misquote to a judge or judicial officer the language of a book, statute or decision; nor shall he, with knowledge of its invalidity and without disclosing such knowledge, cite as authority a decision that has been overruled or a statute that has been repealed or declared unconstitutional. A member of the State Bar shall refrain from asserting his personal knowledge of the facts at issue, except when testifying as a witness.

(2) Disclose, unless privileged or irrelevant, the identities of the clients he represents.

Rule 7-106 Communication With or Investigation of Jurors

(A) Before the trial of a case, a member of the State Bar connected therewith shall not communicate directly or indirectly with anyone he knows to be a member of the venire from which the jury will be selected for the trial of the case.

(B) During the trial of a case:

(1) A member of the State Bar connected therewith shall not communicate directly or indirectly with any member of the jury.

(2) A member of the State Bar who is not connected therewith shall not communicate directly or indirectly with a juror concerning the case.

(C) Rule 7-106(A) and (B) do not prohibit a member of the State Bar from communicating with veniremen or jurors as a part of the official proceedings.

(D) After discharge of the jury from further consideration of a case with which the member of the State Bar was connected, the member of the State Bar shall not ask questions of or make comments to a member of that jury that are intended to harass or embarrass the juror or to influence the juror's actions in future jury service.

(E) A member of the State Bar shall not conduct directly or indirectly an out of court investigation of either a venireman or a juror of a type likely to influence the state of mind of such venireman or juror in present or future jury service.

(F) All restrictions imposed by Rule 7-106 upon a member of the State Bar also apply to communications with or investigations of members of a family of a venireman or a juror.

(G) A member of the State Bar shall reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of his family of which the member of the State Bar has knowledge.

Rule 7-107 Contact With Witnesses

A member of the State Bar shall not:

(A) Suppress any evidence that he or his client has a legal obligation to reveal or produce.

(B) Advise or directly or indirectly cause a person to secrete himself or to leave the jurisdiction of a tribunal for the purpose of making him unavailable as a witness therein.

(C) Directly or indirectly pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his testimony or the outcome of his case. Except where prohibited by law, a member of the State Bar may advance, guarantee or acquiesce in the payment of:

(1) Expenses reasonably incurred by a witness in attending or testifying.

(2) Reasonable compensation to a witness for his loss of time in attending or testifying.

(3) A reasonable fee for the professional services of an expert witness.

Rule 7-108 Contact With Officials

(A) A member of the State Bar shall not directly or indirectly give or lend anything of value to a judge, official, or employee of a tribunal unless the personal or family relationship between the member and the judge, official or employee is such that gifts are customarily given and exchanged.

(B) A member of the State Bar shall not directly or indirectly, in the absence of opposing counsel, communicate with or argue to a judge or judicial officer, upon the merits of a contested matter pending before such judge or judicial officer, except in open court; nor shall he, without furnishing opposing counsel with a copy thereof, address a written communication to a judge or judicial officer concerning the merits of a contested matter pending before such judge or judicial officer. The rule shall not apply to ex parte matters.

Rule 8-101 Preserving Identity of Funds and Property of a Client

(A) All funds received or held for the benefit of clients by a member of the State Bar or firm of which he is a member, including advances for costs and expenses, shall be deposited in one or more identifiable bank accounts labeled "Trust Account", "Client's Funds Account" or words of similar import, maintained in the State of California, or, with written consent of the client, in such other jurisdiction where there is a substantial relationship between his client or his client's business and the other jurisdiction and no funds belonging to the member of the State Bar or firm of which he is a member shall be deposited therein or otherwise commingled therewith except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the member of the State Bar or firm of which he is a member must be deposited therein and the portion belonging to the member of the State Bar or firm of which he is a member must be withdrawn at the earliest reasonable time after the member's interest in that portion becomes fixed. However, when the right of the member of the State Bar or firm of which he is a member to receive a portion of trust funds is disputed by the client, the disputed portion shall

not be withdrawn until the dispute is finally resolved.

(B) A member of the State Bar shall:

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the member of the State Bar and render appropriate accounts to his client regarding them; preserve such records for a period of no less than five years after final appropriate distribution of such funds or properties; and comply with any order for an audit of such records issued pursuant to the Rules of Procedure of the State Bar.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the member of the State Bar which the client is entitled to receive. [See appendix A for Supreme Court order pursuant to Statutes 1981, Chapter 789.] (Amended by order of Supreme Court, effective October 21, 1983.)

Rule 9-101 Disciplinary Authority of the State Bar

A member of the State Bar shall comply with conditions attached to public or private reprovls administered by the State Bar pursuant to Business and Professions Code sections 6077 and 6078 and rule 956, California Rules of Court. (Added by order of Supreme Court, effective November 18, 1983.)