

**Committee on Professional Ethics**

Meeting Minutes

February 23, 2024

The meeting was held via video conference.

Members present were Monte Jewell, (Chair), Pam Anderson, Mark Fucile, Hugh Spitzer, Janice Wang, Sara Ayoubi, Michele Carney, and Vince Lombardi. BOG Liaison Mary Rathbone was absent. Asel Neutze was excused. Also present were Jeanne Marie Clavere (staff liaison), Sandra Schilling, Professional Responsibility Counsel (PRC), Doug Ende, Chief Disciplinary Counsel, and Kevin Plachy, Advancement Department Director.

The chair called the meeting to order at 10:02 a.m.

**Announcements/Updates**

- Update on Suggested Amendments to RPC 1.2, Comment 18, and RPC 8.4. The suggested amendments have been published for comment, with an expiration date of August 30, 2024.

**The December 8, 2023, minutes were approved.**

**Review options for adding the civil legal aid exception to RPC 1.8(e)**

Kevin Plachy offered to bring this matter to Executive Director Terra Nevitt to address CPE options with the BOG Executive Committee and gage whether they have interest in the CPE pursuing more information from the Court. Mr. Plachy will bring information back to this committee at the next meeting as to the BOG EC communication concerning RPC 1.8(e) suggested changes and the opportunity of the CPE to continue pursuing this project.

**RPC 1.6 Reporting Data and Client Privacy**

The subcommittee has received and reviewed substantial feedback from stakeholders regarding the draft advisory opinion. Most of the feedback received from stakeholders was easily integrated into the draft advisory opinion. The committee discussed further edits and directed the subcommittee to prepare a final draft advisory opinion for the next meeting.

**RPC 1.4 and Language Access in the Client-Lawyer Relationship**

The subcommittee is continuing to collect feedback and investigate the issue. The committee approved a request for the subcommittee to meet with stakeholders. There is interest in pending ABA revised

standards on language access in the courts. The subcommittee will continue to work on gathering information and prepare a draft advisory opinion.

### **Vacating Convictions in the Absence of an Established Attorney-Client Relationship**

The discussion draft has been circulated to stakeholders, several of which have committed to providing comments. Once the comments are received, the subcommittee will review and incorporate as appropriate in the draft advisory opinion.

### **Responsibilities Regarding Client Files**

The committee reviewed a draft advisory opinion which incorporated suggested edits from the last meeting. The committee approved the opinion for final with the incorporation of several additional edits. The committee will begin preparations for presentation to the BOG.

### **Fee Splitting with a Former Firm**

The committee approved putting the matter on hiatus pending final disposition of *Seattle Truck Law, PLLC v. Banks* (Washington Supreme Court Case. No. 102761-3). The Chair will notify the requestors that the committee is temporarily pausing investigation on the issue so there is an opportunity to consider the outcome of the Seattle Truck matter.

### **Advisory Opinion re Updating AO 1900 re Contingency Fee Agreements in Committed Intimate Relationships**

The committee directed the subcommittee to send a discussion draft advisory opinion to stakeholders for comment subject to the standard disclaimer language and precautions. The committee further directed the subcommittee to consider whether a proposed amendment to RPC 1.5(d) or comment preferable to an advisory opinion.

### **Request for AO re CPG Representation and RPC 1.7 Implications**

The committee approved a motion for the subcommittee to send a discussion draft opinion to stakeholders for comment subject to the standard disclaimer language and precautions.

### **ABA Amendment to RPC 1.16 re Clarifying Ethical Obligations**

The subcommittee reported on the issue. The committee directed the subcommittee to specifically consider RPC 2.1, the reproductive rights question that was considered by the ABA delegates, and whether there will be disparate impact on rural practitioners. The subcommittee will continue investigating and researching these issues and report back with recommendations at the next meeting.

### **Ethics Issues and the Use of Large Language Model AI/ChatGPT**

After receiving a report on the issue, the committee directed the subcommittee to prepare a draft advisory opinion on AI ethical issues, specifically supervision, competence, and confidentiality and others

**Possible AO on the return of fees paid by 3<sup>rd</sup> party.**

The committee formed a subcommittee to investigate the issue and prepare a draft advisory opinion.

The meeting adjourned at 2:12 PM.