

**Committee on Professional Ethics**

Meeting Minutes

April 19, 2024

The meeting was held via video conference.

Members present were Monte Jewell, (Chair), Pam Anderson, Mark Fucile, Hugh Spitzer, Azel Neutze, and Sara Ayoubi. BOG Liaison Mary Rathbone was absent. Janice Wang, Vince Lombardi, and Michele Carney were 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 10:00 a.m.

**Announcements/Updates**

- Staff discussed FY 25 CPE openings and recruitment and encouraged members to look for potential future members. Applications will be open May 1, and diversity is valued.
- Staff reminded members that footnotes cannot be used in Advisory Opinions, and end notes must be used instead. A sample AO is in the Forms folder.

**The February 23, 2023, minutes were approved.**

**Review Options for Adding the Civil Legal Aid Exception to RPC 1.8(e)**

Kevin Plachy reported that he met with Executive Director Terra Nevitt. He clarified that she has no agenda as to this issue, but if the committee wants to pursue this further, and has questions for the court, she can convey those to the court. A motion to table the RPC 1.8(e) issue indefinitely was passed.

**RPC 1.6 Reporting Data and Client Privacy**

The committee reviewed and discussed final edits. A motion to approve discussed edits, including an endnote to RPC 8.4 language, to present it at the next meeting for final approval, and to prepare materials for the BOG meeting, was passed.

**RPC 1.15A and Fees and Refund of Advance Fee Deposit**

The subcommittee is investigating the issue. Staff suggested also incorporating the issue of returning disputed fees paid by the client(s).

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

The subcommittee will continue working on this issue along with suggested edits, including contacting stakeholders as to the direction it is considering.

### **ABA Amendment to RPC 1.16 re Clarifying Ethical Obligations and Conducting Reasonable Inquiry**

No action taken.

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

No action taken.

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

The subcommittee received feedback from stakeholders after circulating a draft opinion. A motion was approved for the subcommittee to review the existing draft opinion and bring the matter back at the next meeting.

### **Responsibilities Regarding Client Files**

The proposed AO is in the BOG materials for information only for the next BOG meeting.

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

*Seattle Truck Law, PLLC v. Banks* is on appeal. The committee will wait until a final decision is rendered by the court before it continues work on the matter.

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

The subcommittee circulated a draft advisory opinion among stakeholders but did not yet receive comments back. It did receive notice regarding absences because of spring break. The committee agreed to wait for comments and encourage feedback from stakeholders.

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

The subcommittee reported that many resources are coming online, and AI issues are moving very fast. The subcommittee circulated a draft opinion. The subcommittee will incorporate topics discussed at the meeting, including legal fee issues, and propose a discussion draft for the next meeting. The CPE anticipates that the subcommittee's work will be coordinated with the work of the WSBA Task Force.

### **RPC 1.6 and 5.3 and Lawyers Employing Mandatory Reporters**

A motion was passed to form a subcommittee to investigate and report on this issue.

The meeting adjourned at 1:40 PM.