



The State Bar *of California*

California Compendium on Professional Responsibility Index

2022

COMPENDIUM UPDATE CASE LIST

Publisher's Note: For your convenience, below is an alphabetical list of the cases added to the *2022 California Compendium on Professional Responsibility* index. This list consists of cases decided from January 2021 to December 2021. Recently published state and county bar ethics opinions and some cases from prior years have also been added to this update.

2021 Cases

[2-Bar Ranch Limited Partnership v. United States Forest Service](#) (9th Cir. 2021) 996 F.3d 984
[AdTrader, Inc. v. Google LLC](#) (9th Cir. 2021) 7 F.4th 803
[Amjadi v. Brown](#) (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
[C.T. v. K.W.](#) (2021) 71 Cal.App.5th 679 [286 Cal.Rptr.3d 409]
[CAL 2021-205](#)
[CAL 2021-206](#)
[CAL 2021-207](#)
[California Union Square, L.P. v. Saks & Co. LLC](#) (2021) 71 Cal.App.5th 136 [286 Cal.Rptr.3d 115]
[Champir, LLC v. Fairbanks Ranch Association](#) (2021) 66 Cal.App.5th 583 [281 Cal.Rptr.3d 286]
[Chinese Theatres, LLC v. County of Los Angeles](#) (2021) 59 Cal.App.5th 484 [273 Cal.Rptr.3d 640]
[Conservatorship of Brokken](#) (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]
[Curtis v. Superior Court](#) (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
[Doe v. Westmont College](#) (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
[Dunning v. Clews](#) (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]
[Early v. Becerra](#) (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
[Genis v. Schainbaum](#) (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]
[Harris v. Rojas](#) (2021) 66 Cal.App.5th 817 [281 Cal.Rptr.3d 452]
[Hom v. Petrou](#) (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
[In re A.R.](#) (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
[In re Grand Jury](#) (9th Cir. 2021) 23 F.4th 1088
[In re Mahoney](#) (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
[In re Marriage of Erndt and Terhorst](#) (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
[In the Matter of Braun](#) (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
[In the Matter of Chavez](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
[In the Matter of Herich](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820
[In the Matter of Hoffman](#) (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
[In the Matter of Rubin](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
[In the Matter of Saxon](#) (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728
[Jackson v. Park](#) (2021) 66 Cal.App.5th 1196 [281 Cal.Rptr.3d 634]
[Leiper v. Gallegos](#) (2021) 69 Cal.App.5th 284 [284 Cal.Rptr.3d 349]
[Los Angeles County Bd. of Supervisors v. Superior Court](#) (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
[Mai v. HKT](#) (2021) 66 Cal.App.5th 504 [281 Cal.Rptr.3d 255]
[McGill v. Shinn](#) (9th Cir. 2021) 16 F.4th 666
[Michaels v. Greenberg Traurig, LLP](#) (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
[Missakian v. Amusement Industry, Inc.](#) (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
[Pasternack v. McCullough](#) (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
[Pech v. Morgan](#) (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
[People v. Collins](#) (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
[People v. Doane](#) (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
[People v. Dworak](#) (2021) 11 Cal.5th 881 [281 Cal.Rptr.3d 176]
[People v. Kelly](#) (2020) 59 Cal.App.5th 1172 [274 Cal.Rptr.3d 158]
[People v. Montoya](#) (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]
[People v. Smothers](#) (2021) 66 Cal.App.5th 829 [281 Cal.Rptr.3d 409]
[Poulsen v. Department of Defense](#) (9th Cir. 2021) 994 F.3d 1046
[Pulliam v. HNL Automotive Inc.](#) (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]
[Reck v. FCA US LLC](#) (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
[Saint Francis Memorial Hospital v. State Department of Public Health](#) (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
[Schoenberg v. Federal Bureau of Investigation](#) (9th Cir. 2021) 2 F.4th 1270
SD 2021-1
[Seachris v. Brady-Hamilton Stevedore Company](#) (9th Cir. 2021) 994 F.3d 1066
SF 2021-1
[State Farm General Insurance Company v. Lara](#) (2021) 71 Cal.App.5th 197 [286 Cal.Rptr.3d 124]
[The Sonoma Land Trust v. Thompson](#) (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
[United States v. Juliano](#) (9th Cir. 2021) 12 F.4th 937
[United States v. Velazquez](#) (9th Cir. 2021) 1 F.4th 1132
[Varney Entertainment Group, Inc. v. Avon Plastics, Inc.](#) (2021) 61 Cal.App.5th 222 [275 Cal.Rptr.3d 394]
[Washington v. Shinn](#) (9th Cir. 2021) 46 F.4th 915
[Westwood Homes, Inc. v. AGCPII Villa Salerno Member](#) (2021) 65 Cal.App.5th 922 [280 Cal.Rptr.3d 417]
[Yoon v. Cam IX Trust](#) (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]

HOW TO USE THIS INDEX

SUBJECT LISTINGS AND HEADINGS

The subject listings in this index were adapted, with the permission of the American Bar Foundation, from the *1980 Supplement to Digest of Bar Association Ethics Opinions* edited by Olavi Maru. Therefore, the listings in this index are compatible with and cumulative to the listings in American Bar Association professional responsibility materials, which should be consulted for the views of other jurisdictions. If there are no California citations or entries under a primary heading, the entry has been retained so that you may consult ABA Digests for authority in other states.

The index contains primary subject listings which are alphabetically arranged. Cross references immediately following the listing refer you to the subject or subjects where citations and other information are to be found. In the interest of providing comprehensive coverage of a subject or analogous or related topics, many subject listings have more than one cross-reference. Primary listings are printed in capital letters, in darker print, followed by sub-headings, citations and cross references, as shown in the example below:

Primary heading:	ARBITRATION
Cross reference:	[See Fee arbitration.]
Subheading:	Agreement with client to arbitrate any malpractice claim by client
Citation to subheading:	CAL 1977-47
Next subheading:	Arbitrator
Sub-subheading:	appointment of law office associate as
Secondary sub-subheading:	-by attorney representing claimant in same proceeding
Citation to preceding subheadings:	LA 302 (1968)

CITATIONS

The intent of this index is to provide, in one location, a comprehensive research guide to California authorities relating to professional responsibilities of members of the legal profession and related topics.

**** SPECIAL NOTE **:** --CASES PRECEDED BY AN ASTERISK (*) SHOULD BE CAREFULLY SHEPARDIZED, AS THEY ARE SUBJECT TO REVIEW (AT THE TIME OF PUBLICATION OF THIS COMPENDIUM UPDATE), OR HAVE BEEN OVERRULED OR DISAPPROVED EITHER WHOLLY OR IN PART BY THE SUPREME COURT OF CALIFORNIA.

--CASES PRECEDED BY A CROSS SYMBOL (+) ARE STATE BAR COURT REVIEW DEPARTMENT DECISIONS WHICH ARE EITHER TEMPORARILY OR PERMANENTLY DEPUBLISHED DUE TO A PETITION FOR REVIEW BY THE CALIFORNIA SUPREME COURT. (SEE RULE 310, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS (EFF. JANUARY 1, 1995).) PLEASE CHECK THE STATUS OF THE DECISION BEFORE CITING THE CASE AS AUTHORITY. (SEE "HOW TO USE" AND "TABLE OF CASES AND SUBSEQUENT HISTORY" SECTIONS, CALIFORNIA STATE BAR COURT REPORTER.)

OPINIONS AND OTHER AUTHORITIES: Authorities under each subject heading are listed in the following order of priority:

<u>JURISDICTION</u>	<u>LEVEL OF COURT</u>	<u>ORDER</u>
California:	Selected statutes	In numerical order.
	Rules of Professional Conduct	In numerical order.
Federal:	United States Supreme Court	Most recent cases first, descending chronologically to oldest cases.
	U.S. District Court of Appeals Ninth Circuit	Most recent cases first, descending chronologically to oldest cases.
	U.S. District Courts within California	Most recent cases first, descending chronologically to oldest cases.
California:	Supreme Court of California	Most recent cases first, descending chronologically to oldest cases.
	Court of Appeal Cases	Most recent cases first, descending chronologically to oldest cases.
	Other Selected Rules	In numerical order.

HOW TO USE THIS INDEX (Cont'd.)

<u>JURISDICTION</u>	<u>LEVEL OF COURT</u>	<u>ORDER</u>
California (cont'd):	California Ethics Opinions	In alphabetical order, as follows: CAL, LA, OCBA, SD and SF. Most recent opinions first, descending chronologically to oldest opinions. Formal opinions precede informal opinions.
	Selected California Attorney General Opinions	Most recent opinions first, descending chronologically to oldest cases.

RULES OF PROFESSIONAL CONDUCT: The Rules of Professional Conduct are listed in alphabetical order under "Rules" and each specific rule follows in numerical order.

CAVEAT: Subject headings must be consulted for cases interpreting particular Rules of Professional Conduct in addition to rule headings.

EXAMPLE: **RULES OF PROFESSIONAL CONDUCT** [The full text of the rules are reprinted in part I A above; [\[See below\]](#) for former rules.]
Purpose of, generally
[Zitny v. State Bar](#) (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]
Rule 1-100 Rules of Professional Conduct, In General.
CAL 1975-33
SD 1977-2, SD 1974-6, SD 1972-17
SF 1977-2, SF 1977-1
LA 342 (1973)
Rule 1-101 Maintaining Integrity and Competence of the Legal Profession. [\[See\]](#) Admission to the bar.
Rule 2-101 Professional Employment. [\[See\]](#) Advertising. Business activity. Solicitation.]

STATUTES: Selected statutes are listed alphabetically by code and numerically by statute number.

EXAMPLE: **BUSINESS AND PROFESSIONS CODE** [The entire text of the State Bar Act (Business and Professions Code, §6000 et seq.) is reprinted as Part I A to this Compendium.]
Sections 6000 et seq.
CAL 1979-48
Section 6067 [\[See\]](#) Oath of attorney.
CAL 1979-51
Section 6068
LA 394 (1982)
subdivision (d)
CAL 1972-30

KEY TO SYMBOLS

CAL 1981-64:	Formal Opinion No. 1981-64 of the State Bar's Standing Committee on Professional Responsibility and Conduct. (The full text of each opinion is reprinted within Tab II A.)
LA 402 (1982):	Formal Opinion No. 402 of the Los Angeles County Bar Association Legal Ethics Committee.
LA (I) 1970-1:	Informal Opinion No. 1970-1 of the Los Angeles County Bar Association Legal Ethics Committee.
11 LABB (1934):	Indicates opinions published in the Los Angeles County Bar Bulletin.
OC 93-001:	Formal Opinion No. 93-001 of the Orange County Bar Association. (The full text of each opinion is reprinted within Tab II D.)
SD 1970-1:	Opinion No. 1970-1 of the San Diego County Bar Association Legal Ethics and Unauthorized Practice Committee. (The full text of each opinion is reprinted within Tab II C.)
SF 1980-1:	Opinion No. 1980-1 of the Legal Ethics Committee of the Bar Association of San Francisco. (The full text of each opinion is reprinted within Tab II B.)
46 Ops. Cal.Atty.Gen. 74 (1965):	Refers you to Opinions of the Attorney General of California, 46th volume, at page 74. [Issued in 1965.]
<u>See:</u>	Refers you to the heading wherein citations or other information are contained within the compendium.
<u>Contact:</u>	Refers you to the person or office where you may obtain copies of the document referenced or further information on the subject referenced.

READER PARTICIPATION

The index to this Compendium is a service to you the reader. Your constructive ideas concerning its improvement will be gratefully received by the editors. Also, if you discover authorities or cases which would be helpful to the index, please forward them to the editors.

CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY
INDEX

<u>SUBJECT</u>	<u>PAGE</u>
ABA	1
ABANDONMENT OF CLIENT	1
ABUSE OF PROCESS	1
ACADEMIC DEGREES	1
ACCEPTANCE OF EMPLOYMENT	1
ACCOUNTANT	4
ACCOUNTING	4
ADDRESS	4
ADJUSTER	4
ADMINISTRATIVE AGENCY	4
ADMISSION TO THE BAR	4
ADOPTION	6
ADVANCEMENT OF FUNDS	6
ADVERTISING	7
ADVISING INQUIRERS THROUGH MEDIA	13
ADVISING VIOLATION OF LAW	13
ALCOHOL ABUSE	13
AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY	14
AMERICAN BAR ASSOCIATION MODEL RULES OF PROFESSIONAL CONDUCT	14
APPOINTMENT OF ATTORNEY BY COURT	14
ARBITRATION	16
ASSIGNED COUNSEL	21
ASSIGNMENT	21
ASSOCIATE	22
ASSOCIATE COUNSEL	22
ATTACHMENT	22
ATTORNEY-ATTORNEY RELATIONSHIP	22
ATTORNEY-CLIENT RELATIONSHIP	23
ATTORNEYS OF GOVERNMENTAL AGENCIES	36
ATTORNEY OF RECORD	42
ATTORNEY'S LIEN	42
AUCTION	44
AUTHORITY OF ATTORNEY	44
AUTOMOBILE ACCIDENT CASE	50
BANKRUPTCY	50
BAR ASSOCIATION	54
BAR EXAMINERS	54
BARRATRY	54
BARTER	54
BOND	54
BONUS	54
BROADCASTING	54
BUSINESS ACTIVITY	54
BUSINESS AND PROFESSIONS CODE	55
BUSINESS DEALINGS WITH CLIENT	64
CALIF. PROFESSIONAL RESPONSIBILITY EXAMINATION	64
CANDOR	64
CERTIFICATION	65
CHAMPERTY AND MAINTENANCE	65
CHILD CUSTODY	65
CHILD SUPPORT	65
CHOSES OF ACTION	65
CLASS ACTION	65
CLIENT	67
CLIENT SECURITY FUND	68

CLIENTS' TRUST ACCOUNT	68
CODE OF JUDICIAL ETHICS, CALIFORNIA	81
CODE OF PROFESSIONAL RESPONSIBILITY	81
COLLECTIONS	81
COMMINGLING.....	82
COMMISSION	82
COMMUNICATE WRITTEN SETTLEMENT OFFER TO CLIENT.....	82
COMMUNICATION.....	82
COMMUNICATION WITH A REPRESENTED PARTY	88
COMPETENCE.....	88
COMPLAINT.....	95
CONFIDENCES OF THE CLIENT	95
CONFLICT OF INTEREST	121
CONSERVATORSHIP PROCEEDINGS.....	175
CONSULTATION WITH CLIENT	175
CONTACT WITH JURORS	176
CONTACT WITH OFFICIALS	176
CONTACT WITH WITNESSES	176
CONTEMPT OF COURT	176
CONTINGENCY FEE.....	176
CONTRACT	180
CONTRACT ATTORNEY.....	180
CONTRACT FOR EMPLOYMENT.....	180
CORPORATION	185
CORPORATION COUNSEL	186
COSTS.....	186
COURT	187
COURT REPORTER.....	189
CREDIT CARD.....	189
CREDITOR.....	189
CRIMINAL CASE	189
CROSS REFERENCE TABLES	190
DAMAGES.....	190
DEBTOR.....	190
DECEASED LAWYER	190
DEGREES	190
DELAY IN HANDLING CASE	190
DISABLED LAWYER	190
DISBARMENT	190
DISCIPLINARY ACTION.....	192
DISCOVERY.....	208
DISCRIMINATORY CONDUCT IN A LAW PRACTICE	209
DISQUALIFICATION.....	209
DISTRICT/MUNICIPAL ATTORNEY	213
DIVISION OF FEES.....	214
DIVORCE.....	219
DONATIONS	219
DRAFT, MILITARY.....	219
DRUG ABUSE.....	219
DUAL PROFESSIONS	219
DUTIES OF ATTORNEY	219
EDUCATIONAL ACTIVITY	234
ELECTIONS	234
ELECTRONIC SURVEILLANCE	234
ELECTRONIC SERVICE; ELECTRONIC TRANSMISSION; ELECTRONIC NOTIFICATION.....	234
EMBEZZLEMENT	234
EMPLOYEE	234
EMPLOYEE ASSOCIATION	234

EMPLOYMENT.....	234
EMPLOYMENT AGENCY	234
EMPLOYMENT WANTED.....	235
ENVELOPE	235
ESCROW.....	235
ESTATE.....	235
ETHICS COMMITTEES.....	236
EVIDENCE.....	236
EX PARTE COMMUNICATION WITH JUDGE.....	237
EXECUTOR	237
EXPENSES.....	237
FACSIMILE TRANSMISSIONS.....	237
FEE ARBITRATION	237
FEES.....	238
FICTITIOUS NAMES.....	332
FIFTH AMENDMENT	332
FILE	332
FINANCIAL ARRANGEMENT WITH NONLAWYER	334
FINANCIAL HELP TO CLIENT	334
FINANCING	334
FINDER'S FEE	334
FIRST AMENDMENT	334
FORECLOSURE.....	334
FOREIGN ATTORNEY.....	334
FORWARDING FEE.....	334
FRIVOLOUS APPEAL	334
FUGITIVE	334
GAMBLING	334
GARNISHMENT	334
GENERAL COUNSEL.....	334
GIFT	334
GOOD WILL	335
GOVERNMENTAL AGENCIES	335
GRATUITOUS SERVICE	335
GRIEVANCE COMMITTEE.....	335
GROUP LEGAL SERVICES	335
GUARDIAN.....	335
GUARDIAN AD LITEM.....	335
HABEAS PETITION.....	335
HOUSE COUNSEL.....	335
HOW TO USE THIS INDEX.....	335
IN PROPRIA PERSONA	335
INACTIVE LAWYER.....	336
INCAPACITATED LAWYER.....	337
INDIGENT PERSONS	337
INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES.....	337
INEFFECTIVE ASSISTANCE OF COUNSEL IN NON-CRIMINAL CASES	355
INTEREST	356
INTERFERENCE WITH PROSPECTIVE ADVANTAGE	356
INVOLUNTARY ENROLLMENT AS AN INACTIVE MEMBER OF THE STATE BAR.....	356
JUDGE.....	356
JUDICIAL SALE.....	366
JURISDICTION, ADVISE CLIENT TO LEAVE	366
JURORS, COMMUNICATION WITH OR INVESTIGATION OF.....	366
LABOR UNION.....	366
LAW CORPORATIONS	366
LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA.....	367
LAW FIRM	367

LAW OFFICE.....	367
LAW STUDENT	367
LAWYER.....	367
LAWYER REFERRAL SERVICE.....	368
LAWYER’S ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA	368
LAY EMPLOYEE.....	368
LAY INTERMEDIARIES	368
LAY PERSON.....	369
LECTURE	369
LEGAL AID.....	369
LEGAL DIRECTORY.....	369
LEGAL SERVICES.....	369
LEGAL SPECIALIZATION.....	370
LETTERHEAD	370
LIEN	371
LIMITING LIABILITY TO CLIENT	372
LITIGATION.....	372
LOAN	374
MAIL	374
MALICIOUS PROSECUTION	374
MALPRACTICE	376
MILITARY PERSONNEL.....	383
MISAPPROPRIATION.....	383
MISCONDUCT.....	383
MODEL CODE OF PROFESSIONAL RESPONSIBILITY	391
MORAL TURPITUDE	391
MULTIPLE REPRESENTATION.....	401
NAME.....	401
NEGLIGENCE	401
OATH OF ATTORNEY	403
OF COUNSEL	403
OFFICIALS, CONTACTS WITH.....	403
OPPOSING COUNSEL	403
ORDINANCE VIOLATION.....	404
ORGANIZATION	404
OUT-OF-STATE ATTORNEY	404
OUT-OF-STATE FIRM	404
PARTNERSHIP	404
PARTNERSHIP, BUSINESS.....	406
PAYMENT OF PERSONAL OR BUSINESS EXPENSES.....	406
PENDING PROCEEDINGS	406
PENSION PLAN	406
PERJURY	406
PERSONAL INJURY ACTION	406
PHYSICIAN	406
POLITICAL ACTIVITY	407
POWER OF ATTORNEY.....	407
PRACTICAL TRAINING OF LAW STUDENTS.....	407
PRACTICE OF LAW.....	407
PREPAID LEGAL SERVICES	411
PRIVILEGED COMMUNICATIONS	411
PRO BONO	413
PROBATE	413
PROFESSIONAL LIABILITY	413
PROFESSIONAL SOCIETIES	422
PROFESSIONALISM.....	422
PROPERTY	422
PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE	422

PROSECUTOR	422
PROSECUTORIAL MISCONDUCT	423
PUBLIC OFFICE	437
PUBLICATION	438
PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE	438
QUANTUM MERUIT	438
REAL ESTATE	438
REAL ESTATE TRANSACTION	439
REALTOR	439
REBATE	439
RECEIVER	439
RECORDING	439
REFERRAL FEE	439
REFERRAL OF BUSINESS	439
REFERRAL OF LEGAL BUSINESS	439
REFERRAL SERVICES	440
REINSTATEMENT	440
REPORTING FEES	440
RESIGNATION	440
RESTRICTIVE COVENANT BETWEEN LAWYERS	441
RETAINER	441
RULE AGAINST PERPETUITIES	441
RULES OF PRACTICE BEFORE THE STATE BAR COURT	441
RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA	441
RULES OF PROFESSIONAL CONDUCT	442
CURRENT RULES OF PROFESSIONAL CONDUCT (operative November 1, 2018)	442
FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)	443
FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)	451
FORMER RULES OF PROFESSIONAL CONDUCT (operative 1928–1975)	453
RUNNERS AND CAPPERS	454
SALE OR PURCHASE OF A LAW PRACTICE	455
SANCTIONS	455
SEARCH WARRANT FOR LAW OFFICE	463
SEMINARS	463
SETTLEMENT	463
SEXUAL RELATIONS WITH CLIENT	466
SMALL CLAIMS COURT	466
SOLICITATION OF BUSINESS	466
SPECIAL MASTER	471
SPECIALIZATION	471
STATE BAR ACT	471
STATE BAR OF CALIFORNIA	471
STATUTE OF LIMITATIONS	472
STIPULATION	472
SUBPOENA	472
SUBSTITUTION OF COUNSEL	472
SUIT AGAINST CLIENT	475
SURVEILLANCE	475
SUSPENSION	475
TAX	475
TEACHING	475
TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP	475
TESTIMONY	477
THIRD PARTY	477
THREATENING ADMINISTRATIVE ACTION WITH EEOC	477
THREATENING CRIMINAL PROSECUTION	477
TRADE NAME	477
TRIAL CONDUCT	477

TRIAL PUBLICITY	488
TRUST ACCOUNT	488
TRUSTEE	488
UNAUTHORIZED PRACTICE OF LAW	489
UNPOPULAR CAUSE.....	497
UNREPRESENTED PERSON	497
USURY.....	497
VIOLATION OF THE LAW	497
WILL	497
WIRETAPPING.....	498
WITHDRAWAL FROM EMPLOYMENT.....	498
WITNESS.....	503
WORK PRODUCT.....	504
WORKERS' COMPENSATION.....	506

**CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY
INDEX**

- ABA** [See AMERICAN BAR ASSOCIATION.]
- ABANDONMENT OF CLIENT** [See Competence, substitution of counsel. Moral turpitude. Neglect. Substitution of counsel. Termination of attorney-client relationship. Withdrawal.]
Business and Professions Code section 6067
- ABUSE OF PROCESS** [See Malicious prosecution.]
- ACADEMIC DEGREES** [See Advertising, use of.]
Use of
LA 349 (1975), LA 331 (1973), LA 113 (1937)
SD 1974-10, SD 1972-8, SD 1970-1, SD 1969-5, SD 1968-1
SF 1973-7
- ACCEPTANCE OF EMPLOYMENT** [See Attorney-client relationship. Conflict of interest.]
[Rule](#) 2-110, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
Adverse
to former client
[Gendron v. State Bar](#) (1983) 35 Cal.3d 409, 411
-representation of corporation against officers and directors
--formerly associated with firm representing officers and directors
LA 139 (1941)
Adverse interest
to former client
-in related matter
LA 136 (1941)
Adverse to client
guardianship for client
-institution of proceedings for appointment of
--by attorney
LA 138 (1941)
Appointment of counsel to serve as advisor to criminal defendant
refusal to accept
[Chaleff v. Superior Court](#) (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
Attorney must decline representation where attorney lacks time and resources to pursue client's case with reasonable diligence in both paid and pro bono representations
[Segal v. State Bar](#) (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Bad faith appeal
[Danziger v. Peebler](#) (1948) 88 Cal.App.2d 307, 312 [198 P.2d 719]
By attorney
clients
-of real estate business
--associated with attorney
LA 140 (1942)
--operated by attorney
LA 140 (1942)
Duty to counsel or maintain only legal or just actions
[Canatella v. California](#) (9th Cir. 2002) 304 F.3d 843
[Sorensen v. State Bar](#) (1991) 52 Cal.3d 1036
[In the Matter of Scott](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
[CAL](#) 2019-198
Duty to decline to file pleading which advances totally meritless and frivolous positions
LA 464 (1991)
Frivolous appeal
Business and Professions Code section 6068(c)
Code of Civil Procedure section 907
Rule 8.272, California Rules of Court
civil proceeding
-attorney fees awarded at discretion of trial court; absent clear abuse appeal of award is frivolous [See Sanctions.]
--mortgage foreclosure
[Huber v. Shedaudy](#) (1919) 180 Cal. 311
--spousal support action
[Marriage of Millet](#) (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]
-attorney has responsibility not to pursue a client's frivolous appeal because client demands
[Cosenza v. Kramer](#) (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]
-definition of frivolous appeal
[In re Marriage of Flaherty](#) (1982) 31 Cal.3d 637
[Olsen v. Harbison](#) (2005) 134 Cal.App.4th 278 [35 Cal.Rptr.3d 909]
[Johnson v. Lewis](#) (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
[Padres L.P. v. Henderson](#) (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
[Pollock v. University of Southern California](#) (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
[Dawson v. Toledano](#) (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
[DeRose v. Heurlin](#) (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
[Guardianship of Pankey](#) (1974) 38 Cal.App.3d 919 [113 Cal.Rptr. 539]
-delay in filing briefs caused unreasonable delay
[Estate of Walters](#) (1950) 99 Cal.App.2d 552 [222 P.2d 100]
-delay is frivolous if motive is to outlive the other party through appeals
[Hendricks v. Pappas](#) (1947) 82 Cal.App.2d 774 [187 P.2d 436]
-divorce actions
--alimony
[Taliaferro v. Taliaferro](#) (1960) 180 Cal.App.2d 44 [4 Cal.Rptr. 693]
--appeal for refusal to pay court ordered payments is meritless
[Ballas v. Ballas](#) (1963) 217 Cal.App.2d 129 [31 Cal.Rptr. 584]
[Muller v. Muller](#) (1959) 174 Cal.App.2d 517 [345 P.2d 29]
--award of attorney's fee not appealable absent clear abuse
[Marriage of Millet](#) (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]
--bifurcated action is complicated so appeal is not frivolous
[Marriage of Fink](#) (1976) 54 Cal.App.3d 357 [126 Cal.Rptr. 626]
--full faith and credit to out-of-state divorce decree
[Toohey v. Toohey](#) (1950) 97 Cal.App.2d 84 [217 P.2d 108]
--repeated appeals
[Howarth v. Howarth](#) (1956) 148 Cal.App.2d 694 [304 P.2d 147]
-evidentiary appeals
--complaint deemed sufficient in first appeal so second appeal on sufficiency is frivolous
[Sipe v. McKenna](#) (1951) 105 Cal.App.2d 373 [233 P.2d 615]
--conflicting evidence is not appealable if trial court makes a determination
[Kruckow v. Lesser](#) (1952) 111 Cal.App.2d 198 [244 P.2d 19]
[Helcomb v. Breikreutz](#) (1919) 180 Cal. 17
--more cursory inspection of evidence required so appeal was not meritless
[Crook v. Crook](#) (1960) 184 Cal.App.2d 745 [7 Cal.Rptr. 892]
--new trial based on insufficient evidence will not be distributed by appellate court
[Hall v. Murphy](#) (1980) 187 Cal.App.2d 296 [9 Cal.Rptr. 547]

ACCEPTANCE OF EMPLOYMENT

- not supported by the evidence on appeal, so appeal meritless and taken only for delay
 - Danziger v. Peebler (1948) 88 Cal.App.2d 307 [198 P.2d 719]
 - reversal of trial court if substantial evidence does not exist
 - Niiva v. Goto (1960) 181 Cal.App.2d 682 [5 Cal.Rptr. 642]
 - Ames v. Ames (1959) 168 Cal.App.2d 39 [335 P.2d 135]
 - Simon v. Bemis Bra's Bag Co. (1955) 131 Cal.App.2d 378 [280 P.2d 528]
 - good faith erroneous appeal is not frivolous, court has discretion
 - Doyle v. Hamren (1966) 246 Cal.App.2d 733 [55 Cal.Rptr. 84]
 - Hall v. Murphy (1960) 187 Cal.App.2d 296 [9 Cal.Rptr. 547]
 - jurisdiction for appeal improper therefore meritless
 - California cannot modify out-of-state court order
 - Marriage of Schwander (1978) 79 Cal.App.3d 1013 [145 Cal.Rptr. 325]
 - if federal jurisdiction clearly applies, then state court appeal is frivolous
 - Miller v. RKA Management (1979) 99 Cal.App.3d 460 [160 Cal.Rptr. 164]
 - lack of effort on appeal suggests improper motive
 - even without actual proof
 - People v. Beverly Bail Bonds (1982) 134 Cal.App.3d 906 [185 Cal.Rptr. 36]
 - motive improper if used to cloud title to property
 - Blackmore Investment Co. v. Johnson (1971) 213 Cal. 148
 - multi-judgment proceeding in divorce action; appeal not frivolous in light of complicated facts
 - Marriage of Fink (1976) 54 Cal.App.3d 357 [126 Cal.Rptr. 626]
 - multiple defendants in personal injury action; appeal frivolous as to one defendant
 - Scott v. Texaco (1966) 239 Cal.App.2d 431 [48 Cal.Rptr. 785]
 - multiple meritless appeals lead to substantial sanctions
 - Reber v. Beckloff (1970) 6 Cal.App.3d 341 [85 Cal.Rptr. 807]
 - municipal court merit appeals must be heard by appellate court
 - Gilbert v. Municipal Court (1977) 73 Cal.App.3d 723 [140 Cal.Rptr. 897]
 - Burrus v. Municipal Court (1973) 36 Cal.App.3d 233, 237 [111 Cal.Rptr. 539]
 - new facts leading trial court to vacate order of divorce is proper; therefore an appeal of court's action is frivolous
 - Gordon v. Gordon (1956) 145 Cal.App.2d 231 [302 P.2d 355]
 - new trial at discretion of trial court
 - Estate of Wall (1920) 183 Cal. 431
 - notice received in child custody action; so appeal based on lack of notice is frivolous
 - Parker v. Parker (1974) 43 Cal.App.3d 610 [117 Cal.Rptr. 858]
 - objective standard for improper motive
 - Marriage of Flaherty (1982) 31 Cal.3d 637
 - Olsen v. Harbison (2005) 134 Cal.App.4th 278 [35 Cal.Rptr.3d 909]
 - Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
 - Pollock v. University of Southern California (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
 - Conservatorship of Gollack (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]
- partially frivolous appeal
 - part must be significant and material to the appeal before sanctions imposed
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - patently meritless appeal based on court misconduct where court had exchanged a superficial pleasantry with one party and not the other
 - Conservatorship of Gollack (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]
 - pleading defects waived or cured; therefore the appeal is frivolous for delay
 - Rule 2-110(c), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - Business and Professions Code section 6068(e)
 - Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]
 - previously litigated contentions are frivolous as appeal
 - Clark v. Universal Underwriters (1965) 233 Cal.App.2d 746 [43 Cal.Rptr. 822]
 - Stafford v. Russell (1954) 128 Cal.App.2d 794 [276 P.2d 41]
 - procedural objections must be made at trial court level
 - Moore v. El Camino Hospital District (1978) 78 Cal.App.3d 661 [144 Cal.Rptr. 314]
 - reasonableness of damages challenged by defendant at trial court level
 - not challenged by plaintiff before closing arguments
 - Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
 - plaintiff appeal based on defendant's prejudicial misconduct is meritless
 - Menasco v. Snyder (1984) 157 Cal.App.3d 729 [203 Cal.Rptr. 748]
 - reversal of trial court not argued for in appellate brief; denied reversal, but not frivolous
 - In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
 - sanctions
 - Rule 8.272, California Rules of Court
 - Code of Civil Procedure section 907
 - factors used to determine sanctions
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997, 1011 [205 Cal.Rptr. 532]
 - interest on settlement funds as well as attorney fees may be imposed
 - McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
 - maintaining a second appeal based on parallel issues after first appeal received an unfavorable decision
 - Cohen v. General Motors Corp. (1992) 2 Cal.App.4th 893
 - "rational relationship" to circumstances as standard for sanctions when clear evidence of damages is lacking
 - Hersch v. Citizens Savings & Loan Assoc. (1983) 146 Cal.App.3d 1002 [194 Cal.Rptr. 628]
 - sanctions for multiple meritless claims
 - Reber v. Beckloff (1970) 6 Cal.App.3d 341 [85 Cal.Rptr. 807]
 - subjective bad faith or motive required
 - Llamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]
 - simply meritless appeal is not frivolous
 - Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508]

ACCEPTANCE OF EMPLOYMENT

- Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
- solely for delay
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - spite as a motive is frivolous
 - Rule 2-110, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - In re Stephens (1890) 84 Cal. 77, 81
 - suit with no questions of law or fact remaining
 - libel
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - Katz v. Rosen (1975) 48 Cal.App.3d 1032 [121 Cal.Rptr. 853]
 - real estate commission action
 - Towle v. Lewis (1969) 274 Cal.App.2d 376 [79 Cal.Rptr. 58]
 - Supreme Court adjudication is law of the case; so further appeal on same matter is meritless and improper
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - waiver of right to appeal in settlement makes the appeal frivolous for delay
 - McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
 - wholly inadequate appeal is frivolous
 - McCosker v. McCosker (1954) 122 Cal.App.2d 498 [265 P.2d 21]
 - will contest is personal; so an appeal may not be frivolous
 - Estate of Bloom (1980) 107 Cal.App.3d 195 [165 Cal.Rptr. 591]
 - writ of execution on sale of property is quashed by trial court at its discretion; appeal therefore is frivolous
 - Wellborn v. Wellborn (1945) 67 Cal.App.2d 545 [155 P.2d 99]
- criminal proceeding
- appeal on jurisdiction and legality of the proceedings where no error existed is meritless
 - People v. Wallace (1963) 217 Cal.App.2d 440 [31 Cal.Rptr. 697]
 - death penalty appeals exhausted; re-appeal on same issues is frivolous
 - People v. Smith (1933) 218 Cal. 484, 489
 - dismissal of frivolous appeals should be used sparingly in criminal matters
 - People v. Sumner (1968) 262 Cal.App.2d 409, 414-415 [69 Cal.Rptr. 15]
 - limited review of errors of fact or factual disputes; appeal was frivolous
 - Edwards v. People (1950) 99 Cal.App.2d 216 [221 P.2d 336]
 - facts not known or available to defendant at the time of the verdict
 - People v. Malone (1950) 96 Cal.App.2d 270 [215 P.2d 109]
 - withdrawal
 - attorney may include brief to support
 - McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
- Frivolous motion
- In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
- In propria persona litigant
- LA 502 (1999)
- Malicious prosecution
- attorney is jointly liable with client for malicious prosecution
 - Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
- Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
 - Tool Research & Engineering v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
- attorney may be held liable for continued prosecution of a case that lacks probable cause
- Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
 - Golden State Seafood, Inc. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
 - Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]
 - Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
- burden of proof on plaintiff to show "want of probable cause" necessary for a malicious prosecution action
- Grant v. Moore (1866) 29 Cal. 644, 648
- client must fully disclose all necessary facts to attorney before defense of "advice of counsel" is allowed
- Siffert v. McDowell (1951) 103 Cal.App.2d 373, 378 [229 P.2d 388]
 - Walker v. Jensen (1949) 95 Cal.App.2d 269 [212 P.2d 569]
- evidence of self-defense kept from district attorney who then prosecutes, destroys probable cause defense
- Starkweather v. Eddy (1930) 210 Cal. 483
- defendant entitled to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant
- County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
- defendant has burden of proving action taken in good faith
- Masterson v. Pig-N-Whistle Corp. (1958) 161 Cal.App.2d 323 [326 P.2d 918]
- discrepancies of fact not enough for court to find "want of probable cause"
- Lee v. Levinson (1916) 173 Cal. 166
- dismissal of action by negotiation is not "want of probable cause," but may be used as evidence
- Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
- evidence of misappropriation of money enough for probable cause, even though acquitted
- Haydel v. Morton (1935) 8 Cal.App.2d 730
- felony grand theft evidence is disputed; enough to show probable cause
- Richter v. Neilson (1936) 11 Cal.App.2d 503
- felony of grand theft acquittal was malicious prosecution because defendant had an "honest" belief that goods were plaintiff's
- Singleton v. Singleton (1945) 68 Cal.App.2d 681 [157 P.2d 886]
- good faith belief in action is a defense to malicious prosecution
- Kassan v. Bledsoe (1967) 252 Cal.App.2d 810 [60 Cal.Rptr. 799]
- malice does not exist if client acted in good faith on attorney advice
- Brinkley v. Appeley (1969) 276 Cal.App.2d 244 [80 Cal.Rptr. 244]
- negligence or failure of attorney to conduct factual research and lack of probable cause do not support an inference of malice, an element of malicious prosecution
- Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
- probable cause exists even where plaintiff in first action claimed only a small portion
- Murdock v. Gerth (1944) 65 Cal.App.2d 170
- reliance of attorney on client's distorted facts in filing an action creates a want of probable cause
- Albertson v. Raboff (1960) 185 Cal.App.2d 372 [8 Cal.Rptr. 398]
- Prior counsel terminated
- CAL 1994-134, SD 1972-17

ACCOUNTANT

Prohibited employment

[CAL 2019-198](#)

appeal

-prosecute solely for delay

Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

-take solely for delay

Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

litigation

-claim/defense not warranted under existing law

Rule 2-110(B), Rules of Professional Conduct Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

-good faith exception

Rule 2-110(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

malicious injury to a person

-bringing action, conducting defense or asserting position in litigation

Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

-harassing a person by bringing action, conducting defense, or asserting position in litigation

Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)

[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

-spite, prosecute, or defend action solely out of

[Sorensen v. State Bar](#) (1991) 52 Cal.3d 1036

Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant

[Streit v. Covington & Crowe](#) (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

ACCOUNTANT [[See](#) Business activity and Practice of law, dual occupation.]

ACCOUNTING [[See](#) Business Activity and Practice of Law.]

[[See](#) Clients' trust account, accounting.]

ADDRESS [[See](#) Advertising. Solicitation.]

Attorney's failure to keep current address with the State Bar of California

Business and Professions Code section 6002.1

[Bowles v. State Bar](#) (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]

[Lyden v. State Bar](#) (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]

[In the Matter of Respondent AA](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

[In the Matter of Lilley](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

ADJUSTER [[See](#) Lay employee.]

Act for employer; later represent against in same matter as lawyer

LA 216 (1953)

Former acts against former employer

LA 216 (1953)

Settlement negotiated with or by

SD 1978-8

ADMINISTRATIVE AGENCY [[See](#) Public office.]

Federal

foreign attorney appears before

LA 168 (1948), LA 156 (1945)

Foreign attorney practices before

LA 168 (1948), LA 156 (1945)

Law student appears before

SD 1974-1, SD 1973-9

Lay person appears before

[Benninghoff v. Superior Court](#) (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

LA 195 (1952), LA 143 (1943)

SD 1974-1, SD 1973-9

ADMISSION TO THE BAR [[See](#) Candor. Moral Turpitude.]

Business and Professions Code section 6060 et seq.

Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rule 1-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

Admission denied

[In re Glass](#) (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]

[Greene v. Committee of Bar Examiners](#) (1971) 4 Cal.3d 189

[Bernstein v. Committee of Bar Examiners](#) (1968) 69 Cal.2d 90

history of drug trafficking

[Seide v. Committee of Bar Examiners](#) (1989) 49 Cal.3d 933 [264 Cal.Rptr. 361]

history of felony convictions as an attorney in New Jersey for theft of client funds, failure to file tax returns, manufacture of methamphetamines and failure to make restitution

[In re Menna](#) (1995) 11 Cal.4th 975 [47 Cal.Rptr.2d 2]

omission of felony convictions in application demonstrates lack of frankness and truthfulness required by the admission process

[In re Gossage](#) (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

Admission granted

[National Association for the Advancement of Multijurisdiction Practice v. Berch](#) (9th Cir. 2014) 773 F.3d 1037

[In re Garcia](#) (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]

[Lubetzky v. State Bar](#) (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]

[Kwasnik v. State Bar](#) (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]

[Hall v. Committee of Bar Examiners](#) (1979) 25 Cal.3d 730 [159 Cal.Rptr. 848]

[Hallinan v. Committee of Bar Examiners](#) (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]

Admission of undocumented immigrants

[In re Garcia](#) (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]

Admission revoked

[Goldstein v. State Bar](#) (1989) 47 Cal.3d 937 [254 Cal.Rptr. 794]

[Langert v. State Bar](#) (1954) 43 Cal.2d 636

[Spears v. State Bar](#) (1930) 211 Cal. 183

[In the Matter of Pasyanos](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

[In the Matter of Ike](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483

Admission to Practice, Rules Regulating

Text is located in:

Deerings Annotated California Codes, Court Rules, vol. 2, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 232
 Text available through State Bar's home page:
<http://www.calbar.ca.gov>

Admission to the federal bar
 federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871

Americans with Disabilities Act, accommodations for use of computer programs for legally blind applicant so as to best ensure that the exam results accurately reflect aptitude rather than disabilities
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153

Authority of Committee of Bar Examiners
Mothershed v. Justice of the Supreme Court (9th Cir. 2005) 410 F.3d 602
Craig v. State Bar (9th Cir. 1998) 141 F.3d 1353
McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Greene v. Zank (1984) 158 Cal.App.3d 497, 506-513 [204 Cal.Rptr. 770]

Bar examination
 accommodations for use of computer programs for legally blind applicant, likely to be successful under Americans with Disabilities Act
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153
 disbarment for taking Bar Examination for another
In re Lamb (1990) 49 Cal.3d 239 [260 Cal.Rptr. 856]
 unsuccessful bar examinee has no breach of contract action against preparer of multistate bar exam
McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062

Business and Professions Code sections 6060-6067
 § 6064(b)
In re Garcia (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]
 oath of attorney
 Business and Professions Code section 6067

Certification of Law Students [See Practical Training of Law Students.]
 Committee of Bar Examiners of The State Bar of California. [See Addresses, supra.]
 criminal defendant's rights and privileges restored upon a pardon by the governor may not operate to usurp the authority of the rules relating to admission
In re Lavine (1935) 2 Cal.2d 324
 determines that an applicant possesses the good moral character required of an officer of the court
Klarfeld v. United States (9th Cir. 1991) 944 F.2d 583
In re Garcia (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]
 may initiate investigation of criminal charges against applicant but may not "re-try" applicant
Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661; P.2d 160]

Correspondence law schools
Benjamin J. Ramos dba University of Honolulu School of Law v. California Commission of Bar Examiners (1994) 857 F.Supp. 702

Misappropriation
 attorney's petition for reinstatement, after disbarment for misappropriation, is denied
In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

Misconduct prior to admission
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
In re Garcia (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

*In the Matter of Respondent Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318
In the Matter of Ike (1996) 3 Cal. State Bar Ct. Rptr. 483
In the Matter of Lybbert (1994 Review Dept.) 2 Cal. State Bar Ct. Rptr. 297

Moral character proceedings (governed by Rules Proc. of State Bar, Rule 680 et seq.)
 burden of proof
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In re Menna (1995) 11 Cal.4th 975
Lubetzky v. State Bar (1991) 54 Cal.3d 308 [285 Cal.Rptr. 268]
Kwasnik v. State Bar (1990) 50 Cal.3d 1061 [269 Cal.Rptr. 749]
Hightower v. State Bar (1983) 34 Cal.3d 150
Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90
Hallinan v. Committee of Bar Examiners (1966) 65 Cal.2d 447 [55 Cal.Rptr. 228]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318

discovery
In the Matter of Lapin (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 279

quasi-judicial immunity of the State Bar and the Committee of Bar Examiners
Greene v. Zank (1984) 158 Cal.App.3d 497

Oath
 district court lacks subject matter jurisdiction in reviewing applicant's request to take an amended oath because of religious conflicts
Craig v. State Bar of California (9th Cir. 1998) 141 F.3d 1353

Privilege to practice law
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 467-469

Pro hac vice
 Rule 9.40, California Rules of Court
 Ninth Circuit Civ. L.R. 83.3(c)(5) [S.D. Cal.]
Leis v. Flynt (1979) 439 U.S. 438 [99 S.Ct. 698]
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
People v. Cooks (1983) 141 Cal.App.3d 224, 290 [190 Cal.Rptr. 211]
 Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
 attorney not entitled to fees for work done prior to admission
 pro hac vice
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
 attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034

ADOPTION

California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients

Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]

court may, in its discretion, revoke status of *pro hac vice* attorney for bad faith misconduct; it cannot impose monetary sanctions unless authorized by statute

Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

Property right

Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462

Public access to bar examination statistics: balancing of right of access and right of applicants' privacy

Sander v. Superior Court (2018) 26 Cal.App.5th 651 [237 Cal.Rptr.3d 276]

Reciprocity admission

Arizona Supreme Court rule allowing admission on motion (AOM) for out of state attorneys is constitutional because it does not discriminate against non-residents

National Association for the Advancement of Multijurisdiction Practice v. Berch (9th Cir. 2014) 773 F.3d 1037

Rehabilitation

In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]

In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Reinstatement

In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

Residency requirements

Barnard v. Thorstenn (1989) 489 U.S. 546 [109 S.Ct. 1294]

Supreme Court of Virginia v. Friedman (1988) 487 U.S. 59 [108 S.Ct. 2260]

Supreme Court of New Hampshire v. Piper (1985) 470 U.S. 274
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]

State Supreme Court's rules governing bar admissions does not violate First Amendment right

Mothershed v. Justice of the Supreme Court (9th Cir. 2005) 410 F.3d 602

Undocumented immigrant, admission to the Bar

In re Garcia (2014) 58 Cal.4th 440 [165 Cal.Rptr.3d 855]

Unqualified person

lawyer furthering the application of

Rule 1-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-200, Rules of Professional Conduct (operative as of May 27, 1989)

ADOPTION

Family Code section 8800

Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]

Act for both parties

Civil Code section 225(m)

LA 284 (1964)

Award of attorney's fees

fees denied under Code of Civil Procedure 1021.5 where litigant had done nothing to curtail a public right, but sought a judgment only to settle her private rights and those of her children, notwithstanding the public benefit to others whose adoptions were validated by the litigation

Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]

Independent adoption

Penal Code section 273

Represent

one party in, after advising the other

LA(l) 1958-6

ADVANCEMENT OF FUNDS [See Expenses. Fee.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Advance deposit

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

Attorney's fees from client

failure to return unearned portion

Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 253]

In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

SD 2019-3

-client entitled to a refund of entire advance fee amount because client received nothing of value

In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263

Bond

attorney acting as guarantor of client's cost

CAL 1981-55

premium for absent guardian of minor

LA(l) 1954-5

By client

status as trust funds

SF 1980-1, SF 1973-14

-advance deposit

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

-advance payment retainer distinguished from true retainer

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

-of costs

Rule 8-101(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]

-of legal fees to attorney

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Katz v. Workers' Compensation Appeals Board (1981) 80 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

-retainer fee

Rule 3-700(D)

Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 SF 1980-1

Costs
 LA 379 (1979), LA 149 (1944), SD 2013-3, SF 1985-2
 billing
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 failure to return unused advanced costs
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 interest charged on advanced costs from payment until billing
 LA 499 (1999)
 of litigation
CAL 1976-38
 -on contingent contract
 Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
 LA 76 (1934)
 -preparation for litigation
 Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Discussion with client prior to employment
 Rule 5-104(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Expenses of trial
 on contingent contract
 LA 76 (1934), SF 1985-2

Explaining prohibitions of rule 5-104 to client
 Rule 5-104(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Loan
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
 to client
 -upon promise to repay
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 --in writing
 Rule 5-104(A)(2), Rules of Professional Conduct (operative until May 26, 1989)

Misappropriation of advanced fees and costs not maintained in trust account
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

Reimburse client
 for damages recovered by opposing party
 LA 76 (1934)

Reimbursement
 from client's fund
 LA 48 (1927)

Third parties
 paying or agreeing to pay from funds collected or to be collected
Rule 5-104(A)(1), Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

ADVERTISING [See Academic degrees. Broadcasting, legal directory. Business activity. Letterhead. Political activity. Publication. Solicitation of business. Substitution. Withdrawal from employment.]
 [Note: Authorities decided prior to 1977 must be reviewed to determine their continued viability in light of Bates v. State Bar of Arizona (1977) 433 U.S. 350, etc. and new rule 1-400, Rules of Professional Conduct.]
 Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
 Business and Professions Code section 6157
 Advising inquirers through media
 seminars
 -conducted for existing clients
 SD 1969-8

Announcement to clients
 of association of firm specializing in tax matters
 LA 119 (1938)
 of former firm, announcement of new partnership
 -non-legal
Moss, Adams & Co. v. Shilling (1986) 179 Cal.App.3d 124 [224 Cal.Rptr. 456]
 of former firm, of transfer of associate to new firm
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 2020-201, CAL 1985-86, SD 1975-1

Assumed or misleading name
Jacoby v. State Bar (1977) 19 Cal.3d 359 [738 Cal.Rptr. 77, 562 P.2d 1326]
Johnson v. State Bar (1935) 4 Cal.2d 744, 752 [52 P.2d 928]
 LA 530 (2018)

Attorney as partner or employee of two law firms
 LA 511 (2003)

Attorneys not partners nor associates share office space
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90

Bankruptcy
 attorneys are "debt relief agencies" within meaning of BAPCAPA and must make required disclosures, they may, however, also mention that they are attorneys in their advertisements
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]

Bar membership number
 pleadings
 Rule 201, California Rules of Court (Superior Court)
 Rule 501(e), California Rules of Court (Municipal Court)

Biography of lawyer, sale of book
 SD 1973-4

Blogging by attorney
CAL 2016-196

Books relating to practice of law
 LA 446 (1987)

Broadcasting
 educational television
 LA(I) 1970-8
 program on law
CAL 1972-29
 LA 318 (1970), LA 186 (1957), LA(I) 1975-7, LA(I) 1970-12, LA(I) 1964-7
 radio or television, use of
Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]

ADVERTISING

- Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
 - televised trial
 - LA 404 (1983)
 - Brochures, random distribution of
 - LA 419 (1983)
 - Business activity
 - LA 446 (1987), LA 335 (1973), LA 214 (1953), LA(l) 1976-5, LA(l) 1931-4, SD 1975-2
 - blogging by attorney
 - [CAL](#) 2016-196
 - business, acquainting public with services offered by lawyers
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350
 - investment/portfolio manager
 - [CAL](#) 1999-154
 - lawyer or judge identified on
 - LA 286 (1965)
 - lawyer-officer identified on
 - LA 286 (1965), LA 256 (1959), LA 241 (1957)
 - management consulting company run by attorney
 - LA 446 (1987)
 - tax work
 - Libarian v. State Bar (1944) 25 Cal.2d 314, 315 [153 P.2d 739]
 - use of terms "accountants" and "accounting"
 - Moore v. California State Board of Accountancy (1990) 222 Cal.App.3d 919 [272 Cal.Rptr. 108]
 - Business and Professions Code section 6157
 - blogging by attorney
 - [CAL](#) 2016-196
 - By bar association
 - for lawyers to serve as guardians of minors
 - SD 1975-8
 - Card, professional
 - LA 419 (1983)
 - deceased partner
 - use of name of
 - LA 123 (1939)
 - degrees on
 - [CAL](#) 1999-154, SD 1969-5
 - delivered to accident victim at scene of accident
 - SD 2000-1
 - lay employee noted on
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 122]
 - LA 381 (1979)
 - limitation of practice noted on
 - LA 168 (1948)
 - published in newspaper
 - periodical
 - mail
 - LA 404 (1982)
 - random distribution
 - LA 419 (1983)
 - Change in the form of practice
 - LA(l) 1971-11
 - Chat room
 - [CAL](#) 2004-166
 - Check, profession shown on
 - LA(l) 1970-3
 - Class action
 - communication with potential class members prior to certification
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 - Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 - Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
 - scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
 - Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
- Client's
 - counsel identified on
 - LA 286 (1965), LA 241 (1957), LA(l) 1971-1, SD 1973-5
- Communication and solicitation distinguished
 - [CAL](#) 2012-186, SD 2000-1
- Communications concerning the availability for professional employment
 - blogging by attorney
 - [CAL](#) 2016-196
 - LA 494 (1998)
 - SD 2006-1, SD 2000-1
- Controversial cause, espousal of
 - LA(l) 1970-7
- Correspondent firm
 - LA 430 (1984)
- Direct mail solicitation
 - Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - [CAL](#) 1995-142, [CAL](#) 1988-105
 - SD 1992-3, OC 93-001
- Dissolution of law firm
 - [CAL](#) 2020-201, [CAL](#) 1985-86
- "Do-it-yourself" clinics
 - Howard v. Superior Court (1975) 52 Cal.App.3d 722
- Donation of legal services as prize
 - LA 434 (1984)
- Donation of legal services contingent upon bequest to certain organization
 - [CAL](#) 1982-65
- Dramatization
 - [Rule](#) 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)
- Dual practice/occupation
 - [CAL](#) 1982-69
 - LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1926), LA 349 (1925)
- Educational activity
 - [CAL](#) 1972-29
 - LA 221 (1954)
 - SD 1974-21
- Electronic media
 - [CAL](#) 2019-199, [CAL](#) 2001-155
 - SD 1977-4
- Employment offered
 - SD 1975-8, SD 1975-5
- Employment wanted
 - LA 319 (1970), LA(l) 1972-13
- corporate counsel
 - LA 319 (1970)
- Endorsement [[See](#) Political activity.]
 - [Rule](#) 1-400, std. 2, Rules of Professional Conduct (operative September 14, 1992)
- commercial product
 - Valentine v. Chrestensen (1942) 316 U.S. 52

constitutional analysis versus State Bar policy
Belli v. State Bar (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]

Facsimile transmissions
 Business & Professions Code section 17538.4

Fees
 Business and Professions Code section 6157
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
 free service
 LA(l) 1979-3
 low rates
 LA(l) 1979-3
 "no fees if no recovery"
Rule 1-400, std. 14, California Rules of Professional Conduct (operative May 11, 1994)
 OC 93-001
 routine
CAL 1982-67

Fictitious name
Rule 1-400, stds. 6, 7, and 9, California Rules of Professional Conduct (operative September 14, 1992)
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
CAL 1982-66
 "of counsel" non-partner in name
 LA 421 (1983)

Firm name
CAL 2004-167, CAL 1997-150, CAL 1986-90
 LA 530 (2018), LA 413 (1983), LA 385, LA 325 (1972)
 SD 1985-1
 concurrent use of attorney's name in two different law firms
 LA 511 (2003)
 former partner's name
CAL 1986-90
 LA 530 (2018)
 of law office comprised of separate sole practitioners
CAL 1986-90
 SD 1985-1

First Amendment protections
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]
44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Central Hudson Gas & Electric v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
Bates v. State Bar of Arizona (1977) 433 U.S. 350
Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Belli v. State Bar (1974) 10 Cal.3d 824, 833 [112 Cal.Rptr. 527]
Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 LA 494 (1998), LA 474 (1993)
 blogging by attorney
CAL 2016-196
 court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
Hassell v. Bird (2018) 5 Cal.5th 522 [234 Cal.Rptr.3d 867]
 court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights
Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]

scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
Healthsmart Pacific v. Kabateck (2017) 7 Cal.App.5th 416 [212 Cal.Rptr.3d 589]
Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

Foreign attorney
 LA 156 (1945)

General guidelines
 SD 1977-4
 mail
 SD 1983-5
 target, direct mail solicitation
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 1995-142, CAL 1988-105, SD 1992-3, OC 93-001

Group legal services
 LA(l) 1979-3, LA(l) 1978-2, SD 2021-1, SD 1978-2, SD 1976-11

Guardians, for lawyers to serve as
 SD 1975-8

In-person delivery of business card
 SD 2000-1

Insurance company
 in-house law division
CAL 1987-91

Internet
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
CAL 2019-199, CAL 2005-168, CAL 2001-155
 blogging by attorney
CAL 2016-196
 chatroom
CAL 2004-166
 court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
Hassell v. Bird (2018) 5 Cal.5th 522 [234 Cal.Rptr.3d 867]
 court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights
Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
 social media
CAL 2012-186, SD 2018-1
 third-party directories
CAL 2019-199

Intrusion/duress
CAL 2004-166

Laudatory reference
 journal advertisement
 LA 25 (1923)
 newspaper
 -series of articles on tax problems written by attorney
 LA 87 (1935)

statements
Bushman v. State Bar (1974) 11 Cal.3d 558, 568
Belli v. State Bar (1974) 10 Cal.3d 824, 837 [112 Cal.Rptr. 527]
Johnson v. State Bar (1935) 4 Cal.2d 744, 752
CAL 1972-29

ADVERTISING

Law

name of partnership
LA 310 (1969)

Law practice

deceased partner
-use of name of
LA 123 (1939), SD 1969-4

former partner
-use of name of
[CAL](#) 1986-90, LA 530 (2018)

withdrawal of attorney from firm
[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
[CAL](#) 2020-201, [CAL](#) 1985-86

Lawyer referral service

[Emmons, Williams, Mires & Leech v. State Bar](#) (1970) 6 Cal.App.3d 565
SD 2021-1, SD 2019-2

referral occurs when an entity engages in the act of directing or sending a potential client to an attorney for purposes of Business and Professions Code section 6155

[Jackson v. Legalmatch.com](#) (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Lawyers to serve as guardians of minors

SD 1975-8

Lectures

LA 286 (1965), LA(I) 1964-7

announcement
[Belli v. State Bar](#) (1974) 10 Cal.3d 824, 835 [112 Cal.Rptr. 527, 519 P.2d 575]
-degrees listed on
LA 349 (1925)

cable television
[CAL](#) 1972-29

law to non-lawyers
[CAL](#) 1967-12

Legal aid agency

SD 1974-9

Legal document [See Publication.]

annual report of business
LA(I) 1971-1

business prospectus
[CAL](#) 1969-19, LA(I) 1971-1

stockholder's report
LA(I) 1971-1

Legal services connected with senior citizen membership

SD 1976-11

Legal work for lawyers

LA 65 (1931)

Legal work from bar

LA 167 (1948)

Letter

[In re Primus](#) (1977) 436 U.S. 412, 422
[Belli v. State Bar](#) (1974) 10 Cal.3d 824, 838 [112 Cal.Rptr. 527, 519 P.2d 575]

[Johnson v. State Bar](#) (1935) 4 Cal.2d 746, 747
[CAL](#) 1982-67, [CAL](#) 1981-61, [CAL](#) 1980-54

LA 404 (1982), SD 1983-5, SF 1979-1
advising creditors of claims when creditors are unaware of existence

-offering to represent on percentage basis
LA 122 (1939)

honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law

[In the Matter of Wyrick](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
[CAL](#) 1999-154

other attorneys

-describing qualifications
[CAL](#) 1981-61

-offering to represent in other jurisdictions
[CAL](#) 1981-61

-requesting referrals

SF 1970-2

target, direct mail solicitation to particular potential clients allowed

[Florida Bar v. Went For It, Inc.](#) (1995) 515 U.S. 618 [115 S.Ct. 2371]

[Shapero v. Kentucky Bar Association](#) (1988) 486 U.S. 466 [108 S.Ct. 1916]

[Best Buy Stores, L.P. v. Superior Court](#) (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]

[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

[CAL](#) 1995-142, [CAL](#) 1988-105
OC 93-001
SD 1992-3

Letterhead

affiliation with an out-of-state law firm
LA 392 (1983)

affiliation with "correspondent firm" in another county
LA 430 (1984)

attorney

-use of by non-lawyer
LA 16 (1922)

corporation

-name of attorney on
LA 16 (1922)

deceased partner and/or former partner

-use of name of
[CAL](#) 1993-129, [CAL](#) 1986-90
LA 123 (1939)

distinguish partners from non-partners

SF 1973-18

"of counsel" on

[People ex rel. Dept. of Corporations v. Speedee Oil Change Systems](#) (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

[CAL](#) 1993-129, LA 516 (2006), LA 421 (1983)

other jurisdictions

-address of offices in
SD 1975-16

Mail [See Solicitation.]

[CAL](#) 1983-75, LA 404 (1983)

general guidelines
SD 1983-5

lawyers

[CAL](#) 1981-61

other attorneys

-requesting referrals
[CAL](#) 1981-61

owners

SF 1979-1

target, direct mail solicitation to particular potential clients allowed

[Florida Bar v. Went For It, Inc.](#) (1995) 515 U.S. 618 [115 S.Ct. 2371]

[Shapero v. Kentucky Bar Association](#) (1988) 486 U.S. 466 [108 S.Ct. 1916]

[In re Morse](#) (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

[People v. Morse](#) (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]

[CAL](#) 1995-142, [CAL](#) 1988-105
SD 1992-3, OC 93-001

-using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)

[Maracich v. Spears](#) (2013) 570 U.S. 48 [133 S.Ct. 2191]

to non-clients

SD 1983-5

to prospective clients

-announcement of law office opening
LA 128 (1940)

-mass mailing to income property owners
 SF 1979-1
 to realtors by mass mailing
[CAL](#) 1983-75
 Mail announcement [See Advertising, announcement. Law office, opening. Partnership.]
 clients of former partner or employer
[CAL](#) 2020-201, [CAL](#) 1985-86, LA 281 (1963)
 mailing of bulletins or briefs discussing laws or decisions
 LA 494 (1998)
 to members of the bar concerning availability for employment
 LA(l) 1970-4, SF 1970-2
 Management consulting company run by attorney
 LA 446 (1987)
 Military service
 exit from
 LA 161 (1946)
 Misleading
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 381
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
[CAL](#) 1997-148, LA 530 (2018)
 allegation of misleading advertisement not found
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
 attorneys not partners nor associates share office space
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
[CAL](#) 1997-150, [CAL](#) 1986-90
 class action
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 -class commercial as opposed to a professional announcement
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 criminal offense of conspiracy to defraud by false pretenses or false promises is subject to three-year statute of limitations
People v. Milstein (2012) 211 Cal.App.4th 1158 [150 Cal.Rptr.3d 290]
 disclaimer regarding the relationship between specially appearing attorneys and the clients of the attorney who hires the specially appearing attorney
[CAL](#) 2004-165
 fees, costs
 Business and Professions Code section 6157
Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
 honorific title in firm name or trade name may be misleading
[CAL](#) 2004-167
 reference to current or past relationship with governmental agency in firm name, letterhead or business card
[CAL](#) 2004-167
 Newsletter
 charitable organization
 -offering free will service
 LA 428 (1984)
 Newspaper
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 354
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 LA 8 (1917)
 article
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]

articles on tax problems, series of
 LA 87 (1935)
 legal column
 LA 354 (1976)
 misleading to the public
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1173
 scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 specialization – approval of
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172-1173
 Non-legal services
[CAL](#) 1999-154
 “Of Counsel”
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
[CAL](#) 1993-129, [CAL](#) 1986-88, LA 516 (2006), LA 421 (1983)
 other jurisdictions
 -address of offices in
 SD 1975-16
 Pamphlets relating to the practice of law
 LA 419 (1983)
 distribution to clients
[CAL](#) 1967-10
 Partnership
 attorney as partner or employee of two law firms
 LA 511 (2003)
 changes in personnel
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
[CAL](#) 2020-201, [CAL](#) 1986-90, [CAL](#) 1985-86, LA 247 (1957)
 formation of
 LA 331 (1973)
 Potential members of class action
 prior to class certification
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
Howard Guntz Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
 Presentation
 use of a living trust marketer to solicit clients for the attorney
[CAL](#) 1997-148
 use of a medical liaison to give a presentation containing promotional messages to a group of doctors who might recommend patients to the lawyer
[CAL](#) 1995-143
 Profiles on third-party directories
[CAL](#) 2019-199, SD 2021-1
 duty to correct false and/or misleading information
[CAL](#) 2019-199
 Prohibited forms
44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]

ADVERTISING

- In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350, 383
 - Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
 - Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
 - LA 494 (1998), SD 2000-1
 - management consulting firm incorporated by attorney to act as agent in solicitation of legal business
 - LA 446 (1987)
 - Publication [See Advertising, newspaper; journal.]
 - books relating to practice of law
 - LA 446 (1987)
 - charitable or religious body or organization
 - LA 256 (1959)
 - directory
 - biographical
 - LA(l) 1947-4
 - organization
 - fraternal
 - LA 184 (1951)
 - State Bar website listing
 - SD 2006-1
 - trade, business, etc.
 - LA 345 (1975)
 - distribution of
 - LA 244 (1957), LA(l) 1948-5, LA(l) 1948-4
 - pamphlets
 - Palmquist v. State Bar (1954) 43 Cal.2d 428
 - published by State Bar
 - [CAL](#) 1967-10
 - experiences of lawyer
 - as public interest story
 - SD 1975-3
 - journal
 - legal
 - LA 247 (1957), LA 156 (1945)
 - trade
 - LA 158 (1945), LA(l) 1955-4
 - newsletter
 - charitable organization
 - offering free will service
 - LA 428 (1984)
 - newspaper
 - LA 45 (1927)
 - legal
 - LA(l) 1976-8
 - trade and business
 - LA(l) 1955-4
 - notice of specialized service
 - LA 124 (1939)
 - pamphlet
 - attorney as author of
 - LA 307 (1968)
 - promotion of
 - LA 349 (1975), SD 1973-4
 - prospectus
 - name of counsel giving opinion with regards to tax benefits required by Corporations Commission
 - [CAL](#) 1969-19
 - quality
 - experience
 - LA 319 (1970)
 - expertise
 - LA 319 (1970)
 - inclusion in list of "approved" practitioners
 - LA(l) 1964-3
 - self-laudatory advertisement
 - SD 1977-4
 - Qualifications
 - [CAL](#) 1982-67, [CAL](#) 1981-61
- Radio or television
 - Belli v. State Bar (1974) 10 Cal.3d 824, 835
 - Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
 - participation by attorney in radio program
 - answering questions on law
 - LA 299 (1966)
 - identification as lawyer
 - LA 299 (1966)
- Random solicitation
 - LA 419 (1983)
- Return to practice [See Inactive lawyers.]
 - LA 161 (1946), LA 156 (1945)
- Routine services, fees
 - In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
 - Bates v. State Bar of Arizona (1977) 433 U.S. 350
 - [CAL](#) 1982-67
- Seminars
 - LA 494 (1998)
- Share office space with attorneys
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - [CAL](#) 1997-150, [CAL](#) 1986-90, SD 1985-1
- Sign
 - Jacoby v. State Bar (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77, 562 P.2d 1326]
 - branch office
 - LA(l) 1973-2
 - location
 - where there is no office
 - LA 134 (1940)
 - shared with business
 - LA 198 (1952)
 - use of words "legal clinic" instead of "law office" deemed not misleading
 - Jacoby v. State Bar (1977) 19 Cal.3d 359, 366
 - LA 145 (1943)
- Social media
 - [CAL](#) 2012-186, SD 2018-1
- Specialization
 - [Rule](#) 1-400(E), standard no. 11, Rules of Professional Conduct (operative until May 31, 1997)
 - [Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
 - absolute prohibition may violate constitutional rights
 - Peel v. Attorney Reg. & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
 - application
 - In the Matter of Mudge (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 536
 - LA(l) 1972-13
- bar
 - [CAL](#) 1981-61, LA 156 (1945), LA(l) 1970-4
 - disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees
 - Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 12]
 - notice to profession
 - to apprise of specialized services
 - LA 110 (1937)
 - public
 - LA 168 (1948), LA 45 (1927)
- Standards
 - standard 3, potential client who does not have requisite emotional or mental state to make a reasonable judgment about retaining counsel
 - [CAL](#) 2004-166
 - standard 6, reference to relationship with governmental agency in firm name, letterhead or business card
 - [CAL](#) 2004-167

ADVISING INQUIRERS THROUGH MEDIA

Target mail solicitation

Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]

In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]

statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid

Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]

CAL 1995-142, CAL 1988-105, SD 1992-3, OC 93-001

using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)

Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]

Telephone

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

CAL 1988-105

not prohibited if prospective client calls a qualified lawyer referral service because it is reasonable for a lawyer to conclude that the lawyer is communicating with a person who potentially wants to employ him or her

SD 2018-2

offer to conduct seminars

LA 494 (1998)

Telephone directory

listing in

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

-another city

CAL 1967-7, SD 1975-9

-State Bar website

SD 2006-1

more than one line

LA(I) 1948-6

multiple listings

LA(I) 1963-7, LA(I) 1956-3

-under spelling variations

LA(I) 1963-7

name changed

LA(I) 1956-3

out-of-town

CAL 1967-7

partnership

-members or associates listed individually

SD 1975-9

patent agent

-employed by law firm

CAL 1970-20

patent attorney

CAL 1970-20

seminars conducted for existing clients

SD 1969-8

Workers' Compensation

Labor Code sections 5430-5434

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799

Testimonial

Rule 1-400, std. 2, California Rules of Professional Conduct (operative September 14, 1992)

CAL 2019-199, CAL 2012-186

Third-party directories

CAL 2019-199, SD 2021-1

Trade name

practice law under by attorney or law firm

Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77, 562 P.2d 1326]

CAL 1982-66, LA 413 (1983)

Workers' Compensation

Labor Code sections 5430-5434

Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

ADVISING INQUIRERS THROUGH MEDIA

Rule 2-105, Rules of Professional Conduct [repealed effective February 20, 1985; former rule 18]

Generally

LA 191 (1952), LA 181 (1951), LA 148 (1944), LA 8 (1920)

Newspaper

tax problems

-series of articles on, authored by attorney

LA 87 (1935)

Radio show

attorney answers legal questions submitted by listeners

LA 299 (1966)

attorney participating in

-audience may talk with attorney over airwaves

CAL 1969-17

Tax problems

series of articles on, in newspaper

LA 87 (1935)

ADVISING VIOLATION OF LAW

Rule 7-101, Rules of Professional Conduct [former rule 11] (operative until May 26, 1989)

Rule 3-210, Rules of Professional Conduct (operative as of May 27, 1989)

Goldman v. State Bar (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447, 570 P.2d 463]

Snyder v. State Bar (1976) 18 Cal.3d 286, 288 [133 Cal.Rptr. 864, 555 P.2d 1104]

Paonessa v. State Bar (1954) 43 Cal.2d 222 [272 P.2d 510]

Townsend v. State Bar (1948) 32 Cal.2d 592, 593-598

Waterman v. State Bar (1937) 8 Cal.2d 17 [63 P.2d 1133]

In re Jones (1929) 208 Cal. 240, 241-243 [280 P. 964]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108 [116 Cal.Rptr. 713] cert. den. 421 U.S. 1012

Hoffman v. Municipal Court (1970) 3 Cal.App.3d 621, 628-629 [83 Cal.Rptr. 747]

[See 40 A.L.R. 3d 175n, 19 A.L.R. 3d 403s, 96 A.L.R. 2d 739, 71 A.L.R. 2d 875, 114 A.L.R. 175, 50 S.Cl.L.Rev. 817, 7 Sw.R. 619.]

CAL 1996-146, LA 527 (2015), SD 1993-1

Advice regarding how the client should not violate state law is not advising client to violate federal law

LA 527 (2015)

Advocating civil disobedience

CAL 2003-162

Bankruptcy

Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]

Collections

LA 522 (2009)

Conflict between state and federal law

LA 527 (2015)

Judge solicited the commission of perjury in a federal investigation

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Medical marijuana

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

CAL 2020-202, LA 527, SF 2015-1

Negotiation of private agreement not to prosecute a crime

CAL 1986-89

Negotiation of private agreement to compromise civil claim arising from crime

CAL 1986-89

ALCOHOL ABUSE

Alcohol and drug addiction brought under control

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY

For confidential assistance, contact:

State Bar of California Lawyer Assistance Program (LAP)
Telephone: (877) LAP 4 HELP, (877) 527-4435
Email: LAP@calbar.ca.gov
Website: <http://calbar.ca.gov/LAP>

Significant professional discipline may be imposed for multiple misdemeanor convictions of driving under the influence

In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY

Can be of assistance where California has not spoken

Paul E. Iacono Structural Engineering, Inc. v. Humphrey (9th Cir. 1983) 722 F.2d 435, 438

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Altschul v. Sayble (1978) 83 Cal.App.3d 153 [174 Cal.Rptr. 716] SD 2017-1

AMERICAN BAR ASSOCIATION MODEL RULES OF PROFESSIONAL CONDUCT

Can be of assistance where California has not spoken

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Altschul v. Sayble (1978) 83 Cal.App.3d 153 [174 Cal.Rptr. 716]

CAL 1983-71, LA 512 (2004), LA 504 (2000), SD 2017-1, SD 2011-1, OC 99-002, OC 95-002, SF 1999-2

Inadvertent disclosure of confidential information

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Not binding in California

In re AFL Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190, fn. 6

Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

Cho v. Superior Court (1995) 39 Cal.App.4th 113, 121, fn. 2

People v. Ballard (1980) 104 Cal.App.3d 757 [164 Cal.Rptr. 81]

CAL 1998-152, CAL 1983-71, LA 504 (2000), OC 99-002, OC 95-002, SD 1989-4, (1983), 50 USLW 1

APPOINTMENT OF ATTORNEY BY COURT [See Attorney-client relationship. Contract for employment.]

Business and Professions Code section 6068(h)

Standard 5.10 and standard 10.21, Standards of Judicial Administration

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515

Abuse of discretion

found when court removed and refused to reappoint the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

not found when court held that defendant failed to establish good cause to depart from the statutory scheme for appointment of assigned counsel

Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]

Assigned counsel

contract for private employment

SD 1969-9

duty to maintain inviolate client's confidence and secrets

LA 504 (2000)

duty with respect to costs and expenses

LA 379 (1979)

Attorney-client relationship

In re Jay R. (1983) 150 Cal.App.3d 251, 262

Civil proceedings

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

Payne v. Superior Court (1976) 17 Cal.3d 908 [132 Cal.Rptr. 405]

Iraheta v. Superior Court (1999) 70 Cal.App.4th 1500 [83 Cal.Rptr.2d 471]

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336

Mowrer v. Superior Court (1984) 156 Cal.App.3d 462

Hunt v. Hackett (1973) 36 Cal.App.3d 134

Coercive appointment

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 517-518

Conservatorship proceedings

In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]

attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, OC 95-002

authority to bind conservatee-client who requests not to be present at hearing

In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]

Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party

Matter of Fonouiller (9th Cir. 1983) 707 F.2d 441, 442

Criminal and quasi-criminal proceedings

Business and Professions Code sections 6068(h)

Penal Code section 1473.7

-counsel must be appointed if a defendant's presence is waived or good cause exists to excuse a defendant's presence, such as when a defendant is confined in federal immigration custody or defendant is indigent and in federal custody

People v. Fryhaat (2019) 35 Cal.App.5th 969 [248 Cal.Rptr.3d 39]

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

CAL 1970-23

abandonment by appellate counsel was good cause for substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

abuse of discretion when court removed and refused to reappoint the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

adequacy of appointed counsel

People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]

People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

APPOINTMENT OF ATTORNEY BY COURT

- appointment of additional
-defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915
-denied
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
-public defender may be appointed standby or advisory counsel for defendant who chooses to represent himself
Brookner v. Superior Court (1998) 64 Cal.App.4th 1390
court's refusal to appoint indigent defendant's chosen attorney at resentencing did not violate due process
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006
court's refusal to appoint indigent defendant's chosen attorney at retrial is not abuse of discretion
People v. Robinson (1997) 53 Cal.App.4th 270 [61 Cal.Rptr.2d 587]
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
defense attorney
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
freeing minor from parental custody
In re Rodriguez (1973) 34 Cal.App.3d 510 [110 Cal.Rptr. 56]
indigent defendants does not have the right to select court-appointed attorney
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
indigent defendants entitled to effective pro bono assistance
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 472-473
narcotics commitment hearing
*People v. Moore (1968) 69 Cal.2d 674 [72 Cal.Rptr. 800]
Defendant's ability to afford private counsel
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Dependency proceedings
In re Charlis C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
attorney appointed for a dependent minor under California Rule of Court 5.660 may also function as the independent guardian ad litem
In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
representation of a minor client
In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
LA 504 (2000)
-attorney acting as guardian ad litem is holder of psychotherapist-patient privilege for minor client
In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
-no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
sanctions imposed against attorney for bringing frivolous conflict motions
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
- Duties of appointed counsel
authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
conservatorship proceedings
-duty of counsel to perform in an effective and professional manner is implicit in statute (Welf. & Inst. Code § 5365) providing for appointment of attorney for proposed conservatee
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
- Fees
Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
Good cause to relieve counsel appointed for a minor
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
Inadvertent disclosure of confidential information
city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
No absolute Sixth Amendment right to both pro bono counsel and assistance of counsel
United States v. Condo (9th Cir. 1984) 741 F.2d 238
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
Preservation of constitutional rights
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Pro bono publico service
Business and Professions Code sections 6068(h), 6103
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
Payne v. Superior Court (1976) 17 Cal.3d 908, 924
Lamont v. Solano County (1874) 49 Cal. 158, 159
Rowe v. Yuba County (1860) 17 Cal. 60, 63
Waltz v. Zumwalt (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]
County of Los Angeles v. Superior Court (1980) 102 Cal.App.3d 926, 931 [162 Cal.Rptr. 636]
County of Fresno v. Superior Court (1978) 82 Cal.App.3d 191, 194-196 [146 Cal.Rptr. 880]
Protect interests of party
Estate of Bodger (1954) 128 Cal.App.2d 710 [276 P.2d 83]
Right to counsel
defendant has choice when retaining counsel, but not for appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded
U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
may not be forfeited without defendant's voluntary, knowing and intelligent waiver
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
waiver of right must be knowing and intelligent
U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

ARBITRATION

ARBITRATION

Agreement with client to arbitrate claims brought by client

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]

Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]

Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

CAL 1977-47

court may decline to compel arbitration if "a party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of same transaction or series of related transactions and there is a possibility of conflicting rulings of law or fact" (CCP 1281.2)

Barsegian v. Kessler & Kessler (2013) 215 Cal.App.4th 446 [155 Cal.Rptr.3d 567]

malpractice claims

CAL 1989-116, LA 489 (1997)

-arbitrator's decision to dismiss legal malpractice case due to plaintiff's inability to pay should have allowed case to proceed in federal court

Tillman v. Tillman, Rheingoldm Valet, Rheingold, Shkolnik & McCartney (9th Cir. 2016) 825 F.3d 1069

no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson

Mt. Holyoke Homes, L.P. v. Jeffer Mangels Butler & Mitchell, LLP (2013) 219 Cal.App.4th 1299 [162 Cal.Rptr.3d 597]

Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]

Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action

Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]

Arbitrator

Code of Civil Procedure section 1141.18

Code of Civil Procedure section 1284

-arbitrator may not revise final arbitration award to include attorney fees after he already made substantive ruling in final award denying attorney fees

Cooper v. Lavelly & Singer Professional Corp. (2014) 230 Cal.App.4th 1 [178 Cal.Rptr.3d 322]

Code of Civil Procedure section 1286.2(a)(4)

-arbitrator exceeded his authority by limiting appellant's representation at arbitration to an individual who was not appellant's choice of representation denying party of a fair hearing

Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]

-arbitrator exceeded his power in awarding punitive damages when defendant was not afforded reasonable opportunity to challenge such damages

Emerald Aero, LLC et al., v. Kaplan (2017) 9 Cal.App.5th 1125 [215 Cal.Rptr.3d 5]

Code of Civil Procedure section 1286.2(a)(5)

-intercession by courts to vacate an arbitration award where arbitrator has prevented a party from fairly presenting his or her case

Emerald Aero, LLC et al., v. Kaplan (2017) 9 Cal.App.5th 1125 [215 Cal.Rptr.3d 5]

Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]

appointment of law office associate as

-by attorney representing claimant in same proceeding
LA 302 (1968)

arbitral immunity

La Serena Properties v. Welsbach (2010) 186 Cal.App.4th 893 [112 Cal.Rptr.3d 597]

arbitrator's decision not subject to judicial interference standard

Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

Creative Plastering, Inc. v. Hedley Builders (1993) 19 Cal.App.4th 1662 [24 Cal.Rptr.2d 216]

LA 415 (1983)

-attorney fee provision severed from arbitration agreement as against public policy

Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]

arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration

Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]

arbitrator's failure to disclose that attorney was member of administering dispute provider resolution organization is valid ground for vacating arbitration award

Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]

disclosure of public censure while previously serving as judge not required

Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]

disclosure required under Code of Civil Procedure section 1281.9

ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]

United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]

Mt. Holyoke Homes, L.P. v. Jeffer Mangels Butler & Mitchell, LLP (2013) 219 Cal.App.4th 1299 [162 Cal.Rptr.3d 597]

Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]

Rebmann v. Rohde (2011) 196 Cal.App.4th 1283 [127 Cal.Rptr.3d 510]

Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]

La Serena Properties v. Welsbach (2010) 186 Cal.App.4th 893 [112 Cal.Rptr.3d 597]

Dornbirer v. Kaiser Foundation Health Inc. (2008) 166 Cal.App.4th 831 [83 Cal.Rptr.3d 116]

disclosure under 1286.2 subdivision (a)(6)(A) and grounds for vacatur denied when arbitrator fails to disclose a ground for disqualification of which arbitrator was then not aware

ECC Capital Corporation et al., v. Manatt, Phelps & Phillips (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]

failure of arbitrator to disclose facts that show reasonable impression of partiality vacates award

New Regency Productions, Inc. v. Nippon Herald Films, Inc. (9th Cir. 2007) 501 F.3d 1101

Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]

Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]

-disclosure of public censure while previously serving as judge not required

Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]

- failure of arbitrator to disclose prior arbitration involving a lawyer from the same firm did not require vacatur of arbitration award
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
- failure to disclose nature of professional responsibility practice
Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]
- requires raising issue in timely manner
United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]
Dornbier v. Kaiser Foundation Health Inc. (2008) 166 Cal.App.4th 831 [83 Cal.Rptr.3d 116]
- failure of arbitrator to disclose grounds for disqualification as the basis for civil liability
 -arbitral immunity protects arbitrator from civil liability; vacation award proper remedy
La Serena Properties v. Welsbach (2010) 186 Cal.App.4th 893 [112 Cal.Rptr.3d 597]
- failure of arbitrator to disclose grounds for disqualification as the basis to vacate interim award
Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]
Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
- failure of arbitrator to disclose that his wife had worked for law firm that represents party to arbitration more than 2 years before firm represented that party, does not require vacatur of award
Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062
- failure to timely disclose a conflict arising from prior service as a mediator for one of the parties
Fininen v. Barlow (2006) 142 Cal.App.4th 185 [47 Cal.Rptr.3d 687]
- federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements
Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]
- judiciary is precluded from vacating an arbitration award on the basis of purported error of fact or law
Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
- neutral arbitrators must be held to the same ethical standards of impartiality as the judiciary in order to promote public confidence in the arbitration system
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]
Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]
Rebmann v. Rohde (2011) 196 Cal.App.4th 1283 [127 Cal.Rptr.3d 510]
Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]
- no duty on arbitrator to disclose religion or family background when such facts do not cause a reasonable person to entertain a doubt regarding his ability to be impartial
Rebmann v. Rohde (2011) 196 Cal.App.4th 1283 [127 Cal.Rptr.3d 510]
- parties may enter into an agreement that authorizes arbitrator to determine existence of an attorney -client relationship
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
- standards for neutral arbitrators adopted by the Judicial Council
Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
- Attachment prior to
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 110 [212 Cal.Rptr. 830]
- Attorney as arbitrator
Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)
 LA 415 (1983)
 while representing client on other matters
CAL 1984-80
- Attorney conflict or breach of duty of loyalty may justify vacating an arbitration award
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]
- Attorney fees
 arbitration award corrections
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
- arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
- arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- arbitrator may not revise final arbitration award to include attorney fees after he already made substantive ruling in final award denying attorney fees
Cooper v. Lavelly & Singer Professional Corp. (2014) 230 Cal.App.4th 1 [178 Cal.Rptr.3d 322]
- arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
- arbitrator's determination of prevailing party is not subject to appellate review
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
- authority of arbitrator to award fees under the terms of the controlling arbitration
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]

ARBITRATION

- Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
-pursuant to Civil Code section 1717
Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
binding at county bar level
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Reisman v. Shahverdian (1984) 153 Cal.App.3d 1074, 1088
binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
enforceable arbitration agreement is contained in an illegal contract, a party may avoid arbitration altogether
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
failure to comply with 6201(a) does not compel court to dismiss action
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
in other states
Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 95
law firm obligated to pay attorney fees to its' "of counsel" attorney for representation in fee dispute with client
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
notice of client's right to arbitrate a dispute must be given after dispute has arisen
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
LA 521, OC 99-002
prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
trial court procedures
Civil Code of Procedure section 1285 et seq.
trial de novo
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]
Attorney's associate as arbitrator in case in which attorney represents client
LA 302 (1968)
Authority of arbitration
Pacific Motor Trucking v. Automotive Machinists (9th Cir. 1983) 702 F.2d 176
Moncharsh v. Heily & Blase (1997) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]
Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
California Faculty Association v. Superior Court (1998) 63 Cal.App.4th 935 [75 Cal.Rptr.2d 1]
Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
arbitration award need not be vacated when judge who ordered arbitration should have been disqualified
Roscco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
binding agreement
-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
Authority of attorney to unilaterally bind client to binding arbitration with opposing party
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Toal v. Tardif (2009) 178 Cal.App.4th 1183 [101 Cal.Rptr.3d 109]
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Binding clause in law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
Binding clause in retainer agreement
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
Law Offices of Ian Herzog v. Law Offices of Joseph M. Fredrics (1998) 61 Cal.App.4th 672 [71 Cal.Rptr.2d 771]
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1989-116, CAL 1981-56
LA 489 (1997)
binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
court may decline to compel arbitration if "a party to the arbitration agreement is also a party to a pending court action or special proceeding with a third party, arising out of same transaction or series of related transactions and there is a possibility of conflicting rulings of law or fact" (CCP 1281.2)
Barsegian v. Kessler & Kessler (2013) 215 Cal.App.4th 446 [155 Cal.Rptr.3d 567]
Mandatory Fee Arbitration Act does not impliedly repeal California Arbitration Act
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]

not applicable to business deal between attorney and client
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 271]

Certification of non-resident, out-of-state attorney representatives
 Code of Civil Procedure section 1282.4
 Code of Civil Procedure section 1286.6 (authority to amend or correct a final award)
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
 paragraph (a)(4)
 -arbitrator exceeded his power by awarding statutory attorney's fees to defendant employer for prevailing on meal and rest claims in violation of public policy
Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]
 paragraph (a)(5)
 -court properly corrected award and remanded to arbitrator to determine reasonable fees and costs
Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]

Costs
 law firm required to pay arbitration cost of former clients who sued firm, where client is of limited economic means
Roldan v. Callahan & Blaine (2013) 219 Cal.App.4th 87 [161 Cal.Rptr.3d 493]

County bar association as arbitrator
 immune from suit arising from arbitration of attorney-client dispute
Olney v. Sacramento County Bar Association (1989) 212 Cal.App.3d 807 [260 Cal.Rptr. 842]

Disqualification of arbitrator, grounds
Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]
Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
Ceriale v. AMCO Insurance Company (1996) 48 Cal.App.4th 500 [55 Cal.Rptr.2d 685]
Betz v. Pankow (1995) 31 Cal.App.4th 1503 [38 Cal.Rptr.2d 107]
Betz v. Pankow (1993) 16 Cal.App.4th 931
Betz v. Pankow (1993) 16 Cal.App.4th 919
Banwait v. Hernandez (1988) 205 Cal.App.3d 823
 definition of "professional relationship" for purposes of statutory disclosure of information that could affect the arbitrator's neutrality
Gray v. Chiu (2013) 212 Cal.App.4th 1355 [151 Cal.Rptr.3d 791]
Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
 denied when arbitrator fails to disclose a prior connection to attorney defendant of which arbitrator was not aware of
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
 failure of arbitrator to disclose that his wife had worked for law firm that represents party to arbitration more than 2 years before firm represented that party, does not require vacatur of award
Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062

failure to disclose information that might indicate bias (CCP § 1281.9 et seq.)

Honeycutt v. JPMorgan Chase Bank, N.A. (2018) 25 Cal.App.5th 909 [236 Cal.Rptr.3d 255]
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]
Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
 -actual bias in an arbitrator is not required to trigger disclosure requirements; rather, the arbitrator's duty to disclose is measured by an objective, reasonable person standard
 -disclosure of public censure while previously serving as judge not required
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
 -arbitration award should have been vacated by trial court when arbitrator failed to disclose that he had numerous matters with one of the parties' law firm during pendency of an arbitration
Honeycutt v. JPMorgan Chase Bank, N.A. (2018) 25 Cal.App.5th 909 [236 Cal.Rptr.3d 255]
 -arbitrator's failure to disclose that his resume listed one of the firm's partners as a reference required vacation of arbitration award
Mt. Holyoke Homes, L.P. v. Jeffer Mangels Butler & Mitchell, LLP (2013) 219 Cal.App.4th 1299 [162 Cal.Rptr.3d 597]
 -failure to disclose nature of professional responsibility practice
Benjamin, Weill & Mazer v. Kors (2010) 189 Cal.App.4th 126 [116 Cal.Rptr.3d 677]
 federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements
Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]
 no right of parties to seek arbitrator's disqualification based on disclosure that was not statutorily required (CCP § 1281.9 et seq.)
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
 nominee for service as a neutral arbitrator must disclose any matter that could cast doubt on his or her ability to be impartial
Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
 -disclosure of public censure while previously serving as judge not required
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
 not available when motion to disqualify is brought after ruling by arbitrator on any contested matter
Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
 requires raising issue in a timely manner
United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]
Dornbirer v. Kaiser Foundation Health Inc. (2008) 166 Cal.App.4th 831 [83 Cal.Rptr.3d 116]

ARBITRATION

- vacatur of arbitration award denied where arbitrator's voluntary disclosure of his membership in the same professional organization as the expert witness as such disclosure was not required by law (CCP § 1281.9 et seq.)
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
- Employment contract between associate and law firm contains an arbitration agreement as to all disputes
merged law firm, a non-signatory defendant, may enforce an agreement between plaintiff and original firm that they acquired
Jenks v. DLA Piper Rudnick Gray Cary U.S. LLP (2015) 243 Cal.App.4th 1 [196 Cal.Rptr.3d 237]
- Enforcement of an arbitration award
Code of Civil Procedure 1286.2(a)(5) provides a safety valve in private arbitration by permitting courts to intercede when an arbitrator has prevented a party from fairly presenting his or her case
Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
- prevailing party seeking to enforce an arbitration award must petition the court to confirm the award (CCP §§ 1285 et seq.)
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
- Fee arbitration [See Fee. Professional liability.]
Business and Professions Code section 6200 et seq.
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.App.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.App.4th 974 [12 Cal.Rptr.3d 287]
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165
OC 99-002
- affirmative duty of prior counsel to seek arbitration or judicial determination of attorney fee
CAL 2009-177
- amount of money in controversy, determined by plaintiff's claim
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
- arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.App.4th 364 [30 Cal.Rptr.3d 558]
- filing of claim in small claims court is effective rejection of award
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
- arbitration award corrections
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
- arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- arbitrator's authority to determine own jurisdiction
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718
- attorney's debt to client is dischargeable in personal bankruptcy
Scheer v. State Bar of California (9th Cir. 2016) 819 F.3d 1209
- binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.App.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
- binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
- client waiver of arbitration rights
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
- client waives right to arbitration under Mandatory Fee Arbitration Act (MFAA) by failing to request arbitration within the required 30 days
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
- dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
- initiation of a State Bar-sponsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
- insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client
National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718
- Mandatory Fee Arbitration Act does not impliedly repeal California Arbitration Act
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.App.4th 1034 [87 Cal.Rptr.3d 700]
- notice of claim against client's fee guarantor
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
- public policy
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.App.4th 1034 [87 Cal.Rptr.3d 700]

- Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
- trial de novo after award of fees by arbitrator not preserved by client's filing of a malpractice claim
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
- untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
- waiver due to filing of pleading for affirmative relief
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587
- Insurance cases
 Civil Code section 2860(c)
 -defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
 -disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
 -insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute
Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
 -no right to arbitration where no determination of whether insurer has duty to defend
Intergulf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]
 -remedy for insurer's failure to participate in mandatory arbitration is a petition to compel arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
- Cumis counsel
 -insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
- Member of partnership is arbitrator when client of firm is party
 LA(l) 1967-10
- Misleading conduct by party to settlement negotiation waives contractual right to compel arbitration
Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]
- Preemption
 federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements
Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]
- Res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
- Restrictive covenant in law firm's employment contract disputed by a departing attorney
 courts may not vacate an arbitration award except for statute
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
- Standards for neutral arbitrators adopted by the Judicial Council
La Serena Properties v. Welsbach (2010) 186 Cal.App.4th 893 [112 Cal.Rptr.3d 597]
- ASSIGNED COUNSEL**
- Capital cases
 defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915
- Contract for private employment
 SD 1969-9
- Duty with respect to costs and expenses
 LA 379 (1979)
- ASSIGNMENT** [See Trustee.]
- Assignee
 represent against former client's assignee in matter in which acted for client
 LA(l) 1961-2
- Assignee, lawyer
 claim and client's accounts for purpose of collection
 LA 7 (1918)
 client's interest in estate to secure loan
 LA 228 (1955)
- Assignor
 (1937) 13 LABB 67
- Attorney-client relationship between assignor and attorney for assignee
Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]
- Buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Debt
 where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129
Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]
- Fees
 right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
- Legal malpractice claims are not assignable under California law and public policy
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
 bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
 shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- Lottery ticket to attorney
 LA 115 (1937)
- Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim
 LA 500 (1999)

ASSOCIATE

Third-party of lawsuit in exchange for interest in proceeds distinguished from buying a claim

[CAL](#) 2020-204

Tort claims for personal injuries are not assignable under California law

[Pony v. County of Los Angeles](#) (9th Cir. 2006) 433 F.3d 1138
[Curtis v. Kellogg & Andelson](#) (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

ASSOCIATE

City council member's practice by

[CAL](#) 1977-46, LA(l) 1975-4

Conducts employer's practice during employer's disability or absence

LA 348 (1975)

Definition

[Rule](#) 1-100(B)(4), Rules of Professional Conduct
[Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule](#) 2-200
[Sims v. Charness](#) (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Division of fees

attorney as partner or employee of two law firms
LA 511 (2003)

Duty to represent a client competently

LA 383 (1979)

Duty with respect to disabled employer's practice

LA 348 (1975)

Former attorney-employees liable for violation of Uniform Trade Secrets Act (Civil Code § 3246 et seq.) if found to have misappropriated employer's protected trade secret client list for solicitation

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Former attorney-employees may compete for the business of former employer so long as such competition is fairly and legally conducted

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Form for listing on announcements

SF 1973-18

Practice by employer of when associate is prosecutor

LA 377 (1978)

Represented other side

LA 363 (1976)

ASSOCIATE COUNSEL

Division of fees

association of outside counsel not a basis for exemption from 2-200 requirements

[Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

outsourcing legal services

LA 518 (2006)

Employment as subject to approval of other attorney

LA 183 (1951)

Employment as, subject to approval of client

[Sims v. Charness](#) (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

LA 518 (2006), LA 473 (1993)

SD 1974-2

Outsourcing legal services

LA 518 (2006)

ATTACHMENT [See Fee, unpaid.]

Of assets of another lawyer's client when learned of assets during unrelated representation

LA(l) 1963-1

ATTORNEY-ATTORNEY RELATIONSHIP

Business and Professions Code section 6068(f)

Civil Code section 47(2)

[Rules](#) 2-100, 2-200, 2-300, and 2-400, Rules of Professional Conduct

[United States v. Wunsch](#) (9th Cir. 1996) 84 F.3d 1110, 1119

[In the Matter of Anderson](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775, 786-787

Attorney as agent of another

[Beck v. Wecht](#) (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

[Trimble v. Steinfeldt](#) (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]

[Pollack v. Lytle](#) (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Attorney as independent contractor

[Wothington v. Unemployment Ins. App. Bd.](#) (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]

[Merrit v. Reserve Ins. Co.](#) (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]

[Otten v. San Francisco Hotel etc. Assn.](#) (1946) 74 Cal.App.2d 341 [168 P.2d 739]

[Associated Ind. Corp. v. Ind. Acc. Com.](#) (1943) 56 Cal.App.2d 804 [133 P.2d 698]

Attorney as partner or employee of two law firms

LA 511 (2003)

Communications with the State Bar are privileged

[Chen v. Fleming](#) (1983) 147 Cal.App.3d 36

Consultation with an independent attorney regarding the client's case may be permitted

SD 1996-1

Division of fees

attorneys' oral agreement to form joint venture to share legal fees held enforceable notwithstanding argument that such arrangement may have violated rules of professional conduct requiring clients' consent to share fees and waiver of conflict of interest

[Jorgensen v. Cassidy](#) (9th Cir. 2003) 320 F.3d 906

by attorneys who represented each other in recovery of contingent fee due under retainer agreement

[Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr.](#) (9th Cir. 2001) 250 F.3d 1234

former shareholder of law firm has no ownership or lien interest upon fees owed to firm by client

[City of Morgan Hill v. Brown](#) (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

post-dissolution profits from unfinished partnership business

[Rappaport v. Gelfand](#) (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]

[*Dickson, Carlson & Campillo v. Pole](#) (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

requires written disclosure to client and client's written consent

[Margolin v. Shemaria](#) (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

successor attorney's obligation to notify prior attorney of the existence of a settlement

[CAL](#) 2008-175

terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200

[Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Employer may recover for tortious interference with employment contracts of its at-will employees by third party (attorney-employees) who induced personnel to terminate their employment

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Fiduciary duty owed by partners of a dissolved partnership to each other

duty to complete the partnership's unfinished business and to act in the highest good faith

[*Dickson, Carlson & Campillo v. Pole](#) (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Fiduciary duty to protect the interest of clients does not extend to co-counsel

[Beck v. Wecht](#) (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

[Saunders v. Weissburg & Aronson](#) (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405]

Group of attorneys circulating names of other attorneys who fail to extend professional courtesies

LA 364 (1976)

Indemnity claim between attorneys not barred
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Law firm's attorneys shared a mutual obligation to assure that an oral argument appearance would be covered despite one attorney's resignation from the firm
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

Lying to opposing counsel
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Obligation to return telephone calls of other lawyers
 LA(l) 1972-11

Opposing counsel may not be deposed in preparation for good faith settlement hearing
Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924 [245 Cal.Rptr. 247]

Representation of attorney-client against former attorney-client
 LA 418 (1983)

Sanctions against attorney attempting to depose opposing counsel as a litigation tactic
Estate of Ruchti (1993) 12 Cal.App.4th 1593

Sanctions appropriate when attorney schedules depositions and serves subpoenas during time period of opposing counsel's known trips out of state and out of the country
Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299 [10 Cal.Rptr.2d 371]

Special appearance by an attorney results in the formation of an attorney-client relationship with the litigant
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Subpoena
 grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship
U.S. v. Bergeson (9th Cir. (Or.) 2005) 425 F.3d 1221

Termination of employer-employee relationship
 former attorney-employees acted unlawfully and unethically when they engaged in campaign to disrupt employer's business
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

former attorney-employees liable for intentional interference with at-will employment relation by engaging in unlawful and unethical conduct and causing personnel to terminate their at-will employment contracts
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

former attorney-employees liable for Violation of Uniform Trade Secrets Act (Civil Code § 3426 et seq.) if found to have misappropriated employer's protected trade secret client list
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

former attorney-employees may compete for the business of former employer so long as such competition is fairly and legally conducted
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

Threat to opposing counsel
Standing Committee on Discipline of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171

ATTORNEY-CLIENT RELATIONSHIP [See Acceptance of employment. Appointment of attorney by court. Authority of attorney. Confidences of the client, disclosure. Contract for employment. Corporations. Substitution. Termination of attorney-client relationship. Withdrawal.]
Olson v. Superior Court (1984) 157 Cal.App.3d 780

Abstract
In re Ochse (1951) 38 Cal.2d 230, 231 [238 P.2d, 561]

Accusing opposing counsel of misrepresentation may be moral turpitude when done with gross neglect
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Acts constituting malpractice
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]

Acts in role other than as an attorney
Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 475-476

Acts of client
 concurrence in or conspiracy with client's acts not inferred from the existence of attorney-client relationship itself
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

Advance fees and costs [See Fees, advance.]

Adverse interest
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 LA 492 (1998), LA 418 (1983)

Advise client of disability of attorney; associate's duty
 LA 348 (1975)

Advise client of potential malpractice claims against oneself
CAL 2019-197, CAL 2009-178

Advise client of prior attorney's malpractice
 LA 390 (1981)

Agency
 exception – attorney neglect is punitive misconduct
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

normally client bound by acts of attorney agent, however, where gross negligence amounts to abandonment, client entitled to relief
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247

Allocation of authority
 lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal acts in manner that is professionally unreasonable
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

Appellate counsel for minor
 in a dependency matter, attorney has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]

Appointment of attorney for indigent
Bailey v. Lawford (1993) 835 F.Supp. 550
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12 Cal.Rptr.2d 55]
Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586 [192 Cal.Rptr. 49]

Appointment of succeeding attorney
Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

ATTORNEY-CLIENT RELATIONSHIP

- As bank's director, bank attorney
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042
- Association for particular case
Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]
Brunn v. Lucas, Pino & Luco (1959) 172 Cal.App.2d 450 [342 P.2d 508]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
limited scope of representation as "appearance attorney" in an immigration proceeding is improper
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule 2-200](#)
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Attorney as agent
C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 6]
Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]
Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
agent is also a wrongdoer when the principal is a wrongdoer
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
-concurrency in or conspiracy with client's acts not inferred from the existence of attorney-client relationship itself
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
client has right and power to discharge at any time
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
dissolves on suspension of attorney
Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]
exception when attorney has a present and co-existing interest in the object of representation
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
imputation of agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
-neglect imputed to client
Elston v. Turlock (1983) 148 Cal.App.3d 23
notice to attorney
-agent imputed to client
Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]
outside counsel for a corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- Attorney as employee
Casselman v. Hartford etc. Co. (1940) 36 Cal.App.2d 700 [98 P.2d 539]
[CAL](#) 1993-132
- Attorney as independent contractor
Wothington v. Unemployment Ins. App. Bd. (1976) 64 Cal.App.3d 384 [134 Cal.Rptr. 507]
Merrit v. Reserve Ins. Co. (1973) 34 Cal.App.3d 858 [110 Cal.Rptr. 511]
Otten v. San Francisco Hotel etc. Assn. (1946) 74 Cal.App.2d 341 [168 P.2d 739]
Associated Ind. Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804 [133 P.2d 698]
LA 473 (1992)
outside counsel for a corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
outsourcing legal services
LA 518 (2006)
- Attorney as trustee, client as beneficiary
Probate Code sections 16002 and 16004
Probate Code section 15687
*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
- Attorney as witness
Reich v. Club Universe (1981) 125 Cal.App.3d 965, 970 [178 Cal.Rptr. 473]
- Attorney assumes personal obligation of reasonable care
Palomo v. State Bar (1984) 36 Cal.3d 785, 795
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Attorney entitled to reasonable value of services rendered, quantum meruit
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211
- Attorney need not blindly follow desire of client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
Shepard v. Superior Court (1986) 180 Cal.App.3d 23
Wolfrich Corp. v. United Services Automobile Assn. (1983) 149 Cal.App.3d 1206, 1211
People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]
counsel has a professional responsibility not to pursue an appeal that is frivolous or taken for the purpose of delay just because client instructs him to do so
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
court's advice to defendant that he follow his attorney's advice did not impair defendant's ability to waive his right to testify
United States v. Joelson (1993) 7 F.3d 174
- Attorney neglect must be excused to avoid imputation to client
Griffis v. S.S. Kresge (1984) 150 Cal.App.3d 491
- Attorney not liable to insured when insurer, under consent clause of policy, settles claim without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
- Attorney of record
Singh v. Immigration and Naturalization Service (2003) 315 F.3d 1186
Fox v. Pollack (1986) 181 Cal.App.3d 954
formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. WIZ Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

- payment of attorney fees alone not determinative, only a factor
 - Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
- special appearing attorney forms an attorney-client relationship with the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Attorney's partner or employee
 - Little v. Caldwell (1894) 101 Cal. 553 [36 P.2d 107]
 - Raskin v. Superior Court (1934) 138 Cal.App. 668 [33 P.2d 35]
- Attorney-client have co-existing interests
 - SD 1983-11
- Authority of attorney
 - Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
 - Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
 - Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]
 - Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
 - Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
 - Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]
 - CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
 - Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
 - Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]
 - In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]
 - Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
 - In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 - *In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
 - CAL 2002-160
- client with diminished capacity
 - CAL 2021-207
- commitment proceedings
 - counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
 - People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
- general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
 - Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
- representation of a minor client in a dependency proceeding
 - LA 504 (2000)
 - to enforce minor client's parental rights
 - In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
- to bind client
 - Code of Civil Procedure section 283
- to settle lawsuit when client cannot be located
 - LA 441 (1987)
- to settle lawsuit without client's consent
 - LA 505 (2000)
- Board of education
 - may only appoint outside counsel, in addition to in-house counsel, for "special services"
 - 86 Ops. Cal. Atty. Gen. 57 (4/25/03; No. 02-1005)
- Borrowing from client on oral loan without complying with duties
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Burden to prove rests on client
 - Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
- Business dealings with client must be fair and reasonable
 - Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 - all dealings between attorney and client that are beneficial to the attorney will be closely scrutinized with the utmost strictness for any unfairness
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 - entire attorney-client business relationship was tainted by the attorney's failure to fully disclose to the client material terms of their transactions and to obtain the client's written consent
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 - Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 - In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
- Business transaction with former client
 - no violation of [rule](#) 3-300 found in disciplinary action where attorney did not comply with rule re the transaction
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - with funds obtained by the representation
 - Hunnicut v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
- Client acts in reliance on advice of attorney
 - Melorch Builders, Inc. v. Superior Court (1984) 160 Cal.App.3d 931, 936-937
- Client as beneficiary, attorney as trustee
 - Probate Code sections 16002 and 16004
 - Probate Code section 15687
 - *Civil Code section 2235 (repealed 7/1/87)
 - LA 496 (1998)
- Client as co-counsel
 - People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
- Client assistance to counsel
 - People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]
 - payment to client
 - LA 437 (1985)
- Client has right to discharge
 - Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
 - absolute right with or without cause in California
 - In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
 - exception when attorney has a present and co-existing interest in the object of the representation
 - Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
 - should not be tied to attorney after losing faith
 - Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
- Client's non-payment of fee [\[See Fee.\]](#)
 - withdrawal
 - Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
 - [Rule](#) 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

ATTORNEY-CLIENT RELATIONSHIP

- notice to client
 - LA 125 (1940)
- protect client's position in litigation
 - LA 125 (1940)
- Client's rights may not be deprived because of attorney neglect
 - County of San Diego v. Magri (1984) 156 Cal.App.3d 641 pro bono client
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Client's right to choice of counsel
 - Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
 - People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
 - Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
 - Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
 - Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - CAL 2020-201
- automatic vicarious disqualification of a firm would reduce the right of the client to choose an attorney
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- class actions
 - right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
 - Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
- client's interests are paramount in any consideration of the relationship between attorney and client
 - Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
- conservatorship proceedings
 - In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
- criminal defendant enjoys right to discharge retained counsel for any reason unless denial compelled by fair, efficient and orderly administration of justice
 - U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
- defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
 - *Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
- defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined
 - People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
- indigent defendants does not have the right to select court-appointed attorney
 - People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
- must yield to considerations of ethics
 - Comden v. Superior Court (1978) 20 Cal.3d 906, 915 [145 Cal.Rptr. 9, 576 P.2d 971]
- Client suffering from a mental disorder
 - client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
 - People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
 - counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
 - People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
- Communications
 - between attorney and inmate client
 - prison officials opening mail
 - Wolff v. McDonnell (1974) 418 U.S. 539 [94 S.Ct. 2963]
 - Mann v. Adams (9th Cir. 1988) 846 F.2d 589
 - with a minor client in ways consistent with minor's age, language skills, intelligence, experience, maturity, and mental condition
 - LA 504 (2000)
- Competence of the client
 - Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
 - People v. Davis (1984) 161 Cal.App.3d 796, 801-803 LA 509 (2002)
- Competent representation at time of representation
 - Aloy v. Mash (1983) 144 Cal.App.3d 768 [192 Cal.Rptr. 818] specially appearing attorney owes a duty of care to the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 - In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Condominium associations
 - Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- Confidence of client in attorney
 - CAL 1987-93, CAL 1984-83
- Confidential in character
 - Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
 - Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
 - Plxweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - CAL 2016-195
- Confidential in nature
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Conflict of interest
 - based on relationship between class action counsel and class representative
 - Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
 - buying an interest in the judgment against one's client from former client's opponent
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - client as beneficiary, attorney as trustee
 - Probate Code sections 16002 and 16004
 - Probate Code section 15687
 - *Civil Code section 2235 (repealed 7/1/87)
 - LA 496 (1998)
 - defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest
 - People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
- disqualification of counsel and firm
 - W.L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1466-1467
 - attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures
 - National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

none exists when trustee is also creditor
Vivitar Corp. v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
 wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
 Conservatorship proceedings
 attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
 authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
 reestablishing conservatorship by stipulation filed by conservatee's attorney
In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]
 right of prospective conservatee to effective assistance of counsel
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
 Consultation with, prima facie case of existence of
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
CAL 1984-84, LA 465 (1991), SD 2006-1, SD 1977-6
 attorney's duty to communicate includes the duty to advise people who reasonably believe they are clients that they are, in fact, not clients
Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
CAL 2005-168, CAL 2003-161
 -dealing with constituents of an organization
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 burden rests on client to prove existence of
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
Ferrara v. LaSalla (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
 constructive attorney-client relationship not formed between a conservatee and her conservator's designated attorney
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
 contract formality is not required
Gulf Insurance Co. v. Berger, Kahn, et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
 district attorney assigned to enforce a child support order did not establish attorney-client relationship re a malpractice action brought by the parent entitled to payment
Jager v. County of Alameda (1992) 8 Cal.App.4th 294

duty of confidentiality extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 LA 506 (2001)
 -attorney-client privilege does not extend to communications after attorney declines representation
People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]
 -no duty based on receipt of private information from potential client via unsolicited email
 SD 2006-1
 established by contract
Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
 for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
 no duty to advise rejected client of limitations period in contemplated suit targeting attorney's existing client
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
 "on-going" or continuing relationship not found where, aside from assisting the post-substitution transition from attorney to subsequent attorney, there was no evidence the attorney had taken any steps on behalf of the client
Shaoying City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
 "on-going relationship" between attorney and client based on periodic visits by client to the attorney's office seeking legal assistance
In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 relationship with individual attorney not with firm in general based on client's direct dealings with the individual attorney
Bernstein v. State Bar (1990) 50 Cal.3d 221
 Contract for contingency fees
Waters v. Bourhis (1983) 142 Cal.App.3d 235 [190 Cal.Rptr. 833]
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 compliance with Business and Professions Code section 6147 required
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

ATTORNEY-CLIENT RELATIONSHIP

- Contract for employment
attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement
LA 505 (2000)
attorney requires inclusion of substitution of attorney clause
LA 371 (1977)
compliance with Rules of Professional Conduct 3-300
CAL 2006-170
- Contract limits fees
Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397, 664 P.2d 542]
- Contractual
Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- Corporation as client
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
attorney for corporation does not represent shareholders
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- court appointed counsel
In re Joyleaf W. (1984) 150 Cal.App.3d 865, 868
In re Jay R. (1983) 150 Cal.App.3d 251, 262
- directors have no power as individuals
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- dual purpose communication
In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
- employee not entitled to personal claim of attorney-client privilege to protect his communications with corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
- outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons used by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- parent/subsidiary considered single entity for conflict purposes
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113, OC 2012-1
- prima facie case of fraud required to waive relationship
Dickerson v. Superior Court (1982) 135 Cal.App.3d 93
- relationship between corporate employees and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
- shareholders derivative action
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
- Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
-attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
-in bringing the derivative action, shareholder's attorney is acting against the corporation's wishes because the corporation refuses to pursue the claim
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
totality of circumstances test used to determine whether manager employees are clients
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
unincorporated organization
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party
Matter of Fonoiller (9th Cir. 1983) 707 F.2d 441, 442
Court appointed attorney to coordinate discovery in complex litigation
no interference to parties' right to counsel of choice
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Court appointed for criminal defendant for a civil action
Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 395
- Creation of relationship
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
Fox v. Pollack (1986) 181 Cal.App.3d 954
SD 2006-1
attorney-client relationship may exist when an attorney provides a legal service, including investigative fact-finding, without also providing advice
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
law firms act through individual attorneys, and when a client retains an attorney, he or she retains the entire firm
Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d 301]
mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
no relationship based on receipt of private information from potential client via unsolicited email
SD 2006-1
no relationship with third party absent an intent by attorney and client to benefit third party
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

payment of attorney fees alone not determinative, only a factor
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

especially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

statement that attorney represented client is sufficient to support a finding of an attorney-client relationship also, work performed to obtain loan supports finding
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]

subjective belief that an attorney-client relationship exists cannot create such a relationship; instead, the parties' intent and conduct determine whether such a relationship has been created
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

under the implied contract theory (Civil Code § 1621)
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

Defendant must make knowing and intelligent waiver of counsel
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Mellor (1984) 161 Cal.App.3d 32

right to counsel may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

Defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

Defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

Defined
Barbara A. v. John G. (1983) 145 Cal.App.3d 369, 383-384 [193 Cal.Rptr. 442]

Definition of attorney
 Evidence Code section 950

Definition of client
 Evidence Code section 951

Dependency proceeding
 representation of a minor client
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597] LA 504 (2000)

Discharge of attorney, rights and obligations of client
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9

Disqualification of attorney
 attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

former personal involvement with opposing party
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]

hardship to client
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1002

party of moving for disqualification of counsel absent an attorney-client relationship generally does not have standing to assert conflict of interest
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

-no vicarious standing among members of entity in non-derivative suit
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Disqualification of firm
 presumption of shared confidences in a law firm
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

District attorney
 no attorney-client relationship is created between district attorney and parent in support enforcement actions
In re Marriage of Ward (1994) 29 Cal.App.4th 1452 [35 Cal.Rptr.2d 32]

Donation of legal services [See Auction.]

Dual occupation
 dual purpose communication (involving both legal and non-legal advice) defined
In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

Duty of attorney [See Duties of attorney.]
 not to offer false testimony
 Business and Professions Code section 6068(d)
 Penal Code section 127
 Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)
In re Branch (1969) 70 Cal.2d 200, 210 [138 Cal.Rptr. 620]
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
People v. Lucas (1969) 1 Cal.App.3d 637, 643 [81 Cal.Rptr. 840]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

outlast employment
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 LA 389 (1981)

representation of a minor client in a dependency proceeding
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 LA 504 (2000)

to client
Palomo v. State Bar (1984) 36 Cal.3d 785
 -specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

ATTORNEY-CLIENT RELATIONSHIP

- to make files available to client on withdrawal
 - [CAL 2007-174](#), [CAL 1994-134](#)
 - LA 493 (1998), SD 1997-1
 - SD 1984-3, SD 1977-3
 - SF 1996-1
- to represent client until withdrawal or substitution
 - [In re Jackson](#) (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
 - [In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- to represent client zealously
 - *[People v. McKenzie](#) (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
- to take all actions necessary to protect his client's rights may not be sanctioned
 - *[Silliman v. Municipal Court](#) (1983) 143 Cal.App.3d 327 [91 Cal.Rptr. 735]
- to take reasonable measures to determine law at time of actions
 - *[Sharpe v. Superior Court](#) (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Effect on communication with opposing party on attorney-client relationship
 - [People v. Sharp](#) (1983) 150 Cal.App.3d 13, 18
- Established by contract
 - [Kim v. Orellana](#) (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
- Established by inquirers calling attorney telephone hotline for advice
 - LA 449 (1988)
- Estoppel
 - attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
 - [Leasequip, Inc. v. Dapeer](#) (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- Executors
 - existence of relationship for purposes of privilege
 - [Shannon v. Superior Court](#) (1990) 217 Cal.App.3d 986
- Existence of, prima facie case
 - [Miller v. Metzinger](#) (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
- Extended attorney-client privilege to lay persons
 - [Welfare Rights Organization v. Crisan](#) (1983) 33 Cal.3d 766 [191 Cal.Rptr. 919, 661 P.2d 1073]
- Extent of privileged communications
 - [People v. Chapman](#) (1984) 36 Cal.3d 98, 110
 - [Venture Law Group v. Superior Court](#) (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 - [In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to communicate with clients
 - [Butler v. State Bar](#) (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
 - [Smith v. State Bar](#) (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
 - [Gordon v. State Bar](#) (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d 137]
 - [In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Failure to disclose legal authority in the controlling jurisdiction adverse to client
 - breach of duty
 - [Southern Pacific Transp. v. P.U.C. of State of California](#) (9th Cir. 1983) 716 F.2d 1285, 1291
- Fee payment as evidence of existence of relationship
 - [Hicks v. Drew](#) (1897) 117 Cal. 305
- Fiduciary duty
 - [Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - [Kruseska v. Baugh](#) (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]
 - [In the Matter of Kittrell](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- absent attorney-client relationship
 - [San Gabriel Basin Water Quality Authority v. Aerojet-General Corp.](#) (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - [Galardi v. State Bar](#) (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
 - [Chang v. Lederman](#) (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
 - [Zenith Ins. Co. v. Cozen O'Connor](#) (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
 - [Oaks Management Corp. v. Superior Court](#) (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
 - [Brand v. 20th Century Insurance Company](#) (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 - [American Airlines v. Sheppard Mullin, Richter & Hampton](#) (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - plaintiff and alleged beneficiary of a testamentary instrument may have no standing to bring malpractice action against attorney-defendant
 - [Harrigfeld v. Hancock](#) (9th Cir. (Idaho) 2004) 364 F.3d 1024
- does not extend to co-counsel
 - [Beck v. Wecht](#) (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
 - [Saunders v. Weissburg & Aronson](#) (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)
- no duty owed to non-client potential beneficiary absent testator's express intent to benefit non-client
 - [Chang v. Lederman](#) (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
- Fiduciary relationship
 - [Kearns v. Fred Lavery Porsche Audi Co.](#) (Fed. Cir. 1984) 745 F.2d 600, 603-605
 - [Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems](#) (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
 - *[GATX/Airlog Company v. Evergreen International Airlines, Inc.](#) (1998) 8 F.Supp.2d 1182
 - [Metropolis etc. Sav. Bank v. Monnier](#) (1915) 169 Cal. 592, 598 [147 P. 265]
 - [Fair v. Bakhtiari et al.](#) (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 - [Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - [PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP](#) (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 - [Channel Lumber Co. Inc. v. Simon](#) (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
 - [In the Matter of Gillis](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - [In the Matter of McCarthy](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- Formal substitution ordinarily ends the attorney/client relationship. However, the relationship can continue—notwithstanding the withdrawal and substitution—if objective evidence shows that the attorney continues to provide legal advice or services.
 - [Shaoning City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al.](#) (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
- Former client
 - business transaction with former client
 - no violation of [rule 3-300](#) found in disciplinary action where attorney did not comply with rule re the transaction
 - [In the Matter of Allen](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - using funds obtained by the representation
 - [Hunnecutt v. State Bar](#) (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - [In the Matter of Gillis](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - [In the Matter of Hultman](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297

- buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- "Framework" contract, where attorney and client provide a structure for future "as requested" representation does not create a current attorney client relationship
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
 Banning Ranch distinguished
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
- Friends require the same strict adherence to professional rules and record keeping as regular clients
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
- Gifts to attorney
Rule 4-400, Rules of Professional Conduct (operative as of May 27, 1989)
Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]
McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]
 attorney/beneficiary drafts gift instrument
 Probate Code sections 15687, 21350 et seq.
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]
 inducing client to offer of free use of client's vacation property
CAL 2011-180
- Good faith of defendant client
People v. Yackee (1984) 161 Cal.App.3d 843, 849
- Governmental entities
 Brown Act (CCP § 54956.9)
 -board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
- Guardian ad litem
Torres v. Friedman (1985) 169 Cal.App.3d 880, 887 [215 Cal.Rptr. 604]
 SD 2017-2
- Imputation of knowledge
Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]
Mossman v. Superior Court (1972) 22 Cal.App.3d 706 [99 Cal.Rptr. 638]
Savoy Club v. Los Angeles County (1970) 12 Cal.App.3d 1034 [91 Cal.Rptr. 198]
 presumption of shared confidences in a law firm
 -rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Imputed to client
Elston v. Turlock (1983) 148 Cal.App.3d 23
- In propria persona client and advisor counsel share handling of case
Johnson, York, O'Connor & Caudill v. Board of County Commissioners for the County of Fremont (1994) 868 F.Supp. 1226
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr 669]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
 LA 502 (1999), LA 483 (1995), LA 432 (1984)
- attorney as "ghost writer"
Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
 LA 502 (1999)
- capital inmates represented by counsel have no right to personally supplement or supersede counsel's briefs and arguments to the Supreme Court
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
- Incompetent client
 attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
 duty of confidentiality compared with duty to be truthful to the court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- Insurance company
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070
Unigard Ins. Group v. O'Flaherty & Belqum (1997) 38 Cal.App.4th 1229
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59
American Mutual Liability Ins. Co. v. Superior Court (1974) 38 Cal.App.3d 579
Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
 "monitoring counsel" distinguished from "Cumis counsel"
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Intent and conduct of the parties are important factors to be considered
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
- Interference with
 by third party (district attorney and sheriff)
 -results in dismissal of criminal accused's case
Boulas v. Superior Court (1987) 187 Cal.App.3d 356
 government attorney improperly interfered with defendant's attorney-client relationship by obtaining tape recordings of informant's conversations with defendant on privileged matters
U.S. v. Danielson (9th Cir. (Or.) 2003) 325 F.3d 1054
- Interference with economic advantage
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
Rosenfeld, Meyer & Sussman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- Intervention by lay entity
 attorney employed by religious organization
 -performs legal services for members of
 LA 298 (1966)
- Joinder of attorney and client in an action when neither can show joinder was manifestly prejudicial
United States v. Rogers (9th Cir. 1983) 649 F.2d 1117, Rev. 103 S.C. 2132
- Joint defense agreements
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974

ATTORNEY-CLIENT RELATIONSHIP

- advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
- considered a non-waiver doctrine under CA attorney-client privilege and work product doctrines
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- establishes an implied attorney-client relationship with the co-defendant
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- Joint venturers
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
- fiduciary duties exist even absent attorney-client relationship
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)
- Juvenile delinquency proceedings
indigent juvenile delinquent has right to appointed counsel on a first appeal
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
- ineffective assistance of counsel for minor
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
- Litigious client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515
- Loan to client
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742 [111 Cal.Rptr. 905, 518 P.2d 337]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- Malpractice actions tolled while attorney continues to represent client
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Baright v. Willis (1984) 151 Cal.App.3d 303 [198 Cal.Rptr. 510]
test for whether attorney continues to represent client in same matter
Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488
- Malpractice claims are not assignable under California law and public policy
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
- shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- May not relinquish substantial right of client
exception: best discretion
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
CAL 2020-202, LA 527, SF 2015-1
- Minor as client
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
LA 504 (2000)
- delinquency proceeding
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- dependency proceeding
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
- actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
- appellate counsel for a minor client has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]
- factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
- Minor must have independent counsel in hearing for emancipation from parental custody and control
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
- Mismanagement of funds
client
-administrator
--report to court
LA 132 (1940)
--restitution
LA 132 (1940)
- Misrepresentation to client regarding status of case
Butler v. State Bar (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
- Negligent attorney may not shift liability to another through indemnification
Munoz v. Davis (1983) 141 Cal.App.3d 420 [190 Cal.Rptr. 400]
- Non-payment of fees by client [See Fees, unpaid.]
lawyer declines to perform further legal services
LA 371, LA 32 (1925)
- Not recoverable unless the contract or statute provides
Glynn v. Marquette (1984) 152 Cal.App.3d 277, 280
- Obligation of attorney to protect client's interest
Kirsch v. Duryea (1978) 21 Cal.3d 303, 309 [146 Cal.Rptr. 218, 578 P.2d 935, 6 A.L.R. 4th 334]

- [CAL](#) 2019-198
 LA 504 (2000)
 no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
 specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Of record, party may only act through
McMunn v. Lehrke (1915) 29 Cal.App. 298, 308
- Outsourcing legal services
 LA 518 (2006)
- Partnership
Sky Valley Ltd. Partnership & Tang Industries v. ATX Sky Valley Ltd. (1993) 150 F.R.D 648
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
 attorney represents all partners as to partnership matters
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
- Party defined, corporate context
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 LA 410 (1983), LA 369 (1977)
- Party represented by counsel
 communicating with
 -regarding counsel's neglect of matter
 LA 14 (1922)
 -regarding subject in controversy
 LA 14 (1922)
- Personal liability to client
Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879, 883
- Power to compel client's acts
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 78 [203 Cal.Rptr. 524]
- Preparing pleadings for in propria persona litigant
Ricotta v. State Bar of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
 LA 502 (1999), LA 483 (1995), LA 432 (1984)
- Prison officials may not read mail, only open it
People v. Poe (1983) 145 Cal.App.3d 574 [193 Cal.Rptr. 479]
- Private attorney under contract to government agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
- Privilege [See Confidences of the Client, privilege]
Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
Uber Technologies, Inc. v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
- Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
[CAL](#) 2016-195, LA 519 (2006), SF 2014-1
 admissibility of evidence when attorney discloses client's confidential information to police
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
 does not extend to otherwise unprivileged subject matter that has been communicated to attorney
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
 SD 2006-1
 does not protect third party information unless third party is an agent of client
Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
In re Polos (1984) 154 Cal.App.3d 448, 456 [200 Cal.Rptr. 749]
 extends to all communication relating to a client's matter or interests among and between multiple attorneys who are representing client
Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
 extends to communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
 extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 former trustee was not entitled to withhold communications with trust's former counsel on ground of attorney-client privilege to successor trustee
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
 government has burden of justifying withholding documents under any exemptions under the Freedom of Information Act (FOIA) 5USCA 552(b)
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
 in camera review of communications to determine privilege
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

ATTORNEY-CLIENT RELATIONSHIP

- may apply when no waiver of privilege, despite waiver of attorney-client relationship
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
- predecessor trustee failed to establish that they communicated with counsel in their personal capacity
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
- survives client's death
Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- survives corporate merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy
Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
- Protection of
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577
Mitton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]
- Publishing book [See Conflict of interest, literary rights.] attorney
-concerning representation of criminal defendant
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177]
LA 287 (1965)
- third party
-attorney furnishes information and material
--relating to representation of criminal defendant
LA 287 (1965)
- Purchaser of client's assets
LA 433 (1984)
- Purpose
intention of confidentiality
Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
- Reasonable measures must be taken to determine the law at time of actions
*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Receivers
existence of relationship for purposes of privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986
- Refusal to execute substitution works hardship on client
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
- Reimbursement of client
for damages recovered by defendant in action
LA 76 (1934)
reliance on attorney's advice is only one single factor in determining whether a trustee has breached a fiduciary duty
Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234
- Reliance on attorney
not good cause for filing late tax return
Sarto v. United States (N.D. Cal. 1983) 563 F.Supp. 476, 478
- Reliance on counsel's advice is only one single factor in determining whether a trustee has breached a fiduciary duty
Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226
- Reliance on party's opinion that he is represented by counsel
Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220
CAL 1996-145
- Remedies of former clients
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042
- Represent client zealously
*People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
- Representation of minor in juvenile delinquency proceedings
ineffective assistance of counsel for minor
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- right to appointed counsel
-juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
-juvenile delinquency proceeding is sufficiently similar in substance and import to criminal prosecution that indigent juveniles are entitled to Fourteenth Amendment protections
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
- Representation on previous charges
United States v. Masuolo (2nd Cir. 1973) 489 F.2d 217, 223
- Respective roles
People v. Davis (1984) 161 Cal.App.3d 796, 801-804
Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189
- Retention of out-of-state law firm by California resident
Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 94-95
- Right of a party to select counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
automatic vicarious disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
criminal defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915
- Right of defendant
People v. Davis (1984) 161 Cal.App.3d 796, 802
to counsel of choice
People v. Trapps (1984) 158 Cal.App.3d 265, 272-273
-defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
- Right to appointed counsel
ineffective assistance of counsel for minor
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
juvenile delinquency proceeding is sufficiently similar in substance and import to criminal prosecution that indigent juveniles are entitled to Fourteenth Amendment protections
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
- Right to counsel of choice
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]

People v. Stevens (1984) 156 Cal.App.3d 1119, 1128
 applies to retained counsel, not appointed counsel
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
Gressett v. Superior Court (2010) 185 Cal.App.4th 114
 [109 Cal.Rptr.3d 919]
 automatic disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court
(Forsyth) (9th Cir. 2000) 223 F.3d 990
Collins et al. v. State of California et al. (2004) 121
 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
 class actions
 -right to lead plaintiff to select lead counsel under Private
 Securities Litigation Reform Act
Cohen v. United States District Court for the Northern
District of California (9th Cir. 2009) 586 F.3d 703
 conservatorship proceedings
In re Conservatorship of Estate of David L. (2008) 164
 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
 court did not abuse discretion in denying motion to substitute
 in retained counsel; waiver was based on an inadequate
 conflict waiver
People v. Baylis (2006) 139 Cal.App.4th 1054 [43
 Cal.Rptr.3d 559]
 court has discretion to overrule defendant's choice of
 counsel in order to eliminate potential conflicts, ensure
 adequate representation or prevent substantial impairment of
 court proceedings
People v. Freeman (2013) 220 Cal.App.4th 607 [163
 Cal.Rptr.3d 222]
 court has latitude to remove counsel where potential conflict
 exists, over objection of defendant
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d
 74]
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d
 579]
 -improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82
 Cal.Rptr.3d 671]
 criminal defendant's right to discharge retained counsel
People v. Munoz (2006) 138 Cal.App.4th 860 [41
 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103
 Cal.Rptr.2d 201]
 -court may deny untimely request to discharge retained
 counsel
People v. Keshishian (2008) 162 Cal.App.4th 425 [75
 Cal.Rptr.3d 539]
 -criminal defendant enjoys right to discharge retained
 counsel for any reason unless denial compelled by fair,
 efficient and orderly administration of justice
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
 defendant's right to conflict free counsel required that new
 appointed counsel be present before conducting further
 proceedings in open court to hear PD's request to be
 reappointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73
 Cal.Rptr.3d 370]
 includes criminal defendant's Sixth Amendment right to use
 her own "innocent" assets (those not traceable to a criminal
 offense) to pay a reasonable fee for the assistance of
 counsel
Luis v. United States (2016) __ U.S. __ [136 S.Ct. 1083]
 juvenile court had no power to remove public defender
 absent a showing that minor was not indigent or a conflict
 existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957
 [172 Cal.Rptr.3d 509]
 may be forfeited by defendant's conduct towards counsel only
 after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132
 Cal.Rptr.2d 585]

may not be forfeited without defendant's voluntary, knowing
 and intelligent waiver
People v. Bolton (2008) 166 Cal.App.4th 343 [82
 Cal.Rptr.3d 671]
 public defender not required to represent indigent person on
 appeal
Erwin v. Appellate Department (1983) 146 Cal.App.3d 715
 waiver not effective if defendant must choose between right to
 speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82
 Cal.Rptr.3d 671]
 Sanctions may not be levied against attorney for taking all actions
 necessary to protect his clients
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191
 Cal.Rptr. 735]
 Scope of representation
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196
 Cal.Rptr.3d 662]
Maxwell v. Cooltech (1997) 57 Cal.App.4th 629 [67
 Cal.Rptr.2d 293]
 LA 502 (1999), LA 483 (1995), LA 476 (1995)
 class action
 -counsel owed a duty, post certification, to advise clients of
 other claims related to but outside the scope of the
 representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119
 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
 -counsel owed a duty, post-judgment, to pursue class
 claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179
 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
 -counsel owed no duty to class member to give notice
 beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175
 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
 defendant's right to counsel of choice includes right to enter
 into legitimate financial arrangements with retained counsel,
 including retaining counsel only through preliminary
 examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161
 [5 Cal.Rptr.3d 700]
 factors demonstrating ongoing attorney-client relationship for
 concurrent representation conflict purposes
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196
 Cal.Rptr.3d 662]
 firm's representation terminated when firm emailed client that
 it "must withdraw" as client's attorney, that its "attorney-client
 relationship with client is terminated forthwith," and that it "no
 longer represents client with regard to any matters."
GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3
 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]
 malicious prosecution
 -an associated attorney whose name is on filings cannot
 avoid liability by claiming ignorance facts that may lead to
 malicious prosecution claim
Cole v. Patricia A. Meyer & Associates, APC (2012)
 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
 specially appearing attorney undertakes a limited association
 with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441
 [82 Cal.Rptr.2d 193]
 Settlement
 general rule that attorney-agent lacks authority, without
 specific client authorization, to bind client to settlement
 agreement distinguished where the authorized corporate
 representative is an in-house attorney
Provost v. Regents of the University of California (2011)
 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
 Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr.
 242]
 Sexual relations with client
Rule 3-120, Rules of Professional Conduct

ATTORNEYS OF GOVERNMENTAL AGENCIES

- Business and Professions Code section 6106.9
[CAL](#) 1987-92
OC 2003-02
- Special appearances
[CAL](#) 2004-165
LA 483 (1995)
specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
[Blue Water Sunset, LLC v. Markowitz](#) (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
[Streit v. Covington & Crowe](#) (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Statutory reduction of defendant's control of the case
[People v. Davis](#) (1984) 161 Cal.App.3d 796, 802 fn. 2
- Substantial previous relationship
[Vangsness v. Superior Court](#) (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
- Substantial right of client may not be relinquished: exception – best discretion
[Blanton v. Womancare](#) (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- Substitution of attorney clause in retainer agreement
LA 371 (1977)
- Substitution when conflicts of interest occur based on obligations to clients in different proceedings
[Leversen v. Superior Court](#) (1983) 34 Cal.3d 530
- Telephone “hotline” run by attorney
LA 449 (1988)
- Termination of employment
[Flake v. Neumiller & Beardslee](#) (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
[Worthington v. Rusconi](#) (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
- Threat to
[Phaksuan v. United States](#) (9th Cir. 1984) 722, F.2d 591, 594
mere threat of malpractice suit against criminal defense attorney insufficient to create actual conflict of interest
[United States v. Moore](#) (9th Cir. 1998) 159 F.3d 1154
- Trustees
existence of relationship for purposes of privilege
[Wells Fargo Bank v. Superior Court \(Boltwood\)](#) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
[Moeller v. Superior Court](#) (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
[Morgan v. Superior Court](#) (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
[Fiduciary Trust International of California v. Klein](#) (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
[Eddy v. Fields](#) (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
[Shannon v. Superior Court](#) (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
-trust may not allow a former trustee to withhold from successor trustee all communications between that former trustee and the trust's legal counsel
[Morgan v. Superior Court](#) (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
- Unauthorized appearance by mistake
[Omega Video Inc. v. Superior Court](#) (1983) 146 Cal.App.3d 470
- Unauthorized representation
[Standing Com. on Dis. of United States v. Ross](#) (9th Cir. 1984) 735 F.2d 1168, 1172
[Benninghoff v. Superior Court](#) (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
[Zirbes v. Stratton](#) (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Undue influence
[Estate of Witt](#) (1926) 198 Cal. 407, 419 [245 P.2d 197]
- Violation of probation by client
leaving jurisdiction
-disclosure in letter
--privilege
LA 82 (1935)
- Willful failure to perform and communicate
[Trousil v. State Bar](#) (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
[Wren v. State Bar](#) (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
[In re Ronald A. Jackson](#) (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
- Wills
Probate Code section 21350 et seq.
-attorney's failure to comply with provisions of Probate Code § 21350 could be grounds for discipline
[Osornio v. Weingarten](#) (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
-liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
[Winans v. Timar](#) (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
[Osornio v. Weingarten](#) (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
person who must sign a will is a client regardless of who has sought out and employed the attorney
SD 1990-3
- Withdrawal
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[CAL](#) 1983-74
inability to provide competent legal services because of disagreement with a minor client
LA 504 (2000)
- Work product
client's right to
[Lasky, Haas, Cohler & Munter v. Superior Court](#) (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]
[Kallen v. Delug](#) (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
[Weiss v. Marcus](#) (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
SD 2004-1
SD 1997-1
SF 1990-1
-law firm's right to
[Ellis v. Superior Court \(Nelson\)](#) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]

ATTORNEYS OF GOVERNMENTAL AGENCIES [See Conflict of interest, disqualification.]

- Business and Professions Code section 6131(a)
Rule 7-102, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 5-110, Rules of Professional Conduct (operative as of May 27, 1989)
- Administrative agency attorneys
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
[Morongo Band of Mission Indians v. State Water Resources Control Bd.](#) (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
- Assistants' actions do not create official policy
[Weinstein v. Mueller](#) (N.D. Cal. 1983) 563 F.Supp. 923
- Attorney general
[People v. Brown](#) (1981) 29 Cal.3d 150 [172 Cal.Rptr. 478]
[D'Amico v. Board of Medical Examiners](#) (1974) 11 Cal.3d 1 [112 Cal.Rptr. 786]
[People v. Birch Securities Co.](#) (1948) 86 Cal.App.2d 703 [196 P.2d 143]

ATTORNEYS OF GOVERNMENTAL AGENCIES

- authority under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- deputy attorney general may not represent clients in private action absent consent of the Office of the Attorney General
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
- duty to investigate violations of Ethics in Government Act
Dellums v. Smith (N.D. Cal. 1984) 577 F.Supp. 1449, 1451-1452
- opinions are not merely advisory but are statements to be regarded as having a quasi-judicial character and are entitled to great weight by the courts
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
- Attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
- Attorney-client relationship not formed between prosecutor enforcing child support & parent entitled to payment
Jager v. County of Alameda (1992) 8 Cal.App.4th 294
- Authority of court to sanction
People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5
- Bonus program tied to savings by public agency
SD 1997-2
- Child support modification and enforcement activities do not create an attorney-client relationship with any parent
Jager v. County of Alameda (1992) 8 Cal.App.4th 294
- City attorney
People v. Rhodes (1974) 12 Cal.3d 180 [115 Cal.Rptr. 235]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
Tri-Cor v. Hawthorne (1970) 8 Cal.App.3d 134 [87 Cal.Rptr. 311]
CAL 2001-156
- acts as both advocate of city's position and advisor to neutral decision maker
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]
- anti-discrimination suit against city attorney's employer is not entitled to First Amendment protection
Rendish v. City of Tacoma (W.D. (Wash.) 1997) 123 F.3d 1216
- assigned to represent constituent agency
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
- attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
- disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- recording a conversation per Penal Code section 633 while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- Closed-session meetings pursuant to the Brown Act (CCP § 54956.9)
board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation
Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]
- Confidences
inadvertent disclosure
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
-city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
- Conflict of interest
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]
- attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
- city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
- county counsel giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
- financial interest
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
SD 1997-2
- former client, now witness against current client, no prejudice found where Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

ATTORNEYS OF GOVERNMENTAL AGENCIES

- former government attorney now associate in law firm
LA 246 (1957)
- limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
- prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- prosecutor's entire office recused
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
- prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
- public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
- screening measures
Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960
-burden on public law office to show that effective screening measures were taken to protect and maintain client confidences
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation
86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- vicarious disqualification of public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- witness
Trujillo v. Superior Court (1983) 148 Cal.App.3d 368
CAL 2001-156
- County counsel
Conservatorship of Early (1983) 35 Cal.3d 244, 255
Mize v. Craill (1973) 29 Cal.App.3d 797 [106 Cal.Rptr. 34]
- combined public offices assumed by attorneys
Conservatorship of Early (1983) 35 Cal.3d 244, 255
- dual representation of county tax assessor and appeals board does not violate Due Process as long as attorney advising the board is screened from any inappropriate contact with advocate for the assessor
Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960
- giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
- limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
- may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
CAL 2001-156
- County prosecuting attorneys and investigators had absolute immunity from civil suits when duties carried out in preparation for prosecutor's case
Freeman on Behalf of the Sanctuary v. Hittle (9th Cir. 1983) 708 F.2d 442
- Distinguish public officials from government employees
Cleland v. Superior Court (1942) 52 Cal.App.2d 530
- District attorney
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
Madera v. Grendron (1963) 59 Cal.2d 798 [31 Cal.Rptr. 302]
CAL 1979-51
- authority of
People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, 531-532
Ciaccio v. Superior Court (1984) 156 Cal.App.3d 130, 133
authorized by law to communicate with parties represented by counsel
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
- conflict of interest
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal
Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]
-district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness
Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]
- recusal of entire office
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- defense attorney changes to prosecutor's office
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
- deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- determines the control of prosecution of criminal cases
People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569
- discharge of prosecutor for challenge to superior in election is not First Amendment violation
Fazio v. City and County of San Francisco (9th Cir. 1997) 125 F.3d 1328

discretionary charging authority
Davis v. Municipal Court (1984) 154 Cal.App.3d 996, 1003

disqualification, conflict of interest
Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr 476, 561 P.2d 1164]
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

-Penal Code section 1424
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

--abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal
Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

-disqualification not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

-recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

dual representation
Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]

duties
In re Ferguson (1971) 5 Cal.3d 525, 531
In re Martin (1983) 150 Cal.App.3d 148, 169 OC 94-003
-acts on behalf of the state when training personnel and developing policy regarding prosecution and the preparation for prosecution of criminal violations of state law
Pitts v. Kern (1988) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

-of prosecutor
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
*People v. Eubanks (1996) 14 Cal.4th 580
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

financial assistance to prosecutor's office disqualified district attorney
*People v. Eubanks (1996) 14 Cal.4th 580
held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

holder of privilege with regard to material seized from office occupied by a deputy district attorney
People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

immunity from § 1983 claims
-county district attorney may not be entitled to qualified immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
-county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
-district attorney acted as state official when deciding whether to prosecute individual for criminal defense
Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
-fabricating evidence, filing false crime report, comments made to the media, and investigating crime against attorney may not be protected by absolute immunity
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
-may not apply when prosecutor is acting in an investigative or administrative capacity
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]

-prosecutors afforded absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747

impartiality subject to private party influence
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

may represent county in an action even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942
office employees are immune from liability for acts taken during investigations
County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

prosecutor deliberately altered an interrogation transcript
In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

ATTORNEYS OF GOVERNMENTAL AGENCIES

- prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
- recusal of entire staff, conflict of interest
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
*People v. Eubanks (1996) 14 Cal.4th 580
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Merritt (1993) 19 Cal.App.4th 1573
People v. Lopez (1984) 155 Cal.App.3d 813, 824-825
-Penal Code section 1424
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
-erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
-recusal not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
recusal of the prosecutor not required when victim pays for prosecutorial expenses
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
representation of same parties in different actions
Kain v. State Bar (1982) 130 Cal.App.3d 499, 504
role distinguished from prosecutor's role
Hoines v. Barney's Club Inc. (1980) 28 Cal.3d 603
- Duties
competence
SD 1997-2
disclose identity of informants to defendant
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]
loyalty
SD 1997-2
maintain contact with informants
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Education
county board of education and the superintendent of schools of the same county shall appoint the same legal counsel
Education Code section 35041.5
- Ethics walls and screening procedures found sufficient to ensure due process
Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960
- Immune from tort liability arising out of conduct about civil cases
Custom Craft Carpets, Inc. v. Miller (1983) 137 Cal.App.3d 120 [187 Cal.Rptr. 78]
- Immunity
private attorney hire by the city acting as government agent
Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069
private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials
Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]
under the Noerr-Pennington doctrine
-attorney sued for allegedly aiding and abetting in human trafficking scheme may not appeal denial of immunity
Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136
-sham litigation exception
-law firm, as agent for school district in an eminent domain petition, may not be immune from liability if found to have engaged in represented misrepresentations and to have suppressed information relevant to the dispute
Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638
Judge's right to hire private counsel when county counsel has conflict of interest
Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29
- Limitations on authority
Feminist Women's Health Center, Inc. v. Philibosian (1984) 157 Cal.App.3d 1076
- Moral turpitude
prosecutor deliberately altered an interrogation transcript
In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479
- Notice of motion to disqualify a district attorney
Penal Code section 1424
- Outside counsel
immunity from § 1983 claims
-private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials
Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]
private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials
Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]
those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues
Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
- Outside counsel retained by county in civil rights action not entitled to qualified immunity when defending own suit for violating plaintiff's constitutional rights
Gonzales v. Spencer (2003) 336 F.3d 832
- Private attorney under contract to government agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
- Privilege against self-incrimination
Gwillim v. City of San Jose (9th Cir. 1991) 929 F.2d 465
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

- Probable cause
duty of attorney when charges not supported
LA 429 (1984)
- Prosecutorial misconduct
denial of attorney's fees to plaintiffs where government's litigation position, although substantial, was not vexatious, frivolous, or pursued in a bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
- trial conduct
-use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Prosecutors
absolute immunity does not protect prosecutor for comments made to the media
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
absolute immunity for actions taken in the normal prosecutorial role
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
Doubleday v. Ruh (1993) 149 F.R.D. 601
absolute immunity for acts performed in scope of judicial process; qualified immunity for investigative or administrative acts
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923
absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747
absolute immunity from liability for decision not to prosecute police officer cases
Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578
absolute immunity may not be available against being sued for supervising or participating in investigations
Buckley v. Fitzsimmons (1993) 509 U.S. 259 [113 S.Ct. Rptr. 2606]
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578
Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]
Pitts v. County of Kern (1996) 49 Cal.App.4th 1430 [57 Cal.Rptr.2d 471]
absolute immunity may not be available when alleged false statements were made in application for search warrant
*Fletcher v. Kalina (9th Cir. 1996) 93 F.3d 653
absolute immunity may not be available where prosecutor gives advice to the police
Burns v. Reed (1991) 500 U.S. 478 [111 S.Ct.1934]
Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]
absolute immunity, scope of
Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]
authorized by law to communicate with parties represented by counsel
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
communication with the media
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
conduct when he/she does not believe in case
LA 429 (1984)
- deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr. 60]
duty to seek justice not convictions
People v. Rutherford (1975) 14 Cal.3d 399 [121 Cal.Rptr. 357]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
People v. Dena (1972) 25 Cal.App.3d 1001 [102 Cal.Rptr. 357]
In re Ferguson (1971) 5 Cal.3d 525
for purposes of section 1983 claim, California county district attorney acted as state official when deciding whether to prosecute individual for criminal defense
Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]
qualified immunity may not be available for executing search warrant against criminal defense attorney
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
recusal of entire office
-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
State Bar has authority and jurisdiction to discipline
Price v. Superior Court (1982) 30 Cal.3d 537
In re Bloom (1977) 19 Cal.3d 175
OC 94-003
strong public policy advising against interference by a bankruptcy court in the decisions of state prosecutors to pursue charges therefore prevents a bankruptcy court from granting sanctions against the district attorney
Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]
suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
suppression of evidence, no prejudice to defendant found
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

ATTORNEY OF RECORD

Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210];

Public defender

Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706

Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]

Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]

can be sued under 42 U.S.C. 1983, not as "state actor" but as administrative head of office

Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102

conflict of interest

People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

-conflict where compelled by excessive caseload to choose between the rights of the various indigent defendants he or she is representing

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

--one investigator shared among 12 contract defenders

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

-no prejudice where former client is witness against current client and Public Defender is able to impeach witness with other convictions

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

-not found where former member of public defender's office had represented witness in current matter where defendant was represented by another member of public defender's office and where office had received no confidential information of witness

People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

-removal of public defender was proper where defendant made credible death threat against counsel

People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]

-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

CAL 2002-158

-three strikes cases

*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913] SD 1995-1

delinquency proceeding

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

dependency proceeding

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

does not act under color of state law when lawyer for criminal defendant

Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558

Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102

does not enjoy "discretionary immunity" pursuant to Government Code section 820.2

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

in-person contact with arrested person permissible

CAL 1977-42

not immune from legal malpractice under statute granting discretionary immunity to public employees

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

not independent contractors for purposes of a government tort claim

Briggs v. Lawrence (1991) 230 Cal.App.3d 605 [281 Cal.Rptr. 578]

sanctions not imposed resulting from misleading emergency petition where factual omission resulted from mistake

Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

Public employees

attorney employee investigated for misconduct can be compelled, under threat of job discipline, to answer questions regarding his job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

Recording a conversation

city attorney recording a conversation pursuant to Penal Code section 633 while prosecuting misdemeanor cases

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

Release dismissal agreements

CAL 1989-106

Representation of criminal defendant by member of firm acting as city prosecutor

LA 453

Retaining private counsel for special services

Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]

Denio v. Huntington Beach (1943) 22 Cal.2d 580 [140 P.2d 392]

State Comp. Ins. Fund v. Riley (1937) 9 Cal.2d 126 [69 P.2d 953]

Jaynes v. Stockton (1961) 193 Cal.App.2d 47 [14 Cal.Rptr. 49]

Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]

Rules of Professional Conduct, applicability to government attorneys

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]

Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

CAL 2002-158

When an attorney leaves employment of one firm

side switching

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]

LA 501

ATTORNEY OF RECORD [See Authority of attorney. Withdrawal from employment.]

ATTORNEY'S LIEN [See Fee, unpaid. Lien.]

Attorney's lien is created and takes effect at the time fee contract is executed

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

- Bankruptcy action
 attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
- Charging lien
 common law
 -not recognized in California
Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]
Jones v. Martin (1953) 41 Cal.2d 23 [256 P.2d 905]
Ex parte Kyle (1850) 1 Cal. 331
- contract
Weiss v. Marcus (1975) 51 Cal.App.3d 590, 598 [124 Cal.Rptr. 297]
 CAL 2006-170
 requires compliance with [rule](#) 3-300 when included in hourly fee agreement
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
 -contingency fee agreements distinguished
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 CAL 2006-170
 tax consequences to plaintiff in contingent fee agreement with attorney
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074
- Client settlement
 check issued only to client, but delivered to attorney who has a lien
 OC 99-002
 failure of subsequent counsel to honor
 -liability for interference with prospective economic advantage
Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp.16 [158 Cal.Rptr. 762]
- Client's award
 improper
Cain v. State Bar (1978) 21 Cal.3d 523, 525 [146 Cal.Rptr. 737, 579 P.2d 1053]
- Client's funds
 LA(I) 1970-1
- Client's papers
 LA 48 (1927), SD 1977-3
 no right to
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 LA 330 (1972), LA 253 (1958), LA 197 (1952), LA 103 (1936), LA 48 (1927)
 SF 1975-4
- Common law liens
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
- Created by contract
Haupt v. Charlie's Kosher Market (1941) 17 Cal.2d 843 [121 P.2d 627]
Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]
Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
Gostin v. State Farm Ins. Co. (1964) 224 Cal.App.2d 319 [36 Cal.Rptr. 596]
- Bartlett v. Pac. Nat. Bank (1952) 110 Cal.App.2d 683 [244 P.2d 91]
Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
Tracy v. Ringole (1927) 87 Cal.App. 549 [262 P. 73]
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
 CAL 2009-177, CAL 2006-170
 OC 99-002
 attorney lien in relation to medical lien in contingency fee case
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
 attorney's lien is created and takes effect at the time fee contract is executed
Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
 nature and effect
Cetenko v. United California Bank (1982) 30 Cal.3d 528 [179 Cal.Rptr. 902, 638 P.2d 1299]
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
 LA 496 (1998)
- Enforcement of attorney lien in probate matter
Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]
- Equitable lien for fees
County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
- Family law attorney's real property lien
 family law court has jurisdiction to resolve disputes over the propriety of existing FLARPLs whenever they may arise under Family Code section 2034(c)
In re Marriage of Bittenson (2019) 41 Cal.App.5th 333 [254 Cal.Rptr.3d 209]
 lien expunged
In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]
- Holding client's funds
 coerce fee payment
 -without lien or proper authority
McGrath v. State Bar (1943) 21 Cal.2d 737 [135 P.2d 1]
- Independent action required to establish existence and amount of lien
Mojtahedi v. Vargas (2014) 228 Cal.App.4th 974 [176 Cal.Rptr.3d 313]
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
 CAL 2009-177
 nature and effect
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
 right of attorney to intervene in the underlying matter to enforce his lien is limited to those actions in which client specifically gives attorney interest in the subject matter of the action by way of their fee contract
Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
- No duty of successor counsel to hold money in client trust account to honor prior attorney's lien
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

AUCTION

Notice of lien

Carroll v. Interstate Brands Corp. (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]

Levin v. Gulf Insurance Group (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]

Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]

CAL 2009-177, CAL 2008-175

attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

Possessory

Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]

Isrin v. Superior Court (1965) 63 Cal.2d 153 [15 Cal.Rptr. 320]

Ex parte Kyle (1850) 1 Cal. 331

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

Spenser v. Spenser (1967) 252 Cal.App.2d [60 Cal.Rptr. 747]

Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]

client's files or papers

-no right to

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 160]

LA 330 (1972), LA 253 (1958), LA 197 (1952), LA 103 (1936), LA 48 (1927)

SF 1975-4

Priority of

Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]

Epstein v. Abrams (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]

Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

attorney's lien is subordinate to an adverse party's right to offset judgments

Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]

attorney's lien superior to claims of other creditors against a bankruptcy distribution

Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]

between contractual medical lien and an attorney lien for fees and costs of litigation in a contingency fee case

Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

judgment creditor denied recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights

Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]

judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

Statutory liens

Los Angeles v. Knapp (1936) 7 Cal.2d 168 [60 P.2d 127]

AUCTION

Donate legal services through

CAL 1982-65, SD 1974-19

AUTHORITY OF ATTORNEY [See Substitution of counsel.]

Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]

Acknowledge satisfaction of judgment

after judgment, upon payment of money claimed in action

Code of Civil Procedure section 283

Advanced consent

client with diminished capacity

CAL 2021-207

After substitution

appearance carries presumption

Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

Agency

authority covers all ordinary procedural steps to bind client

Code of Civil Procedure section 283

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]

*In the Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337

Agency basis

Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)

Bristschgi v. McCall (1953) 41 Cal.2d 138, 142 [257 P.2d 977]

Preston v. Hill (1875) 50 Cal. 43

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]

Fresno v. Baboian (1975) 52 Cal.App.3d 753, 757 [125 Cal.Rptr. 332]

Yanchor v. Kagan (1971) 22 Cal.App.3d 544, 549 [99 Cal.Rptr. 367]

Wilson v. Eddy (1969) 2 Cal.App.3d 613, 618 [82 Cal.Rptr. 826]

Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]

Nellis v. Massey (1952) 108 Cal.App.2d 724 [239 P.2d 509]

Redsted v. Weiss (1945) 71 Cal.App.2d 660 [163 P.2d 105]

Fidelity & Cas. Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]

Fleschler v. Strauss (1936) 15 Cal.App.2d 735 [60 P.2d 193]

Burns v. McCain (1930) 107 Cal.App. 291 [290 P.2d 623]

CAL 1989-111

Apparent authority as to procedural or tactical matters

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]

LA 502 (1999)

Appeal

attorney cannot appeal without client's consent

In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

attorney may file notice of appeal on behalf of deceased client

Code of Civil Procedure section 903

in a dependency matter, appellate counsel for a minor client has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem

In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]

Attorney may bind client to stipulation without client's consent which does not affect issues central to the dispute

In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]

Attorney of record must take legal steps

Epley v. Califro (1958) 49 Cal.2d 849, 854 [323 P.2d 91]

Goetz v. Superior Court (1958) 49 Cal.2d 784, 786 [322 P.2d 217]

People v. Merkouris (1956) 46 Cal.2d 540, 554

Boca etc. R.R. Co. v. Superior Court (1907) 150 Cal. 153, 157 [88 P. 718]

Toy v. Haskell (1900) 128 Cal. 558, 560 [61 P. 89]

Wylie v. Sierra Gold Co. (1898) 120 Cal. 485, 487

Elec. Utilities Co. v. Smallpage (1934) 137 Cal.App. 640 [31 P.2d 142]

Anglo California Trust Co. v. Kelly (1928) 95 Cal.App. 390 [272 P. 1080]

Koehler v. D. Ferrari & Co. (1916) 29 Cal.App. 487

Attorney plays greater role for making fundamental choices for client once court has raised competency of criminal defendant

People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]

Bind client

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Carroll v. Abbott Laboratories, Inc. (1982) 32 Cal.3d 892, 898-900 [187 Cal.Rptr. 592, 654 P.2d 775]

Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

Toal v. Tardif (2009) 178 Cal.App.4th 1183 [101 Cal.Rptr.3d 109]

Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]

CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]

People v. Sims (1984) 158 Cal.App.3d 469, 483

*Ford v. State of California (1981) 116 Cal.App.3d 507, 516 [172 Cal.Rptr. 162]

Buchanan v. Buchanan (1979) 99 Cal.App.3d 587, 595 [160 Cal.Rptr. 577]

People v. Hy-Lond Enterprises, Inc. (1979) 93 Cal.App.3d 734 [155 Cal.Rptr. 880]

Kaslavage v. West Kern County Water District (1978) 84 Cal.App.3d 529, 536-537 [148 Cal.Rptr. 729]

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

[CAL](#) 2002-160

advise attorney for in propria persona litigant

LA 502 (1999)

client with diminished capacity

[CAL](#) 2021-207

conservatee bound by appointed attorney's action where conservatee requests not to be present at conservatorship heard

In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]

to stipulation without consent

Corcoran v. Arouh (1994) 24 Cal.App.4th 310 [29 Cal.Rptr.2d 326]

In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]

Bind client in action or proceeding

Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]

authority to bind conservatee-client who requests not to be present at hearing

In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]

by agreement filed with clerk of court

Code of Civil Procedure section 283, par. 1

client with diminished capacity

[CAL](#) 2021-207

entered upon minutes of court

Code of Civil Procedure section 283, par. 1

to arbitration agreement

Toal v. Tardif (2009) 178 Cal.App.4th 1183 [101 Cal.Rptr.3d 109]

to stipulation without consent

Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]

In re Marriage of Helsel (1988) 198 Cal.App. 332 [243 Cal.Rptr. 657]

Client

attorney may assume the client cannot act in his best interest and may act even contrary to the express desires of the client

People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

[CAL](#) 2021-207

cannot be located

[CAL](#) 2002-160, [CAL](#) 1989-111, LA 441 (1987)

cedes to counsel the right to protect the client's vest interests and the client cannot be expected to correct counsel's behavior during examination of a witness in order to avoid inferences as to the client's actions

Gdowski v. Gdowski (2009) 175 Cal.App.4th 128 [95 Cal.Rptr.3d 799]

court's advice to client to follow attorney's advice

United States v. Joelson (1993) 7 F.3d 174

criminal defendants instructions cannot reduce an attorney's professional obligations

Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623

death of

-attorney may file notice of appeal on behalf of decedent

Code of Civil Procedure section 903

decides matters that affect substantive rights

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]

LA 502 (1999)

diminished capacity

[CAL](#) 2021-207

endorse client's name

-on settlement check without authorization

Silver v. State Bar (1974) 13 Cal.3d 134, 144 [117 Cal.Rptr. 821, 528 P.2d 1157]

Montalto v. State Bar (1974) 11 Cal.3d 231, 235 [113 Cal.Rptr. 97, 520 P.2d 721]

Himmel v. State Bar (1971) 4 Cal.3d 786, 798 [94 Cal.Rptr. 825, 484 P.2d 993]

Tardiff v. State Bar (1971) 3 Cal.3d 903, 904 [92 Cal.Rptr. 301, 479 P.2d 661]

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

insane or incompetent clients may lack authority over substantive issues

LA 509 (2002)

-commitment proceedings under Penal Code section 1026.5(b)

--counsel for client found to be insane and dangerous to others may properly waive a jury trial over client's objections

People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]

retains the authority to settle the case without the lawyer's consent

LA 505 (2000)

Client's instructions intentionally ignored

People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

AUTHORITY OF ATTORNEY

- Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
CAL 2002-160
client with diminished capacity
CAL 2021-207
settlement decisions belong to client
Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
Client suffering from a mental disorder
client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
Compelling client to follow advice
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 77-78 [203 Cal.Rptr. 524]
Control of case
by client
Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]
cross examination, manner in which attorney conducts, is within control of counsel
Gdowski v. Gdowski (2009) 175 Cal.App.4th 128 [95 Cal.Rptr.3d 799]
statutory reduction of client's control
People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2
-commitment proceedings under Penal Code section 1026.5(b)
--counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
Control of litigation [See Trial conduct.]
People v. Sims (1984) 158 Cal.App.3d 469
Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
Lovret v. Seyfarth (1972) 22 Cal.App.3d 841 [100 Cal.Rptr. 143]
Diamond Springs Lime Co. v. American River Constructors (1971) 16 Cal.App.3d 581 [94 Cal.Rptr. 200]
acts contrary to law, court rule or public policy
San Francisco Lumber Co. v. Bibb (1903) 139 Cal. 325 [73 P. 864]
Oakland Raiders v. Berkeley (1977) 65 Cal.App.3d 623 [137 Cal.Rptr. 648]
Burrows v. California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]
Robinson v. Sacramento County School Dist. (1966) 245 Cal.App.2d 278 [53 Cal.Rptr. 781]
Valdez v. Taylor Auto. Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]
Berry v. Chaplin (1946) 74 Cal.App.2d 652 [169 P.2d 442]
Los Angeles v. Harper (1935) 8 Cal.App.2d 552 [48 P.2d 75]
advise attorney for in propria persona litigant
LA 502 (1999)
after judgment
Knowlton v. Mackenzie (1895) 110 Cal. 183 [42 P. 580]
Wherry v. Rambo (1950) 97 Cal.App.2d 569 [218 P.2d 142]
Davis v. Robinson (1942) 50 Cal.App.2d 700 [123 P.2d 894]
Spenser v. Barnes (1935) 6 Cal.App.2d 35 [43 P.2d 847]
Ely v. Liscomb (1914) 24 Cal.App. 224 [140 P.2d 1086]
apparent authority
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Diamond Springs Lime Co. v. Am. River Constructors (1971) 16 Cal.App.3d 581, 607 [94 Cal.Rptr. 200]
Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780, 788 [24 Cal.Rptr. 161]
Bemer v. Bemer (1957) 152 Cal.App.2d 766, 771 [314 P.2d 114]
Redsted v. Weiss (1945) 71 Cal.App.2d 660, 663 [163 P.2d 105]
People v. Hanna (1939) 36 Cal.App.2d 333, 336 [97 P.2d 847]
Armstrong v. Brown (1936) 12 Cal.App.2d 22, 28 [54 P.2d 1118]
Johnson v. Johnson (1931) 117 Cal.App. 145 [3 P.2d 587]
-of advice attorney for in propria persona litigant
LA 502 (1999)
arguments raised at trial
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
criminal defense counsel can make all but a few fundamental decisions for defendant
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
People v. Carpenter (1997) 15 Cal.4th 312, 376
dismissal entered by fraudulent attorney
Business and Professions Code section 6140.5
Whittier Union High School District v. Superior Court (1977) 66 Cal.App.3d 504 [136 Cal.Rptr. 86]
freedom from client's control
Zurich G.A. & L. Ins. Co. v. Knisler (1938) 12 Cal.2d 98, 105 [81 P.2d 913]
Associated Indemnity Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804, 808 [133 P.2d 698]
giving up right to hearing
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
giving up substantive defense
Tomerlin v. Canadian Ind. Co. (1964) 61 Cal.2d 638 [39 Cal.Rptr. 731, 394 P.2d 571]
Merrit v. Wilcox (1877) 52 Cal. 238
Duffy v. Griffith Co. (1967) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
Ross v. Ross (1953) 120 Cal.App.2d 70 [260 P.2d 652]
Fresno City High School District v. Dillon (1939) 34 Cal.App.2d 636 [94 P.2d 86]
Price v. McComish (1937) 22 Cal.App.2d 92 [76 P.2d 978]
Los Angeles v. Harper (1935) 8 Cal.App.2d 552 [48 P.2d 75]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
-settlement decisions belong to client
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
giving up substantive right
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
Woerner v. Woerner (1915) 171 Cal. 298, 299 [152 P.2d 919]
Borkheim v. No. British etc. Ins. Co. (1869) 38 Cal. 623, 628
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Blanton v. Womancare Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

- Fresno v. Baboain (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]
Yanchor v. Kagan (1971) 22 Cal.App.3d 544 [99 Cal.Rptr. 367]
Harness v. Pac. Curtainwall Co. (1965) 235 Cal.App.2d 485 [45 Cal.Rptr. 454]
Fidelity & Cas. Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
Broecker v. Moxley (1934) 136 Cal.App. 248 [28 P.2d 409]
CAL 2002-160, LA 393 (1981)
 -not found when attorney stipulates to waiver of mediation confidentiality
 Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
 -settlement decisions belong to client
 Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
 CAL 2002-160, LA 502 (1999)
- major questions of policy
 Gagnon Co. v. Nevada Desert Inn (1955) 45 Cal.2d 448, 460 [289 P.2d 466]
 Security Loan & Trust Co. v. Estudillo (1901) 134 Cal. 166 [66 P. 257]
 Trope v. Kerns (1890) 83 Cal. 553, 556 [23 P. 691]
 Preston v. Hill (1875) 50 Cal. 43
 Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
 Roscoe Moss Co. v. Rogbero (1966) 246 Cal.App.2d 781, 786 [54 Cal.Rptr. 911]
 Bice v. Stevens (1958) 160 Cal.App.2d 222, 231 [325 P.2d 244]
 Pacific Tel. and Tel. Co. v. Fink (1956) 141 Cal.App.2d 332, 339 [296 P.2d 843]
 Hoagland v. Chargin (1955) 134 Cal.App.2d 466, 473 [286 P.2d 931]
 Jones v. Noble (1934) 3 Cal.App.2d 316, 320 [39 P.2d 486]
 Clemens v. Gregg (1917) 34 Cal.App. 245, 253 [167 P. 294]
- matters collateral to litigation
 Britschgi v. McCall (1953) 41 Cal.2d 138, 142 [257 P.2d 977]
 Helgeson v. Farmers Ins. Exch. (1953) 116 Cal.App.2d Supp. 925 [255 P.2d 484]
 Nellis v. Massey (1952) 108 Cal.App.2d 724, 728
 Redsted v. Weiss (1945) 71 Cal.App.2d 660, 664 [163 P.2d 105]
 Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
 [See 27 So. Cal. L. Rev. 463]
- motion to suppress
 People v. Turner (1992) 7 Cal.App.4th 1214
- power to waive right to jury trial
 Blanton v. Womancare Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- receipt of money in settlement
 Navrides v. Zurich Ins. Co. (1971) 5 Cal.3d 698 [97 Cal.Rptr. 309, 488 P.2d 637]
 In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 CAL 2002-160
- taking or defending against appeal
 People v. Bouchard (1957) 49 Cal.2d 438 [317 P.2d 971]
 Guardianship of Gilman (1944) 23 Cal.2d 862, 864 [147 P.2d 530]
 Mize v. Crail (1973) 29 Cal.App.3d 797 [106 Cal.Rptr. 34]
 McClure v. Donovan (1947) 82 Cal.App.2d 664, 667 [186 P.2d 718]
 Mexico v. Rask (1930) 109 Cal.App. 497, 501
 In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
- waive right to speedy trial
 People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
- waiver of right to appeal
 Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
- Fowlkes v. Ingraham (1947) 81 Cal.App.2d 745, 747 [185 P.2d 379]
- Death of client
 during settlement negotiations
 -continued representation
 In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949 LA 300 (1967)
 -disclosure to opposing counsel
 In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949 LA 300 (1967)
- Disappearance of client
 CAL 2002-160, LA 441 (1987)
- Discharge claim
 after judgment
 Code of Civil Procedure section 283, par. 2
 upon payment of money claimed in action
 Code of Civil Procedure section 283, par. 2
- District attorney, city attorney at direction of Board of Supervisors or city legislative authority
 People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
 Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
- Effect on client's rights
 People v. Sims (1984) 158 Cal.App.3d 469, 483
- Endorse client's name
 Palomo v. State Bar (1984) 36 Cal.3d 785, 793-795 [205 Cal.Rptr. 834]
 CAL 2002-160
- settlement check without authorization
 Silver v. State Bar (1974) 13 Cal.3d 134, 144 [117 Cal.Rptr. 821, 528 P.2d 1157]
 Montalto v. State Bar (1974) 11 Cal.3d 231, 235 [113 Cal.Rptr. 97, 520 P.2d 721]
 Himmel v. State Bar (1971) 4 Cal.3d 786, 798 [94 Cal.Rptr. 825, 484 P.2d 993]
 Tardiff v. State Bar (1971) 3 Cal.3d 903, 904 [92 Cal.Rptr. 301, 479 P.2d 661]
- In propria persona litigant
 LA 502 (1999)
- Power of attorney
 Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]
 76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
 assignment of power of attorney to heir hunter's attorney is against public policy
 Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 attorney for LLC that owned residential property was neither a member nor a manager of the LLC, attorney not authorized to manage the company's business and affairs and was thus properly denied access to home owner's association board meetings
 SB Liberty, LLC v. Isla Verde Assn., Inc. (2013) 217 Cal.App.4th 272 [158 Cal.Rptr.3d 105]
- definition
 Civil Code section 2410(a)
- duties
 Civil Code section 2421(a)
- short form
 Civil Code section 2450(1)
- Presumption of authority
 Gagnon Co. v. Nevada Desert Inn (1955) 45 Cal.2d 448 [289 P.2d 466]
 Pac. Paving Co. v. Vizelich (1903) 141 Cal. 4 [74 P. 353]
 Security Loan and Trust Co. v. Estudillo (1901) 134 Cal. 166 [66 P. 257]
 Dale v. City Court (1951) 105 Cal.App.2d 602 [234 P.2d 110]
 Burns v. McCain (1930) 107 Cal.App.2d 291 [290 P. 623]

AUTHORITY OF ATTORNEY

- Receive money claimed by client in action
unless revocation of authority filed
Code of Civil Procedure section 283, par. 2
upon payment of money claimed in action or after judgment
-acknowledge satisfaction of judgment
Code of Civil Procedure section 283, par. 2
-discharge claim
Code of Civil Procedure section 283, par. 2
- Representation of a minor client in a dependency proceeding
minors have the absolute right to make decisions concerning their parental rights
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
LA 504 (2000)
- Satisfaction of judgment, acknowledge
after judgment
Code of Civil Procedure section 283, par. 2
upon payment of money claimed in action
Code of Civil Procedure section 283, par. 2
- Settlement
Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170
Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
CAL 2002-160
attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure attorney is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon
Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
negotiations by advice attorney for in propria persona litigant
LA 502 (1999)
plaintiff's counsel in personal injury action may not enter into an agreement to defend and indemnify defendants against an action brought against them by third parties
LA 532 (2019)
threat to withdraw if client refuses settlement
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
- Settlement negotiated by clients enforceable despite lack of attorney approval
In re Marriage of Hasso (1991) 229 Cal.App.3d 1174 [280 Cal.Rptr. 919]
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
- Stipulations
attorney may bind client
-court found that stipulation re probable cause to arrest was valid after plaintiff's counsel signed it on plaintiff's behalf and in the plaintiff's presence
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
-if it does not affect issues central to the dispute
In re Marriage of Helsel (1988) 198 Cal.App. 332 [243 Cal.Rptr. 657]
-when waiver or compromise of a fundamental right is not involved
In re Marriage of Crook (1991) 235 Cal.App.3d 30
- construction and relief
-special rules applicable
Ukiah v. Fones (1966) 64 Cal.2d 104, 107 [48 Cal.Rptr. 865, 410 P.2d 369]
Buckley v. Roche (1931) 214 Cal. 241 [4 P.2d 929]
- Jackson v. Puget Sound Lumber Co. (1898) 123 Cal. 97, 100 [55 P.2d 788]
Burrows v. California (1968) 260 Cal.App.2d 29, 33 [66 Cal.Rptr. 868]
People v. Nolan (1917) 33 Cal.App. 493, 495 [165 P. 715]
- withdrawal or rescission
Palmer v. Longbeach (1948) 33 Cal.2d 134 [199 P.2d 952]
Moffitt v. Jordan (1900) 127 Cal. 628 [60 P. 175]
Raymond v. McMullen (1891) 90 Cal. 122 [27 P. 21]
Troxell v. Troxell (1965) 237 Cal.App.2d 147 [46 Cal.Rptr. 723]
L.A. City School District v. Landier Inv. Co. (1960) 177 Cal.App.2d 744 [2 Cal.Rptr. 662]
Loomis v. Loomis (1948) 89 Cal.App.2d 232 [201 P.2d 33]
Redsted v. Weiss (1945) 71 Cal.App.2d 660 [163 P.2d 105]
Brown v. Superior Court (1935) 10 Cal.App.2d 365 [52 P.2d 256]
- construction and rules
-contract rules
Jackson v. Puget Sound Lumber Co. (1898) 123 Cal. 97 [55 P. 788]
Harris v. Spinali Auto Sales, Inc. (1962) 202 Cal.App.2d 215 [20 Cal.Rptr. 586]
L.A. City School District v. Landier Inv. Co. (1960) 177 Cal.App.2d 744 [2 Cal.Rptr. 662]
Estate of Howe (1948) 88 Cal.App.2d 454 [199 P.2d 59]
- dismissal of cause of action
Bowden v. Green (1982) 128 Cal.App.3d 65 [180 Cal.Rptr. 90]
- effects
Code of Civil Procedure section 283
Estate of Stickelbaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
Palmer v. Long Beach (1948) 33 Cal.2d 134 [199 P.2d 952]
Palmer v. Oakland (1978) 86 Cal.App.3d 39 [150 Cal.Rptr. 41]
Japan Food Corp. v. Sacramento (1976) 58 Cal.App.3d 891 [130 Cal.Rptr. 392]
Estate of Burson (1975) 51 Cal.App.3d 300 [124 Cal.Rptr. 105]
Leonard v. Los Angeles (1973) 31 Cal.App.3d 473 [107 Cal.Rptr. 378]
In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97 Cal.Rptr. 274]
People ex rel. Dept. Pub. Wks. v. Busick (1968) 259 Cal.App.2d 744 [66 Cal.Rptr. 532]
Estate of Schmelz (1968) 259 Cal.App.2d 440, 442-446 [66 Cal.Rptr. 480]
Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447 [49 Cal.Rptr. 610]
Green v. Linn (1962) 210 Cal.App.2d 762, 767-769 [26 Cal.Rptr. 889]
Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125, 127-129 [5 Cal.Rptr. 900]
Estate of Howe (1948) 88 Cal.App.2d 454 [199 P.2d 59]
Capital National Bank v. Smith (1944) 62 Cal.App.2d 328, 342-343 [144 P.2d 665]
Henning v. Wuest (1920) 48 Cal.App. 147 [191 P. 713]
- in subsequent proceedings
Leonard v. City of Los Angeles (1973) 31 Cal.App.3d 473 [107 Cal.Rptr. 378]
- formal
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Harold v. Harold (1950) 100 Cal.App.2d 601 [224 P.2d 66]
Fresno City High School v. Dillon (1939) 34 Cal.App.2d 636 [94 P.2d 86]

Beckett v. City of Paris Dry Goods Co. (1938) 26 Cal.App.2d 295 [79 P.2d 178]

informal
Waybright v. Anderson (1927) 200 Cal. 374, 378 [253 P. 148]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Fidelity Casualty Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
Witaschek v. Witaschek (1942) 56 Cal.App.2d 277 [132 P.2d 600]
Continental Bldg. etc. Assn v. Woolf (1910) 12 Cal.App. 725 [108 P. 729]

matters subject to stipulation
 -evidence or facts
Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
McGuire v. Baird (1937) 9 Cal.2d 353 [70 P.2d 915]
Haese v. Heitzeg (1911) 159 Cal. 569 [114 P. 816]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Estate of Schmelz (1968) 259 Cal.App.2d 440 [66 Cal.Rptr. 480]
Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
Warburton v. Kieferle (1955) 135 Cal.App.2d 278, 285-286 [287 P.2d 1]
Hart v. Richardson (1955) 134 Cal.App.2d 242 [285 P.2d 685]
Exley v. Exley (1951) 101 Cal.App.2d 831, 836 [226 P.2d 662]
Sterling Drug Inc. v. Benatar (1950) 99 Cal.App.2d 393 [221 P.2d 965]
Asher v. Johnson (1938) 26 Cal.App.2d 403 [79 P.2d 457]
Wilson v. Mattei (1927) 84 Cal.App. 567 [258 P.2d 453]
Lawson v. Steinbeck (1919) 44 Cal.App. 685 [186 P. 842]

-issues
Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
Williams v. Gen. Ins. Co. (1936) 8 Cal.2d 1 [63 P.2d 289]
Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
Michelin Tire Co. v. Coleman and Bentel Co. (1919) 179 Cal. 598 [178 P.2d 507]
Hehr v. Swendseid (1966) 243 Cal.App.2d 142 [52 Cal.Rptr. 107]
Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
Bemer v. Bemer (1957) 152 Cal.App.2d 766 [314 P.2d 114]
Steele v. Steele (1955) 132 Cal.App.2d 301 [282 P.2d 171]
Abalian v. Townsend Social Center, Inc. (1952) 112 Cal.App.2d 441 [246 P.2d 965]
Spahn v. Spahn (1945) 70 Cal.App.2d 791 [162 P.2d 53]
Collins v. Welsh (1934) 2 Cal.App.2d 103 [37 P.2d 505]

-judgment
Johnston, Baker and Palmer v. Record Machine and Tool Co. (1960) 183 Cal.App.2d 200, 206 [6 Cal.Rptr. 847]
Los Angeles School Dist. v. Landier Inv. Co. (1960) 177 Cal.App.2d 744, 748 [2 Cal.Rptr. 662]
Pac. Tel. and Tel. Co. v. Fink (1956) 141 Cal.App.2d 332, 338 [296 P.2d 843]
Faye v. Feldman (1954) 128 Cal.App.2d 319, 328 [275 P.2d 121]

Witaschek v. Witaschek (1942) 56 Cal.App.2d 277, 283 [132 P.2d 200]
Cathcart v. Gregory (1941) 45 Cal.App.2d 179, 186 [113 P.2d 894]
Morrow v. Morrow (1940) 40 Cal.App.2d 474, 485 [105 P.2d 129]
Faulkner v. Brooks (1932) 125 Cal.App. 137, 140 [13 P.2d 748]
Morrow v. Learned (1926) 76 Cal.App. 538, 540 [235 P.2d 442]
McCord v. Martin (1920) 47 Cal.App. 717, 726 [191 P. 89]
Continental Bldg. etc. Assn v. Woolf (1910) 12 Cal.App. 725, 729 [108 P. 729]

-liability or damages
Gonzales v. Pacific Greyhound Lines (1950) 34 Cal.2d 749 [214 P.2d 809]
McGee v. City of Los Angeles (1936) 6 Cal.2d 390 [57 P.2d 925]
Valdez v. Taylor Auto Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]
Corbett v. Benioff (1932) 126 Cal.App. 772 [14 P.2d 1028]
City of Los Angeles v. Oliver (1929) 102 Cal.App. 299 [283 P.2d 298]

-miscellaneous
City of Los Angeles v. Cole (1946) 28 Cal.2d 509, 515 [170 P.2d 928]
Estate of Kent (1936) 6 Cal.2d 154, 163 [57 P.2d 910]
Meagher v. Gagliardo (1868) 35 Cal. 602
People v. Busick (1968) 259 Cal.App.2d 744, 748 [66 Cal.Rptr. 532]
Phillips v. Beilsten (1958) 164 Cal.App.2d 450 [330 P.2d 912]
Estate of Doran (1956) 138 Cal.App.2d 541 [292 P.2d 655]
Gordon v. Kifer (1938) 26 Cal.App.2d 252 [79 P.2d 164]
First National Bank v. Stansbury (1931) 118 Cal.App. 80 [5 P.2d 13]
Johnson v. Johnson (1931) 117 Cal.App. 145 [3 P.2d 587]

-pleadings and issues
Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
Williams v. Gen. Ins. Co. (1936) 8 Cal.2d 1 [63 P.2d 289]
Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
Michelin Tire Co. v. Coleman and Bentel Co. (1919) 179 Cal. 598 [178 P.2d 507]
Hehr v. Swendseid (1966) 243 Cal.App.2d 142 [52 Cal.Rptr. 107]
Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
Bemer v. Bemer (1957) 152 Cal.App.2d 766 [314 P.2d 114]
Steele v. Steele (1955) 132 Cal.App.2d 301 [282 P.2d 171]
Abalian v. Townsend Social Center, Inc. (1952) 112 Cal.App.2d 441 [246 P.2d 965]
Spahn v. Spahn (1945) 70 Cal.App.2d 791 [162 P.2d 53]
Collins v. Welsh (1934) 2 Cal.App.2d 103 [37 P.2d 505]

-subsequent proceedings
Fowlkes v. Ingraham (1947) 81 Cal.App.2d 745 [185 P.2d 379]
Estate of Cohn (1940) 36 Cal.App.2d 676 [98 P.2d 521]
Clay v. Clay (1937) 19 Cal.App.2d 589 [65 P.2d 1363]

AUTOMOBILE ACCIDENT CASE

- Pacific States Savings and Loan Co. v. Roselli (1936) 17 Cal.App.2d 527 [62 P.2d 441]
Armstrong v. Brown (1936) 12 Cal.App.2d 22 [54 P.2d 1118]
Gibson v. Berryman (1910) 14 Cal.App. 330 [11 P. 926]
--probable cause stipulation admissible as an admission in plaintiff's action against police arising out of arrest
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
-withdrawal and rescission
--plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
- nature
73 Am.Jur.2d, Stipulations, section 1
Palmer v. City of Long Beach (1948) 33 Cal.2d 134, 142 [199 P.2d 952]
Raymond v. McMullen (1891) 90 Cal. 122, 125 [27 P. 21]
Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447, 452 [49 Cal.Rptr. 610]
Los Angeles City School District v. Landier Inv. Co. (1960) 177 Cal.App.2d 744, 752 [2 Cal.Rptr. 662]
Morgenstern v. Bailey (1938) 29 Cal.App.2d 321 [84 P.2d 159]
- oral stipulations not entered
Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97 Cal.Rptr. 274]
Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447 [49 Cal.Rptr. 610]
Johnston, Baker and Palmer v. Record Machine and Tool Co. (1960) 183 Cal.App.2d 200 [6 Cal.Rptr. 847]
Exley v. Exley (1951) 101 Cal.App.2d 831 [226 P.2d 662]
Cathcart v. Gregory (1941) 45 Cal.App.2d 179 [113 P.2d 894]
Morrow v. Learned (1926) 76 Cal.App. 538 [235 P. 442]
Ward v. Goetz (1917) 33 Cal.App. 595 [165 P. 1022]
- relief by interpretation or rescission
-formal stipulations
Palmer v. City of Long Beach (1948) 33 Cal.2d 134 [199 P.2d 952]
Ward v. Clay (1890) 82 Cal. 502 [23 P. 50]
Burrows v. State of California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]
Petroleum Midway Co. v. Zahn (1944) 62 Cal.App.2d 645 [145 P.2d 371]
Sinnock v. Young (1943) 61 Cal.App.2d 130 [142 P.2d 256]
Brown v. Superior Court (1935) 10 Cal.App.2d 365 [52 P.2d 256]
Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]
-oral statements
People v. Church (1943) 57 Cal.App.2d Supp. 1032, 1038 [136 P.2d 139]
Back v. Farnsworth (1938) 25 Cal.App.2d 671 212, 219 [77 P.2d 295]
Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]
Orr v. Ford (1929) 101 Cal.App. 694, 699 [282 P. 280]
-plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
- Substitution
no independent pleading pursuant to Code of Civil Procedure section 284 need be filed before a complaint or other initial pleading is served
Baker v. Boxx (1991) 226 Cal.App.3d 1303
- Test for, substantial rights
People v. Sumstine (1984) 36 Cal.3d 909, 922
- Unauthorized representation
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
after substitution
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
-attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
"appearing" defined for purposes of Business and Professions Code section 6104
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
unnecessary research
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- Verification
Probate Code section 21350 et seq.
attorney's use of pre-signed verification forms
Drociak v. State Bar (1991) 52 Cal.3d 1085 [278 Cal.Rptr. 86]
client's signature on blank
LA 174 (1950)
- ### AUTOMOBILE ACCIDENT CASE
- Receiving unsolicited information by email from non-client driver in multi-vehicle collision
SD 2006-1
- Represent
daughter-passenger against her driver-husband after representing husband on traffic charge
SF 1973-6
owner-passenger against driver after representing both parties
LA(l) 1974-10
- ### BANKRUPTCY [See Trustee.]
- 11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry (BPP)
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]
Advice to "load up" on debt with the expectation of obtaining its discharge, conduct that is abusive per se
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]
Attorney assisted debtor-client in concealing assets from trustees and his lack of experience in bankruptcy law is not a shield from criminal liability
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
Attorney fees and costs that creditor incurs in successfully prosecuting nondischargeability complaint, should be awarded as party of this nondischargeable debt, if such fees would be recoverable outside bankruptcy under state or federal law
Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775
Attorney's fees
In re Auto Parts Club, Inc. (9th Cir. BAP 1997) 211 B.R. 29
attorney fees and costs awarded against debtors for dragging proceedings for too long due to inaction
In re Starky (9th Cir. BAP 2014) 522 B.R. 220
attorney fees incurred during litigation after the confirmation of a Chapter 11 bankruptcy plan were discharged by that bankruptcy
In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028

attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable

In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]

attorney's fees and costs are recoverable against bankruptcy debtor in absence of any compensatory judgment based on violation of protective order

Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

attorney's fees and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor

In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

attorney's fees are administrative expenses that must be paid first

In re Shorb (9th Cir. BAP 1989) 101 B.R. 185

attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract

Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]

In re LCO Enterprises, Inc. (9th Cir. BAP 1995) 180 B.R. 567 [27 Bankr.Ct.Dec. 201]

Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]

Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

attorney's fees are recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court

In re Bertola (9th Cir. BAP 2004) 317 B.R. 95

attorney's fees are recoverable under sections of the Bankruptcy Code regarding discharge exception for "willful and malicious injury"

Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

attorney's fees awarded as sanction for frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding

Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165

attorney's fees claim against lender's collateral barred where law firm negotiated and approved comprehensive waiver in loan agreement which bared surcharge or assessment against the collateral

In re Cooper Commons LLC (9th Cir. 2008) 512 F.3d 533

attorney's fees denied to debtor in discharging student loan debt

In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558

attorney's fees from discharge action are disallowed

Bankruptcy of Gee (9th Cir. 1994) 173 B.R. 189

attorney's fees from discharge action may/may not preclude appeal over attorney fees award

Hurley v. Bredehorn (1996) 44 Cal.App.4th 1700 [52 Cal.Rptr.2d 615]

award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract

In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204

bankruptcy court did not abuse its discretion in overruling Chapter 7 debtor's objection to attorney fees awarded to nondischargeability complaint, where debtors failed to make specific objections to the fees claimed, specifically identifying defects or deficiencies in the hours requested.

In re Bartenwerfer (9th Cir. BAP 2020) 613 B.R. 730

bankruptcy court erred in awarding debtor's their attorney fees and costs under statute

In re Faitalia (9th Cir. BAP 2016) 561 B.R. 767

bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments

In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

chapter 7 bankruptcy

-attorney cannot use confidences of former client to challenge client's discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rptr. 43]

-attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct

In re Suarez (9th Cir. BAP 2009) 400 B.R. 732

-attorney's fees and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor

In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

-attorney's fees denied to debtor in discharging student loan debt

In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558

-automatic stay

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Hines (9th Cir. BAP 1998) 198 B.R. 769

-award of fees and costs to judgment creditor not dischargeable under willful and malicious injury dischargeability exception

Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

-award of fees for services rendered by creditor's attorney must meet statutory requirements

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

-debtor's attorney may receive professional fees from bankruptcy estate for post-petition services

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

-entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief

In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742

-expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

-fees for trustee's attorney may be denied if attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

-must benefit the estate

Bankruptcy of Hanson (9th Cir. 1994) 172 B.R. 67

-must file detailed proof of time spent in each role to receive fee award for services as trustee

In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601

-pre-petition attorney fee agreement may be dischargeable

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

-statutory silence regarding expenses incurred by a creditor does not necessarily mean foreclosure of a fee award from the debtor estate

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

BANKRUPTCY

- trustee expenses incurred in marketing & selling property & in defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co-owner of property
 - In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
 - trustee may withhold non-debtor, co-owner's share of proceeds from the sale of property pending resolution of claims by co-owner relating to such sale
 - In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
 - chapter 9 (municipality bankruptcy)
 - fee agreement based on fixed hourly rate but provides for possible increase found valid
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 - pre-petition attorney fee agreements may be dischargeable
 - Bankruptcy of Biggar (9th Cir. 1995) 185 B.R. 825
 - pre-petition debt is dischargeable
 - Bankruptcy of Biggar (9th Cir. 1997) 110 F.3d 685
 - Bankruptcy of Zapanta (9th Cir. 1997) 204 B.R. 762
 - chapter 11 bankruptcy
 - creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
 - In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236]
 - chapter 13
 - In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592
 - bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
 - In re Johnson (9th Cir. BAP 2006) 344 B.R. 104
 - contingent fee agreement
 - In re Reimers (9th Cir. 1992) 972 F.2d 1127
 - court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
 - In re Levander (9th Cir. 1999) 180 F.3d 1114
 - Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]
 - creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
 - In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236
 - creditor may recover attorney's fees via proof of claim without need to file application for compensation
 - In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227
 - delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees
 - In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
 - dischargeability of a contempt judgment
 - Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732
 - disgorgement of attorney fees against firm and attorney employee is proper
 - Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
 - disgorgement of attorney fees against firm not proper where law firm representation was approved by court
 - In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
 - disgorgement of attorney fees for professional misconduct
 - Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
 - disgorgement of attorney fees is allowed after violations of bankruptcy code and rules
 - Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
 - In re Peterson (1994) 163 B.R. 665
- documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
 - Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]
 - emergency nature of legal services provided before court appointment justifies fee award to former counsel
 - Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797
 - fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
 - In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
 - following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs
 - In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558
 - open book account attorney's fees claim not barred by statute of limitations
 - In re Roberts Farms (9th Cir. 1992) 980 F.2d 1248
 - prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
 - Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
 - Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
 - security retainer agreements require appropriate fee application made to the court
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - totality of circumstance test applied when awarding attorney's fee
 - Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
- Bankruptcy petition preparers
- BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
 - In re Reynoso (9th Cir. 2007) 477 F.3d 1117
 - Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
 - code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and privacy rights
 - In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]
 - disgorgement of excessive fees for services constituting the unauthorized practice of law
 - In re Reynoso (9th Cir. 2007) 477 F.3d 1117
 - Taub v. Weber (9th Cir. 2004) 366 F.3d 966
 - petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
 - Taub v. Weber (9th Cir. 2004) 366 F.3d 966
- Conflict of interest
- attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
 - In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
 - attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
 - Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
 - bankruptcy
 - In re Hines (9th Cir. BAP 1998) 198 B.R. 769

-attorney for bankrupt estate not inherently in conflict if represent estate creditors against others in a separate action

Vivitar Corp. v. Broidy (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]

concurrent representation of clients with adverse interests

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

-lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program

CAL 2014-191

represent

-bankrupt/creditor

LA 50 (1927)

-receiver

--party in divorce and

LA 51 (1927)

-receiver/general creditor

LA 74 (1934)

successive representation

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

Debt relief agencies

includes attorneys, as they provide assistance under BAPCAPA

Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]

prohibited from advising a debtor to incur more debt because the debtor is filing for bankruptcy, rather than for a valid purpose. However, attorneys may talk fully and candidly about the incurrence of debt in contemplation of filing a bankruptcy case. The inhibition of frank discussion serves no conceivable purpose within the statutory scheme

Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]

Disciplinary action

abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 Bankr.Ct.Dec. 140]

attorney's bankruptcy not a bar to an order to pay restitution

Brookman v. State Bar (1988) 46 Cal.3d 1004

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

bankruptcy court has authority to impose its own sanctions and to refer the matter to the State Bar

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

bankruptcy court has inherent power to suspend or disbar an attorney for misconduct

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

payment of costs to State Bar under Business & Professions Code § 6086.10 are not dischargeable

In re Findley (9th Cir. 2010) 493 F.3d 1048

-intent of imposing attorney disciplinary costs was to promote rehabilitation and to protect the public and is not dischargeable

In re Findley (9th Cir. 2010) 493 F.3d 1048

payment of costs to State Bar under Business & Professions Code § 6086.10 are dischargeable while payment of monetary sanctions under § 6086.13 are not

In re Taggart (2001) 249 F.3d 987

proceeding by Arizona Bar to discipline an Arizona attorney is exempted from bankruptcy automatic stay provisions

In re Wade (9th Cir. 1991) 948 F.2d 1122

Legal malpractice claim brought by individual members dismissed because attorney was court appointed to represent the unsecured creditors' committee not the individual members

Schultze v. Chandler (9th Cir. 2014) 765 F.3d 945

Legal malpractice claims cannot be assigned by trustee of bankruptcy estate

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

bankruptcy estate representative pursuing claim for the estate is not an assignee

Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

Majority shareholder's attorney may represent debtor

In re Sidco (1993) 162 B.R. 299

Receiver entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Represent

bankrupt/creditor

LA 51 (1927)

Sanctions

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165

Hedges v. Resolution Trust Corp. (9th Cir. 1994) 32 F.3d 1360

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

In re DeVille (9th Cir. BAP 2002) 280 B.R. 483

against attorney for failure to list asset on debtor's bankruptcy schedule

In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

bankruptcy court has inherent power to impose district-wide suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

bankruptcy court's inherent power allows it to sanction "bad faith" or "willful misconduct" by attorneys

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

consideration of ABA standards to categorize misconduct and to identify the appropriate sanction

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

for delay

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

for fraudulent transfers and misrepresentations by attorney debtor

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

for frivolous objection to creditor's claim

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

trustee lacked standing to appeal order awarding discovery sanctions against counsel

In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372

Trustee

attorney as bankruptcy trustee must file detailed proof of time spent in each role to receive fee award

In re Roderick Timber Co. (9th Cir. 1995) 185 B.R. 601

attorney serving as trustee was removed due to an indirect relationship with the debtor that violated the requirement that a trustee be

In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R. 139

BAR ASSOCIATION

fees for trustee's attorney may be denied if attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

standing to sue corporate attorneys of "sham" corporation for malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

trustee of a corporation has the power to waive the corporation's attorney-client privilege with respect to prebankruptcy communications

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

BAR ASSOCIATION [See Lay intermediaries.]

Ethics committee

answers legal questions in newspaper

LA 191 (1952)

arbitration committee, duty to submit fee dispute to in Los Angeles

LA 309 (1969)

legal advice

-answer questions about pending litigation

LA(l) 1966-9

-answer questions of law

LA(l) 1970-1, LA(l) 1969-7, LA(l) 1969-4

BAR EXAMINERS [See Admission to the bar.]

BARRATRY

Penal Code § 158

BARTER

Legal services for other goods

CAL 1981-60, CAL 1977-44

LA(l) 1965-18

BOND [See Conflict of interest, bond.]

Attorney acting as guarantor

CAL 1981-55

Fidelity

post for client

SF 1973-16

Guarantor of

clients' cost bond

-attorney acting as

CAL 1981-55

Indemnity

counsel for indemnity company acts against assured by way of subrogation

LA(l) 1966-1

counsel for indemnity company represents assured in defense of bond

LA(l) 1966-1

Statutory bond

prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800

West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

BONUS [See Division of fees. Fees, Bonus. Division of Fees, With Non-lawyers, bonus.]

BROADCASTING [See Advertising. Solicitation of business. Trial publicity.]

BUSINESS ACTIVITY [See Advertising. Broadcasting. Conflict of interest, business or financial transaction. Educational activity. Practice of law. Publication. Solicitation of business. Specialization. Unauthorized practice of law.]

Accountant

Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]

LA 351 (1976), LA 225 (1955), LA(l) 1965-4

employment of

SD 1974-17

partnership with

LA(l) 1959-5, SD 1974-17

share office with

LA(l) 1968-1

shows both professions on card or letterhead

LA 224 (1955)

-on sign

LA 225

Adjusting

LA 216 (1953)

Adviser to radio and television scripts

LA(l) 1947-5

Agent, attorney acting as

for actors, theatrical agency

LA 84 (1935)

for corporation

CAL 1968-13

-to solicit athletic contracts

CAL 1968-13

Aviation consultants

law firm associates with

CAL 1969-18

Brokerage

LA(l) 1962-4

Business and Professions Code

§ 6068

LA 396 (1982)

§ 6068(e)

General Dynamics Corp. v. Superior Court (1994) 7

Cal.4th 1164 [876 P.2d 487]

CAL 1994-135

LA 403 (1982), LA 400 (1982), LA 389 (1981)

SD 2008-1

Business operated by lawyer

discontinues active practice of law

-competition with former client

LA 98 (1936)

not engaged in active practice of law

-handling local matters gratuitously

LA 98 (1936)

Client's business

promotion of

-by attorney

LA 91 (1936)

Client's participation or work in

LA 176 (1950)

Collection agency

attorney operation of

Business and Professions Code section 6077.5

-Fair Debt Collection Practices Act applies to attorneys

regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]

-undertake collections for other attorneys

LA 124 (1939)

-when acts as counsel under fictitious name

LA 124 (1939)

-while operates law office

LA 124 (1939)

by attorney's spouse

LA 120 (1938)

Collections

LA(l) 1971-12, LA(l) 1967-7, LA(l) 1965-6, LA(l) 1965-3,

LA(l) 1952-1

by inactive lawyer

LA 105 (1936)

Competition with former client

LA 98 (1936)

in non-legal business

-where lawyer ceased to engage in active law practice

LA 98 (1936)

Conform to professional standards of attorney

in whatever capacity

Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]

Jacobs v. State Bar (1933) 219 Cal. 59 [25 P.2d 401]

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

[CAL](#) 1968-13
 Corporation
 agent for
 -to solicit athletic contracts
 [CAL](#) 1968-13
 Donation of legal services [See Auction.]
 Dual occupation
 [CAL](#) 1982-69, [CAL](#) 1968-13
 LA 477 (1994), LA 446 (1987), LA 413 (1983), LA 384 (1980),
 LA 351 (1975), SD 1992-1, SD 1969-2
 business advisor
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 -standard applied in dual purpose communications
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 Collection agency and law practice
 Business and Professions Code section 6077.5
 Fair Debt Collection Practices Act applies to attorneys
 regularly engaged in consumer debt-collection
 Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]
 LA 124 (1939)
 Escrow business
 LA 205 (1953)
 Exchange for professional services of others
 lawyer participates in
 [CAL](#) 1981-60, [CAL](#) 1977-44, LA(l) 1965-18
 Insurance
 LA 285 (1964), LA 227 (1955), LA 215 (1953), LA 142 (1943)
 SD 1974-18
 Investment counsel
 LA(l) 1963-2
 Legal document
 annual report of business
 LA(l) 1971-1
 business prospectus
 [CAL](#) 1969-19, LA(l) 1971-1
 stockholder's report
 LA(l) 1971-1
 Legal forms sold
 LA(l) 1976-11
 Legal research and writing
 LA 327 (1972)
 Legal research service
 operated by attorneys
 -advertising of
 LA 301 (1967)
 -constitutes practice of law
 LA 301 (1967)
 -incorporation
 LA 301 (1967)
 Lending operations
 LA(l) 1931-4
 Malpractice litigation service by lawyer and physician's
 LA 335 (1973)
 Medicine
 LA 331 (1973)
 Notary public
 LA 214 (1953), LA 206 (1953)
 Partnership
 interests sold
 LA 199 (1952)
 partners of a dissolved partnership have a fiduciary duty to
 complete the partnership's unfinished business and to act in
 the highest good faith
 *Dickson, Carlson & Campillo v. Pole (2000) 83
 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
 with non-lawyer
 -defined
 In the Matter of Bragg (Review Dept. 1997) 3 Cal.
 State Bar Ct. Rptr. 615
 -prohibited if any of partnership activities constitute
 practice of law
 [Rule](#) 1-310, Rules of Professional Conduct

Promotion
 by attorney
 -of client's business
 --posting bail bonds
 LA 91 (1936)
 Publishing [See Conflict of interest, literary rights. Publication.]
 Real estate [See This heading, dual occupation.]
 [CAL](#) 1982-69
 LA 413 (1983), LA 384 (1980), LA 340 (1973) LA 282 (1963)
 SD 1992-1, SD 1969-2
 SF 1973-23
 agent, attorney acting as
 [CAL](#) 1982-69
 LA 140 (1942)
 board
 -affiliate of attorney becoming
 [CAL](#) 1968-15
 broker, attorney acting as
 88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
 [CAL](#) 1982-69, LA 140 (1942)
 business
 -attorney operating
 LA 140 (1942)
 --accepting legal business referred by
 LA 140 (1942)
 partnership with non-attorney broker
 SF 1973-23
 recommend own attorney to client
 LA(l) 1976-9, LA(l) 1971-16
 represent customers of own
 LA 205 (1953), LA(l) 1975-2, LA(l) 1976-9
 Referring clients to doctor for medical services for compensation
 prohibited
 LA 443 (1988)
 School to teach how to obtain government loans
 LA(l) 1976-5
 Stenography
 LA 214 (1953)
 Tax opinion letter about tax shelter prospective
 SD 1984-1
 Tax work
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 LA 236 (1956)
 SD 1975-2
 standard applied in dual purpose communications
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
BUSINESS AND PROFESSIONS CODE [The entire text of the
 State Bar Act (Business and Professions Code sections 6000 et
 seq.) is reprinted at Part I A of this Compendium.]
 § 6000 et seq.
 [CAL](#) 1979-48
 § 6001.1
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
 § 6002.1
 In the Matter of Downey (Review Dept. 2009) 5 Cal. State
 Bar Ct. Rptr. 151
 In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar
 Ct. Rptr. 110
 In the Matter of Respondent AA (Review Dept. 2004) 4 Cal.
 State Bar Ct. Rptr. 721
 In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar
 Ct. Rptr. 498
 In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar
 Ct. Rptr. 220
 In the Matter of Clinton (Review Dept. 1994) 3 Cal. State Bar
 Ct. Rptr. 63
 purpose of address requirement
 In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State
 Bar Ct. Rptr. 498
 § 6007(b)(3)
 Walker v. State Bar (1989) 49 Cal.3d 1107, 1119
 Ballard v. State Bar (1983) 35 Cal.3d 274, 289
 Newton v. State Bar (1983) 33 Cal.3d 480, 483-484

BUSINESS AND PROFESSIONS CODE

- *In the Matter of Wolfram (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 355
- § 6007(c)
Conway v. State Bar (1989) 47 Cal.3d 1107
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
In the Matter of Rose (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192
In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658
- § 6007(c)(4)
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
credit for period of involuntary inactive enrollment towards period of actual suspension
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- § 6007(d)
In the Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523
In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
- § 6007(e)
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- § 6013
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- § 6015
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- § 6018
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- § 6043.5
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- § 6049
In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
- § 6049.1
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- § 6050
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
- § 6051.1
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
- § 6060
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
- § 6060(b)
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6062(b)
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6064
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6067 [See Oath of attorney.]
CAL 2003-162, CAL 1983-72, CAL 1979-51
LA 497 (1999)
- § 6068
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
Bates v. State Bar (1990) 51 Cal.3d 1056
CAL 1983-74, CAL 1983-72
LA 394 (1982)
"life story" fee agreements, waiver of attorney-client privilege
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]
- subdivision (a)
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Aronin v. State Bar (1990) 52 Cal.3d 276
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
CAL 2013-189, CAL 2009-176, CAL 2007-173, CAL 2003-162
LA 527 (2015), LA 502 (1999)
-attorney/real estate licensee who shares a commission with an unlicensed person may risk forfeiture of fees under Bus. & Prof. Code § 10137
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
-no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
- subdivision (b)
Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
- In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- CAL 2015-194, CAL 2009-176, LA 502 (1999)
- attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- attorney sanctioned for disregarding court's ruling at sidebar
- Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
- attorneys are officers of the court and as such, must respect and follow court orders whether they are right or wrong
- Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
- no discipline for factual statements unless the State Bar proves that such statements are false
- Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- no discipline for rhetorical hyperbole incapable of being proven true or false
- Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- subdivision (c)
- Canatella v. California (9th Cir. 2002) 304 F.3d 843
- Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
- Sorensen v. State Bar (1991) 52 Cal.3d 1036
- *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
- CAL 2019-198, CAL 2015-194, CAL 2009-176, CAL 2003-162, LA 502 (1999)
- subdivision (d)
- Silberg v. Anderson (1990) 50 Cal.3d 205
- Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
- Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
- In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
- In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- CAL 2019-198, CAL 2015-194, CAL 2008-175, CAL 1989-111, CAL 1972-30
- LA 522 (2009), LA 502 (1999) LA 497 (1999), LA 464 (1991) SD 2017-1, SD 2012-1, SD 2011-2, SD 2011-1 OC 2011-01, OC 95-001 SF 2011-1
- making repeated misrepresentations of both law and facts of the case and contentions that no reasonable attorney would have raised
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]p
- subdivision (e) [See Confidences of client.]
- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
- City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [32 Cal.Rptr.2d 1]
- Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
- Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
- A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
- Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
- In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- CAL 2021-205, CAL 2020-203, CAL 2016-195, CAL 2015-193, CAL 2012-184, CAL 2012-183, CAL 2011-182, CAL 2010-179, CAL 2008-175, CAL 2007-174, CAL 2007-173, CAL 2005-168, CAL 2004-165, CAL 2003-163, CAL 2003-

BUSINESS AND PROFESSIONS CODE

- 161, [CAL](#) 2002-159, [CAL](#) 2002-158, [CAL](#) 2001-157, [CAL](#) 1997-150, [CAL](#) 1996-146, [CAL](#) 1993-133, [CAL](#) 1992-126, [CAL](#) 1989-111, [CAL](#) 1989-112, [CAL](#) 1984-76, [CAL](#) 1981-58, [CAL](#) 1980-52, [CAL](#) 1979-50, [CAL](#) 1976-37, [CAL](#) 1971-25
LA 529 (2017), LA 528 (2017), LA 525 (2012), LA 520 (2007), LA 519 (2006), LA 514 (2005), LA 513 (2005), LA 506 (2001), LA 504 (2000), LA 502 (1999) LA 500 (1999), LA 498 (1999), LA 493, LA 491, LA 466, LA 456, LA 389 (1981)
OC 2011-01, OC 2003-01, OC 95-001, OC 95-002
SD 2018-3, SD 2012-1, SD 2011-1, SD 2008-1, SD 2006-1, SD 2004-1, SD 1996-1, SD 1990-1
SF 2014-1, SF 2011-1, SF 1999-2
- subdivision (f)
[United States v. Wunsch](#) (9th Cir. 1996) 84 F.3d 1110
[Standing Committee on Discipline of the United States District Court v. Yagman](#) (9th Cir. 1995) 55 F.3d 1430
[Lebbos v. State Bar](#) (1991) 53 Cal.3d 37
[Van Sloten v. State Bar](#) (1989) 48 Cal.3d 921, 925
[Weber v. State Bar](#) (1988) 47 Cal.3d 492, 500
[Ainsworth v. State Bar](#) (1988) 46 Cal.3d 1218, 1227
[Dixon v. State Bar](#) (1982) 32 Cal.3d 728, 735
[Ramirez v. State Bar](#) (1980) 28 Cal.3d 402, 404, 406
[Snyder v. State Bar](#) (1976) 18 Cal.3d 286, 292
[People v. Shazier](#) (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
[Sacramento County Department of Health and Human Services v. Kelly E.](#) (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
[Hanson v. Superior Court of Siskiyou County](#) (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
[Hawk v. Superior Court](#) (1974) 42 Cal.App.3d 108, 129
[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
[In the Matter of Anderson](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
[In the Matter of Varakin](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
-applies to advancement of prejudicial facts, but perhaps not prejudicial intimations
[In the Matter of Torres](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
-unconstitutional vagueness of "offensive personality"
[United States v. Wunsch](#) (9th Cir. 1996) 84 F.3d 1110
[In the Matter of Anderson](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- subdivision (g)
[Canatella v. California](#) (9th Cir. 2002) 304 F.3d 843
[Canatella v. Stovitz](#) (2005) 365 F.Supp.2d 1064
[Sorensen v. State Bar](#) (1991) 52 Cal.3d 1036 [804 P.2d 44]
[In the Matter of Scott](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
[In the Matter of Varakin](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- subdivision (h)
[Waltz v. Zumwalt](#) (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]
[CAL](#) 2009-176, [CAL](#) 1981-64, [CAL](#) 1970-23
- subdivision (i)
[Friedman v. State Bar](#) (1990) 50 Cal.3d 235 [786 P.2d 359]
[In the Matter of Copren](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
[In the Matter of Gorman](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
[In the Matter of Johnston](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
[In the Matter of Varakin](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
[In the Matter of Broderick](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
[In the Matter of Harris](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
- subdivision (j)
[In re Elkins](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
[In the Matter of Downey](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- subdivision (k)
[In the Matter of Lawrence](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
[In the Matter of Gorman](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
[In the Matter of Rodriguez](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
- subdivision (l)
[In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- subdivision (m)
[Price v. Lehtinen \(In re Lehtinen\)](#) (9th Cir. BAP 2005) 332 B.R. 404
[Friedman v. State Bar](#) (1990) 50 Cal.3d 235 [786 P.2d 359]
[In re O.S.](#) (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
[Wolff v. State Bar](#) (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
[In the Matter of Regan](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[In the Matter of Greenwood](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
[In the Matter of Hindin](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
[In the Matter of Sullivan, II](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
[In the Matter of Johnston](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
[In the Matter of Kopinski](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716
[In the Matter of Ward](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

[CAL](#) 2020-203, [CAL](#) 2019-197, [CAL](#) 2012-184, [CAL](#) 2009-178, [CAL](#) 2008-175, [CAL](#) 2004-165, [CAL](#) 1997-151
 LA 528 (2017), LA 520 (2007), LA 518 (2006), LA 511 (2003), LA 506 (2001)
 SD 2017-1, SD 2007-1, SD 2004-1
 -does not address issue of whether an attorney communicates correct or incorrect legal advice
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

subdivision (n)
 SD 2001-1

subdivision (o)
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

subdivision (o)(2)
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

subdivision (o)(3)
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
Hill v. MacMillan/McGraw Hill School Company (9th Cir. 1996) 102 F.3d 422
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
[CAL](#) 1997-151
 -improper to charge a violation where there is sufficient evidence of attorney's knowledge of final, binding sanctions order
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
 -reporting sanctions by the court
 --court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]

subdivision (o)(4)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

subdivision (o)(5)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

subdivision (o)(6)
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

§ 6069
In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535

§ 6070
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

§ 6075
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

§ 6076
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
[CAL](#) 1979-51

§ 6077 [See Oath, Attorney]
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
[CAL](#) 1979-51

§ 6078
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85

§ 6079.1
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]

§ 6082
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 Bankr.Ct.Dec. 140]

§ 6083
Bercovich v. State Bar (1990) 50 Cal.3d 116
Papadakis v. Zelis (1992) 8 Cal.App.4th 1146
[CAL](#) 1972-30

§ 6085
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 Bankr.Ct.Dec. 140]

§ 6086.1
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr.535

§ 6086.5
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18

§ 6086.7
In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

§ 6086.10
In re Findley (9th Cir. 2010) 493 F.3d 1048
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
In re Taggart (2001) 249 F.3d 987
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

BUSINESS AND PROFESSIONS CODE

- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Stewart (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 52
In the Matter of Hanson (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703
- § 6086.13
In re Findley (9th Cir. 2010) 493 F.3d 1048
In re Taggart (2001) 249 F.3d 987
- § 6086.65
O'Brien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
- § 6087
trial courts don't have responsibility of directly enforcing rules of professional responsibility; disciplinary authority is lodged with Supreme Court, delegated to State Bar
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
- § 6090.5
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
CAL 2012-185, LA 502 (1999)
- § 6093 (b)
In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
- § 6094
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- § 6100
trial courts don't have responsibility of directly enforcing rules of professional responsibility; disciplinary authority is lodged with Supreme Court, delegated to State Bar
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
- § 6101
CAL 1972-30
attorney's conviction of a crime is conclusive evidence of guilt
In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
felony determination at the time plea of nolo contendere was made, for State Bar purposes, although crime reduced to misdemeanor at time of sentencing by trial judge
In the Matter of Jackson (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 610
- § 6102
Crooks v. State Bar (1990) 51 Cal.3d 1090
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261
- § 6102(b)
felony determination at the time pleas of nolo contendere was made, for State Bar purposes, although crime reduced to misdemeanor at time of sentencing by trial judge
In the Matter of Jackson (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 610
- § 6102(c)
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
summary disbarment requirement not retroactive
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
- § 6103
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
King v. State Bar (1990) 52 Cal.3d 307
Bates v. State Bar (1990) 51 Cal.3d 1056
Baker v. State Bar (1989) 49 Cal.3d 804
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363
In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
In the Matter of Clinton (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63
In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
In the Matter of Nelson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
CAL 2015-192, CAL 2003-162, CAL 1979-51, CAL 1970-23 LA 497 (1999)
disregard of an order by a workers' compensation judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
failure to appear in numerous matters, failure to withdraw from each case individually
Wolf v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
failure to pay court ordered sanctions
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- § 6103.5
CAL 2009-176, CAL 1994-136
- § 6103.7
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

§ 6103.6
Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]
 attorney's violation of Probate Code § 21350 could be grounds for discipline
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

§ 6104
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
 LA 502 (1999)
 member continued to act on behalf of corporation even after board chairman demanded withdrawal from representation
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

§ 6105
CAL 1969-18
 LA 522 (2009)

§ 6106 [See Moral turpitude]
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]
Friedman v. State Bar (1990) 50 Cal.3d 235
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]
In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
CAL 2019-198, CAL 2015-194, CAL 2013-189, CAL 2012-186
 LA 527 (2015), LA 522 (2009), LA 511 (2003), LA 502 (1999), SD 2011-1
 attorney's gross carelessness and negligence in performing fiduciary duties involves moral turpitude even in the absence of evil intent
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 knowingly and repeatedly making misrepresentations to the court
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774

§ 6106.3
 paragraph (a), Mortgage Loan Modifications: violation of Civil Code section 2944.6
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437

§ 6117
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

§ 6125
United States v. Clark (9th Cir. 1999) 195 F.3d 446

BUSINESS AND PROFESSIONS CODE

- Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
LA 522 (2009), SD 2007-1, SD 1983-7, OC 94-002, SF 2021-1
- § 6126
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
United States v. Clark (9th Cir. 1999) 195 F.3d 446
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
SD 2007-1, SD 1983-7, SF 2021-1
- § 6128
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
CAL 1983-74
subdivision (a)
Silberg v. Anderson (1990) 50 Cal.3d 205
Davis v. State Bar (1983) 33 Cal.3d 231, 240-241 [188 Cal.Rptr. 441]
CAL 2015-194, CAL 2013-189, CAL 1996-146, CAL 1972-30
OC 2011-01
subdivision (b)
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
CAL 1979-51
- § 6129
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
- Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]
LA 500 (1999)
- § 6131
CAL 1993-128
- § 6133
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
- § 6140
In the Matter of Langfus (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 161
- § 6140.5
People v. Hume (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529
In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56
State Bar's subrogation rights
State Bar of California v. Statile (2008) 168 Cal.App.4th 650 [86 Cal.Rptr.3d 72]
- § 6140.7
In re Findley (9th Cir. 2010) 493 F.3d 1048
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- § 6143
In the Matter of Langfus (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 161
- § 6146
Waters v. Bourhis (1985) 40 Cal.3d 424 [220 Cal.Rptr. 666]
Mai Chi Nguyen, A Minor v. Los Angeles Harbor/UCLA Medical Center (1995) 40 Cal.App.4th 1433 [48 Cal.Rptr.2d 301]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1 [10 Cal.Rptr.2d 230]
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
CAL 1984-79
attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
- § 6147
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

- Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
[CAL](#) 2008-175, [CAL](#) 2006-170, [CAL](#) 2004-165, [CAL](#) 1994-135
 LA 526 (2015), LA 523 (2009), LA 507 (2001), LA 499 (1999), LA 458 (1990)
 SF 1999-1, SF 1989-1
 applies to in-house attorneys
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
 contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
- § 6147(a)(2)
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
 LA 518 (2006)
- § 6147(a)(4)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
- § 6148
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
In the Matter of Hanson (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
[CAL](#) 2004-165, [CAL](#) 2002-159, [CAL](#) 1996-147, [CAL](#) 1992-126
 LA 502 (1999), LA 518 (2006), OC 99-001, SF 1999-1
- § 6149
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 LA 502 (1999), LA 456 (1989)
- § 6150
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 LA 1980-384
- § 6151
[CAL](#) 2012-186
- § 6152
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
[CAL](#) 2012-186, [CAL](#) 1997-148, [CAL](#) 1995-143, [CAL](#) 1995-144, [CAL](#) 1983-75
- § 6153
[CAL](#) 1997-148
- § 6157 [See Advertising]
[CAL](#) 2019-199, [CAL](#) 2012-186, [CAL](#) 2004-166, [CAL](#) 2004-165, [CAL](#) 2001-155, [CAL](#) 1995-142
 SD 2018-1
- § 6158
[CAL](#) 2004-165, [CAL](#) 2001-155
 LA 514 (2005)
- § 6159
[CAL](#) 2012-186
- § 6161
 definition of “attorney” for purposes of law corporation registration
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
- § 6167
 law corporation is bound by applicable statutes, rules, and regulations to the same extent therein as a member of the State Bar
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
- § 6180
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- § 6200 [See Fee arbitration.]
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
[CAL](#) 2002-159, [CAL](#) 1981-60
- § 6201
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169] (3)
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165, 1174
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
 LA 521
 OC 99-002
- § 6202
 LA 498 (1999)
- § 6203
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
- § 6204
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]

BUSINESS DEALINGS WITH CLIENT

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

§ 6211(a)
IOLTA interest income is private property of owner of principle for purposes of Takings Clause
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
-no regulatory taking, no net loss to clients
Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406]

§ 6400 et seq.
Bock et al. v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
LA 502 (1999)

§ 6450
LA 522 (2009)

§ 10133
attorney/real estate licensee who shares a commission with an unlicensed person may risk forfeiture of fees under Bus. & Prof. Code § 10137
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

§ 10137
attorney/real estate licensee who shares a commission with an unlicensed person may risk forfeiture of fees under Bus. & Prof. Code § 10137
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

§ 10177(f)
denial of a real estate license based on prior revocation of applicant's license to practice law
Berg v. Davi (2005) 130 Cal.App.4th 223 [29 Cal.Rptr.3d 803]

BUSINESS DEALINGS WITH CLIENT [See Attorney-client relationship. Business activity.]
Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)

CALIF. PROFESSIONAL RESPONSIBILITY EXAMINATION
Failure to pass within the required time
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

CANDOR
Business and Professions Code section 6068 (d)
Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)
Declaration
false election
Johnson v. State Bar (1937) 10 Cal.2d 212 [73 P.2d 1191]

Duty of
in admission proceedings
Greene v. Committee of Bar Examiners (1971) 4 Cal.3d 189 [93 Cal.Rptr. 24, 480 P.2d 976]
Bernstein v. Committee of Bar Examiners (1968) 69 Cal.2d 90, 107 [70 Cal.Rptr. 106, 443 P.2d 570]
Langert v. State Bar (1954) 43 Cal.2d 636, 642 [276 P.2d 596]

in attorney disciplinary proceedings
Barreiro v. State Bar (1970) 2 Cal.3d 912, 926 [88 Cal.Rptr. 192, 471 P.2d 992]
Honoroff v. State Bar (1958) 50 Cal.2d 202, 210 [323 P.2d 1003]
Burns v. State Bar (1955) 45 Cal.2d 296, 303 [288 P.2d 514]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Electronic data, concealing in violation of law
SD 2012-1

False application
immigration matter
Weir v. State Bar (1979) 23 Cal.3d 564, 572 [152 Cal.Rptr. 921, 591 P.2d 19]

Misleading
concealment of a material fact is as misleading as an overtly false statement
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458]
Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

debtors
-by final notice before suit
LA 19 (1922)

firm name
CAL 1997-150, CAL 1986-90, CAL 1971-27

public
-partnership name when no partnership exists
CAL 1971-27

Misstatements
affirmative
-prohibited in any context
In re Kristovich (1976) 18 Cal.3d 468 [134 Cal.Rptr. 409, 556 P.2d 771]

To judge
attempt to deceive immigration judge
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

deceive about identity of client
Rule 7-105(2), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)
LA(l) 1965-11

distortions of record
Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

failing to correct a judge's misapprehension of material fact
Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

failing to notify of opposing counsel's request for continuance
Grove v. State Bar (1965) 63 Cal.2d 312 [46 Cal.Rptr. 513]

failure of law firm to disclose corporate client's suspended status is sanctionable
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

false representation about personal service of opposing party
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

false statements
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
LA 502 (1999)

quotations containing deletions
Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

requesting or agreeing to trial date when attorney does not intend to commence trial on that date

CAL 1972-30

withdrawal from representation of a minor client

LA 504 (2000)

To opposing counsel

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

CAL 1967-11

deal honestly and fairly with opposing counsel

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

disclosure of death of client

-during settlement negotiation

In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

LA 300 (1967)

failure of law firm to disclose corporate client's suspended status is sanctionable

Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

settlement negotiations

-disclosure of death of client

CAL 2015-194, LA 300 (1967)

To opposing party

advising opposing party of that party's mistake of law affecting settlement

LA 380 (1979)

of contribution to campaign committee of presiding judge in case

LA 387 (1981)

Volunteer facts

OC 95-001

failing to volunteer harmful facts

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

incumbent upon attorney, not criminal defendant personally

Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]

settlement negotiations

CAL 2015-194

to opposing counsel

CAL 1967-11

CERTIFICATION

Of law corporations [See Law Corporations.]

Of law students [See Practical training of law students.]

Of legal specialists [See Legal Specialization.]

CHAMPERTY AND MAINTENANCE [See, Barratry. Choses of Action.]

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

Debt

where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129

Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]

Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim

LA 500 (1999)

Third-party of lawsuit in exchange for interest in proceeds distinguished from buying a claim

CAL 2020-204

CHILD CUSTODY

Disclosure to court of conflict between client and child

suggest appointment of separate counsel to court

CAL 1976-37

Post-divorce child custody fee order requires trial court to first consider parties' relative circumstances

Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]

Referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process

In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]

Representation of a minor child in a dependency proceeding

LA 504 (2000)

actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests

In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]

CHILD SUPPORT

Attorney's fees not classified as gross income in calculating child support obligations

M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]

Communicate with other party about

LA(I) 1958-3, SD 1972-5

Contingent fee for collecting

LA 275 (1963), LA 263 (1959), LA(I) 1969-1

Counsel for one party in divorce who holds trust fund executes against other's share for child support

LA(I) 1971-15

Failure of attorney to pay

Business and Professions Code section 6143.5

Overdue

CAL 1983-72

Priority of child support obligations ordered by family court over fees deposited in client trust account to retain criminal defense attorney

Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]

Stipulated order of foreign court does not modify prior California child support when modification issue not raised or ruled on

In re Marriage of Ward (1994) 29 Cal.App.4th 1452

CHOSSES OF ACTION

Buying of

with intent to bring suit on

Business and Professions Code section 6129

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

--where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129

Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]

Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim

LA 500 (1999)

CLASS ACTION

Absent class members not liable for employer's attorney's fees in overtime dispute

Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]

CLASS ACTION

- Abuse of discretion by trial court
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
- Advertising
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
- Attorney fee awards in federal securities fraud actions must be reasonable in relation to the plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- Attorney's fees
attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
awarded pursuant to Civil Code section 1717
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
basis for court decision
-large fee reduction requires a relatively specific articulation of court's reasoning
Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157
basis of award to an unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
denied
-shareholder's class action against corporation did not confer sufficient benefits under the substantial benefit doctrine to warrant an award of attorney's fees
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
dispute among class counsel
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
lodestar multiplier method
-adjustment based on benefit conferred on class by class counsel
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
Wninger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
-court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
-reduction is justified where amount of time attorney spent on case was unreasonable and duplicative
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
-when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
no abuse of discretion where trial court granted a temporary restraining order to prevent firm from distributing fees to itself without court approval
Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]
settlement shall not include attorney fees as portion of common fund established for benefit of class
AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803
Staton v. Boeing Co. (9th Cir (Wash.) 2003) 327 F.3d 938
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271
standing to appeal award of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
-class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084
-objector has standing to appeal denial of own claim for fees even if objector did not submit a settlement claim
Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157
under Code of Civil Procedure section 916
-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]
Communication with potential members of class [See Advertising. Solicitation of business.]
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
LA(l) 1966-7, LA(l) 1974-2

- prior to certification
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 -scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
- Conflict of interest
 Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
 class certification in unnamed class member's case paired with evidence that unnamed class member would be a witness in concurrent class action sufficient for findings that firm represented unnamed class member for conflicts of purposes
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 class counsel offers to dismiss case if defendant makes multi-million dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service Inc. (1997) 52 Cal.App.4th 1
 class representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
 conflict of interest when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
 defendant agrees to hire class counsel to monitor the proposed settlement agreement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234
 disqualification is more likely in class action context because putative class counsel are subject to a 'heightened standard' which they must meet if they are to be allowed by the court to represent absent class members
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
 duty of class counsel runs to the class and, in the event of conflicts, withdrawal is the appropriate course to take
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 incentive agreement between class representatives and class counsel
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948
 no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 Counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
 Counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
- Counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
 Disclosure of putative class members' identity
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
 Duty to communicate with members of class to correct erroneous impression
 LA(I) 1966-13
 Duty to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
 Federal Rule of Procedure 23
 LA 481
 no per se rule that continued participation by previous class counsel, whose conflict of interest led to denial of class certification, constitutes inadequate representation
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
 Former member who opted out of class is not class representative and has no right to the class action papers
 LA 481
 Organization of [See Solicitation of business, communicate information about claims or actions in law to parties; by lay entity, group representation.]
 client solicits participation
 LA(I) 1971-13
 lawyer solicits participation
 LA(I) 1966-7
 Procedure for class action
 LA 481
 Right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
- Settlement
 court must have sufficient information to make an informed evaluation on fairness
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
 Standard of care to class
 counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
 counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
 Standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323
 Standing to pursue an award of fees
 attorney's lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
 standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
 Unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- CLIENT** [See Attorney-client relationship. Candor. Confidences of the client. Conflict of interest, client.]
 Conflict of interest
 Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interest
Loanvest v. Utrecht (2015) 235 Cal.App.4th 496 [185 Cal.Rptr.3d 385]

CLIENT SECURITY FUND

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Defined

Evidence Code section 951

Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834] SD 2006-1

Scope of defamation action under anti-SLAPP statute (Code of Civil Procedure 426.16)

Murray v. Tran (2020) 55 Cal.App.5th 10 [269 Cal.Rptr.3d 231]

CLIENT SECURITY FUND

Business and Professions Code section 6140.5

Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 483-484 [219 Cal.Rptr. 52]

In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

Attorney must reimburse Client Security Fund prior to filing petition for reinstatement

In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

Former licensed attorney is ordered by court to pay restitution after conviction of embezzlement by an employee and is not entitled to an offset for payment to victim from CSF

People v. Hume (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

State Bar's subrogation rights

State Bar of California v. Statile (2008) 168 Cal.App.4th 650 [86 Cal.Rptr.3d 72]

CLIENTS' TRUST ACCOUNT

Business and Professions Code section 6210 et seq.

Code of Civil Procedure sections 283, par. 2, 1518

Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

State Bar of California. Legal Services Trust Fund Program

[See also Handbook on Client Trust Accounting For California Attorneys]

Accounting

Business and Professions Code section 6091

failure to keep adequate records

Friedman v. State Bar (1990) 50 Cal.3d 235

Matthew v. State Bar (1989) 49 Cal.3d 784

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

failure to make to client

Friedman v. State Bar (1990) 50 Cal.3d 235

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]

Monroe v. State Bar (1961) 55 Cal.2d 145, 147-149 [10 Cal.Rptr. 257, 358 P.2d 529]

Egan v. State Bar (1956) 46 Cal.2d 370, 371-373 [294 P.2d 949]

Clark v. State Bar (1952) 39 Cal.2d 161, 169 [246 P.2d 1] [167 Cal.Rptr.3d 832]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

-attorney claims monies are non-refundable retainer
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432, 702 P.2d 590]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

-attorneys claims oral permission to invest client's funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]

-claim demand for an account is not required for finding a violation of rule 4-100(B)(3)

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

-duty to inform client that he has been named as a defendant due to attorney's accounting

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]

-failure to answer repeated client demands
Jackson v. State Bar (1979) 25 Cal.3d 398 [158 Cal.Rptr. 869, 600 P.2d 1326]

-failure to report and transmit to clients checks from insurance company

Most v. State Bar (1967) 67 Cal.2d 589 [63 Cal.Rptr. 265, 432 P.2d 953]

-funds collected with repeated failure to notify client
In re Smith (1967) 67 Cal.2d 460 [62 Cal.Rptr. 615, 432 P.2d 231]

-habitual failure to account to clients results in disbarment
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301, 479 P.2d 661]

- misappropriation and moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
- misappropriation and moral turpitude found when attorney fails to answer client inquiries
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 667, 709 P.2d 480]
- obtaining and converting settlement proceeds without client's knowledge
Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921, 591 P.2d 19]
- prior violation's effect on petition to reinstate disbarred attorney
Tardiff v. State Bar (1980) 27 Cal.3d 395 [165 Cal.Rptr. 829, 612 P.2d 919]
- receipt of settlement check not reported to client
Phillips v. State Bar (1975) 14 Cal.3d 492 [121 Cal.Rptr. 605, 535 P.2d 733]
- restitution as appropriate sanction for failure to report receipt of settlement check
Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]
- sanctions
 - disbarment
Ridley v. State Bar (1972) 6 Cal.3d 551, 560-561 [99 Cal.Rptr. 873, 493 P.2d 105]
Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
Narlian v. State Bar (1943) 21 Cal.2d 876 [136 P.2d 553]
 - public reprimand
Black v. State Bar (1962) 57 Cal.2d 219 [18 Cal.Rptr. 518, 368 P.2d 118]
 - suspension
McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
Sunderlin v. State Bar (1944) 33 Cal.2d 785 [205 P.2d 382]
- services not performed for monies advanced
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873, 493 P.2d 105]
- timeliness of account when attorney's office is struck by a fire
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- trust account never established since attorney claims all monies as non-refundable retainer
Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
- trust accounts with no records kept as deemed a "sham"
Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]
- violation occurs when non-segregated funds lose their separate character
Black v. State Bar (1962) 57 Cal.2d 219
- warrants discipline even if no financial loss to client
McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
- fiduciary duty to inform client
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- notice to client of receipt of funds on client's behalf
Alborton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
In re Smith (1967) 67 Cal.2d 460, 463
- Advance deposit
Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
- Advance for legal fees
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 356 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
- advance payment retainer distinguished from true retainer
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- distinguished from retainer fee
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 SF 1980-1
- failure to return unearned portion
 Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
 Rule 3-700(D)(2), Rules of Professional Conduct (operative as of May 27, 1989)
Matthew v. State Bar (1989) 49 Cal.3d 784
Pineda v. State Bar (1989) 49 Cal.3d 753
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225, 551 P.2d 841]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 SD 2019-3, SF 1980-1
- client entitled to a refund of entire advance fee amount because client received nothing of value
In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
- Attachment of
 Finance Code section 17410
 Authorized withdrawal of client funds and subsequent revocation of consent
 LA(I) 1980-3

CLIENTS' TRUST ACCOUNT

Bank charges

deposit of \$121.00 of attorney's personal funds in client trust account for bank charges is not unreasonable

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

permissible so long as the funds held bear a reasonable relationship to the bank service charges incurred for the general operation of the account and do not serve as a buffer against potential overdrafts
LA 485 (1995)

Bank's action to improperly debit trust account

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Billing

clients must understand and consent to billing practices

Severson & Werson v. Bollinger (1991) 235 Cal.App.3d 1569

CAL 1996-147, SD 2013-3

clients should have an opportunity to review a bill before the attorney seeks authorization to make payment out of the client's recovery

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

costs and expenses

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
SD 2013-3

"double billing"

CAL 1996-147

flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

improper billing and retention of funds out of a client's lien reduction involves moral turpitude

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

"over-billing"

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

Cashier's check

holding client's funds in

Vaughn v. State Bar (1972) 6 Cal.3d 847, 854 [100 Cal.Rptr. 713, 494 P.2d 1257]

Black v. State Bar (1962) 57 Cal.2d 219, 227 [18 Cal.Rptr. 518, 368 P.2d 118]

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Check

profession shown on

LA(I) 1970-3

settlement check issued only to client, but delivered to attorney who has a lien

OC 99-002

stop payment of settlement check

LA(I) 1966-5

Checks issued with insufficient funds

Lipson v. State Bar (1991) 53 Cal.3d 1010

Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009

Porter v. State Bar (1990) 52 Cal.3d 518

In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

CAL 2005-169

overdraft protection

CAL 2005-169

Client cannot be located

Code of Civil Procedure section 1518

attorney holding funds for the benefit of client

CAL 1975-36, LA(I) 1976-2

Client's use and control of

suspension

Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]

Commingling

Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009a

Lebbos v. State Bar (1991) 53 Cal.3d 37

Bowles v. State Bar (1989) 48 Cal.3d 100 [256 Cal.Rptr. 381, 768 P.2d 1058]

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420

attorney's unauthorized use or withholding of client's funds
-alcoholic client requests funds be held by attorney and attorney claims a right to use such funds for own purposes

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 570-572 [119 Cal.Rptr. 335, 531 P.2d 1119]

-attorney claims funds are a loan from client but court determines funds are held in trust

Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]

-bar membership fees are paid by checks drawn upon client trust account

Hamilton v. State Bar (1979) 23 Cal.3d 868, 874-876 [153 Cal.Rptr. 602, 591 P.2d 1254]

-collection agency receives funds on behalf of client but funds are used for attorney's benefit

McGregor v. State Bar (1944) 24 Cal.2d 283, 284-288 [148 P.2d 865]

-failure to promptly disburse settlement funds from trust account

Blair v. State Bar (1980) 27 Cal.3d 407, 409-410 [165 Cal.Rptr. 834, 612 P.2d 924]

-money collected on a promissory note is not turned over to client

Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729, 535 P.2d 1185]

-right to retain funds pursuant to a fee agreement is disputed by client

Prime v. State Bar (1941) 18 Cal.2d 56, 59

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

-wife of attorney acts as bookkeeper and attorney tells her that personal use of trust funds is permissible

Burns v. State Bar (1955) 45 Cal.2d 296, 300

-willful commingling and conversion with no showing of mitigation can result in disbarment

Rogers v. State Bar (1980) 28 Cal.3d 654, 655-657 [170 Cal.Rptr. 482, 620 P.2d 1030]

dangers of offense realized even if violation is technically not committed

Clark v. State Bar (1952) 39 Cal.2d 161, 168

disbursement of funds held for client and adverse party

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

failure to keep attorney's and clients' funds separate

-advance payment retainer distinguished from true retainer

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

CLIENTS' TRUST ACCOUNT

- advanced fee payment is distinguished from true retainer fee
 - Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn.4 [154 Cal.Rptr. 752]
 - T. & R. Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41] SF 1980-1
- allowing a friend to use the account for business
 - In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
- an attorney who uses a single account for both personal and client funds is subject to discipline
 - Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
 - Seavey v. State Bar (1953) 4 Cal.2d 73, 74-77 [47 P.2d 281]
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
- attorney's funds placed in trust account
 - Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
 - In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
 - In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- commingling occurs when an attorney opens a purported trust account but in fact uses it as a personal account
 - Brody v. State Bar (1974) 11 Cal.3d 347, 349 [113 Cal.Rptr. 371, 495 P.2d 1290]
 - In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
- employee's salary and other business expenses paid by checks drawn on the client trust account
 - In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- funds reasonable sufficient to pay bank charges
 - In the Matter of Respondent F. (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- client's funds placed in attorney's account
 - In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- advanced costs improperly deposited in attorney's account
 - Aronin v. State Bar (1990) 52 Cal.3d 276
- attorney admits to commingling client's funds in personal checking account
 - Rock v. State Bar (1961) 55 Cal.2d 724 [12 Cal.Rptr. 808]
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- attorney deposit settlement check in his personal account
 - Chasteen v. State Bar (1985) 40 Cal.3d 586, 590 [220 Cal.Rptr. 842, 709 P.2d 861]
- attorney misleads clients into allowing client funds to be deposited into attorney's personal account
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 918 [101 Cal.Rptr. 369, 495 P.2d 1289]
- bankruptcy papers not filed and advanced funds not deposited in a trust account
 - Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729]
- client's corporation funds controlled by attorney who places them in personal account
 - Hatch v. State Bar (1961) 55 Cal.2d 127, 128-138 [9 Cal.Rptr. 808, 357 P.2d 1064]
- client's funds eventually misappropriated
 - Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
- estate's distribution check to beneficiaries is deposited in attorney's payroll account
 - Palomo v. State Bar (1984) 36 Cal.3d 785, 790 [205 Cal.Rptr. 834]
- expert witness fees inadvertently kept in general account pending an ongoing fee dispute
 - In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- habitual practice of depositing client funds into personal account
 - Sturr v. State Bar (1959) 52 Cal.2d 125, 127-133 [338 P.2d 897]
- probate monies in an account under attorney's name
 - Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]
- proceeds from sale of home placed with attorney's funds
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
- unilateral determination and deposit of attorney fees in personal account is a violation
 - Silver v. State Bar (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]
- client transacts business with his attorney and attorney keeps transaction funds on his person with his own money
 - Bennett v. State Bar (1945) 27 Cal.2d 31, 35-36 [162 P.2d 5]
- disbarment upheld due to multiple offenses including failure to place advances for fees and costs in client trust account
 - In re Smith (1967) 67 Cal.2d 460, 463-464 [62 Cal.Rptr. 615, 432 P.2d 231]
- earned fees received from clients deposited in trust account
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- failure to maintain funds in trust account when attorney is unable to pay doctor bills because doctor refuses payment
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-865 [100 Cal.Rptr. 713, 494 P.2d 1257]
- failure to maintain client funds in trust
 - In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- failure to promptly withdraw attorney funds once fees become fixed
 - In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- failure to withdraw earned fees, after they become fixed, within reasonable time
 - CAL 2005-169
- inadequate management of trust account
 - aberrational failure of elaborate bookkeeping system
 - In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
 - allowing a friend to use the account for business
 - In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
 - checks issued to clients from commingled accounts with insufficient funds
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 259-261 [239 P.2d 871]

CLIENTS' TRUST ACCOUNT

- CAL 2005-169
 - overdraft protection
 - CAL 2005-169
 - duty to deliver escrow funds to client before taking fees for services
 - Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
 - failure to establish and supervise a proper trust account procedure
 - Gassman v. State Bar (1976) 18 Cal.3d 125, 129-130 [132 Cal.Rptr. 675]
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - failure to keep adequate records
 - Friedman v. State Bar (1990) 50 Cal.3d 235
 - Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 694]
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - failure to notify client of receipt of funds from insurance company
 - Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
 - failure to notify workers' compensation board that an advance of attorney's fees was received from a claimant
 - Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
 - failure to oversee office manager's record keeping and control over clients' funds
 - Palomo v. State Bar (1984) 36 Cal.3d 785, 796 [205 Cal.Rptr. 834, 685 P.2d 1185]
 - In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 - layperson signatory okay if attorney ultimately responsible for integrity of account
 - CAL 1988-97
 - negligent banking practices
 - Kelly v. State Bar (1991) 53 Cal.3d 509
 - secretary blamed by attorney when clients' funds are deposited in attorney's office account
 - Wells v. State Bar (1975) 15 Cal.3d 367 [124 Cal.Rptr. 218, 540 P.2d 58]
 - secretary's misdeposit of client's funds into attorney's operating account did not amount to misappropriation
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
 - trust account established but attorney fails to use it
 - Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]
 - where attorney uses personal account for clients' funds, mere bookkeeping entries will not be a sufficient protection of clients
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
 - wife of attorney acts as bookkeeper and is told personal use of clients' funds is okay
 - Burns v. State Bar (1955) 45 Cal.2d 296, 300 [288 P.2d 514]
 - mitigation and restitution efforts by attorney
 - actual financial detriment to a client is not an element and neither good faith nor restitution is a defense to commingling
 - Heavey v. State Bar (1976) 17 Cal.3d 553, 559 [131 Cal.Rptr. 406, 551 P.2d 1238]
 - In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
 - little weight is given to an attorney's restitution of client funds when it is done under pressure and as a matter of expediency
 - Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
 - violation found even when all parties involved ultimately received every cent to which they were entitled
 - Ring v. State Bar (1933) 218 Cal. 747, 752 [24 P.2d 821]
 - moral turpitude
 - abdication of responsibility for proper maintenance of client trust account
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - moral turpitude not necessarily involved if client's money is always available and not endangered
 - Peck v. State Bar (1932) 217 Cal. 47, 51 [17 P.2d 112]
 - recurring deficiencies in balances
 - In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
 - willful commingling not moral turpitude
 - Spindell v. State Bar (1975) 13 Cal.3d 253, 256 fn.1 [118 Cal.Rptr. 480, 530 P.2d 168]
 - negligent commingling
 - found when attorney fails to transmit support funds to client's former wife
 - Schultz v. State Bar (1975) 15 Cal.3d 799, 802 [126 Cal.Rptr. 232, 543 P.2d 600]
 - sanctions
 - disbarment
 - Resner v. State Bar (1960) 53 Cal.2d 615 [2 Cal.Rptr. 461, 349 P.2d 67]
 - Sturr v. State Bar (1959) 52 Cal.2d 125, 134 [338 P.2d 897]
 - McGregor v. State Bar (1944) 24 Cal.2d 283, 289 [148 P.2d 865]
 - public reproval
 - In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
 - suspension
 - Rock v. State Bar (1961) 55 Cal.2d 724, 727 [12 Cal.Rptr. 857, 361 P.2d 585]
 - Burns v. State Bar (1955) 45 Cal.2d 296, 303
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 264
 - Bennett v. State Bar (1945) 27 Cal.2d 31 36-37
 - Griffith v. State Bar (1945) 26 Cal.2d 273, 278
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - trust account never established
 - practice of designating accounts as "trust accounts" but not using them as such is a violation
 - Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
 - trust account not established or maintained
 - Mrakich v. State Bar (1973) 8 Cal.3d 896, 899-902 [106 Cal.Rptr. 497, 506 P.2d 633]
 - violation found when attorney's procedure for disbursing client's funds does not utilize a client trust account
 - Resner v. State Bar (1960) 53 Cal.2d 605 [2 Cal.Rptr. 461]
- Control may be given to non-members of the State Bar
LA 454 (1988)
- Costs advanced
 - status as trust funds
 - Aronin v. State Bar (1990) 52 Cal.3d 276
 - In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Currency
 - holding client's funds in
 - Monroe v. State Bar (1962) 55 Cal.2d 145, 152 [10 Cal.Rptr. 257, 358 P.2d 529]

Damages to a client is not necessary for a finding of commingling or a failure to manage trust funds

Internal Revenue Code section 6050(l)

-any person engaged in a trade or business must report to the IRS the receipt in any year of \$10,000 or more in cash payments from any one person

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976

Alberton v. State Bar (1984) 37 Cal.3d 1, 13

In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Duty

consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive without delay

CAL 2009-177

of succeeding attorney

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]

to co-counsel

LA 454

to keep accurate records

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]

to supervise lay signatory on client trust account

CAL 1988-97

Embezzlement

criminal proceeding against attorney

-inadmissible as evidence

People v. Stein (1979) 94 Cal.App.3d 235

Endorsement of client check

Palomo v. State Bar (1984) 36 Cal.3d 785

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

attorney's authority to sign client's name in retainer agreement

Howard v. State Bar (1990) 51 Cal.3d 215 [793 P.2d 62]

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

settlement check without authorization

Silver v. State Bar (1974) 13 Cal.3d 134, 144

Montalto v. State Bar (1974) 11 Cal.3d 231, 235

Himmel v. State Bar (1971) 4 Cal.3d 786, 798

Tardiff v. State Bar (1971) 3 Cal.3d 903, 904

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

successor attorney authorizes an employee to simulate the prior attorney's signature

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Entitlement of client to receive prompt receipt of settlement funds based upon client signing release

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

Escrow account

compliance with rule 4-100 not required where funds to be used to pay attorney's fees are placed in escrow account and are never received or held by the lawyer

CAL 2002-159

Failure to disburse client funds promptly [upon request]

Dudugjian v. State Bar (1991) 52 Cal.3d 1092

Edwards v. State Bar (1990) 52 Cal.3d 28

Bates v. State Bar (1990) 51 Cal.3d 1056

Friedman v. State Bar (1990) 50 Cal.3d 235

Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]

Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

CAL 2009-177, LA 438 (1985)

Failure to establish

Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]

Failure to notify clients of receipt of funds

McKnight v. State Bar (1991) 53 Cal.3d 1025

Chasteen v. State Bar (1985) 40 Cal.3d 586, 592

Murray v. State Bar (1985) 40 Cal.3d 575, 580-584 [220 Cal.Rptr. 677]

Bambic v. State Bar (1985) 40 Cal.3d 314

Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Failure to place client funds in

McKnight v. State Bar (1991) 53 Cal.3d 1025

Dudugjian v. State Bar (1991) 52 Cal.3d 1092

Waysman v. State Bar (1986) 41 Cal.3d 452

Chasteen v. State Bar (1985) 40 Cal.3d 586, 592 [220 Cal.Rptr. 842]

Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]

Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-855 [100 Cal.Rptr. 713, 494 P.2d 1257]

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

Failure to properly manage trust account

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

CLIENTS' TRUST ACCOUNT

- In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Failure to release client funds
- Friedman v. State Bar (1990) 50 Cal.3d 235
- Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 752, 749 P.2d 1807]
- Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
- Failure to return unearned advance fees
- Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)
- Cannon v. State Bar (1990) 51 Cal.3d 1103
- Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
- Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
- Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- Matthew v. State Bar (1989) 49 Cal.3d 784
- Pineda v. State Bar (1989) 49 Cal.3d 753
- Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]
- Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
- T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
- In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
- In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- In the Matter of Kennon (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 287
- LA 484 (1995)
- Failure to return unused advanced costs
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- Fiduciary obligation to directors of client corporation
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- Fiduciary obligation to non-clients as "clients" to maintain records, render appropriate accounts, and make prompt disbursements
- Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979 [239 Cal.Rptr. 675]
- In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
- In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
- In the Matter of Respondent F (Review Dept.1992) 2 Cal. State Bar Ct. Rptr. 17
- In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 693
- CAL 2009-177
- Fixed rate for legal fees
- SF 1980-1
- Flat rate for legal fees
- SD 2019-3, SF 1980-1
- Funds having trust account status
- CAL 2006-171
- Funds properly withdrawn from a client trust account under rule 4-100(A)(2) and later disputed by the client neither retain nor regain their trust account status and do not need to be re-deposited into the trust account
- CAL 2006-171
- Garnishment
- counsel discloses his possession of client's money in a garnishment proceeding
- LA(l) 1954-4
- Interest bearing accounts
- compliance provisions for
- establishment of interest bearing trust account pursuant to Business and Professions Code section 6211 (a)
- Business and Professions Code section 6212
- duty of lawyer to place client funds in
- Business and Professions Code section 6211
- IOLTA interest income is private property of owner of principle for purposes of Takings Clause
- Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
- Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
- no regulatory taking, no net loss to clients
- Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406]
- nominal funds in
- Business and Professions Code section 6211(a)
- Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
- on deposit for a short period of time
- Business and Professions Code section 6211(a)
- Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
- CAL 1988-97
- trustee savings versus trustee checking
- SF 1970-3
- use of, and ownership of interest accrued
- Business and Professions Code section 6211(a)-(b)
- Greenbaum v. State Bar (1976) 15 Cal.3d 893 [126 Cal.Rptr. 675, 544 P.2d 721]
- LA 388 (1981), LA(l) 1961-7, SF 1970-3
- Issuing settlement checks to clients, before settlement proceeds received from defendant or defendant's insurance company
- In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- Lay employee on
- Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
- CAL 1988-97, LA 488 (1996), LA 454 (1988)
- bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
- Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
- use of rubber stamp of attorney's signature
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- Levy on
- Finance Code section 17410

Maintain at an adequate level
Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]

Maintained outside of California
 LA 454

Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672

Misappropriation
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Lipson v. State Bar (1991) 53 Cal.3d 1010
Brockway v. State Bar (1991) 53 Cal.3d 51
Grim v. State Bar (1991) 53 Cal.3d 21
Harford v. State Bar (1990) 52 Cal.3d 93
Edwards v. State Bar (1990) 52 Cal.3d 28
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Snyder v. State Bar (1990) 49 Cal.3d 1302
Walker v. State Bar (1989) 49 Cal.3d 1107
Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753
Weller v. State Bar (1989) 49 Cal.3d 670
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Athearn v. State Bar (1979) 22 Cal.3d 232, 234-235 [142 Cal.Rptr. 171, 571 P.2d 628]
Allen v. State Bar (1974) 20 Cal.3d 172, 175-178 [141 Cal.Rptr. 808, 570 P.2d 1226]
Jackson v. State Bar (1975) 15 Cal.3d 372, 375-381 [124 Cal.Rptr. 185, 540 P.2d 25]
Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]
Sevin v. State Bar (1973) 8 Cal.3d 641, 643-646 [105 Cal.Rptr. 513, 504 P.2d 449]
Blackmon v. Hale (1970) 3 Cal.3d 348
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Elliott (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 541
In the Matter of Spaith (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
 advances for expenses in connection with a foreclosure proceeding re withdrawn by attorney but not used to pay expenses
Monroe v. State Bar (1969) 70 Cal.2d 301, 308-309 [74 Cal.Rptr. 733, 450 P.2d 53]
 assets collected for client are converted for attorney's personal benefit
Hatch v. State Bar (1961) 55 Cal.2d 127, 128 [9 Cal.Rptr. 808, 357 P.2d 1064]
 attorney as broker or financial advisor is held to professional standards and is subject to discipline for violations arising from such a relationship
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
 attorney as guardian commingles estate funds and makes improper investments
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
Tatlow v. State Bar (1936) 5 Cal.2d 520, 521-524 [55 P.2d 214]
 attorney claims money is loan from client but court says money in trust cannot be used for personal benefit
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
 attorney converts client money kept in a personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 129 [338 P.2d 897]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 attorney's petition for reinstatement, after disbarment for misappropriation, is denied
Tardiff v. State Bar (1980) 27 Cal.3d 395, 404-405 [165 Cal.Rptr. 829, 612 P.2d 919]
 attorney's repeated conversion of client money without client consent or knowledge
In re Urias (1966) 65 Cal.2d 258, 260-262
 attorney's wife uses client funds for personal use
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
 bad faith and/or evil intent need not be shown
Murray v. State Bar (1985) 40 Cal.3d 575, 581-582 [220 Cal.Rptr. 677, 709 P.2d 480]
 bad faith found when attorney fails to make restitution
Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]
Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]
 bail bond money entrusted to attorney by third party, non-client, is converted
Lefner v. State Bar (1966) 64 Cal.2d 189, 194-195 [49 Cal.Rptr. 296, 410 P.2d 832]
 bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]

CLIENTS' TRUST ACCOUNT

- breach of fiduciary duty
 - Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
- checks issued with insufficient funds
 - Chasteen v. State Bar (1985) 40 Cal.3d 586, 588-589 [220 Cal.Rptr. 842]
 - In the Matter of Heiser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47
 - CAL 2005-169
 - overdraft protection
 - CAL 2005-169
- client's name forged on draft and proceeds are converted
 - Demain v. State Bar (1970) 3 Cal.3d 381 [90 Cal.Rptr. 420, 475 P.2d 652]
- combined with other misconduct
 - deceit and overreaching of a client who had limited English-speaking ability
 - In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
 - false statements to bar aggravates misappropriation violations
 - Doyle v. State Bar (1982) 32 Cal.3d 12, 23 [184 Cal.Rptr. 720, 648 P.2d 942]
 - forgery on settlement check and failure to return advances
 - Porter v. State Bar (1990) 52 Cal.3d 518
 - Montalto v. State Bar (1974) 11 Cal.3d 231, 232-235 [113 Cal.Rptr. 97, 520 P.2d 721]
 - grand theft as crime of moral turpitude with misappropriation by deceit on client
 - Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
 - Ambrose v. State Bar (1982) 31 Cal.3d 184, 191 [181 Cal.Rptr. 903, 643 P.2d 486]
 - In re Abbot (1977) 19 Cal.3d 249, 251-252 [137 Cal.Rptr. 195, 561 P.2d 285]
 - misappropriation of partnership funds
 - Kaplan v. State Bar (1991) 52 Cal.3d 1067
 - In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
 - misappropriation together with fraud, commingling, and grand theft
 - In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]
 - In re Wright (1973) 10 Cal.3d 374, 382 [110 Cal.Rptr. 348, 515 P.2d 292]
 - moral turpitude
 - In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 - moral turpitude merits disbarment
 - Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]
 - Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
 - Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
 - In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
 - In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
 - refusal to make restitution
 - Grim v. State Bar (1991) 53 Cal.3d 21
 - repeated and persistent misconduct in multiple cases
 - Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]
 - violation in numerous separate instances accompanied with other dishonest acts
 - Bambic v. State Bar (1985) 40 Cal.3d 314, 323-326 [219 Cal.Rptr. 489, 707 P.2d 862]
 - violation of rule 7-103
 - Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
 - continuing course of serious misconduct
 - Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]
 - court orders attorney to reimburse client for legal expenses incurred in client's action to recover misappropriated funds
 - Cutler v. State Bar (1967) 66 Cal.2d 861, 862 [59 Cal.Rptr. 425, 428 P.2d 289]
 - disbarment warranted in absence of extenuating circumstances
 - Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
 - discipline imposed even if no financial loss to client
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 919 [101 Cal.Rptr. 369, 495 P.2d 1289]
 - doctor refuses payment of medical bills and attorney puts funds to personal use
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 851
 - entire proceeds of client settlement is converted
 - Hyland v. State Bar (1963) 59 Cal.2d 765, 769
 - escrow funds unjustifiably withheld by attorney
 - Crooks v. State Bar (1970) 3 Cal.3d 346, 357-358 [90 Cal.Rptr. 600, 475 P.2d 872]
 - evil intent need not be shown for finding of moral turpitude
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - failure to pay funds as designated by bankruptcy court
 - In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
 - failure to properly dispose of fees in dispute by client
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239" Cal.Rptr. 675]
 - Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302, 688 P.2d 911]
 - In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
 - In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
 - In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
 - LA 484 (1995)
 - attorney did not take appropriate steps to resolve competing claims
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 - CAL 2009-177
 - failure to refund unearned funds advanced by client
 - Dixon v. State Bar (1985) 39 Cal.3d 335, 340-341 [216 Cal.Rptr. 432, 702 P.2d 590]
 - failure to use funds for designated purpose
 - Baca v. State Bar (1990) 52 Cal.3d 294
 - Copren v. State Bar (1944) 25 Cal.2d 129
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - fee agreement modification from hourly to contingent is raised as a defense but not supported by documentary evidence
 - In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
 - five separate counts of misappropriation is serious misconduct warranting disbarment
 - Finch v. State Bar (1981) 28 Cal.3d 659, 655
 - for personal use
 - Bernstein v. State Bar (1972) 6 Cal.3d 909, 917
 - funds designated for bail are converted to attorney's personal use
 - Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 81, [141 Cal.Rptr. 169, 569 P.2d 763]
 - grand theft
 - In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Ambrose v. State Bar (1982) 31 Cal.App.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]
 -estates
 In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]
 gravity of present violation shows unacceptable potential for future breach of trust
 Rimel v. State Bar (1983) 34 Cal.3d 128, 132 [192 Cal.Rptr. 866, 665 P.2d 956]
 gross negligence in the handling of client trust funds may involve moral turpitude
 In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 habitual misuse of client's funds
 Tardiff v. State Bar (1971) 3 Cal.3d 903, 904-908 [92 Cal.Rptr. 30, 479 P.2d 661]
 improbable explanations and a failure to account for client funds is sufficient to find a violation
 Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
 improper practice of depositing attorney funds in trust account and using the account for personal use
 Jackson v. State Bar (1979) 25 Cal.3d 398, 404 [158 Cal.Rptr. 869, 600 P.2d 1326]
 in level of account
 Jackson v. State Bar (1979) 23 Cal.3d 509, 512 [153 Cal.Rptr. 24, 591 P.2d 47]
 inadequate supervision by attorney
 In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
 -attorney blames violation on a secretarial error
 Sugarman v. State Bar (1990) 51 Cal.3d 609
 Wells v. State Bar (1975) 15 Cal.3d 367, 369-370 [124 Cal.Rptr. 218, 540 P.2d 58]
 -bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
 Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
 -duty of attorney to supervise employee's control of trust account
 Gassman v. State Bar (1976) 18 Cal.3d 125, 129 [132 Cal.Rptr. 785, 544 P.2d 58]
 In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
 In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 -negligent, unintentional violation due to poor supervision of office and financial affairs
 Waysman v. State Bar (1986) 41 Cal.3d 452, 458 [224 Cal.Rptr. 101, 714 P.2d 1239]
 inference of intentional violation from attorney's willful failure to use a trust account
 Walter v. State Bar (1970) 2 Cal.3d 880, 885-890 [87 Cal.Rptr. 833, 471 P.2d 481]
 installments on client settlement converted
 Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
 liability for acts of partner in law practice
 Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194, 463 P.2d 418]
 PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 misappropriation is a grievous breach of trust and endangers public confidence
 Rogers v. State Bar (1980) 28 Cal.3d 654, 658 [170 Cal.Rptr. 482, 620 P.2d 1030]

mitigation and restitution efforts by attorney
 -absence of harm to attorney's client or others
 Kelly v. State Bar (1991) 53 Cal.3d 509
 -attorney's restitution began long before disciplinary proceeding was mitigating
 Benson v. State Bar (1971) 5 Cal.3d 382, 387-388 [96 Cal.Rptr. 30, 486 P.2d 1230]
 -cooperation and candor with State Bar undermined by failure to make restitution
 In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
 -extenuating circumstances insufficient to lessen discipline
 Smith v. State Bar (1984) 37 Cal.3d 17, 22-26 [206 Cal.Rptr. 545, 687 P.2d 259]
 Grossman v. State Bar (1983) 34 Cal.3d 73, 79 [192 Cal.Rptr. 397, 664 P.2d 542]
 -lack of intentional or premeditated conduct
 Schultz v. State Bar (1975) 15 Cal.3d 799, 803-804 [126 Cal.Rptr. 232, 243 P.2d 600]
 -lenient discipline imposed
 Anderson v. State Bar (1941) 17 Cal.2d 375, 378 [110 P.2d 1]
 -manic-depressive condition at time of improprieties
 McKnight v. State Bar (1991) 53 Cal.3d 1025
 -mitigation not found from mere fact that attorney did not lie
 Edmondson v. State Bar (1981) 29 Cal.3d 339, 344 [172 Cal.Rptr. 899, 625 P.2d 812]
 -no financial loss to client is asserted by attorney
 Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825, 484 P.2d 993]
 -restitution in full is of no effect when made under pressure of litigation and discipline
 In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
 Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
 -restitution works no special magic and the weight given is determined by actual attitude and financial ability of the attorney
 In re Andreani (1939) 14 Cal.2d 736, 750 [97 P.2d 456]
 -youth and inexperience not factors in favor of mitigation
 Amante v. State Bar (1990) 50 Cal.3d 247
 multiple unauthorized withdrawals
 In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
 In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
 necessity and urgent financial difficulties is not a defense to a violation
 Cane v. State Bar (1939) 14 Cal.2d 597, 601 [95 P.2d 934]
 no violation found
 -when attorney merely fails to supervise records regarding disbursement of settlement funds
 Steiner v. State Bar (1968) 68 Cal.2d 707, 714 [68 Cal.Rptr. 729, 441 P.2d 289]
 -when client instructs attorney to give money to a third person and attorney, having power of attorney from third person, deposits the money in his own account
 Russill v. State Bar (1941) 18 Cal.2d 321, 328
 -when notice to show cause does not use term "misappropriation"
 In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 office procedures
 Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]
 part of recovery allocated for hospital bills is put to attorney's personal use
 Fielding v. State Bar (1973) 9 Cal.3d 446, 450 [107 Cal.Rptr. 561, 509 P.2d 193]

CLIENTS' TRUST ACCOUNT

past conduct may be used in determining discipline

Hennessy v. State Bar (1941) 18 Cal.2d 685, 687 [117 P.2d 336]

pattern of deliberate and willful misconduct

Inniss v. State Bar (1978) 20 Cal.3d 552, 556 [143 Cal.Rptr. 408, 573 P.2d 852]

persistent refusal to account for

Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]

records and accounting problems

-balance in trust account drops below amount entrusted to attorney

Lowe v. State Bar (1953) 40 Cal.2d 564, 566

-inadequate account records evidencing a violation

Dreyfus v. State Bar (1960) 54 Cal.2d 799, 804-806 [8 Cal.Rptr. 356]

-mere fact that the balance in a trust account is below amount of deposits will support a violation

Lipson v. State Bar (1991) 53 Cal.3d 1010

Edwards v. State Bar (1990) 52 Cal.3d 28

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 474 [169 Cal.Rptr. 581, 619 P.2d 1005]

In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

-office procedures inadequate

Lipson v. State Bar (1991) 53 Cal.3d 1010

-trust account showing funds less than amount due to clients will support a violation

Black v. State Bar (1972) 7 Cal.3d 676, 691 [103 Cal.Rptr. 288, 499 P.2d 968]

-violation by establishing trust account but using as general business account

Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]

repossession proceeds converted by attorney

Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]

sanctions

-disbarment

Kaplan v. State Bar (1991) 52 Cal.3d 1067

Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]

In re Ewaniszzyk (1990) 50 Cal.3d 543 [788 P.2d 690]

Bercovich v. State Bar (1990) 50 Cal.3d 116

Walker v. State Bar (1989) 49 Cal.3d 1107

Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]

Weber v. State Bar (1988) 47 Cal.3d 492

Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]

In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]

Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]

Ambrose v. State Bar (1982) 31 Cal.3d 184, 192-196 [181 Cal.Rptr. 903, 643 P.2d 486]

Rogers v. State Bar (1980) 28 Cal.3d 654, 657-658 [170 Cal.Rptr. 482, 620 P.2d 1030]

Tardiff v. State Bar (1980) 27 Cal.3d 395, 403-405 [165 Cal.Rptr. 829, 612 P.2d 919]

Cain v. State Bar (1979) 25 Cal.3d 956, 961-962 [160 Cal.Rptr. 362, 603 P.2d 464]

Jackson v. State Bar (1979) 25 Cal.3d 398, 404-405 [158 Cal.Rptr. 869, 600 P.2d 1326]

Weir v. State Bar (1979) 23 Cal.3d 564, 574-577 [152 Cal.Rptr. 921, 591 P.2d 19]

Worth v. State Bar (1978) 22 Cal.3d 707, 710-711 [150 Cal.Rptr. 273, 586 P.2d 588]

Allen v. State Bar (1977) 20 Cal.3d 172, 179 [141 Cal.Rptr. 808, 570 P.2d 1226]

Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 86-89 [141 Cal.Rptr. 169, 569 P.2d 763]

In re Abbott (1977) 19 Cal.3d 249, 253-254 [137 Cal.Rptr. 195, 561 P.2d 285]

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 575-580 [119 Cal.Rptr. 335, 531 P.2d 1119]

In re Wright (1973) 10 Cal.3d 374, 381-382 [110 Cal.Rptr. 348, 515 P.2d 292]

Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]

Tardiff v. State Bar (1971) 3 Cal.3d 903, 908 [92 Cal.Rptr. 301, 479 P.2d 661]

Cutler v. State Bar (1969) 71 Cal.2d 241, 253-254 [78 Cal.Rptr. 172, 455 P.2d 108]

Monroe v. State Bar (1969) 70 Cal.2d 301, 309-310 [74 Cal.Rptr. 733, 450 P.2d 53]

Lefner v. State Bar (1966) 64 Cal.2d 189, 193-199 [49 Cal.Rptr. 296, 410 P.2d 832]

Hyland v. State Bar (1963) 59 Cal.2d 765, 774-775 [31 Cal.Rptr. 329, 382 P.2d 369]

Dreyfus v. State Bar (1960) 54 Cal.2d 799 [8 Cal.Rptr. 356 P.2d 213]

Resner v. State Bar (1960) 53 Cal.2d 605 [2 Cal.Rptr. 461, 349 P.2d 67]

Sturr v. State Bar (1959) 52 Cal.2d 125 [338 P.2d 897]

Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]

Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]

In re Andreani (1939) 14 Cal.2d 736 [97 P.2d 456]

Cane v. State Bar (1939) 14 Cal.2d 597, 597-601 [95 P.2d 934]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Sklar (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602

-public reproval

Vaughn v. State Bar (1972) 6 Cal.3d 847, 858-859 [100 Cal.Rptr. 713, 494 P.2d 1257]

Crooks v. State Bar (1970) 3 Cal.3d 346, 358 [90 Cal.Rptr. 600, 475 P.2d 872]

Steiner v. State Bar (1968) 68 Cal.2d 707, 712-714 [68 Cal.Rptr. 729, 441 P.2d 289]

In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753

-suspension

Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]

Snyder v. State Bar (1990) 49 Cal.3d 1302

Baker v. State Bar (1989) 49 Cal.3d 804

Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]

Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549]

Edmondson v. State Bar (1981) 29 Cal.3d 339, 343-344 [172 Cal.Rptr. 899, 625 P.2d 812]

Finch v. State Bar (1981) 28 Cal.3d 659, 665-667 [170 Cal.Rptr. 629, 621 P.2d 253]

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472-475 [169 Cal.Rptr. 581, 619 P.2d 1005]

Blair v. State Bar (1980) 27 Cal.3d 407, 411-413 [165 Cal.Rptr. 834, 612 P.2d 924]

Codiga v. State Bar (1978) 20 Cal.3d 788, 796-797 [144 Cal.Rptr. 404, 575 P.2d 1186]

Inniss v. State Bar (1978) 20 Cal.3d 552, 556-559 [143 Cal.Rptr. 408, 573 P.2d 852]

Athearn v. State Bar (1977) 20 Cal.3d 232, 237 [142 Cal.Rptr. 171, 571 P.2d 628]

Gassman v. State Bar (1976) 18 Cal.3d 125, 130-133 [132 Cal.Rptr. 675, 553 P.2d 1147]

Greenbaum v. State Bar (1976) 15 Cal.3d 893, 904-906 [126 Cal.Rptr. 785, 544 P.2d 921]

- Schultz v. State Bar (1975) 15 Cal.3d 799, 803-805 [126 Cal.Rptr. 232, 543 P.2d 600]
- Jackson v. State Bar (1975) 15 Cal.3d 372, 380-383 [124 Cal.Rptr. 185, 540 P.2d 25]
- Wells v. State Bar (1975) 15 Cal.3d 367, 371 [124 Cal.Rptr. 218, 540 P.2d 58]
- Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
- Oliver v. State Bar (1974) 12 Cal.3d 318, 321-322 [115 Cal.Rptr. 639, 525 P.2d 79]
- Brody v. State Bar (1974) 11 Cal.3d 347, 350-351 [113 Cal.Rptr. 371, 521 P.2d 107]
- Montalto v. State Bar (1974) 11 Cal.3d 231, 235-236 [113 Cal.Rptr. 97, 520 P.2d 721]
- Bradpiece v. State Bar (1974) 10 Cal.3d 742, 747-749 [111 Cal.Rptr. 905, 518 P.2d 337]
- Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
- Fielding v. State Bar (1973) 9 Cal.3d 446, 451-453 [107 Cal.Rptr. 561, 509 P.2d 193]
- Himmel v. State Bar (1973) 9 Cal.3d 16, 22-23 [106 Cal.Rptr. 638, 506 P.2d 1014]
- Mrakich v. State Bar (1973) 8 Cal.3d 896, 906-907 [106 Cal.Rptr. 497, 506 P.2d 633]
- Black v. State Bar (1972) 7 Cal.3d 676, 694 [103 Cal.Rptr. 288, 499 P.2d 968]
- Bernstein v. State Bar (1972) 6 Cal.3d 909, 918-919 [101 Cal.Rptr. 369, 495 P.2d 1289]
- Benson v. State Bar (1971) 5 Cal.3d 382, 388 [96 Cal.Rptr. 30, 486 P.2d 1230]
- Himmel v. State Bar (1971) 4 Cal.3d 786, 798-799 [94 Cal.Rptr. 825, 484 P.2d 993]
- Demain v. State Bar (1970) 3 Cal.3d 381, 387-388 [90 Cal.Rptr. 420, 475 P.2d 652]
- Walter v. State Bar (1970) 2 Cal.3d 880, 891 [87 Cal.Rptr. 833, 471 P.2d 481]
- Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
- Simmons v. State Bar (1969) 70 Cal.2d 361, 366-368 [74 Cal.Rptr. 915, 450 P.2d 291]
- Cutler v. State Bar (1967) 66 Cal.2d 861, 862-863 [59 Cal.Rptr. 425, 428 P.2d 289]
- Simmons v. State Bar (1966) 65 Cal.2d 281, 287 [54 Cal.Rptr. 97, 419 P.2d 161]
- Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
- Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
- Hatch v. State Bar (1961) 55 Cal.2d 127, 138 [9 Cal.Rptr. 808, 357 P.2d 1064]
- Burns v. State Bar (1955) 45 Cal.2d 296 [288 P.2d 514]
- Lowe v. State Bar (1953) 40 Cal.2d 564, 570-571 [254 P.2d 506]
- Copren v. State Bar (1944) 25 Cal.2d 129 [152 P.2d 729]
- Anderson v. State Bar (1941) 17 Cal.2d 375, 377-378 [110 P.2d 1]
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- suspension/probation
- Most v. State Bar (1967) 67 Cal.2d 589, [63 Cal.Rptr. 265, 432 P.2d 953]
- In re Urias (1966) 65 Cal.2d 258 [53 Cal.Rptr. 881, 418 P.2d 849]
- settlement check cashed by attorney, clients do not receive their share
- Simmons v. State Bar (1966) 65 Cal.2d 281, 286 [54 Cal.Rptr. 97, 410 P.2d 617]
- settlement of case and conversion of proceeds without client knowledge or consent
- Weir v. State Bar (1979) 23 Cal.3d 564, 573 [152 Cal.Rptr. 921, 591 P.2d 19]
- settlement proceeds never transmitted to client
- Worth v. State Bar (1978) 22 Cal.3d 707, 708-709 [150 Cal.Rptr. 273, 586 P.2d 588]
- settlement received for client is deposited in attorney's business account
- Resner v. State Bar (1960) 53 Cal.2d 605, 608 [2 Cal.Rptr. 461, 349 P.2d 67]
- third parties involved
- attorney for defendant delays in transmitting funds to plaintiff
- Kelly v. State Bar (1991) 53 Cal.3d 509
- Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
- bank not paid as requested by client
- In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- by attorney's failure to pay client's medical lien
- Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
- Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979
- In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
- In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
- In the Matter of Dyson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280
- conversion of funds belonging to others may be act of moral turpitude
- Baca v. State Bar (1990) 52 Cal.3d 294
- deliberate misuse of a client's funds to impress a prospective client warrants disbarment
- Pearlin v. State Bar (1941) 18 Cal.2d 682, 683 [117 P.2d 341]
- duty not to convert funds designated to pay prior attorney
- Baca v. State Bar (1990) 52 Cal.3d 294
- duty to not convert funds entrusted by non-client third parties
- Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
- LA 454
- estate funds are loaned out to other clients
- Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
- failure to use advanced funds to purchase hearing transcript
- In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- funds retained to pay medical liens
- In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
- succeeding attorney's duty to prior attorney
- CAL 2008-175
- third parties' lien interest on a client's settlement is converted by attorney
- Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
- unauthorized settlement of case and conversion of proceeds
- Bodisco v. State Bar (1962) 58 Cal.2d 495, 496-497 [24 Cal.Rptr. 835, 374 P.2d 803]
- to repay debt owed attorney by client
- SD 1976-5

CLIENTS' TRUST ACCOUNT

- unilateral determination of attorneys' fees
 - In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 - agreement based on fixed hourly rate but provides for possible increase found valid
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 - an attorney may not unilaterally determine fees without client knowledge or consent
 - Sternlieb v. State Bar (1990) 52 Cal.3d 317
 - Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
 - In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
LA 496 (1998)
 - client's funds deposited in attorney's personal account and used for personal benefit claimed as fees
 - Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
 - disputed fee may not be withdrawn without client consent or judicial determination
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
LA 438
 - prohibited even if attorney is entitled to reimbursement for service already rendered
 - McKnight v. State Bar (1991) 53 Cal.3d 1025
 - Bates v. State Bar (1990) 51 Cal.3d 1056
 - Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
 - In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
 - retaining funds without authority involves moral turpitude
 - Petersen v. State Bar (1943) 21 Cal.2d 866, 867-870 [136 P.2d 561]
 - supports a finding of intentional conversion
 - Himmel v. State Bar (1973) 9 Cal.3d 16, 19 [106 Cal.Rptr. 638, 506 P.2d 1014]
 - "willful" requirement
 - Brockway v. State Bar (1991) 53 Cal.3d 51
 - Dudugjian v. State Bar (1991) 52 Cal.3d 1092
 - withdrawing funds held in trust to offset a personal loan debt owed by the client to the attorney
SD 1976-6
 - withdrawing part of funds designated to pay creditor after creditor refuses payment
 - In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 652
- unilateral withholding of interest on a loan from client as security for fees improper
 - Warner v. State Bar (1983) 34 Cal.3d 36, 43 [192 Cal.Rptr. 244, 664 P.2d 148]
- violation for extended period
 - Cain v. State Bar (1979) 25 Cal.3d 956, 962 [160 Cal.Rptr. 362, 603 P.2d 464]
- willful failure to disburse client funds
 - Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
LA 484 (1995)
- withdrawal of entrusted funds for personal use
 - In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- Mishandling of client funds
 - Lawhorn v. State Bar (1987) 43 Cal.3d 1357
- DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Non-refundable retainer defined
 - Rule 3-700 (D)(2), Rules of Professional Conduct
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 at fn.4 [154 Cal.Rptr.752]
 - In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1
- Notice to client of fees collected on client's behalf
 - Browne v. State Bar (1955) 45 Cal.2d 165, 169 [287 P.2d 745]
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 259, 261
 - Rohe v. State Bar (1941) 17 Cal.2d 445, 446-450
LA 407 (1982)
- Overdraft protection
 - In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
 - CAL 2005-169
- Partner
 - liability of
 - for misappropriation
 - Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560 [83 Cal.Rptr. 194, 463 P.2d 418]
 - PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Physician's liens
 - CAL 1988-101
LA 478 (1994), LA 368 (1977), LA 357 (1976)
- Restoration of funds wrongfully withdrawn from a trust account is not "commingling" of attorney and client funds
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
 - CAL 2005-169
- Retainer
 - SF 1980-1, SF 1973-14
- Rule of Professional Conduct
 - Rule 8-101
 - [See 96 A.L.R.3d 830; 96 A.L.R.3d 739;95 A.L.R.3d 738; 94 A.L.R.3d 854; 93 A.L.R.3d 1089; 91 A.L.R.3d 977; 80 A.L.R.3d 1260; 35 A.L.R.3d 674; 17 A.L.R.3d 835; 6 A.L.R.3d 1446; 1 A.L.R.2d 1116; 63 Ops. Cal. Atty. Gen. 12 (1/10/80; No. 79-902)]
- Supervise client trust account
 - LA 488 (1996)
 - allow client to use and control trust account to commit fraud
 - Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
- Third party, receipt by attorney of funds on behalf of
 - Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]
 - Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
 - In re Marriage of Wagoner (1986) 176 Cal.App.3d 936
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

- attorney not liable to insurance company for failing to turn over portions of third-party recoveries made on behalf of clients
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- child support obligations have priority over fees on funds from liquidated assets deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
- no duty to lender, where client owed no funds to the lender
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
- Unclaimed client funds
 Code of Civil Procedure section 1518
 client cannot be located
CAL 1989-111, CAL 1975-36
 LA 441 (1987)
- Use of, and ownership of interest accrued
 property of the clients and customers whose money is deposited into trust
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
- Withdrawal of client funds to pay disputed fee
 LA 438 (1985)
- Withdrawal of unrelated funds
Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302]
- Withholding funds of client
Inniss v. State Bar (1978) 20 Cal.3d 552, 555-556 [143 Cal.Rptr. 408, 573 P.2d 852]
McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1] sanctions
 -suspension
McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1]
- Withholding of client trust funds to satisfy attorney fees incurred in prior unrelated matters
Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
 LA 496 (1998)
- CODE OF JUDICIAL ETHICS, CALIFORNIA** [The full text of the California Code of Judicial Ethics (formerly known as the California Code of Judicial Conduct) is reprinted in part IV B of this Compendium.]
- CODE OF PROFESSIONAL RESPONSIBILITY** [See American Bar Association Model Code of Professional Responsibility.]
- COLLECTIONS** [See Division of fees. Fees. Judgment.]
 Business and Professions Code section 6077.5
 Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]
- Advising creditors
 of legal action
 -offering to represent on percentage basis
 LA 122 (1939)
- Agency
 attorney operation of when acts as counsel
 LA 124 (1939)
 -as dummy corporation
 LA 124 (1939)
 -under fictitious name
 LA 124 (1939)
 -under nominal head
 LA 124 (1939)
- mailing of attorney form letter may be an Unfair Collection Practice
Masuda v. Thomas Richards & Co. (1991) 759 F.Supp. 1456
- operated by attorney's spouse
 LA 120 (1938)
- As business
 LA(I) 1971-12, LA(I) 1967-7, LA(I) 1966-11, LA(I) 1965-6, LA(I) 1965-3, LA(I) 1952-1
- Assignment of clients' claims or accounts to lawyer for
 LA 7 (1918)
- Billing service, use of
 LA 413 (1983), LA 374 (1978)
- Collection agency, use of
 LA 373 (1978)
- Collection letters
 computer print collection letters, use of
 LA 338 (1973)
- Conduct of debt collector
 Civil Code sections 1788.10 et seq.
 attorney as
 Business & Professions Code section 6077.5
 Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
- Confidences divulged in collection action
 LA 452 (1988)
- Default
 against client without consulting
 LA 174 (1950)
 notification to opposing counsel
 SD 1969-3
- Division of fees
 LA 35 (1927)
- Dual profession
 operating law practice and licensed collection agency in same office
 -cards, professional
 LA 70 (1933)
- Fair Debt Collections Practice Act (FDCPA)
 authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
 prohibition against false or misleading representations not violated by special counsel's use of Attorney General's letterhead on debt collection letters at Attorney General's direction
Sheriff v. Gillie (2016) 578 U.S. 843 [136 S.Ct. 1594]
- Federal judgment
 use of state procedure
In re Levander (9th Cir. 1999) 180 F.3d 1114
- Fee
CAL 1982-68
 client keeps
 LA(I) 1955-1
 contingent
 LA 275 (1963), LA 263 (1959), (1931) 7 LABB 13
 contingent upon
 -percentage of amount charged creditor
 LA 4 (1917)
- Investigator
 employed by attorney
 -on contingent basis
 --to collect judgments of creditors
 LA 89 (1936)
- Judgment
 judgment creditor authorized to recover attorney fees incurred in enforcing underlying judgment against sureties
Rosen v. Legacy Quest (2014) 225 Cal.App.4th 375 [170 Cal.Rptr.3d 1]
 notice of attorney's request for post judgment attorney fees must be given to former client
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]

COMMINGLING

third-party who helped judgment debtor hide assets and evade enforcement liable to judgment creditor for attorney fees

Cardinale v. Miller (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]

Law firm

accused of commingling unlawful debt collection practices in violation of FDCPA allows consumer to proceed with its' civil action against them

Mashiri v. Epstein Grinnell & Howell (9th Cir. 2017) 845 F.3d 984

Lending name of attorney to non-lawyer

LA 522 (2009)

in collection of claims

CAL 1982-68, LA 61 (1930)

lay personnel, use of

LA 338 (1973)

Letter

computerized

LA 338 (1973)

counsel for corporation writes letters for

LA(l) 1968-3

91

form letter

-signed by lawyer

LA 338 (1973)

Letterhead

attorney letterhead used

CAL 1982-68

used by client

LA(l) 1968-3

Misleading debtor by letters

LA 19 (1922)

Seek payment by

curtailing debtor's banking privileges

LA 373 (1978)

firm's letter to consumer demanding payment within 35 days of date of letter possibly violated consumer's rights under FDCPA to dispute debt within 30 days of letter's receipt

Mashiri v. Epstein Grinnell & Howell (9th Cir. 2017) 845 F.3d 984

Solicitation

by letter

-advising potential clients of claims of which unaware

--offering to represent upon

LA 122 (1939)

COMMINGLING [See Clients' trust account.]

COMMISSION

Counsel for buyer or seller receives part of broker's

SD 1992-1, LA(l) 1972-23

Estate

executor shares with lay person

-from the sale of property

LA 317 (1970)

Real estate transaction

CAL 1982-69, LA 317 (1970), SD 1992-1

COMMUNICATE WRITTEN SETTLEMENT OFFER TO CLIENT

Business and Professions Code section 6103.5

Rule of Professional Conduct 5-105 (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

COMMUNICATION

Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)

violated where city attorney communicated directly with a represented police officer in an action against the city for harassment and retaliation

City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

Rule 4.2 Communication with a represented person

Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

Business and Professions Code § 6068(m)

In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564

Upjohn v. U.S. (1981) 449 U.S. 383, 393

Sturr v. State Bar (1959) 52 Cal.2d 125, 132-133 [338 P.2d 897]

Ex parte McDonough (1915) 170 Cal. 230 [149 P. 566]

Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]

Lydykainen v. Ind. Acc. Com. (1939) 36 Cal.App.2d 298, 301 [97 P.2d 993]

McMunn v. Lehrke (1915) 29 Cal.App.298 [155 P. 473]

CAL 1965-3

LA 411 (1983)

SD 2005-1

About suit in "regular" court if small claims suit is not dropped

SD 1978-6

Advise on law

LA 350 (1975)

Advised

of possible malpractice by counsel of

LA 326 (1972)

After final decision on appeal

Carpenter v. State Bar (1930) 210 Cal. 520, 523 [292 P. 450]

After judgment

SD 1976-14

Agent of attorney, physician

City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]

Amicable solution suggested to

LA 334 (1973)

Attorney-client privilege [See Confidences of the client, privilege]

Attorney of record

McMunn v. Lehrke (1915) 29 Cal.App. 298, 308

Authorized by law

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252

authority of government prosecutors and investigators to conduct criminal investigations

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

lawyer who receives attorney-client material that was inadvertently provided by another must notify the party

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

State Compensation Insurance Fund v. WPS, Inc. (entitled to the privilege of that fact1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

CAL 2013-188, LA 531 (2019)

notice of rejection served directly on claimant's attorney is a permissible contract to Probate Code section 9250

Merrill v. Finberg (1992) 4 Cal.App.4th 1443 [6 Cal.Rptr.2d 434]

Bankruptcy trustee

CAL 1989-110

By client

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]

LA 375 (1978), LA(l) 1966-16

SD 2005-1, SD 1983-2

SF 1973-25

need not attempt to prevent client's effort to reach direct settlement with adverse party

CAL 1993-131, LA 375 (1978)

By employee of attorney

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]

- Child custody and support
 LA(l) 1958-3, SD 1972-5
- City council member
[CAL](#) 1977-43
- Civil liability
[Wilhelm v. Pray, Price, Williams & Russell](#) (1986) 186 Cal.App.3d 1324, 1333 fn. 5
- Class action
 court order prohibiting attorney for a named plaintiff in a class action from communicating with non-client class members regarding proposed class settlement was not an abuse of discretion
[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
- potential members
[Gulf Oil Company v. Bernard](#) (1981) 452 U.S. 89 [101 S.Ct. 2193]
[In re McKesson HBOC, Inc. Securities Litigation](#) (N.D. Cal. 2001) 126 F.Supp.2d 1239
[Sheller v. Superior Court](#) (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
[Best Buy Stores, L.P. v. Superior Court](#) (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
[Koo v. Rubio's Restaurants, Inc.](#) (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
[Howard Guntz Profit Sharing Plan, et al. v. Superior Court \(Greenwood\)](#) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
[Atari v. Superior Court](#) (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
 -conditional class certification triggers "no contact rule"
[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
- settlement notice to class action members
 -counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
[Martorana v. Marlin & Saltzman](#) (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
- Client negotiating directly with opposing party
[CAL](#) 1993-131, LA 375 (1978), SD 2005-1, SF(l) 1985-1
- Client of adverse party when party is counsel of said client
 LA 213 (1954)
- Communicate written settlement offer to client
 Rule 5-105, Rules of Professional Conduct
 Business and Professions Code section 6103.5
- Communication with opposing counsel through the unwitting acceptance of an ex parte "friend" request, on a social media website
 SD 2011-2
- Confidences learned cannot be unlearned
[County of Los Angeles v. Superior Court](#) (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
[Chronometrics, Inc. v. Sysgen, Inc.](#) (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]
- Consent
 implied
[CAL](#) 2011-181
- Consent of employer required
 LA 389 (1981)
 SD 2011-2
- Consultant
 communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
[County of Los Angeles v. Superior Court](#) (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- Contact adverse party through client
[Abeles v. State Bar](#) (1973) 9 Cal.3d 603, 609 [108 Cal.Rptr. 359, 510 P.2d 719]
[CAL](#) 1993-131
 SD 2005-1
- at client's direction
[Shalant v. State Bar](#) (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
 settlement effected without consent
[Turner v. State Bar](#) (1950) 36 Cal.2d 155
- Contact former expert witness of adverse party
[County of Los Angeles v. Superior Court](#) (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
- Copy of letter to adverse party sent to counsel of LA(l) 1958-3
- Copy of letter to counsel of adverse party sent to opposing party
 LA 490 (1997), LA 350 (1975), LA(l) 1958-3
- Corporation (homeowner's association) where attorney is member of association and represents plaintiffs against association
 LA 397 (1982)
- Criminal matter
[Triple A Machine Shop v. State of California](#) (1989) 213 Cal.App.3d 131
- adequacy of appointed counsel
[People v. Mendez](#) (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
[People v. Mejia](#) (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]
- defendant interviewed by prosecutor
[People v. Manson](#) (1976) 61 Cal.App.3d 102, 164 [132 Cal.Rptr. 265]
- plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney
[In the Matter of Dale](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- post-indictment
 -by government informant
[United States v. Kenny](#) (9th Cir. 1980) 645 F.2d 1323
- pre-indictment
[U.S. v. Lemonakis](#) (D.C. 1973) 485 F.2d 941, 955-956
 -grand jury witness initiated communication with Assistant U.S. Attorney
[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133
 -not at direction of U.S. attorney
[United States v. Jamil](#) (2nd Cir. 1983) 707 F.2d 638
- qui tam action
[U.S. ex rel. O'Keefe v. McDonnell Douglas Corp.](#) (8th Cir. Mo. 1999) 132 F.3d 1252
- Debt collection matters
 debtor represented by party
 Civil Code section 1788.14(c)
 false representation that person is attorney
 Civil Code section 1788.13(b)
 in name of attorney
 Civil Code section 1788.13(c)
 on stationery of lawyer
 Civil Code section 1788.13(c)
- Debtor
 SD 1978-4
- Deception in initiating communication with a represented party
 SD 2011-2
- Direct
 LA 365 (1977)
- Disqualification of attorney from the action as proper sanction
[Jorgensen v. Taco Bell](#) (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
[Continental Insurance Co. v. Superior Court](#) (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
[County of Los Angeles v. Superior Court](#) (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
[Mills Land & Water Co. v. Golden West Refining](#) (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
[Chronometrics, Inc. v. Sysgen, Inc.](#) (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]

COMMUNICATION

- choice of counsel
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
- no disqualification when opposing party is counsel of record in propria persona but has advisory counsel
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
- no disqualification where separate counsel for officer of corporation has given permission for contact and where no confidential information was disclosed
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
- other possible sanctions for violation of the rule
-court could not impose monetary sanctions
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
-court may disqualify counsel from further participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
- District attorney's authority as prosecutor to conduct criminal investigations
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
- Effect of violation of [rule](#) 4.2
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
- Effect of violation of [rule](#) 7-103
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
In re Marriage of Wickander (1986) 187 Cal.App.3d 1364
Noble v. Sears Roebuck & Co. (1973) 33 Cal.App.3d 654, 658 [109 Cal.Rptr. 269]
- Electronic communication technologies, utilization of
[CAL](#) 2020-203, OC 97-002
- Employee
Upjohn v. U.S. (1981) 449 U.S. 383, 393 [101 S.Ct. 677]
Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nev.) 2003) 338 F.3d 981
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
[CAL](#) 1991-125
LA 410 (1983), LA 389 (1981), LA 369 (1977), LA 234 (1956), LA(l) 1976-1, LA(l) 1966-6
SD 2011-2, SD 1984-5
SF 1973-4
- current director
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
- Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
LA 472 (1993), SD 2011-2
- dissident director
[CAL](#) 1991-125
- former employee
In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355, fn.7
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
- former secretary of opposing party
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443
- managing employees
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
- non-managing employee
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
LA 369 (1977)
SD 1984-5
-under ABA Model Rule 4.2
Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nev.) 2003) 338 F.3d 981
- public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
- statements of sales manager and production director could not be imputed to employer and thus neither employee was deemed to be a represented party under [rule](#) 2-100
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
- Employer in worker's compensation case
when employer is dismissed from the worker's compensation case by operation of law, whatever duties attorneys for employer's carrier owed to employer ended at that point in time, including the duty to communicate a settlement offer
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
- Employer of adverse counsel
LA 339 (1973)
- Employer of adverse party
LA 410 (1983), LA 411 (1983)
SD 2011-2
- Entrapment purposes
LA 315 (1970)
- Exclusion of information acquired by violation of [rule](#) 2-100 (former rule 7-103)
U.S. v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
LA 472 (1993)
- other possible sanctions for violation of the rule
-court could not impose monetary sanctions
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

-court may disqualify counsel from further participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Expert witness

Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]

Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]

Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]

Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]

LA 513 (2005)

communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

disqualification of counsel not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel

DeLucca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]

Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

expert witness contacting opposing party

Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537

in violation of federal discovery regulations

Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]

party moving to disqualify opposing counsel for improper contact with the moving party's expert must establish that the expert possesses confidential information materially related to the proceedings before the court

DeLucca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]

Former attorney employee

LA 389 (1981)

Former employee

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252

In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355

Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]

Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256

Bobele v. Superior Court (1988) 199 Cal.App. 708 [245 Cal.Rptr. 144]

Funding agency of adverse counsel

LA 339 (1973)

Government attorney

United States v. Ferrara (D.D.C. 1993) 847 F.Supp. 964
United States v. Lopez (9th Cir. 1993) 4 F.3d 1455

Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131 [261 Cal.Rptr.2d 493]

Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]

[CAL](#) 1996-145, [CAL](#) 1979-49

city attorney's direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100

City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

regulation which permitted government contact with employee of represented organization if that employee was not "controlling individual" was not authorized

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252

rule prohibiting ex parte communications does not bar pre-indictment discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Government official

[CAL](#) 1977-43

61 Minn. L.Rev. 1007 (1977)

Governmental unit

Cleland v. Superior Court (1942) 52 Cal.App.2d 530

[CAL](#) 1977-43, 61 Minn. L.Rev. 1007 (1977)

public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation

Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215

Implied consent

[CAL](#) 2011-181

Incapacitated lawyer

duty to communicate significant development

[CAL](#) 2021-206

Indirect

Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537

Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374, 658 P.2d 737]

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

[CAL](#) 1993-131

SD 2005-1

Induce party to change law firms

Frazier, Dame, Doherty, Parrish & Hannawalt v. Boccardo, Blum, Lull, Niland, Terlink & Bell (1977) 70 Cal.App.3d 331, 337 [138 Cal.Rptr. 670]

Insurance coverage of with defendant insured

LA 350 (1975)

Insurer of

LA 508 (2002), LA 442 (1988), SD 1978-8

insurer's investigator contacts adverse party

LA 376 (1978)

Investigator, use of to contact adverse party

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 315 (1970)

criminal investigator

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252

People v. Stevens (1990) 218 Cal.App.3d 575

People v. Sultana (1988) 204 Cal.App.3d 511

People v. Dickson (1985) 167 Cal.App.3d 1047

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

Judge [\[See](#) Judge, communication. Ex Parte Communication with Judge.]

Jury [\[See](#) Jury.]

Lineup by district attorney without notifying attorney of record

People v. Sharp (1983) 150 Cal.App.3d 13, 18 [197 Cal.Rptr. 436]

COMMUNICATION

- Matter of adverse interest, defined
Turner v. State Bar (1950) 36 Cal.2d 155, 158 [222 P.2d 857]
- Military commanding officer
SD 1978-9
- Minor client
duty to communicate in ways consistent with the minor's age, language skills, intelligence, experience, maturity, and mental condition
LA 504 (2000)
- Not a basis for imposition of civil liability in damages
Noble v. Sears, Roebuck & Co. (1973) 33 Cal.App.3d 654, 658-659 [109 Cal.Rptr. 269]
- Not applicable to witnesses in a criminal proceeding
Kain v. Municipal Court (1982) 130 Cal.App.3d 499, 503-505 [181 Cal.Rptr. 751]
grand jury witness initiated communication with Assistant U.S. Attorney
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
- Not represented by counsel
CAL 1996-145
LA 508 (2002), LA 334 (1973)
duty on attorney to be scrupulously fair in all dealings
CAL 1996-145, LA 334 (1973)
in propria persona party is attorney of record but has advisory counsel
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
instigating a conversation under false pretense
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- Officer of
LA 369 (1977)
- Party defined
Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
Mitton v. State Bar (1969) 71 Cal.2d 525, 527-534 [78 Cal.Rptr. 649, 455 P.2d 753]
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 741-742
Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
Kain v. State Bar (1982) 130 Cal.App.3d 499, 504
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 599-603 [168 Cal.Rptr. 196]
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
CAL 1996-145, LA 490 (1997)
after appeal
Carpenter v. State Bar (1930) 210 Cal. 520 [292 P. 450]
CAL 1979-49, SD 1972-5, SD 1968-2
attorney who is party may communicate on own behalf with adverse party who is represented by counsel
CAL 2009-178
exception
-public official
CAL 1977-43, SD 1978-3
insurer, even though not named a party
LA 442 (1988)
public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
sales manager and production director not managing agents, thus they were not represented parties and opposing counsel was not prohibited from interviewing them
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
- Party/attorney communicating on own behalf with a represented party
CAL 1989-110
- Physician of party
LA 490 (1997), SD 1983-9
attorney-client privilege extends to
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]
communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
ex parte communications between defendants and plaintiff's treating physician should be limited to the statutorily mandated manner
Torres v. Superior Court (1990) 221 Cal.App.3d 181 [270 Cal.Rptr. 401]
opposing
CAL 1975-33, SD 1983-9
- Physician practicing in hospital when hospital is opposing party
SD 1983-9, SF 1973-4
- Physician-patient waiver
Evidence Code section 996
- Plaintiff's physician
communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
CAL 1975-33
- Prior litigation where parties remain adverse
LA 411 (1983)
- Public body
exclusion of information acquired by violation of 2-100
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
- Purpose of the rule
Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
U.S. v. Lopez (N.D. Cal. 1991) 765 F.Supp. 1433
Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]
Mitton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
People v. Sharp (1984) 150 Cal.App.3d 13, 18
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
CAL 2011-181, CAL 1996-145, CAL 1993-131
LA 490, LA 472, LA 442
justifies an exception to prevent subornation of perjury
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

rule is not intended to prevent parties themselves from communicating about the subject matter of the representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Relating to matters previously litigated

LA 411 (1983)

Reliance on party's opinion that he has an attorney

Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220 under Insurance Code, notice of representation by counsel must be written notice

Pugh v. State Farm Insurance Co. (1991) 227 Cal.App.3d 816 [278 Cal.Rptr. 149]

Represented by counsel

Graham v. U.S. (9th Cir. 1996) 96 F.3d 446

Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 1996-145, LA 490 (1997), SD 2011-2

actual vs. constructive knowledge of representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

CAL 1996-145, LA 508 (2002)

communication by plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

communications with former wife of the adversary do not provide a basis for disqualification

Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]

may not be improper when attorney had no actual knowledge of the representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 508 (2002)

on a pending unrelated matter

SD 1978-3

on previous charges

United States v. Masullo (2nd Cir. 1973) 489 F.2d 217, 223

plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation

Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215

service of paper may be made on the court clerk when an opposing party, who resides out of the state, has appeared and has no attorney in the action or proceeding

Code of Civil Procedure section 1015

without consent of counsel

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

In re Marriage of Wickander (1986) 187 Cal.App.3d 1364 -attorney-client privileged not violated where employee informed opposing counsel that her declaration was rewritten under employer's instructions

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

-city attorney's direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100

City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

-court chooses not to speak on ethical issues

United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354

-exclusion of information obtained

United States v. Thomas (10th Cir. 1973) 474 F.2d 110, 112

-may not be improper when opposing party is counsel of record in propria persona but has advisory counsel

McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]

-permitted when a party is seeking to hire new counsel or obtain a second opinion

*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

-permitted when not representing a party in the matter for the sole purpose of advising person of the competence of representation

LA 487 (1996)

-plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

--permitted to prevent subornation of perjury

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

-standing to assert ethical violation

United States v. Partin (9th Cir. 1979) 601 F.2d 1000

-where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

Sanctions for violation

monetary sanctions

-court could not impose monetary sanctions

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

Second attorney representing client against first attorney's motion to be removed as client's attorney of record

LA 416 (1983)

Service of paper

service may be made on the court clerk when the opposing party, who resides out of state, has appeared and has not attorney in the action or proceeding

Code of Civil Procedure section 1015

where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

COMMUNICATION WITH A REPRESENTED PARTY

Settlement

LA 350 (1975), SD 1978-8

by client

LA 375 (1978), SF 1973-25

counsel fails to convey offer

LA 350 (1975)

offers which include fee-waiver provisions under fee shifting statutes

[CAL](#) 2009-176

written offer to client

[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

Social media website "friend" request to current employees of adverse party

SD 2011-2

Social relationships with opposing party by attorney

[Pepper v. Superior Court](#) (1977) 76 Cal.App.3d 252 [142 Cal.Rptr. 759]

Technology

duty to communicate significant developments includes communication of advantages and disadvantages of using technology assted review (TAR) of client documents

SD 2018-3

Third parties of debtor

Civil Code section 1788.12

Through client

[CAL](#) 1993-131, SD 2005-1, SD 1983-11

Through lay intermediaries

investigator

[Truitt v. Superior Court](#) (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 315 (1970)

"Upon a subject of controversy" element of rule 7-103, Rules of Professional Conduct construed

[Crane v. State Bar](#) (1981) 30 Cal.3d 117, 122-123 [177 Cal.Rptr. 670, 635 P.2d 163]

[Abeles v. State Bar](#) (1973) 9 Cal.3d 603, 610-611 [108 Cal.Rptr. 359, 510 P.2d 719]

[Turner v. State Bar](#) (1950) 36 Cal.2d 155 [222 P.2d 857]

[Shaeffer v. State Bar](#) (1945) 26 Cal.2d 739 [160 P.2d 825]

*[In the Matter of Twitty](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

[CAL](#) 1993-133, [CAL](#) 1979-49, LA 14 (1922), SD 1976-14

broader scope that a communication relevant to the issues in the representation, which determines admissibility at trial

SD 2011-2

social media "friend" request to current employees of adverse party

SD 2011-2

Violation of Rule of Professional Conduct is not a violation of a "court order"

[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

When client opines that he has an attorney

[Ewell v. State Bar](#) (1934) 2 Cal.2d 209, 216, 220

under Insurance Code, notice of representation by counsel must be written notice

[Pugh v. State Farm Insurance Co.](#) (1991) 227 Cal.App.3d 816

When counsel for adverse party does not respond

LA 350 (1975)

Without consent of counsel

[Levin v. State Bar](#) (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]

[Shalant v. State Bar](#) (1983) 33 Cal.3d 485 [198 Cal.Rptr. 374, 658 P.2d 737]

[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

[Bellm v. Bellia](#) (1984) 150 Cal.App.3d 1036

LA 487 (1996)

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133

where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

With the media

absolute immunity does not protect prosecutors for comments made to the media

[Milstein v. Cooley](#) (9th Cir. 2001) 257 F.3d 1004

COMMUNICATION WITH A REPRESENTED PARTY

Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 2-100, Rules of Professional Conduct (operative as of May 27, 1989)

[Rule](#) 4.2, Rules of Professional Conduct (operative as of November 1, 2018)

[Doe v. Superior Court of San Diego County](#) (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

18 A.L.R.2d 1410; 1 A.L.R.2d 1115

City attorney

direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100

[City of San Diego v. Superior Court](#) (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

Public officer, board, committee or body exception

not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation that should have been pursued in discovery

[Guthrey v. California Department of Corrections and Rehabilitation](#) (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

[U.S. v. Sierra Pacific Industries](#) (E.D. Cal. 2011) 759 F.Supp.2d 1215

COMPETENCE [See Abandonment. Attorney-client relationship. Ineffective assistance of counsel. Neglect. Professional liability. Prosecutorial misconduct. Trial conduct.]

Business and Professions Code section 6067

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

[In the Matter of Copren](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

[Calvert v. State Bar](#) (1991) 54 Cal.3d 765

[Conroy v. State Bar](#) (1991) 53 Cal.3d 495

[Martin v. State Bar](#) (1991) 52 Cal.3d 1055

[King v. State Bar](#) (1990) 52 Cal.3d 307

[Silva-Vidor v. State Bar](#) (1989) 49 Cal.3d 1071

[Davis v. State Bar](#) (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441]

[Lewis v. State Bar](#) (1981) 28 Cal.3d 683, 688 [170 Cal.Rptr. 634, 621 P.2d 258]

[Olquin v. State Bar](#) (1980) 28 Cal.3d 195, 198

[Innis v. State Bar](#) (1978) 20 Cal.3d 552, 557 [143 Cal.Rptr. 408, 573 P.2d 852]

[Ridley v. State Bar](#) (1972) 6 Cal.3d 551, 560 [99 Cal.Rptr. 873, 493 P.2d 105]

[Simmons v. State Bar](#) (1970) 2 Cal.3d 719, 729 [87 Cal.Rptr. 368, 470 P.2d 352]

[Grove v. State Bar](#) (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]

[Call v. State Bar](#) (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]

[In re O.S.](#) (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

[In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
Enriquez v. Smyth (1985) 173 Cal.App.3d 691, 696-698 [219 Cal.Rptr. 267]
[CAL](#) 2020-203, [CAL](#) 2015-193, [CAL](#) 2010-179, OC 2011-02, SF 2011-1
 Accepting legal employment without sufficient time, resources or ability to perform the services with competence
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
[CAL](#) 2014-190
 SD 2007-1
 Acquiring sufficient learning and skills includes knowing the benefits and risks associated with technology relevant to the profession
[CAL](#) 2020-203, [CAL](#) 2015-193
 Acquiring sufficient learning of governing laws is needed when a newly licensed attorney begins practice in a particular field of law
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
 Advocating civil disobedience
[CAL](#) 2003-162
 Alcohol abuse
 incapacity to attend to law practice
 -enrollment as inactive member
 Business and Professions Code section 6007 (b)
 -jurisdiction of the courts
 Business and Professions Code sections 6190-6190.6
 -unfinished client business due to
 Business and Professions Code section 6190

Lawyers Assistance Program of the State Bar of California for confidential assistance, contact:
 for information about program, contact:
 Telephone: (877) LAP 4 HELP, (877) 527-4435
 Email: LAP@calbar.ca.gov
 Website: <http://calbar.ca.gov/LAP>
 Allocation of authority
 lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal acts in manner that is professionally unreasonable
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
 Attorney is responsible for supervising work delegated to paraprofessionals
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
 Attorney prepares will and receives a substantial gift
 LA 462
 Bonus program for public agency attorneys tied to savings by agency
 SD 1997-2
 Burden of proof in malpractice action
 attorney charged with spoliation of evidence must prove that the attorney's negligence did not result in the loss of a meritorious case
Galanek v. Wismar (1998) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
 Cessation of law practice leaving unfinished client matter death
 Business and Professions Code section 6180
 disbarment
 Business and Professions Code section 6180
 inactive status
 Business and Professions Code section 6180
 jurisdiction of the courts
 Business and Professions Code sections 6180-6180.14
 resignation
 Business and Professions Code section 6180
 suspension
 Business and Professions Code section 6180
 Class action
 arm's length negotiation
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
 Client's instructions intentionally ignored
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
In the Matter of Aquiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 Collaborative family law practice
 OC 2011-01
 Communication with clients
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
Lister v. State Bar (1990) 51 Cal.3d 1117
Hartford v. State Bar (1990) 50 Cal.3d 1139
Layton v. State Bar (1990) 50 Cal.3d 889
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831

COMPETENCE

- In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
- In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
- CAL 2010-179, CAL 2003-163, LA 497 (1999), SF 2011-1 ability to communicate with non-English speaking clients
- Iturribarria v. I.N.S. (9th Cir. 2003) 321 F.3d 889
- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
- CAL 1984-77
- counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350
- Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
- identity of client confirmed through reasonable steps
- CAL 2012-184
- in collaborative family law practice, negotiation and facilitation of settlement only role of attorney, should be communicated with client
- OC 2011-01
- inattention to the needs of a client and a failure to communicate are proper grounds for discipline
- Spindell v. State Bar (1975) 13 Cal.3d 253, 260
- In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
- In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- incapacitated lawyer
- CAL 2021-206
- instructions during deposition not to answer sanctionable
- Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
- Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
- representation of a minor
- LA 504 (2000)
- successor attorney's duty to advise client of ramifications of failure to notify prior attorney of existence of settlement
- CAL 2008-175
- use of outside lawyers or outsourcing legal services
- CAL 2004-165, CAL 1994-138
- LA 518 (2006)
- SD 2007-1
- use of technology via virtual law office (VLO) may require additional reasonable steps to ensure that client comprehends legal concepts and advice given
- CAL 2012-184
- Criminal matter
- abandonment of client
- Brooks v. Yates (9th Cir. 2016) 818 F.3d 532
- Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
- In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
- In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
- appellate court has the obligation to ensure adequate representation of counsel even to the extent of removing retained counsel
- People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
- client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim
- People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]
- competent attorney for criminal defendant would have sought the opinion of a time of death expert regarding time of victim's death
- In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
- counsel was deficient in failing to investigate and present mitigating evidence at sentencing or resentencing hearing
- White v. Ryan (9th Cir. 2018) 895 F.3d 641
- defense attorney failed to present evidence of client's mental impairment prejudiced client in first degree murder trial
- Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
- defendant's attorney was ineffective for failing to file suppression motion on Miranda grounds while defendant was in custody and interrogated by police
- People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]
- defendant's attorney was not ineffective for not objecting to prosecutor's asking attorney to explain certain evidence
- Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
- failure to file timely Appellate Opening Brief (AOB)
- In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- ineffective assistance of counsel by attorney when he failed to seek psychological testing for a minor
- Weeden v. Johnson (9th Cir. 2017) 854 F.3d 1063
- ineffective assistance of counsel is presumed even if plea agreement includes appeal waivers which precludes defendant's desired appeal
- United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
- malpractice
- Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
- Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]
- Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
- Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
- Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
- Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
- legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence
- Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]
- plea agreement including appeal waivers does not change "Flores-Ortega" rule that, where counsel's deficient performance precludes defendant's desired appeal, prejudice in ineffective assistance claim is presumed
- Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
- requesting continuance, over client's objection, to competently prepare case did not violate client's right to speedy trial
- People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
- right to discharge retained counsel does not require showing of incompetence
- People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
- three strikes
- *Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
- SD 1995-1
- Declaration of fault by attorney who is not attorney of record entitled client to relief under Code of Civil Procedure section 473
- Younessi v. Woolf (2016) 244 Cal.App.4th 1137 [198 Cal.Rptr.3d 763]

Declaration of fault by foreign attorney entitled client to relief under CCP § 473

Rodriguez v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]

Declaration of fault by in-house counsel entitled client to vacation of default judgment under CCP § 473

Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]

Defense counsel

People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

People v. Saldana (1984) 157 Cal.App.3d 443, 461-462
bizarre closing argument prejudicial to criminal defendant and co-defendant

People v. Diggs (1986) 177 Cal.App.3d 958

Delay in handling of client's matter amounts to reckless incompetence

In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

Dishonesty

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner

Porter v. Ollison (9th Cir. 2010) 620 F.3d 952

Duties

Chefsky v. State Bar (1984) 36 Cal.3d 116, 120 [202 Cal.Rptr. 349]

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Duty in handling discovery of electronically stored information (ESI)

CAL 2015-193

Duty to advise client of reasonably apparent legal problems outside the scope of representation

LA 502 (1999)

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

Duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation

LA 497 (1999)

Elements of equitable tolling

Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]

legal mistake not objectively reasonable for tolling purposes

Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]

Equitable tolling of statute of limitations defined

Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]

Excessive caseload and limited resources

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

one investigator shared among 12 contract defenders

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

Failure to adequately represent client's interest in land sale
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Failure to adequately supervise

In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437

CAL 2020-203, CAL 2015-193, CAL 2010-179

LA 522 (2009)

adequate office procedures and staff training

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

attorney employed non-attorney to supervise other non-attorneys in preparing habeas corpus petitions

In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

attorney employees

Bernstein v. State Bar (1990) 50 Cal.3d 221, 231

Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

-pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

client related to ESI (electronically stored information)

CAL 2015-193, SD 2012-1

non-attorney employees

Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]

Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

-paralegal submitted incorrect address for attorney to the Bar

In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

-responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

outside lawyers or providers of outsourced legal services

CAL 2004-165

LA 518 (2006)

SD 2007-1

outside vendors related to ESI (electronically stored information)

CAL 2015-193, SD 2012-1

public defender's supervision of separate alternate public defender office

CAL 2002-158

specially appearing attorney

CAL 2004-165

COMPETENCE

- violation of attorney's oath
Business and Professions Code section 6067
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
CAL 1997-150
- Failure to advise client of other claims
Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Nichols v. Keller (1993) 15 Cal.App.4th 1672 [19 Cal.Rptr.2d 601]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
SD 2005-1
claims of prior attorney in matter
CAL 2008-175
- class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- failure to advise client of collateral penalty (deportation) is not ineffective assistance of counsel
U.S. v. Fry (9th Cir. (Nev.) 2003) 322 F.3d 1198
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
-under Penal Code section 1473.7, showed errors in information provided by counsel were damaging to his understanding of the immigration consequences of his no content plea
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
- possible adverse implications of participating in collaborative family law agreement
OC 2011-01
- Failure to advise client on immigration matter
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
attorney's incorrect advice on immigration matter resulted in alien being denied his right to appeal
Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
not shown when client signed a form with boilerplate language about immigration consequences of guilty plea
People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
- Failure to advise/misadvise about the immigration consequences of guilty plea
Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]
U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
- People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]
People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]
People v. Aguilar (2014) 227 Cal.App.4th 60 [173 Cal.Rptr.3d 473]
because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
expungement of state charges has no effect on the federal immigration consequences of a conviction of a felony
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
- Failure to appear at hearing to mitigate prejudice caused by attorney
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to argue for reversal of judgment
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
- Failure to cite case law or authorities in opposition brief
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to communicate with client before penalty phase of trial
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
- Failure to communicate status of case to client
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to conduct discovery
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to consult experts
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
- Failure to cooperate with discovery
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to deliver trust amendment to trustee before death of settlor
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- Failure to file lawsuit or negotiate a settlement
In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564
- Failure to file opposition to summary judgment motion
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
attorney's opposition to summary judgment motion was prepared poorly due to his serious illness and heavy medication, court finds excusable neglect
Minick v. City of Petaluma (2016) 3 Cal.App.5th 15 [207 Cal.Rptr.3d 350]
- Failure to file responsive pleading thereby causing harm to client
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
- Failure to file timely notice of appeal
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
- Failure to inform client of denial of habeas petition constitutes abandonment
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
- Failure to interview and call witnesses
Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083

Failure to investigate California and non-California law applicable to client's case
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Failure to investigate potential client fraud
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744

Failure to overrule criminal defendant's decision to call witness not incompetent
People v. Galan (1989) 213 Cal.App.3d 864

Failure to provide competent legal services in bankruptcy matters
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

Failure to provide competent legal services in immigration matters
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 -qualification for non-lawyer immigration consultant
People v. Salcido (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]

Failure to provide competent legal services in patent matters
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Failure to pursue breach of contract action on behalf of client
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Failure to respond to cross-complaint
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

Failure to return client's multiple telephone messages
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Failure to serve answer repeatedly and in violation of court order
Community Dental Services v. Tani (2002) 282 F.3d 1164

Failure to supervise
 client related to ESI
CAL 2015-193
 outside vendors related to ESI
CAL 2015-193
 permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

Failure to suppress evidence
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

Failure to take action to set aside default judgment
Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]
Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 369]
Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]

Failure to take steps to establish paternity
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

Failure to use reasonable skill and diligence
Sands v. State Bar (1989) 49 Cal.3d 919
Gold v. State Bar (1989) 49 Cal.3d 908
Baker v. State Bar (1989) 49 Cal.3d 804
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Franklin v. State Bar (1986) 41 Cal.3d 700

Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
Marcus v. State Bar (1980) 27 Cal.3d 199 [165 Cal.Rptr. 121, 611 P.2d 462]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Kinnamon v. Staitman & Synder (1977) 66 Cal.App.3d 893, 903 [136 Cal.Rptr. 321]
Lerette v. Dean Witter Organization, Inc. (1976) 60 Cal.App.3d 573, 577 [131 Cal.Rptr. 592]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
CAL 2020-203, CAL 2015-193, SD 2007-1
 fee dispute does not relieve counsel of duty
 LA 521 (2007)
 specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
CAL 2004-165
 will registry, attorney had duty to determine that registry protects interests of the client before registering client's identifying information
CAL 2007-173

Gross negligence
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
 violation of attorney's oath
 Business and Professions Code section 6067
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713, 494 P.2d 1257]
Demain v. State Bar (1970) 3 Cal.3d 381, 387 [90 Cal.Rptr. 420, 475 P.2d 652]
Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368, 470 P.2d 352]
Grove v. State Bar (1967) 66 Cal.2d 680 [58 Cal.Rptr. 564, 427 P.2d 164]
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
Stephens v. State Bar (1942) 19 Cal.2d 580
Waterman v. State Bar (1936) 8 Cal.2d 17, 19-20
Marsh v. State Bar (1930) 210 Cal. 303, 307
 -default judgment may be set aside when attorney is grossly negligent which resulted in the judicial system losing credibility and appearance of fairness and an innocent party suffers drastic consequences
Community Dental Services v. Tani (2002) 282 F.3d 1164

Habeas matter
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
 abandonment of a client
Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Incapacity to attend to law practice
 inactive enrollment
 Business and Professions Code section 6007

COMPETENCE

- alcohol addiction
 - Business and Professions Code section 6007(b)
- conservator appointed on account of mental condition
 - Business and Professions Code section 6007(a)
- drugs, addiction
 - Business and Professions Code section 6007(b)
- guardian appointed on account of mental condition
 - Business and Professions Code section 6007(a)
- illness
 - Business and Professions Code section 6007(b)
- incompetent, mentally
 - Business and Professions Code section 6007(a)
- insane, following judicial determination of
 - Business and Professions Code section 6007(a)
- involuntary treatment required
 - Business and Professions Code section 6007(a)
- mental illness
 - Business and Professions Code section 6007(b)
- unfinished client matters
 - alcohol, excessive use of
 - Business and Professions Code section 6190
 - drugs, excessive use of
 - Business and Professions Code section 6190
 - infirmary
 - Business and Professions Code section 6190
 - jurisdiction of the courts
 - Business and Professions Code sections 6190-6190.6
 - mental illness
 - Business and Professions Code section 6190
 - physical illness
 - Business and Professions Code section 6190
- Incompetent representation of counsel
 - basis for reversal of judgment
 - report by clerk to State Bar
 - Business and Professions Code section 6086.7
 - specially appearing attorney owes a duty of care to the litigant
 - Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Lack of zealous defense
 - a competent attorney would not have conceded the cause of death, where there were "tantalyzing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
 - Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
 - failure to investigate and introduce exculpatory evidence at trial
 - Jones v. Shinn (9th Cir. 2019) 943 F.3d 1211
 - Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
 - In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- Lack of zealous representation
 - People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- Lack time and resources to represent pro bono client
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
 - Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
 - Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 353-355
- Licensed attorneys who are not active members of the State Bar of California
 - effect on underlying matter
 - People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
 - *People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
 - People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
 - Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
 - federal courts may require membership in State Bar of California to ensure a uniform minimum level of competence for lawyers
 - Russell v. Hug (9th Cir. 2002) 275 F.3d 812
 - Limited preparation does not affect
 - LA 379 (1979)
 - Mere ignorance of law insufficient
 - Zitny v. State Bar (1966) 64 Cal.2d 787 [51 Cal.Rptr. 825, 415 P.2d 521]
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 476
 - Friday v. State Bar (1943) 23 Cal.2d 501, 505-508
 - Miscalendarng of a five-year statute of limitation period
 - In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
 - Motion for relief from mistake appropriate where attorney neglected to pay transfer of venue fees resulting in dismissal of client's matter
 - Gee v. Estate of James Charles Jewett (2016) 6 Cal.App.5th 477 [211 Cal.Rptr.3d 137]
 - Negligent legal representation by itself does not prove misconduct
 - In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
 - Negligent negotiation
 - goal of lawyer is to achieve a reasonable settlement
 - Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
 - settlements are often protected judgment calls
 - Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
 - Obligation to represent client competently not alleviated by a conflict of interest waiver
 - CAL 1989-115
 - Pro bono clients
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
 - Public defender
 - can be sued under 42 U.S.C. 1983, not as "state actor" but as administrative head of office
 - Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102
 - excessive caseload and limited resources
 - People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
 - In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 - supervision of separate alternate public defender office
 - CAL 2001-158
 - Reckless behavior by attorney
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - failure to respond to discovery requests, oppose dismissal motion, and refile case
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - Repeated failure to provide competent legal services
 - In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - Representation of a client with diminished capacity
 - CAL 2021-207

Representation of a minor client in a dependency proceeding
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
 LA 504 (2000)

Responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

Reversal of judgment in judicial proceeding based upon incompetent representation
 -report by clerk to State Bar
 Business and Professions Code section 6086.7

Right to discharge retained counsel does not require showing of incompetence
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

Sexual relations with client
Rule 3-120, Rules of Professional Conduct (operative as of September 14, 1992)
 Business and Professions Code section 6106.9 affecting representation
CAL 1987-92, OC 2003-02

Suspended attorney engaged in unlawful practice of law may not be charged with failure to act competently
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

Technology
 understanding transmittal and storage of digital information, ESI (electronically stored information)
CAL 2020-203, CAL 2015-193, SD 2012-1
 use and understanding of technology assisted review (TAR) SD 2018-3
 use and understanding of virtual law office (VLO)
CAL 2012-184

COMPLAINT

Business and Professions Code section 6043.5

Business and Professions Code section 6094

CONFIDENCES OF THE CLIENT [See Attorney-client relationship. Conflict of interest, client.]

Business and Professions Code section 6068(e)

Code of Civil Procedure section 2016.

Evidence Code section 950 et seq.

Rules 4-101 and 5-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-310(D) and 3-310, Rules of Professional Conduct (operative as of May 27, 1989)

Tomblin v. Hill (1929) 206 Cal. 689, 693-694

Matter of Danford (1910) 157 Cal. 425, 429 [108 P.322]

Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 28 [32 Cal.Rptr. 188]

CAL 2019-197

LA 506 (2001), LA 403 (1982), LA 389 (1981)

Arbitration agreements

confidentiality provision within law firm employment agreement

Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066

Assertion of attorney-client privilege

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

In re Polos (1984) 154 Cal.App.3d 448, 457

Attorney as partner or employee of two law firms

LA 511 (2003)

Attorney may make disclosures of client confidences to the extent relevant in determining malpractice

CAL 2019-197

Attorney opinion does not reveal any protected information

People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]

*People v. Bolden (1983) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

Attorney-client disagreement as to claim or defense

In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]

Attorney-client privilege, existence of

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317

Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 627

Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 10]

People v. Kor (1954) 129 Cal.App.2d 436 [277 P.2d 94]

CAL 2016-195, SD 2006-1

between firm attorney and in-house counsel

CAL 2019-197

court has obligation to rule on claim of privilege regarding documents seized from attorneys whether or not the attorneys are suspected of criminal conduct

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

does not extend to employee's personal claim of attorney-client privilege to protect his communications with corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

does not extend to otherwise unprivileged subject matter that has been communicated to attorney

2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

SD 2006-1

dual purpose communication

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

extends to communications between firm attorney and in-house counsel related to dispute with current client

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

in camera

-determination of issue of privilege

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

--court may not review the content of a communication to determine whether it is privileged

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

in camera review of communications to determine privilege

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

CONFIDENCES OF THE CLIENT

- in identifying the “real client” for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
- U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- not limited to litigation communications
- Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
- McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
- survives client’s death
- Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- survives corporate merger
- Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
- U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- Attorney-client privilege, scope
- People v. Canfield (1979) 12 Cal.3d 699, 705 [117 Cal.Rptr. 81, 527 P.2d 633]
- CAL 2016-195
LA 519 (2006)
SF 2014-1
- broader than Fifth Amendment’s protection in a federal investigation
- Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
- confidential communications of documents that are available to the public and information that may be known to others
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- CAL 2016-195
- court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
- Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
- court may not require disclosure of information to rule on claim of privilege
- DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- does not ordinarily protect the identity of the client
- U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
- People v. Chapman (1984) 36 Cal.3d 98, 110
- does not require DOJ to release certain sections of USA Book due to attorney work product exemption under Freedom of Information Act
- American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
- extends to all communication relating to a client’s matter or interests among and between multiple attorneys who are representing client
- Fireman’s Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
- extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city
- City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
- identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
- Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- in camera review of communications to determine privilege
- DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
- OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- may apply to preliminary questionnaire
- Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
- no California authority allows an attorney to disclose attorney-client communications or confidential information in defense of a lawsuit by a third party
- LA 519 (2006)
- not limited to litigation communications
- STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
- Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- report prepared by police officers in the performance of their duties are public record and are not privileged
- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- Sixth Amendment’s Confrontation Clause vs. attorney-client privilege
- Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
- People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]
- social media page
- LA 529 (2017), SD 2011-2
- source of funds in client trust account
- SF 1974-3
- tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy
- Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
- use of courtroom to eavesdrop on confidential attorney-client communications
- dismissal of criminal complaint based on government’s use of law enforcement agents to eavesdrop on confidential attorney-client communications was not an appropriate remedy
- People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
- Attorney-client relationship, existence of
- Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
- Arden v. State Bar (1959) 52 Cal.2d 310, 315 [341 P.2d 6]
- People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
- Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
- Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 10]
- between firm attorney and in-house counsel
- Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
- Attorney-inmate consultation
- People v. Torres (1990) 218 Cal.App.3d 700 [267 Cal.Rptr. 213]
- Attorney-inmate letters
- People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]
- In re Jordan (1974) 12 Cal.3d 575 [116 Cal.Rptr. 371]
- In re Jordan (1972) 7 Cal.3d 930 [103 Cal.Rptr. 849]
- In re Gonzales (1989) 212 Cal.App.3d 459
- Attorney’s affirmative acts which further unlawful client conduct not subject to duty to maintain confidences
- In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

Bankruptcy proceedings

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]

LA 452

attorney cannot use confidences of former client to challenge client's discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258]

trustee of a corporation has the power to waive the corporation's attorney-client privilege with respect to pre-bankruptcy communications

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

Billing information

United States v. Amlani (9th Cir. 1999) 169 F.3d 1189

CAL 1971-25, LA 456, SF 1984-1

Business checks payable to a client or to others on the client's behalf may not be privileged

Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

Child dependency proceedings

duty to follow a minor client's instruction not to disclose confidential information

LA 504 (2000)

factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charlis C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

"Chinese wall"

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

People v. Christian (1994) 41 Cal.App.4th 986

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]

Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]

Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]

Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]

CAL 2002-158, CAL 1998-152

Client cannot be located

CAL 1989-111

Client name protected by privilege when disclosure of client's name might implicate client's rights of privacy

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Client name protected by privilege when disclosure of client's name might subject client to investigation for civil or criminal liability

Hays v. Wood (1979) 25 Cal.3d 772

People v. Chapman (1984) 36 Cal.3d 98, 110

Client need not show actual disclosure

Woods v. Superior Court (1983) 149 Cal.App.3d 931

Client to entertainment industry

LA 409 (1983)

Client trust fund records may be disclosed for good cause by State Bar for attorney disciplinary proceedings

Doyle v. State Bar (1982) 32 Cal.3d 12

In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535

Client's confidence

duty of lawyer to maintain inviolate

Business and Professions Code section 6068(e)

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

CAL 2016-195

LA 422 (1983)

Client's identity covered by attorney-client privilege

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060

In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317

Dole v. Milonas (9th Cir. 1989) 889 F.2d 885

Baird v. Koerner (9th Cir. 1960) 279 F.2d 623

Hays v. Wood (1979) 25 Cal.3d 772 [160 Cal.Rptr. 102]

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Rosso, Johnson et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]

disclosure when doing conflicts check

CAL 2011-182

Co-defendants, representation of

People v. Kerfoot (1960) 184 Cal.App.2d 622

Communication by client

Upjohn v. U.S. (1983) 449 U.S. 383, 393

LA 417 (1983)

by letter

-disclosing violation of probation by leaving jurisdiction

LA 82 (1935)

Communication with client required under Probate Code section 21350, must be confidential

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Communications made during confidential mediation cannot be disclosed without express waiver of parties

Eisendrath v. Superior Court (2003) 109 Cal.App.4th 351 [134 Cal.Rptr.2d 716]

Communications which are privileged

exceptions

-billing statements

--attorney fee totals in legal matters that concluded long ago

Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

--Public Records Act disclosure

Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

-protects the confidentiality of invoices for work in pending and active legal matters

Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

Compelled disclosure of client's identity

Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060

In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317

United States v. Hirsch (9th Cir. 1986) 803 F.2d 493, 496, 497

Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 635

CONFIDENCES OF THE CLIENT

- Rosso, Johnson, et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]
good faith requirement
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
not required where putative class members' had right to privacy when they responded to neutral letter from plaintiff's counsel
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- Compelling testimony against client
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Michaelson (9th Cir. 1975) 511 F.2d 882, 892
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 628-635
McKnew v. Superior Court (1943) 23 Cal.2d 58, 61-62 [142 P.2d 1]
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93 [119 P.2d 134]
Ex parte McDonough (1915) 170 Cal. 230, 233 [149 P. 566]
People v. Johnson (1968) 258 Cal.App.2d 705, 710
Stearns v. Los Angeles City School Dist. (1966) 244 Cal.App.2d 696, 723 [53 Cal.Rptr. 482]
Hutson v. Superior Court (1962) 203 Cal.App.2d 687 [21 Cal.Rptr. 753]
People v. Morgan (1956) 140 Cal.App.2d 796, 803-804 [296 P.2d 75]
- Confidences and secrets
Dixon v. State Bar (1982) 32 Cal.3d 728
Earl Schieb, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 286 [301 P.2d 10]
Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]
In re Soale (1916) 31 Cal.App. 144, 152 [159 P. 1065]
LA 525 (2012), LA 493 (1998)
[CAL](#) 2016-195
SD 2008-1
SF 2014-1
- acquisition of
-telephone "hotline" taking legal inquiries from callers
LA 449 (1988)
- compelled testimony against client
United States v. Bank of California (N.D. Cal. 1976) 424 F.Supp. 220, 225
In re Navarra (1979) 93 Cal.App.3d 325 [155 Cal.Rptr. 522]
- conflict of interests
Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]
- disclosure of clients, public officials
Rule 7-103, Rules of Professional Conduct
Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]
- duty to follow a minor client's instruction not to disclose confidential information
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
LA 504 (2000)
-minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- embarrassing facts and allegations
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195
- may be disclosed in preliminary questionnaire
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
- presumption of shared confidences in a law firm
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- standards of maintaining
LA 500 (1999)
- Confidence of client in attorney
[CAL](#) 1987-93, [CAL](#) 1984-83
- Confidential communication
defined
Evidence Code section 952
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Aerojet-General Corp v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
[CAL](#) 2016-195, [CAL](#) 2013-188, [CAL](#) 2010-179, [CAL](#) 1993-133, [CAL](#) 1987-93, [CAL](#) 1987-92, [CAL](#) 1981-58, [CAL](#) 1980-52
LA 531 (2019), LA 529 (2017), LA 452 (1988), LA 400 (1982), LA 386 (1981)
- generally
Evidence Code sections 950-962
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195, [CAL](#) 1987-93, [CAL](#) 1987-92, [CAL](#) 1981-58, [CAL](#) 1980-52
LA 529 (2017), LA 452 (1988), LA 400 (1982), LA 386 (1981)
- Confidential information
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp 495, 500
In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30]
Maxwell v. Superior Court (1982) 30 Cal.3d 606, 631 [180 Cal.Rptr. 177]
People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 156 [172 Cal.Rptr. 478]
Barber v. Municipal Court (1979) 24 Cal.3d 742, 752 [157 Cal.Rptr. 658]
In re Jordan (1974) 12 Cal.3d 575, 579-580 [116 Cal.Rptr. 371]
In re Jordan (1972) 7 Cal.3d 930, 941 [103 Cal.Rptr. 849]
Arden v. State Bar (1959) 52 Cal.2d 310, 320 [341 P.2d 6]
People v. Lanigan (1943) 22 Cal.2d 569, 576 [140 P.2d 24]
Galbraith v. State Bar (1933) 218 Cal. 329, 333 [23 P.2d 291]
Anderson v. Eaton (1930) 211 Cal. 113, 116-117 [293 P. 788]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573 [205 Cal.Rptr. 605]

People v. Johnson (1980) 105 Cal.App.3d 884, 890 [164 Cal.Rptr. 746]
Glade v. Superior Court (1978) 76 Cal.App.3d 738, 743 [143 Cal.Rptr. 119]
Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619 [120 Cal.Rptr. 253]
Kraus v. Davis (1970) 6 Cal.App.3d 484, 490
Grove v. Grove Value & Regulator Co. (1963) 213 Cal.App.2d 46, 652 [29 Cal.Rptr. 150]
DeLong v. Miller (1955) 133 Cal.App.2d 175, 178
 62 Ops. Cal. Atty. Gen. 546, 552 (10/5/79; No. 79-622)
 60 Ops. Cal. Atty. Gen. 206, 212 (7/7/77; No. CV 76-14)
 CAL 2016-195
 LA 529 (2017), LA 528 (2017), LA 525 (2012), LA 519 (2006), LA 417 (1983)
 SD 2011-1, SD 2006-1
 SF 2014-1
 acquisition of
 -by unsolicited email from prospective client
 SD 2006-1
 -telephone "hotline" taking legal inquiries from callers
 LA 449 (1988)
 advanced consent to disclosure
 -client with diminished capacity
 CAL 2021-207
 attorney's possible exposure to client's formulation of policy or strategy
 Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
 Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
 Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
 Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
 H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445, 1455
 OC 2012-1
 communications between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
 Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 defined
 Evidence Code 952
 Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
 documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
 Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 dual profession
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 CAL 1999-154
 duty to follow a minor client's instruction not to disclose confidential information
 LA 504 (2000)
 email
 -from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
 Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]

embarrassing facts and allegations
 In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 CAL 2016-195
 material to current representation
 Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 presumption of shared confidences in a law firm
 -rebuttable
 County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 storage in the "cloud"
 CAL 2012-184
 use of, to detriment of former client
 Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
 Conservatorship proceedings
 attorney initiated conservatorship proceedings, absent client consent
 CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
 Contract attorney or providers of outsourced legal services, use of
 CAL 2004-165, LA 518 (2006), SD 2007-1
 Corporation enjoys attorney-client privilege
 United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
 United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
 Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
 Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
 La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
 Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 McKesson HBOC, Inc. v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
 Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
 Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
 Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198 LA 519 (2006)
 bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 director is not entitled to inspect general corporate documents that were generated in defense of a lawsuit that director filed against the corporation
 Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
 director who filed a lawsuit against corporation may not swap his "shareholder's hat" for his "director's hat" and claim an absolute right to access all corporate documents on the grounds that his action made him the corporation's adversary
 Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
 employee not entitled to personal claim of attorney-client privilege to protect his communications with corporate counsel
 U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 merger
 -authority to assert (or waive) attorney-client privilege passes to new management of corporation
 Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]
 privilege ends when original holder dies and upon personal representative's discharge, unless there is a corporation or other organization that is a successor in interest
 HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

CONFIDENCES OF THE CLIENT

- shareholder status does not in and of itself entitle an individual to unfettered access to corporate confidences and secrets
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 621 [120 Cal.Rptr. 253]
- shareholder's derivative action against corporation does not entitle shareholders to attorney-client privilege information
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- statements made by corporate officer with understanding that statements would be disclosed could be claimed as privileged
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- survives corporate merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- Court order to produce privileged material
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
- compliance with court order does not moot further appeals claiming that the attorney-client privilege applies
Church of Scientology v. United States (1992) 504 U.S. 940 [112 S.Ct. 2273]
- court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
- court may require disclosure of information to rule on claim of privilege
Evidence Code section 915
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
- as pertaining to documents covered by attorney-client privilege, Workers Compensation Appeals Board could not require in camera inspection by special mater in order to determine privilege
The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]
- in camera review of communications to determine privilege
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- opinion letter by outside counsel to corporate counsel covered by attorney-client privilege and court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- court order requiring attorney to provide documents in response to subpoenas in regards to collecting on judgment are appealable under CCP § 904.1
Macaluso v. Superior Court (2013) 219 Cal.App.4th 1042 [162 Cal.Rptr.3d 318]
- disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
- district court granted IRS's petition to enforce summons on tax documents based on "foregone conclusion" exception to Fifth Amendment
U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 704 F.3d 1197
- federal court in camera review
U.S. v. Zolin (1989) 491 U.S. 554 [109 S.Ct. 2619]
In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826
In re Grand Jury Investigation (9th Cir. 1992) 974 F.2d 1068
- distinguished from application of CA state law
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination
Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]
- law office property seized by law enforcement officers protected until trial court reviews all sealed documents
Geilim v. Superior Court (1991) 234 Cal.App.3d 166
- subpoena duces tecum which is overbroad and reaches materials covered by the attorney-client privilege is invalid
In re Grand Jury Subpoena Issue to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
- test validity of court order
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
- trial court erred in finding that privilege was waived by disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- Criminal case reciprocal discovery under the Crime Victim's Justice Reform Act upheld despite alleged interference with attorney work product privilege
Izazaga v. Superior Court (1991) 54 Cal.3d 356
- Cross examination of former client
Hutson v. Superior Court (1962) 203 Cal.App.2d 687, 691
CAL 1980-52
- Cumis counsel
Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277
McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]

attorney-client relationship between independent Cumis counsel and carrier not created by § 2860

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]

compared to "monitoring counsel"

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

duty to disclose to insurer unprivileged information concerning insured's control over the litigation
 LA 464 (1991)

insured and independent Cumis counsel retain right to privately communicate and to shield those communications from insurance carrier

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574, 576, n. 1

Data breach

CAL 2020-203

Deceased clients' confidences

Evidence Code section 960

LA 491 (1997), LA 414 (1983)

disclosure of by court, by personal representative

Fletcher v. Alameda County Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]

People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]

Paley v. Superior Court (1955) 137 Cal.App.2d 450

federal investigation

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

privilege transfers to personal representative once client dies

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

Defined

Evidence Code section 952

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]

Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996

In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1200

Barbara A. v. John G. (1983) 145 Cal.App.3d 369, 383-384 [193 Cal.Rptr. 442]

CAL 2016-195, CAL 2013-188, CAL 2010-179, CAL 1996-146, CAL 1993-133, CAL 1987-93, CAL 1987-92, CAL 1981-58, CAL 1980-52

LA 529 (2017), LA 500 (1999), LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1981), SD 1996-1, OC 97-002

perjury of non-client witness

CAL 2019-200

Disclosure

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

In re Ochse (1951) 38 Cal.2d 230, 231 [238 P.2d 561]

Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]

Commercial Standard Title Co. v. Superior Ct. (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]

CAL 2016-195, CAL 2012-183

LA 519 (2006), LA 498 (1999), LA 400 (1982), LA 396 (1982), LA 394 (1982), LA 389 (1981), SD 2008-1

attorney seeking legal advice for self in wrongful termination action, but not permitted to disclose publically

CAL 2012-183

before grand jury

In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554

by attorney

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

SD 2008-1

-responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client

LA 525 (2012), SF 2014-1

-social media

LA 529 (2017)

by client

-responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client

LA 525 (2012), SF 2014-1

by corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

-criminal record of director to other directors

LA(I) 1965-14

-suspended status of corporation to court

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
 LA 408 (1982)

-unlawful acts by founder and consultant of company

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

-unlawful acts by officers, directors, or executives

LA 353 (1976)

by corporate employees

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

by corporate officer

-to attorney for the purpose of disclosure to outside auditors is not privileged

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

by legal services program to researcher

LA 378 (1978)

by personal representative

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

People v. Pena (1984) 151 Cal.App.3d 462, 480-481

by salaried employee who is a lawyer assigned to represent customers of the employer

LA 510 (2003)

city's sunshine ordinance invalid to the extent it required disclosure of attorney-client privilege information

St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

CONFIDENCES OF THE CLIENT

- class action, identity of putative class members' identity would violate their right to privacy
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- client engaged in unlawful activity
U.S. v. Chen (9th Cir. 1996) 99 F.3d 1495
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
CAL 1996-146, CAL 1986-89
LA 466 (1991), LA 422 (1983), LA 329 (1972), LA 305 (1968), LA 267 (1960)
- client had no action against defendant
LA 271 (1962)
- client name [See Confidences of the client, client name.]
- client trust account information
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
- client, officer of corporation, discloses sexual harassment of employee of corporation, at time that attorney also represents the corporation
CAL 2003-163
- client/plaintiff overpaid by defendant under settlement agreement
LA 520 (2007)
- client's civil fraud
CAL 1996-146
LA 417 (1983), LA 386 (1980)
- client's fiduciary breach
CAL 1988-96
SD 1990-2, SD 1983-10
- client's prior criminal conviction
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 1986-87
- client's unauthorized practice of law
LA 436 (1985)
- collaborative family law practice, sharing of information without formal discovery requests
OC 2011-01
- collection action against client
LA 452 (1988)
- compelled disclosure
-court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
-disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
-district court granted IRS's petition to enforce summons on tax documents based on "foregone conclusion" exception to Fifth Amendment
U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 7104 F.3d 1197
-no waiver of attorney-client privilege where defendant had previously produced privileged documents to federal government during regulatory and criminal investigations
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
-trust may not allow a former trustee to withhold from a successor trustee all communications between that former trustee and the trust's legal counsel
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
- consent by client
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
CAL 2010-179, LA 519 (2006)
conservatorship proceedings
CAL 1989-112, LA 450 (1988), OR, 95-002, SD 1978-1, SF 1999-2
consultation with an independent attorney regarding the client's case may be permitted
SD 1996-1
counsel for social welfare agency in reports to agency
LA 259 (1959), LA 254 (1958)
death of client
LA 300 (1967)
detrimental to client
LA 436 (1985)
divorce fraud
SF 1977-2
electronic communication technologies, utilization of
OC 97-002
email
-from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
escrow company, of client billings
CAL 2002-159
expert opinion to third parties
CAL 1981-58
-minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
expert witness is former client of attorney
LA 513 (2005)
false accounting by client
SD 1990-2, SD 1983-10
false filing of bankruptcy petition
LA 422 (1983)
former client's perjury in continuing case
LA 386 (1977)
former client's threat of violence disclosed to intended victims
LA(I) 1947-2
future crime by client
Evidence Code section 956.5
U.S. v. Alexander (9th Cir.(Mont.) 2002) 287 F.3d 811
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
CAL 1988-96
LA 463 (1990), LA 417 (1983), LA 414 (1983)
SD 1990-1
government use of testimony from a defendant's bankruptcy lawyer to show client defied lawyer's advice
U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
identity of client
Rule 7-105(2), Rules of Professional Conduct
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
in camera
-as means of informing the court as to the basis of motion for withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
CAL 2015-192
-basis of motion for withdrawal
LA 498 (1999)
-determination of issue of privilege
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

- OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- employer could not be required to make in camera disclosure of opinion letter for ruling on claim of privilege
 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - in camera evidentiary hearings order to determine whether a joint defense agreement implicitly ended at some point
 - U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
 - in camera review not a prerequisite to trial court's determination that the documents were privileged
 - Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - of possible client perjury
 - People v. Brown (1988) 203 Cal.App.3d 1335
 - proper to review challenge to search warrant obtained using information disclosed by defendants' attorney
 - People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 - while trial court may not order disclosure, holder of privilege may request in camera review to aid trial court's determination
 - League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
- in child custody proceeding
- conflict between client and interests of child
 - CAL 1976-37
 - duty to follow a minor client's instruction not to disclose confidential information
 - LA 504 (2000)
- in questionnaire
- Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
- inadvertent
- K.L. Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
- Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
- Samuels v. Mitchell (1994) 155 F.R.D. 195
- Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
- McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
- DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
- Aeroflot-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
- CAL 2020-203, CAL 2013-188, CAL 2010-179
- LA 531 (2019), SD 1987-3
- arbitrator's award of sanctions proper for mishandling of inadvertently received privileged documents
 - Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
 - city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
 - Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
 - conversation between attorney and attorney's investigator inadvertently taped by police
 - People v. Benally (1989) 208 Cal.App.3d 900
 - documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
 - Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - excessive review of privileged documents, received improperly, resulted in disqualification
 - Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
 - Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
 - no waiver of attorney-client privilege where defendant had previously produced privileged documents to federal government during regulatory and criminal investigations
 - Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
 - protective order may be necessary to prevent inadvertent disclosure of client confidences when dealing with large volume of digitally stored information
 - SD 2012-1
 - third party disclosure
 - DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- incompetent client
- LA 229 (1955)
- indigent relative of client's is not indigent
- LA 264 (1959)
- inference that attorney used confidential information, acquired during the representation, against the former client in attempting to defeat the same project that the attorney had represented the client in promoting, establishes minimal merit within the meaning of the anti-SLAPP statute (C.C.P. § 425.16)
- Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
- insurance fraud
- LA 329 (1972)
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
- Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- mediator may not report sanctionable conduct of parties to court
- Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
- no disclosure between public defender's office and alternative public defender
- CAL 2002-158
- not permitted to reveal publically in attorney's own action for wrongful termination
- CAL 2012-183
- of assets not disclosed
- LA 159 (1945), LA(I) 1976-4, LA(I) 1954-4
- of child abuse
- LA 504 (2000)
- of confidences learned by attorney acting in dual capacity of real estate broker to client
- LA 413 (1983)
- of confidential settlement agreement
- In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- LA 512 (2004)
- of conflict between attorney and minor client
- LA 504 (2000)
- of deceased client's demand of fraudulent accounting
- LA 267 (1960)
- of employer's secrets when attorney represents employee-alien seeking permanent status under a labor certification preference visa
- LA 465 (1991)
- of estate fraud
- LA 259 (1959)
- of false medical billing
- LA 498 (1999)

CONFIDENCES OF THE CLIENT

- of fees paid to IRS
 - SF 1975-5
- of former client
 - [CAL](#) 1992-126, [CAL](#) 1988-96, [CAL](#) 1980-52
 - LA 271 (1962)
 - threats of violence communicated to lawyer
 - [U.S. v. Alexander](#) (9th Cir. (Mont.) 2002) 287 F.3d 811
 - [People v. Dang](#) (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
 - LA(l) 1947-2
 - to present counsel
 - LA(l) 1962-2
- of fraudulent act
 - against a third party
 - LA 389 (1982)
 - by client
 - [CAL](#) 1996-146, [CAL](#) 1988-96
 - LA 417 (1983), LA 329 (1972)
 - of third party regarding client
 - LA 422 (1984)
- of legal aid recipient to governing authority
 - LA 358 (1976)
- of refusal to make payments to escrow fund to research project
 - LA 378 (1978)
- of settlement
 - to client's prior attorney
 - [CAL](#) 2008-175
- of trust fund records
 - [Doyle v. State Bar](#) (1982) 32 Cal.3d 12
 - [In the Matter of Member W](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
- of whereabouts
 - of military deserter
 - LA(l) 1956-1
 - to enable service of process
 - fugitive's
 - LA(l) 1931-2
 - to public health department
 - LA(l) 1956-4
 - to tax board
 - LA 177 (1950)
- perjured testimony by client
 - [Nix v. Whiteside](#) (1986) 475 U.S. 157 [106 S.Ct. 988]
 - [People v. Bolton](#) (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 - [People v. Brown](#) (1988) 203 Cal.App.3d 1335
 - [CAL](#) 1983-74
 - LA 386 (1981), LA 305 (1968)
 - OC 2003-01
- perjury of non-party witness
 - SD 1983-8
- "Pritchess" motion
 - [Williams v. City of Anaheim](#) (2006) 140 Cal.App.4th 1422 [45 Cal.Rptr.3d 452]
- Public Records Act
 - [National Conference of Black Mayors v. Chico Community Publishing, Inc.](#) (2018) 25 Cal.App.5th 570 [236 Cal.Rptr.3d 1]
 - attorney-client privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance
 - [St. Croix v. Superior Court \(City and County of San Francisco\)](#) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
 - city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
 - [Ardon v. City of Los Angeles](#) (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
- executive communications made during the decision making process are protected from disclosure by the deliberative process privilege
 - [Labor & Workforce Development Agency v. Superior Court](#) (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]
- pursuant to search warrant
 - [Green & Shinee v. Superior Court](#) (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- regarding breach of attorney-client duty asserted by former client
 - Evidence Code section 958
 - LA 396 (1982)
 - evidence code exception limited to claims in the context of a formal legal proceeding
 - SF 2014-1
- sale of law practice
 - LA 361 (1976)
- securities fraud
 - LA 353 (1976)
- silence on attorney's part potentially criminal
 - LA 329 (1972)
- Sixth Amendment's Confrontation Clause vs. attorney-client privilege
 - defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination
 - [Murdoch v. Castro](#) (9th Cir. 2010) 609 F.3d 983
- specially appearing attorneys may receive client confidences
 - [CAL](#) 2004-165
- testimony by former co-defendant, called as the prosecution's key witness, impairs defense counsel's ability to cross-examine his former client regarding matters discussed in confidence during pre-trial joint defense meeting
 - [United States v. Henke](#) (9th Cir. 2000) 222 F.3d 633
- to administrative agency
 - LA 435 (1985), LA 177 (1950), LA(l) 1956-4
- to another attorney regarding legal opinion of ongoing case is protected confidential information
 - [Fireman's Fund Insurance Co. v. Superior Court](#) (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
- to bail bondsman
 - [In re Young](#) (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
- to Bar Examiners regarding name and activities of ex-client
 - LA 400 (1982)
- to charity regarding statistical information on clients referred to attorney by charity
 - LA 403 (1982)
- to client
 - attorney married to bailiff
 - [CAL](#) 1987-93
 - attorney married to court reporter
 - [CAL](#) 1987-93
 - witness is former colleague of attorney
 - [CAL](#) 1987-93
- to client's creditor
 - LA(l) 1954-4
- to client's prior attorney
 - existence and amount of settlement
 - [CAL](#) 2008-175
- to co-counsel
 - SF 2011-1
- to collect fee from former client/debtor in bankruptcy proceedings
 - LA 452
- to data processing firm
 - [CAL](#) 1971-25
 - LA 423 (1983), LA 374 (1978)

to Internal Revenue Service
 -any person engaged in a trade or business must report to the IRS the receipt in any year of \$10,000 or more in cash payments from any one person
 I.R.C. sec. 6050(l)
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

to law enforcement agents
 -intentionally placed to eavesdrop on privileged attorney-client communications
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

to legal aid society's Board of Directors
 LA 358 (1976)

to opposing counsel and to the court
 -law firm representing corporation has duty to disclose client's suspended status
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

to own counsel
 -attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
 -former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
 CAL 2012-183
 LA(l) 1961-3
 SD 2008-1
 -parties may disclose to their respective counsel documents containing potentially confidential or privileged information of third party clients
Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]

to police
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

to prosecutor pursuant to a search warrant
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

to protect self
 -in tax audit
 LA(l) 1974-12

to third parties reasonably necessary to carry out the representation
California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]
 -common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
 -public relations consultant was not someone to whom disclosure was reasonably necessary to accomplish the purpose for which client retained attorney
Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]

to third party who will fund litigation
 LA 500 (1999)

to third party who will pay client's legal fees
 LA 456

violation of court order by third party
 LA 394 (1982)

when known to others
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 CAL 2016-195, CAL 1981-58
 LA(l) 1971-3

where attorney believes innocent person wrongly convicted of felony
 LA 389 (1981)

will
 -contents after incompetency of client
 LA 229 (1955)

will depository, Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent
 CAL 2007-173

will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests
 CAL 2007-173

withdrawal from case by attorney at sentencing phase
People v. McLeod (1989) 210 Cal.App.3d 585
 CAL 1983-74

witness perjury
 CAL 2019-200

Discovery
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]
Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 CAL 1993-133
 LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980)
 attorney at a minimum, must have a basic understanding of and facility with, issues relating to e-discovery or seek expert assistance
 CAL 2015-193

documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]

extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

in enforcing judgment, creditor may not ask for information from other party's attorney except regarding money owed to them
Fox Johns Lazar Pekin & Wexler, APC, et al., v. Superior Court (2013) 219 Cal.App.4th 1210 [162 Cal.Rptr.3d 571]

CONFIDENCES OF THE CLIENT

- judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination
Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]
- not limited to proceedings at which testimony may be compelled by law
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- where third party funds lawsuit in exchange for interest in proceeds
LA 500 (1999)
- Dismissal of an action
on basis that attorney-party's due process right to present a claim or defense is compromised by inability to present confidential information
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- Disqualification
abuse of discretion not found where separate attorney for directors of corporation gave permission for adverse counsel's communication with directors and no confidential information disclosed
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
- actual possession need not be proven-test
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Civil Service Comm. v. Superior Court (1985) 163 Cal.Spp.3d 70 [209 Cal.Rptr. 159]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
- attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp.908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that they attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- because of possibility of breach
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- choice of counsel
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
- defense counsel disqualified when former co-defendant is called as the prosecution's key witness and counsel's ability to cross-examine former client is impaired
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- marital relationship does not create assumption that lawyers violate duty of confidentiality
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
- no automatic vicarious disqualification of law firm when tainted attorney leaves the firm and there's evidence that no one other than the departed attorney had any dealings with the client or obtained confidential information
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
- no conflict of interest found where former member of public defender's office represented witness in current matter where defendant was represented by another member of public defender's office and where office received no confidential information of witness
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
- not automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
- not required when based on counsel's alleged familiarity with claims procedures from a prior representation of the moving party
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- not required where attorney who handled adverse party's prior matter has left firm and there is no evidence that confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
- not required where defendants had common interests and shared information
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
- not required where plaintiff's expert waived conflict where defense counsel had previously represented expert
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
- presumption of shared confidences in a law firm
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- vicarious disqualification of the entire firm required where attorney formally represented an adverse party in the same litigation, regardless of the firm's ethical screening measures
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

vicarious disqualification where “of counsel” attorney and law firm represented opposing parties and where “of counsel” attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Distinguished from attorney-client privilege

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529, 536, fn. 5

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

[CAL](#) 2016-195, OC 97-002

District attorney

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

Does not extend to communications intended to be confidential where party claiming privilege fails to explain who was the attorney and who was the client to communications

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

Dual professions, attorney engaged in

[CAL](#) 1999-154

Duty of loyalty to client may require attorney’s limited response to judge’s questions absent an affirmative duty to inform the court

OC 95-0001

client’s absence from court, attorney may not answer court’s inquiry if harmful to client

SD 2011-1

Duty to assert attorney-client privilege

[CAL](#) 2015-193

Duty to divulge client fraud

Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
LA 436 (1985)

Duty to former client

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998-999

Duty to protect client confidences and secrets

after death of client

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

LA 491 (1997), LA 414 (1983)

after termination of attorney-client relationship

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F. Supp. 1383

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

[CAL](#) 2016-195, [CAL](#) 1993-133

LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980)

communication between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege

Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]

does not protect third party information unless third party is an agent of client

Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]

extends to e-discovery

[CAL](#) 2015-193

extends to judgment creditor’s request on debtor’s attorney’s other clients, firm’s billings on matters for these clients and possible alter ego entities of judgment debtor

Fox Johns Lazar Pekin & Wexler, APC, et al., v. Superior Court (2013) 219 Cal.App.4th 1210 [162 Cal.Rptr.3d 571]

extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

[CAL](#) 2021-205, [CAL](#) 2003-161

extends to questions submitted by potential client via website

[CAL](#) 2005-168

-does not extend to private information received from a non-client via an unsolicited email

SD 2006-1

handling discovery of electronically stored information (ESI)

[CAL](#) 2015-193

listserv postings should avoid including information regarding particular cases

LA 514 (2005)

minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities

Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]

not limited to proceedings at which testimony may be compelled by law

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

where the third party funds lawsuit in exchange for interest in proceeds

LA 500 (1999)

Duty to reveal the fruits of crime in his possession to the prosecution

[CAL](#) 1984-76

Electronic file

metadata

[CAL](#) 2020-203, [CAL](#) 2015-193, [CAL](#) 2007-174
SD 2012-1

E-mail

[CAL](#) 2012-184, [CAL](#) 2010-179, [CAL](#) 2007-174

SD 2006-1

OC 97-002

from attorney sent on client’s employer’s computer, where client warned that communication was neither private nor confidential

Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]

Employee who also works for other lawyers

Penal Code section 135

[CAL](#) 1979-50

educate employee about maintaining clients’ confidences

[CAL](#) 1979-50

Evidence

state rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

Evidence of crime in lawyer’s possession

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

People v. Picl (1982) 31 Cal.3d 731 [183 Cal.Rptr. 685]

People v. Meredith (1981) 29 Cal.3d 682, 695

CONFIDENCES OF THE CLIENT

- People v. Superior Court (Fairbank) (1987) 192 Cal.App.3d 32, 39
- People v. Lee (1970) 3 Cal.App.3d 514 [83 Cal.Rptr. 715]
- CAL 1986-89, CAL 1984-76
- LA 531 (2019), LA 466 (1991)
- Exceptions to rule of confidentiality
- U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 7104 F.3d 1197
- McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
- Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]
- Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
- American Mutual Liability Insurance Co. v. Superior Ct. (1974) 38 Cal.App.3d 579, 595-596 [113 Cal.Rptr. 561]
- CAL 2019-197, CAL 2012-183
- LA 519 (2006), LA 504 (2000), LA 498 (1999), LA 394 (1982)
- SD 2008-1
- SF 2014-1
- Exceptions to the attorney-client privilege codified in the Evidence Code modify the duty of confidentiality under Bus. & Prof. Code § 6068(e)
- People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
- Expert
- Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
- LA 513 (2005)
- communication between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
- Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- designation of a party as an expert trial witness is not in itself implied waiver of party's attorney-client privilege
- Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
- disqualification may be required if the expert possesses confidential information material to the pending litigation
- Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
- Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
- disqualification of counsel not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
- Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
- disqualification of expert witness interviewed but not retained by opposing party is abuse of discretion
- Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
- expert's opinion
- CAL 1981-58
- minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
- Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- law firm's retention of expert previously rejected by opposing party justifies disqualification from further representation
- Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
- need not be removed where plaintiff's expert was previously represented by defense counsel and where expert waives conflict
- Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Extends to information learned from third parties resulting from confidential communications with client
- People v. Barr (1984) 159 Cal.App.3d 1129, 1159-1160
- Fee agreement considered confidential communication
- Business and Professions Code section 6149
- Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- LA 456
- Fee arrangement not subject to attorney-client privilege, no revelation of confidential information
- U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
- United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
- Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
- In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
- Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
- U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
- Phaksuan v. United States (9th Cir. 1984) 722 F.2d 591, 594
- U.S. v. Sherman (9th Cir. 1980) 627 F.2d 189, 191-192
- Fiduciary relationship, existence of
- Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
- Lee v. State Bar (1970) 2 Cal.3d 927, 939 [88 Cal.Rptr. 361]
- Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-156 [49 Cal.Rptr. 97]
- People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
- CAL 1987-93, CAL 1984-83
- American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
- U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
- U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- Former client
- accept employment adverse to
- knowledge of former client's property and property rights involved in action
- LA 31 (1925)
- use of confidential communications of
- in subsequent representation of adverse party
- LA 27 (1925)
- Franchise group
- franchisee law firms of franchise group obtaining confidences
- LA 423 (1983)
- Fraud
- against client
- Krieger v. State Bar (1954) 43 Cal.2d 604 [275 P.2d 459]
- upon client
- Choate v. State Bar (1953) 41 Cal.2d 399
- Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
- Fugitive
- client's absence from court, attorney may not answer court's inquiry if harmful to client
- SD 2011-1
- harboring a fugitive
- In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
- LA(l) 1931-2
- Historical background
- Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 500-501 [30 Cal.Rptr. 317]
- Identity of third party paying attorney's fee
- United States v. Blackman (1995) 72 F.3d 1418
- Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
 Implied-in-fact contract
 duty of confidentiality does not extend to private information received from a potential client via an unsolicited email
 SD 2006-1
 may result in duty of confidentiality
[CAL](#) 2005-168, [CAL](#) 2003-161
 Imputed knowledge
 to principal
Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d 301]
 In camera hearing on motion to withdraw
 defense counsel reveals belief that defendant would commit perjury
People v. Brown (1988) 203 Cal.App.3d 1335
 In camera review
 determination of waiver of privilege where documents related to a joint defense agreement were shared or sought under theory of common interest doctrine
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 724 [101 Cal.Rptr.3d 758]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 Inaccurate fiduciary accounting by client
 SD 1983-10
 Inadvertent disclosure
Samuels v. Mitchell (1994) 155 F.R.D. 195
KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Aeroflot-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
[CAL](#) 2020-203, [CAL](#) 2015-193, [CAL](#) 2010-179, SD 1987-3
 by third party does not negate confidentiality or cause forfeiture of privilege where claimant acted pursuant to protective order to keep trade secrets confidential
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
 client did not waive attorney-client privilege applicable to e-mail by forwarding it to third party and did not consent to additional disclosure of e-mail
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
 documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 electronic communication technologies, utilization of
 OC 97-002
 if involuntary disclosure, privilege will be preserved if the holder has made efforts "reasonably designed" to protect the privilege
Gomez v. Vernon (9th Cir.(Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
 theft of documents by an associate and the employer's subsequent release of information in those documents to a third-party to investigate the associate's conduct constituted a waiver of privilege
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121
 Incompetent client
 attorney initiated conservatorship proceedings, absent client consent
[CAL](#) 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
 duty of confidentiality compared with duty to be truthful to the court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
 In-house counsel may establish attorney-client relationship with law firm attorney
[CAL](#) 2019-197
 Joint defense agreement
 advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
 may be created (and ended) by conduct as well as express agreement
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
 privilege related to documents shared before litigation
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 Mediation
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
 all communications among all participants remain privileged unless all mediation participants involved in a mediation-related communication agree to its disclosure
Cassel v. Superior Court (2011) 51 Cal.4th 113 [119 Cal.Rptr.3d 437]
Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]
 communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation
Wimsatt v. Superior Court (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]
 evidence of alleged oral settlement agreement made in mediation was inadmissible
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
 exception mediation privilege
 -admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et seq.)
Estate of Thottam (2008) 165 Cal.App.4th 1331 [81 Cal.Rptr.3d 856]
 general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]
 malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation
Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]

CONFIDENCES OF THE CLIENT

- mediation confidentiality statutes prohibit a mediator from testifying to anything about a settlement agreement unless parties agree otherwise
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
- prepared for the purpose of mediation are not subject to discovery and are not admissible in subsequent litigation
Rojas v. Superior Court (2004) 33 Cal.4th 407 [15 Cal.Rptr. 643]
- proponent's attorney's declaration that he numbered the agreement pages before the parties signed was admissible because it involved non-communicative conduct
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
- waiver of confidentiality may not be effective in absence of party authorization
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]
- Mediator may not report sanctionable conduct of parties to court
Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
- Minor client in dependency matter
In re Charlis C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597] LA 504 (2000)
- Mismanagement of funds
by client
-administrator
--report to court
LA 132 (1940)
--urge restitution
LA 132 (1940)
- Misuse of client funds
Resner v. State Bar (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]
Brawner v. State Bar (1957) 48 Cal.2d 814 [313 P.2d 1]
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
- Misuse of client property
Lefner v. State Bar (1966) 64 Cal.2d 189, 193 [49 Cal.Rptr. 296, 410 P.2d 832]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
- Moral turpitude
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- Name of client [See Confidences of the client, client name.]
- Obtained in unrelated matter
LA(l) 1963-1
- Outside services, use of by attorney
CAL 2010-179
may involve disclosure of client confidences
CAL 2020-203, CAL 2012-184, CAL 1971-25, LA 516 (2006), SD 2007-1
-to outside lawyers or providers of outsource legal services
LA 518 (2006)
- Partnership
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
Wortham & Van Liew et al. v. Superior Court (1987) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
- Perjury
by client
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01
- by witness
CAL 2019-200
- disclosure of secret by attorney
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01
- narrative form of testimony is best choice when attorney fears client will commit perjury
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
- withdrawal
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct.] 988
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
CAL 1983-74, LA 305 (1968), OC 2003-01
-discretion of the court in granting motion
People v. Brown (1988) 203 Cal.App.3d 1335
- Possession of, presumed if substantial relationship of the matters
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 578 [205 Cal.Rptr. 605]
rebuttable presumption
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
- Possibility of breach, basis for disqualification
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
- Prison officials may only open mail – not read it
People v. Poe (1983) 145 Cal.App.3d 574
- Prisoner mail to foreign attorney
In re Gonzales (1989) 212 Cal.App.3d 459 [260 Cal.Rptr. 506]
- Privilege
Evidence Code sections 950 et seq.
Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]
Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
CAL 2016-195, CAL 2015-193, CAL 2013-188
LA 531 (2019), LA 519 (2006), SF 2014-1
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [190 Cal.Rptr. 919, 661 P.2d 1073]
DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr. 213]
Grand Jury v. Superior Court (1989) 211 Cal.App.3d 740 [259 Cal.Rptr. 404]
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793 [204 Cal.Rptr. 234]
 LA 519 (2006)
 attorney
 -absent waiver, responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client
 LA 525 (2012), SF 2014-1
 -absolute work product and qualified work product defined
 American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
 Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
 --risk when using social media
 LA 529 (2017)
 -authority to assert
 In re Boileau (9th Cir. 1984) 736 F.2d 503, 506
 -by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
 Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

-communications between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
 Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 -good faith requirement
 Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
 -holder of psychotherapist-patient privilege when appointed for minor and serving as guardian ad litem
 In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
 -identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)
 Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 607]
 -required to claim privilege
 Evidence Code section 955
 -witness interviews, conducted by investigators employed by defendant's counsel, are protected by work product privilege
 Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
 attorney-client and work product privileges are not limited by the prosecution seeking to discover documents through a search warrant
 People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
 attorney-client privilege applies even to disclosures to a court
 Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
 attorney-client privilege extends to all communications relating to a client's matter or interests among and between multiple attorneys who are representing client
 Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
 attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 attorney-client privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance
 St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
 bankruptcy proceedings
 -attorney cannot use confidences of former client to challenge client's discharge of fees owed
 In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 breach by attorney, no "fruit of the poisonous tree" remedy absent government misconduct
 People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 client
 -deceased client
 HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
 LA 491 (1997), LA 414 (1983)
 --federal investigation
 Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
 --intention of affecting property interest
 Evidence Code section 961
 -defined
 U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

CONFIDENCES OF THE CLIENT

- Moeller v. Superior Court (1997) 16 Cal.4th 317 [69 Cal.Rptr.2d 317]
People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Schaff v. Superior Court (1983) 146 Cal.App.3d 921 SD 2006-1
- disqualification of law firm appropriate due to violation of ethical obligations regarding use of inadvertently disclosed privilege e-mail
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
- email to attorney on client's employer's computer, where client warned that communication was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
- fiduciaries: receivers, trustees, executors entitled to privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- file
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
- identity
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
Baird v. Koerner (9th Cir. 1960) 279 F.2d, 623, 629
- in-house counsel may establish attorney-client relationship with law firm attorney
Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
CAL 2019-197
- joint clients
- common interest doctrine, no waiver of
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- community of interest doctrine
In re the Regents of the University of California (1996 Ind.) 101 F.3d 1386
- exception to privilege
Evidence Code section 962
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal. Rptr.2d 754]
Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467 [200 Cal.Rptr. 471]
- joint defense agreement implied
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
- mass tort
SF 2020-1
- no joint client privilege when parties have simply overlapping interests
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- under joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]
- joint defense agreement; documents shared before litigation
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- mass tort
SF 2020-1
- common interest doctrine
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- based on waiver analysis; parties may share privileged information when it furthers the attorney-client relationship
Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
- communications which are privileged
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Grand Jury Subpoena Issued to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 629
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Chronicle Pub. Co. v. Superior Court (1960) 54 Cal.2d 548, 566 [7 Cal.Rptr. 104, 354 P.2d 637]
Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234-235 [231 P.2d 26]
McKnew v. Superior Court (1943) 23 Cal.2d 58 [142 P.2d 1]
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
People v. Tamborrino (1989) 215 Cal.App.3d 575
Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 655 [36 Cal.Rptr. 21]
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497 [30 Cal.Rptr. 317]
People v. Morgan (1956) 140 Cal.App.2d 796, 803 [296 P.2d 75]
People v. Kor (1954) 129 Cal.App.2d 436, 442-443 [277 P.2d 94]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 2016-195
 -client was unable to demonstrate communications with third-party were made in the course of the attorney-client relationship, the attorney-client privilege does not attach
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
 -communications between firm attorney and in-house counsel related to dispute with current client may be privileged
Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 -distinctions between confidences and secrets and privileged communications
 SD 2011-1
 -documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

-does not allow former trustee to withhold communications with trust's former counsel on ground of attorney-client privilege unless trustee retains his/her own counsel for personal services and pays fees out of pocket
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
 -does not protect third party information unless third party is an agent of client
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]
 -email to attorney was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
 -exceptions
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
Arden v. State Bar (1959) 52 Cal.2d 310, 320
Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 657-658 [36 Cal.Rptr. 21]
 --billing statements
Clarke v. American National Commerce Bank (9th Cir. 1992) 974 F.2d 127
 ---attorney fee totals in legal matters that concluded long ago
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 ---Public Records Act disclosure
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 --business checks payable to a client or others on the client's behalf
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
 --co-defendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other co-defendant
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
 --does not apply to work product
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
 --does not extend to employee's personal claim of attorney-client privilege to protect his communications with corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 --does not extend to otherwise unprivileged subject matter that has been communicated to attorney
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
 --DOJ cannot withhold documents under FOIA that do not present a risk of circumvention of legitimate government surveillance and the law by wrongdoers
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
 --extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 --in camera review of communications to determine privilege
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 --investigation activities by a claims adjuster who also is an attorney may not be covered by the privilege
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

CONFIDENCES OF THE CLIENT

- Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- no unavailability exception – privilege protects pre-trial statements although unavailable to opposing counsel through discovery
Admiral Insurance v. United States (9th Cir. 1989) 881 F.2d 1486
 - identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
 - investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
 - opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - predecessor trustee failed to establish that they communicated with counsel in their personal capacity
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
 - privilege does not extend to investigated work done by claims adjuster who also is an attorney
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
 - purpose of the communication, between attorney and client
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - questionnaire, where no waiver of privilege
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
 - report prepared by expert-consultant is protected by the attorney's work product privilege
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
- condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- deceased client
Evidence Code section 957
Fletcher v. Alameda County Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]
Paley v. Superior Court (1955) 137 Cal.App.2d 450 LA 300
- destruction of file
LA 491 (1997)
- definitions
- client
Evidence Code section 951
 - confidential communication between lawyer and client
Evidence Code section 952
Nalian Truck Lines, Inc. v. Nakano Warehouse and Transportation Corp. (1992) 6 Cal.App.4th 1256
 - lawyer
Evidence Code section 950
- deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfungst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- derivative action by shareholders does not entitle shareholders to attorney-client privilege information
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- disclosure by corporate officer to attorney for the purpose of disclosure to outside auditors is not privileged
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- disclosure of client secret
- attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
 - leading to search warrant
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 - to third parties reasonably necessary to carry out the representation
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]
 - public relations consultant was not someone to whom disclosure was reasonably necessary to accomplish the purpose for which client retained attorney
Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
- documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
- dual purpose communication
In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
- duty to assert, lawyer's
- extends to attorney for corporation as to communications with client before merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- eight-part test
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- exceptions
- breach of duty arising out of lawyer-client relationship
--no exception where third party is seeking disclosure to information related to the litigation
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 - courts cannot add to statutory privilege exceptions
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
 - does not apply to work product
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
 - due process
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 - fraud or crime
In re Napster, Inc. Copyright Litigation (9th Cir. 2007) 479 F.3d 1078
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 - preponderance of evidence required to establish
In re Napster, Inc. Copyright Litigation (9th Cir. 2007) 479 F.3d 1078

- identity of putative class members not covered by privilege
 - Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- no implied exceptions to attorney-client privilege
 - Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
- to mediation privilege
 - admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et seq.)
 - Estate of Thottam (2008) 165 Cal.App.4th 1331 [81 Cal.Rptr.3d 856]
- federal common law
 - United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- fundamental fairness
 - Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- holder of privilege
 - attorney appointed for minor serves as guardian ad litem and is holder of psychotherapist-patient privilege
 - In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
 - bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 - Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 - personal representative as
 - HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
 - successor fiduciary
 - Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
 - Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
 - successor of a merged corporation
 - Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust
 - U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- in-house counsel may establish attorney-client relationship with law firm attorney
 - Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 - CAL 2019-197
- insurance cases
 - liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advice it received
 - Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city
 - City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
- not waived when the client's agent discloses a privileged communication without client's authorization
 - DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- policy and purpose
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- preservation of attorney-client privilege is a critical pretrial matter
 - Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- presumption
 - Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
 - Johnson v. Superior Court (1984) 159 Cal.App.3d 573 [205 Cal.Rptr. 605]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- presumption of shared confidences in a law firm
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- property interest
 - intention of deceased client affecting
 - Evidence Code section 961
 - validity of writing affecting
 - Evidence Code section 961
- protection from discovery
 - Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
 - City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
 - Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 - The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]
 - Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
 - Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 - Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 - 2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
 - Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
 - Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
 - Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
 - Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
- attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
 - General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
 - Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
 - Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 - Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
- attorney, at a minimum, must have a basic understanding of and facility with, issues relating to e-discovery or seek expert assistance
 - CAL 2015-193

CONFIDENCES OF THE CLIENT

- by corporate director
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
- co-defendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other co-defendant
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
- communications related to issues raised in litigation
Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047, 1052-1053
- communications with expert witness for opposing party
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- does not require DOJ to release certain sections of the USA Book due to attorney work product exemption under the Freedom of Information Act request
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
- general, boilerplate assertion of an evidentiary privilege is not a proper assertion of the privilege
Burlington Northern & Santa Fe Railway Co. v. U.S. District Court (9th Cir. (Mont.) 2005) 408 F.3d 1142
- not limited to litigation communications
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity
Cooley v. Superior Court (2006) 140 Cal.App.4th 1039 [45 Cal.Rptr.3d 183]
- through binding arbitration clause within law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
- use of law enforcement agents to intentionally eavesdrop on confidential attorney-client communications
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
- protects client communications
Upjohn v. U.S. (1981) 449 US 383 [101 S.Ct. 677]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- public record
 - city attorney's written opinion to council on pending matter subject to attorney-client privilege
Roberts v. City of Palmdale (1993) 5 Cal.4th 363 [20 Cal.Rptr.2d 330]
 - city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
 - communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 - executive communications made during the decision making process are protected from disclosure by the deliberative process privilege
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]
- inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
- mere fact that information may appear in public domain does not affect the privileged status of the information
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- report prepared by police officers in the performance of their duties are public record and are not privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
LA 386
- public record information
 - city attorney's written opinion to council on pending matter subject to attorney-client privilege
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- real parties in interest may not compel disclosure when receiver asserts privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- right of corporation to claim
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818
- corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
- scope
 - Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 824, 826-829, 830-831
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- search warrant not quashed despite use of defendant's confidential information to obtain the warrant when law enforcement agents do nothing to procure or induce the defendant's attorney's improper disclosure of the information
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
- selective waiver
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121
- shareholders may not pierce privilege
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]

-third party paying fee, identity of
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493

Sixth Amendment's Confrontation Clause vs. attorney-client privilege

-defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

-right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors
People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

standing to assert common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-not applicable where the parties executed no agreement in the pursuit of a joint strategy
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

-voluntary release by counsel of unredacted documents to federal government
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

third party communications
CAL 2010-179

-between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

-does not protect third party information unless third party is an agent of client
Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]

-privilege only extends to those necessary to effectuate the client's consultation
U.S. v. Kovel (2nd Cir. 1961) 296 F.2d 918
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

trust's attorney need not disclose to beneficiaries confidential communication with trustee
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

-former trustee cannot withhold communications with trust's former counsel on group of attorney-client privilege to successor trustee
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

voluntary disclosure of privileged materials to government agency in non-public investigation constitutes waiver
McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703

voluntary disclosure partially waives attorney-client privilege for contested documents in patent case
Starsight Telecast v. Gemstar (1994) 158 F.R.D. 650

waiver
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
Electro Scientific Industries, Inc. v. General Scanning, Inc. (N.D. Cal. 1997) 175 F.R.D. 539
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]
Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047
Motown Record Corp. v. Superior Court (1984) 155 Cal.App.3d 482, 492 [202 Cal.Rptr. 227]
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 502 [30 Cal.Rptr. 317]
CAL 2015-193, CAL 1989-115

-agreement requires disclosure
Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337

-arbitration case
 -privilege waived with disclosure of arbitration documents to accountants for non-legal purposes
Samuels v. Mitchell (1994) 155 F.R.D. 195

-bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]

-by client
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
 LA 519 (2006)

--absent waiver, responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client
 LA 525 (2012)
 SF 2014-1

--email to attorney was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]

-by corporation
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

-by public agency
 -not found when executive communications were made during the decision making process and were protected by the deliberative process privilege
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]

CONFIDENCES OF THE CLIENT

-court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

-court must hold hearing before ruling on waiver of attorney-client privilege

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

-disclaimer of attorney-client relationship does not effectively waive the duty of confidentiality

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

-failure to produce a privilege log in a timely manner is a waiver of privilege

Burlington Northern & Santa Fe Railway Co. v. U.S. District Court (9th Cir. (Mont.) 2005) 408 F.3d 1142

-forced waiver not an authorized sanction for failure to file a privilege log

Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]

-found when attorney did not specifically reference objections to individual items in discovery request for production of documents

Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]

-found when claiming ineffective assistance of counsel

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

Durdines v. Superior Court (1999) 76 Cal.App.4th 247 [90 Cal.Rptr.2d 217]

-found when party claiming privilege uses non-disclosure as both a sword and a shield

Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

United States v. Amlani (9th Cir. 1999) 169 F.3d 1189

Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

-found where clients never disputed attorney's authority to release documents to a third-party

Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

-inadvertent disclosure absent client's waiver does not destroy privilege

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909

-inadvertent disclosure by third party does not negate confidentiality or cause forfeiture of privilege where claimant acted pursuant to protective order to keep trade secrets confidential

Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

-inadvertent, accidental disclosure by attorney not waiver by client

State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

-insured employer of claimant may not waive attorney-client privilege that insurer is entitled to assert under Labor Code section 3762

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

-IRS, voluntary disclosure by client

Griffith v. Davis (1995) 161 F.R.D. 689

-limited in federal habeas petitions, court justified in entering protective order

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

-limited to habeas proceeding when court within its discretion, issues protective order when ineffective assistance of counsel issues are raised

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

Osband v. Woodford (9th Cir. 2002) 282 F.3d 1125

-limited waiver based on limited disclosure

Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156

-no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-not found

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641

Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

--common interest doctrine applies to joint prosecution agreement for the sharing of experts reports

Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]

--disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

--liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advice it received

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

--shareholder derivative action

Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]

--to third parties reasonably necessary to carry out the representation

California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]

---common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent

Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]

--when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-patent case

McCormick-Morgan, Inc. v. Teledyne Industries, Inc. (N.D. Cal. 1991) 765 F.Supp. 611

-reasonable steps to protect privileged communications

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-sexual relations with client may waive privilege

OC 2003-02

-technology

CAL 2010-179

-third party communication, privilege only extends to those necessary to effectuate the client's consultation

U.S. v. Kovel (2nd Cir. 1961) 296 F.2d 918

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
 -trustee's reporting duties do not trump the attorney-client privilege and does not constitute a waiver
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

who may claim
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 825

witnesses
 -privilege does not extend to memorandum disclosing the existence of
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]

work product
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
 -independent third party digital forensic expert's report do not reflect an attorney's impressions, conclusions, opinions, legal research and theories, thus, not protected under CCP 2018.030, as work product
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
 -under the Freedom of Information Act, DOJ is not required to release certain sections of the USA Book due to attorney work product exemption
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473

work product including non-litigation work
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
 -absolute privilege not applicable when attorney merely acts as a business agent receiving or conveying messages
Rumac v. Bottomley (1983) 143 Cal.App.3d 810 [192 Cal.Rptr. 104]
 -attorney/client privilege distinguished from work product rule
Admiral Insurance v. U.S. District Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Electro Scientific Industries v. General Scanning (N.D. Cal. 1997) 175 F.R.D. 539
McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213] SD 2004-1
 -attorney's use of social media to communicate with non-clients regarding professional activities must guard against disclosing confidential client information
 LA 529 (2017)

-by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
 -common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 --common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
 -common interest doctrine applies to join prosecution or defense agreements for the sharing of experts' reports
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
 -excluded from discovery
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Olson v. Superior Court (1984) 157 Cal.App.3d 780
 -identity of putative class members does not violate
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
 -limited to work done for client and communications with the client for that purpose
Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 476
 -need not be revealed to enable the court to rule on privilege
*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793-794 [204 Cal.Rptr. 234]
 -no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
 -privilege does not extend to memorandum disclosing the existence of
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
 -report prepared by expert-consultant is protected by the attorney's work product privilege
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

work product privilege
 -witness interviews, conducted by investigators employed by defendant's counsel, are protected by work product privilege
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]

Prospective client
CAL 2021-205

Psychotherapist-patient privilege
Roe v. Superior Court (1991) 229 Cal.App.3d 832 [280 Cal.Rptr. 380]

Public Records Act
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
 communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]

Public record information
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

CONFIDENCES OF THE CLIENT

- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195
city attorney's written opinion to council on pending matter subject to attorney-client privilege
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
report prepared by police officers in the performance of their duties are public record and not privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
LA 386
work product
-impressions, conclusions, opinions, or legal research theories, are not subject to compelled disclosure
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]
Questionnaire posted on the Internet
may be privileged if no waiver of privilege, despite waiver of attorney-client relationship
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Receivers entitled to attorney-client privilege when counsel is obtained to assist in the discharge of duties
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
Records mistakenly delivered to a party
SD 1987-3
Related matter
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
imputed knowledge
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
-rebuttable presumption of shared confidence in a law firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Relationship of matter to
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 897 [175 Cal.Rptr. 575]
imputed knowledge
-rebuttable presumption of shared confidences in a law firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Representing client's former spouse
DeLong v. Miller (1955) 133 Cal.App.2d 175
Research project by non-attorney seeks summarized client data
LA 378 (1978)
Revelation of client confidences required by court order challenge to error
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
Right to chosen counsel
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 674 [153 Cal.Rptr. 295]
automatic vicarious disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Search warrant
lawyer's voluntary disclosure to police that her clients are committing crimes is not a basis to quash a search warrant or suppress evidence despite a claimed breach of the attorney-client privilege
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Secret of client
duty of lawyer to preserve
Business and Professions Code section 6068(e)
[CAL](#) 2020-203, [CAL](#) 2010-179, [CAL](#) 1988-96, [CAL](#) 1986-87, [CAL](#) 1981-58, [CAL](#) 1980-52
LA 456, LA 452 (1988), LA 436 (1985), LA 409 (1983), LA 386 (1980)
SD 2011-1
secret includes criminal or fraudulent acts
[CAL](#) 1988-96, [CAL](#) 1986-87
Settlement, private
Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without he lawyer's consent
LA 505 (2000)
"Smoking gun"
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
[CAL](#) 1984-76, LA 466 (1991)
Social media
LA 529 (2017)
Standing to assert common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
Status of suspended corporations
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
Supervision of employees
attorneys must prohibit their employees from violating confidences of former employers as well as confidences of present clients
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
duty to maintain client confidences when sharing facilities and staff with other attorneys
[CAL](#) 1997-150
duty to maintain client confidences when sharing facilities with non-lawyers
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Technology, use of
[CAL](#) 2012-184, [CAL](#) 2010-179, SD 2018-3

- technology assisted review (TAR)
 SD 2018-3
- when using e-discovery, if attorney is not well versed in use of such technology, should consult with an expert to make sure no confidential information is released
[CAL](#) 2015-193
- Telephone "hotline" taking legal inquiries from callers
 LA 449 (1988)
- To "of counsel"
 LA 516 (2006)
- To protect self
 against a claim brought by a third-party
 LA 519 (2006)
 attorney may respond generally to online review of former client if the matter is concluded and no confidential information is disclosed
 SF 2014-1
- Trusts
 trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
[U.S. v. Jicarilla Apache Nation](#) (2011) 564 U.S. 162 [131 S.Ct. 2313]
 trust's attorney need not disclose to beneficiaries confidential communication with trustee
[Wells Fargo Bank v. Superior Court \(Boltwood\)](#) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- Unauthorized dismissal of case
[Foote v. State Bar](#) (1951) 37 Cal.2d 127, 128 [230 P.2d 617]
- Use of
[CAL](#) 2012-183
 following disqualification due to a conflict of interest
[CAL](#) 1970-22
 former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
[Fox Searchlight Pictures, Inc. v. Paladino](#) (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
[CAL](#) 2012-183, SD 2008-1
 in action against former client
 -attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
[General Dynamics Corp. v. Superior Court](#) (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
[Solis v. O'Melveny & Myers, LLP](#) (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
 SD 1970-2
 -attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
[Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 in action to collect fee involving client
 LA 452 (1988), LA 159 (1945), LA(l) 1961-3
 in action to recover unpaid attorney referral fees
[Dietz v. Meisenheimer et al.](#) (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 in representation of another client
 LA 506 (2001), LA 366 (1977)
 in representing former client's opponent
 SD 1976-10
 parties may disclose to their respective counsel documents containing potentially confidential or privileged information of third party claims
[Chubb & Son v. Superior Court \(Lemmon\)](#) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]
 revelation to entertainment industry regarding client's case
 LA 409 (1983)
- Virtual law office (VLO)
[CAL](#) 2012-184
- Waiver [[See](#) Privilege. waiver]
 Whereabouts of client
[CAL](#) 1989-111, LA(l) 1931-2
 Wireless connection, use of and need for precautions
[CAL](#) 2020-203, [CAL](#) 2010-179
- Withdrawal
 in camera disclosure of general information as basis for
[Manfredi & Levine v. Superior Court](#) (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
 in camera disclosure of possible client perjury
[People v. Brown](#) (1988) 203 Cal.App.3d 1335
 LA 498 (1999)
- Withholding client funds
[Burns v. State Bar](#) (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
[Sullivan v. State Bar](#) (1955) 45 Cal.2d 112 [287 P.2d 778]
- Work product
 law firm is the holder of work product privilege and need not seek consent from associate attorney before disclosure
[Ellis v. Superior Court \(Nelson\)](#) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]
- Wrongfully retaining client money
[Griffith v. State Bar](#) (1945) 26 Cal.2d 273, 275 [158 P.2d 1]
- CONFLICT OF INTEREST** [[See](#) Adverse interest. Attorneys of Governmental Agencies. Confidences of the client. Duty to disclose. Termination. Withdrawal. 18 Santa Clara L.Rev 997, 1003 (1978).]
[Rule](#) 3-310(D)
[Prakashpalan v. Engstrom](#) (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]
- Abuse of discretion
 court did not abuse discretion in denying motion to substitute in retained counsel; waiver based on an inadequate conflict waiver
[People v. Baylis](#) (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
 found when court removed the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed
[Joshua P. v. Superior Court](#) (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
- Acceptance of adverse employment
 Rule 4-101, Rules of Professional Conduct [former rule 5] (operative until May 26, 1989)
[Rule](#) 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
[Freeman v. Schack](#) (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
[Grove v. Grove Valve & Regulator Co.](#) (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
[Stockton Theatres, Inc. v. Palermo](#) (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
[CAL](#) 1988-96, [CAL](#) 1986-87, [CAL](#) 1980-52
 LA 452 (1988), LA 448 (1987), LA 436 (1985), LA 409 (1983), LA 406 (1982), LA 395 (1982), LA 386 (1980), LA 242 (1957), LA 237 (1956), LA 223 (1955), LA 216 (1953), LA 170 (1949), LA 136 (1941), SD 1968-3
 attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
[Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 city attorney disqualified from representing city in matter related to prior representation of private company
[City and County of San Francisco v. Cobra Solutions, Inc.](#) (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 client in one matter, later opposing party in unrelated matter
[Dill v. Superior Court](#) (1984) 158 Cal.App.3d 301, 304 [205 Cal.Rptr. 671]
[Jeffry v. Pounds](#) (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
 LA 418 (1983), LA 406 (1982)

CONFLICT OF INTEREST

- consultation with opposing party related to fees only, not to issues of cause of action
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
- continuing relationship with opposing party deemed conflict
Shaeffer v. State Bar (1934) 220 Cal. 681
- dual representation after disclosure and upon receipt of consent
Lessing v. Gibbons (1935) 6 Cal.App.2d 598 [45 P.2d 258]
- necessity for consent of parties
61 Ops. Cal. Atty. Gen. 18, 19 (1/5/78; No. CV 77-118)
60 Ops. Cal. Atty. Gen. 206, 212 (7/7/77; No. CV 76-14)
- preparing answer for in propria persona defendant while representing plaintiff in same matter
LA 432 (1984)
- public defender may not set up separate division within office to represent criminal defendant where conflict present
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
- representation of arbitrator presently hearing matter
LA 415 (1983)
- representation of both husband and wife in a divorce action
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
- representation of criminal defendant in one matter and representation of another client in a related matter is an actual conflict
People v. Easley (1988) 46 Cal.3d 712
- representation of husband and wife in estate planning, later represents husband in *Marvin* agreement
LA 448 (1987)
- representation of opposing party in the same matter without consent of former client
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
- Acceptance of adverse interest
Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
- inadequate evidence to determine conflict of interest
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- Accepting compensation from other than client
Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
LA 500 (1999)
- Accepting employment adverse to client
Rules 4-101 and 5-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- Acquisition of adverse interest
- absolute prohibition
Ames v. State Bar (1973) 8 Cal.3d 910, 915 fn.8
- acquiring former client's collection business and clientele
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- advice of independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
Hawk v. State Bar (1988) 45 Cal.3d 589
Ritter v. State Bar (1985) 40 Cal.3d 595
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- partner not an independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
- adverse pecuniary interest must be "knowingly acquired"
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
- asset in probate estate acquired by attorney in apparent satisfaction of fee
Fall v. State Bar (1944) 25 Cal.2d 149, 152-154 [153 P.2d 1]
- attorney enters into partnership with client
Kapelus v. State Bar (1987) 44 Cal.3d 179
- finder's fee
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609
- judgment proceeds as source of attorney fee
LA 416 (1983)
- representation/business relationship with living trust marketer
CAL 1997-148
- security for fees
LA 407 (1982), LA 398 (1982)
- selling information regarding case to entertainment industry
LA 409 (1983)
- attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- attorney's dual capacity as attorney and real estate broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
SD 1992-1
- attorney's purchase of real property which was the subject matter of client representation
Tomblin v. Hill (1929) 206 Cal. 689
- before termination of attorney-client relationship requires compliance with rule 5-101
Arden v. State Bar (1987) 43 Cal.3d 713
- bidding on government contract requiring client's consent to waiver of client's attorney-client and work product privileges
LA 435
- borrowing money from client
In re Tallant (9th Cir. 1998) 218 B.R. 58
Sugarman v. State Bar (1990) 51 Cal.3d 609
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Rhodes v. State Bar (1989) 49 Cal.3d 50
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619 P.2d 1005]
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
- absence of security for a loan is an indication of unfairness
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- full disclosure and written consent required
McKnight v. State Bar (1991) 53 Cal.3d 1025
Lipson v. State Bar (1991) 53 Cal.3d 1010
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
Frazer v. State Bar (1987) 43 Cal.3d 564
Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

borrowing money from trust where attorney is trustee
Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

business transaction with client
In re Tallant (9th Cir. 1998) 218 B.R. 58
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 SF 1997-1

-burden of proof on attorney that dealings fair and reasonable
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Hunnecutt v. State Bar (1988) 44 Cal.3d 362, 372-373 [243 Cal.Rptr. 699]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
CAL 1995-140, LA 477

-fee financing plan
CAL 2002-159, OC 93-002

-from fund which resulted from representation, attorney-client relationship exists even if representation has otherwise ended
Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

-law partner not "independent counsel" for purpose of conflicts rule
Connor v. State Bar (1990) 50 Cal.3d 1047

-moral turpitude found
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

-no violation found if no financial gain and not a party to the transaction
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

-no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198

-not found where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
CAL 2002-159

-post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

-strictly scrutinized for fairness
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Beery v. State Bar (1987) 43 Cal.3d 802, 812-813
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

charging lien in hourly fee agreement requires compliance with rule 3-300
Fletcher v. Davis (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]
CAL 2006-170

-contingency fee agreements distinguished
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

compensation from third party affecting professional judgment
 LA 317 (1970)

confession of judgment
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

entering into loan transaction with client – attorney has one client loan money to another client
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Hunnecutt v. State Bar (1988) 44 Cal.3d 362

estate attorney charging personal representative personally for services performed
 LA 347 (1975), SD 1992-1

judgment proceeds as source of attorney fee
 LA 416 (1983)

lending money to client by attorney
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

-by attorney's spouse
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

lien against recovery in unrelated matter to secure fees owed not subject to rule 3-300
 LA 496 (1998)

no duty to recommend specific lawyer
Maltaman v. State Bar (1987) 43 Cal.3d 924

not found

-charging lien in contingency fee agreement does not create an adverse interest within the meaning of rule 3-300
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170

-where attorney arranges to transfer client's property to attorney's son
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117

-where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
CAL 2002-159

note and deed of trust for personal gain
Lee v. State Bar (1970) 2 Cal.3d 927

CONFLICT OF INTEREST

- note secured by deed of trust to secure fees is an "adverse" interest requiring compliance with rule 5-101
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
LA 492 (1998)
- open-ended credit transaction found unfair
Morgan v. State Bar (1990) 51 Cal.3d 598
- patent prosecution, compliance with 3-300 not required where attorney's fees are linked to the proceeds of the patent but attorney has no ability to summarily extinguish the client's ownership interest
LA 507 (2001)
- post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- purchase of property which is the subject matter of the litigation
Silver v. State Bar (1974) 13 Cal.3d 134 [117 Cal.Rptr. 821]
- purchase of real property subject of collection effort on behalf of client
Marlowe v. State Bar (1965) 63 Cal.2d 304, 307 [46 Cal.Rptr. 326, 405 P.2d 150]
- purchase of second deed of trust by wife of attorney deemed adverse to client
Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
- quit claim deed and general power of attorney which permit attorney to summarily extinguish a client's property interest constitutes an adverse interest
Brockway v. State Bar (1991) 53 Cal.3d 51
- representation of insurer and party adverse to insurance company
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
[CAL](#) 1981-57, [CAL](#) 1980-52, [CAL](#) 1979-49,
[CAL](#) 1977-46, [CAL](#) 1975-35, [CAL](#) 1969-18
LA 407 (1982)
- security for fees
LA 492 (1998), LA 407 (1982), LA 398 (1982)
- selling information regarding case to entertainment industry
LA 409 (1983)
- settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver, does not require 3-300 compliance
[CAL](#) 2009-178
- structured settlement, use of
[CAL](#) 1987-94
- taking business clientele from a former client
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Actual or potential conflict
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
- Adjuster, former acts against former employer
LA 216 (1953)
- act for both parties
Civil Code section 225(m)
- counsel for adopting parents advises natural parents
Civil Code section 225m
- represent one party in, after advising the other
LA(l) 1958-6
- written consent
Civil Code section 225(m)
- Administrative agency attorneys
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
- Adoption
Civil Code section 225(m)
LA 407 (1982)
representation of natural parent and proposed adopting parents
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
- Adverse interest
LA 418 (1983)
attorney acting as receiver for corporation and acting as attorney against same corporation
LA 74 (1934)
attorney both partner in partnership arrangement and counsel to partnership and another party
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]
attorney for bankruptcy estate trustee had prior consultation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney for defendant accusing client of being in collusion with plaintiff
Pennix v. Winton (1943) 61 Cal.App.2d 761, 769-777 [143 P.2d 940]
attorney for estate attempts to purchase property of beneficiary for substantially less than the true value
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
attorney involvement in fee dispute with client and prior attorney over fees not arising out of current representation
Jackson v. State Bar (1975) 15 Cal.3d 372 [124 Cal.Rptr. 185, 540 P.2d 25]
attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
attorney retained by a party to recover monies owed subsequently becomes involved with opposing party to detriment of original client
Lee v. State Bar (1970) 2 Cal.3d 927 [88 Cal.Rptr. 361, 472 P.2d 449]
attorney's agreement to indemnify a client's reasonable costs and expenses is not an adverse interest
LA 517 (2006)
authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
charging lien in hourly fee agreement requires compliance with [rule](#) 3-300
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
-contingency fee agreements distinguished
[CAL](#) 2006-170
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
confession of judgment deemed detrimental to client
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152, 503 P.2d 608]
county counsel with private practice may not represent district organized under Municipal Water District Act of 1911
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
defense counsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
- defined
LA 496 (1998), SF 1997-1
- definition
[CAL](#) 2011-182

CONFLICT OF INTEREST

disclosure and consent per [rule](#) 3-300 not a cure when matter is governed by probate code
SD 1989-2

executor hiring attorney
[Baker, Manock and Jensen v. Superior Court](#) (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
[Estate of Effron](#) (1981) 117 Cal.App.3d 915, 928 [173 Cal.Rptr. 93]

fee dispute does not create adverse pecuniary interest
LA 521 (2007)

financial interest in the subject matter of the representation
[U.S. v. Murray](#) (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394

-accepting compensation from broker for referring client
SD 1989-2

-accepting compensation from doctor for client referral
LA 443 (1987)

-accepting compensation from insurance agent for client referral
[CAL](#) 1995-140

-accepting compensation from investment manager for client referral
[CAL](#) 1999-154

-in corporation about which client desires legal advice
LA 57 (1928)

former client
LA 2 (1917)

-in litigation
[Gendron v. State Bar](#) (1983) 35 Cal.3d 409
LA 30 (1925), SD 1976-10

former corporate counsel now counsel for stockholders in derivative suit
[Jacuzzi v. Jacuzzi Bros., Inc.](#) (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]

in-house counsel represented employer and employee concurrently (to the employee's detriment) without obtaining informed consent
[Yanez v. Plummer](#) (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]

injury to former client due to representation of current client
[McPhearson v. Michaels Company](#) (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
[Gilbert v. National Corporation for Housing Partnerships](#) (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
[Big Bear Municipal Water District v. Superior Court](#) (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]

insurance company and insured [[See](#) Insurance.]
[Industrial Indem. Co. v. Great American Ins. Co.](#) (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
[Lysick v. Walcom](#) (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]

-and other party
[Hammett v. McIntyre](#) (1952) 114 Cal.App.2d 148 [249 P.2d 885]

litigation

-against former client

--concerning subject about which lawyer given legal advice
LA 27 (1925)

-with client regarding management of suit
SD 1978-1

litigation continued after contrary instructions from client
[Johnson v. State Bar](#) (1935) 4 Cal.2d 744 [52 P.2d 928]

loaning money received on behalf of estate to other clients without approval of administratrix
[Black v. State Bar](#) (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]

no adverse interest when attorney's fees come from settlement since client decided to accept settlement offer that would generate lower fees for attorney
[Barnard v. Langer](#) (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]

not found

-attorney's investment in organization predated representation of organization
OC 2011-02

pecuniary interests adverse to client

-subject to [rule](#) 3-300 if attorney can extinguish the client's property interest without judicial scrutiny
SF 1997-1

pending litigation

-attorney may post and guarantee fidelity bond for out-of-country client
SF 1973-16

promissory note as security for fees
[CAL](#) 1981-62
SF 1997-1
LA 492 (1998)

property purchased by wife of attorney subject matter of original client consultation
[Calzada v. Sinclair](#) (1970) 6 Cal.App.3d 903, 914-915 [86 Cal.Rptr. 387]

prospective client
[CAL](#) 2021-205

publication of article regarding client's case

-no conflict found
LA 451 (1988)

purchase of property by attorney at a foreclosure sale
LA 455

represent city in prosecution of actions and represent city employee against city

-in unrelated matters
LA 77 (1934)

represent client before arbitrator while simultaneously representing arbitrator on unrelated matter
LA 415 (1983)

represent defendant client and attorney who represents plaintiff

-in unrelated matters
SD 1975-19

sale of real property by attorney to a client necessitates full disclosure of ownership interests
[Gallagher v. State Bar](#) (1981) 28 Cal.3d 832, 835-838 [171 Cal.Rptr. 325, 622 P.2d 421]

structured settlement, use of
[CAL](#) 1987-94

subpoena served on current client A, who is a witness in prospective client B's matter
[CAL](#) 2011-182

when trustee is also creditor
[Vivitar Corporation v. Broten](#) (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]

Adverse party

attorney files motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
[Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

attorney for plaintiff formerly had borrower-lender relationship with defendant
[Oaks Management Corp. v. Superior Court](#) (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

collaborative family law practice, duties to adverse party, adverse counsel and own client, must be disclosed to client
OC 2011-01

communication with unrepresented party
[CAL](#) 1996-145, LA 334 (1973)

compelled to communicate directly with party
[Gregory v. Gregory](#) (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]

disclosure of relationship between attorney and family members as adverse parties to client
[Codiga v. State Bar](#) (1978) 20 Cal.3d 788, 792 [144 Cal.Rptr. 404, 575 P.2d 1186]

CONFLICT OF INTEREST

- failure to disclose relationship with
 - Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]
- fraudulent conduct of reported
 - SF 1975-2
- instruct client with respect to communications with opposing party
 - CAL 1993-131, SD 1983-2
- insurance cases, company and insured [See Insurance.]
 - plaintiffs' class counsel offered employment by defendant
 - Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
 - not found where attorney was the president and COO of adverse party; not disqualified based on successive representation where attorney did not have attorney-client relationship with previous employer
 - O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
 - previously consulted attorney on another matter
 - CAL 1984-84
 - LA 406 (1982)
 - relationship with opposing counsel not considered a relationship with adverse party
 - CAL 1984-83
 - SD 1989-4, SD 1976-12
 - represent city in prosecution of actions and represent city employee against city
 - in unrelated matters
 - LA 77 (1934)
 - representation in related matter against former client
 - Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - representation of
 - after obtaining information from
 - LA 193 (1952)
 - attorney for bankruptcy estate trustee had prior consultation with debtor
 - In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
 - one against the other after investigation
 - LA 223 (1954)
 - related matter
 - LA 223 (1954), LA 141 (1943)
 - unrelated action
 - against client
 - LA 6 (1918)
 - representation of, in unrelated matter against existing client
 - Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
 - Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
 - Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 - Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
 - Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
 - represented
 - by former partner
 - CAL 1981-57
 - social relationship; attorney and opposing party
 - club membership of attorney as impacts representation of client against club
 - Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 261-262 [142 Cal.Rptr. 759]
 - DeLong v. Miller (1955) 133 Cal.App.2d 175 [283 P.2d 762]
 - Adverse position
 - attorney for criminal defendant adopted position in direct opposition to that of his client
 - People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
 - Aggregate settlements of claims
 - Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]
 - All affected clients' consent
 - applies to current not former clients
 - LA 463 (1990)
 - Appeal
 - attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
 - Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
 - attorney purchased judgment from opposing party seeks to enforce judgment against former client in the appeal on same matter as original representation
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - disqualification order not appealable in the grand jury context
 - In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 - from pre-trial order denying motion to disqualify counsel for conflict of interest
 - standard requires showing on appeal that order affected outcome of case
 - In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 - order denying motion to disqualify not an immediately appealable final order
 - Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
 - Appearance of conflict
 - Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
 - Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
 - People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
 - Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
 - People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
 - People v. Conner (1983) 34 Cal.3d 141, 148 [193 Cal.Rptr. 148, 666 P.2d 5]
 - People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 - People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
 - Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - district attorney
 - recusal of entire office
 - People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 - publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney office
 - Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
 - Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

- recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
- Appearance of impropriety
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1467
In re Georgetown Park Apartments (9th Cir. BAP 1992) 143 B.R. 557
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]
People v. Lopez (1984) 155 Cal.App.3d 813, 823-824 [202 Cal.Rptr. 333]
*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
[CAL](#) 1981-63
LA 363 (1979)
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
former employee of defendant may become a client of plaintiff's attorney and may communicate confidential information to that attorney
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
multiple and interconnected family entanglements results in an appearance of impropriety and undermines the integrity of the judicial system
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
standard has never been used by a California court as the sole basis for disqualification
In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
- Arising from relationship with non-client
Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoff, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
OC 2012-1
-disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney
Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]
- Arising out of formation of partnership with out-of-state law firm
LA 392 (1981)
- Assignee
represent
-against former client's assignee in matter in which acted for client
LA(l) 1961-2
- Associate
city attorney's
-practice by
LA(l) 1975-4
city council member's, practice by
[CAL](#) 1977-46, LA(l) 1975-4
moving to opposing side – now representing opposing party
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
LA 363 (1976)
practice by employer when associate
-is prosecutor
LA 377 (1978)
- Attorney acting as arbitrator
improper for an attorney appearing before him to represent him
LA 415 (1983)
- Attorney acting as class action class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
- Attorney as partner or employee of two law firms
LA 511 (2003)
- Attorney general
withdrawing from representation of one party then suing the same clients on the identical controversy
People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
- Attorney-client relationship
consultation in non-office setting
[CAL](#) 2003-161
consultation where potential client submits legal question via website
[CAL](#) 2005-168
-is not created by receipt of private information from potential client via an unsolicited email
SD 2006-1
Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
- existence of
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]

CONFLICT OF INTEREST

- Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]
In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
Kraus v. Davis (1970) 6 Cal.App.3d 484, 490-491 [85 Cal.Rptr. 846]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 101]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
CAL 1977-47
- arising out of a joint defense agreement
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 - fiduciary relationship exists in absence of fee agreement
 - Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
 - for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result
 - In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
 - former client
 - exists when transaction involves funds obtained by representation
 - Hunnicut v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - law firm acquires former client's collection business
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
 - minor and guardian
 - Evidence Code section 951
 - CAL 1988-96
 - "on-going relationship" between attorney and client based on periodic visits to attorney's office seeking legal assistance
 - In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
 - preparing answer for in propria persona defendant creates relationship
 - LA 432 (1984)
 - purchaser of client's assets
 - LA 433 (1984)
 - telephone "hotline" providing legal advice to callers
 - LA 449 (1988)
- for purposes of disqualification, attorney representing insured is also representing insurance company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
substantial attorney-client relationship must be shown
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
- without separate relationship, there can be no conflict of interest between governmental entity and constituent entity
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
- Avoiding adverse interests
Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
- Avoiding representation of adverse interests
Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)
- Bankruptcy [See Conflict of interest, receiver.]
In re Hines (9th Cir. BAP 1998) 198 B.R. 769
attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]
attorney for bankruptcy estate not inherently in conflict if represent estate creditors against others in a separate action
Vivitar Corp. v. Broidy (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
attorney for bankruptcy estate trustee had prior consultation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney for bankruptcy estate has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
attorney-trustee was removed when it was shown she was not disinterested (had an indirect relationship with debtor)
In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R. 139
concurrent representation of clients with adverse interests
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
-lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program
CAL 2014-191
- represent
- bankrupt/creditor
 - LA 50 (1927)
 - receiver
 - party in divorce and
 - LA 51 (1927)
 - receiver/general creditor
 - LA 74 (1934)
- Bond
indemnity company counsel acts against assured by way of subrogation
LA(I) 1966-1
- Bonus program for public agency attorneys tied to savings by agency
SD 1997-2
- Borrowing money from trust where attorney is trustee
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
- Breach of fiduciary duty
attorney acting as counsel for both sides in leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]

CONFLICT OF INTEREST

- attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- business dealings between attorney and client subject to scrutiny
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 915
- disbursements from community property assets in dissolution matter without consent of parties
Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
- disclose to court representation of related trust
Potter v. Moran (1966) 239 Cal.App.3d 873 [49 Cal.Rptr. 229]
- duty component defined
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- misrepresentation and undue influence induce client to sell real property to attorney
Hicks v. Clayton (1977) 67 Cal.App.3d 251
- to former client
-law firm acquires former client's collection business
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884
- Business activity
recommend own to client
LA(I) 1971-16
represent
-customers of own
LA 205 (1953), LA(I) 1976-7
- Business or financial transactions with clients
In re Tallant (9th Cir. 1998) 218 B.R. 58
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
SF 1997-1
- advice of independent counsel
In re Tallant (9th Cir. 1998) 218 B.R. 58
Connor v. State Bar (1990) 50 Cal.3d 1047
Hawk v. State Bar (1988) 45 Cal.3d 589
Ritter v. State Bar (1985) 40 Cal.3d 595
Beery v. State Bar (1987) 43 Cal.3d 802, 813
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
SD 1992-1
-partner not an independent counsel
Connor v. State Bar (1990) 50 Cal.3d 1047
- authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- burden of proof on attorney that dealings fair and reasonable
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Rodgers v. State Bar (1989) 48 Cal.3d 300
Hunnicut v. State Bar (1988) 44 Cal.3d 362
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
SD 1992-1
- deed of trust to secure fees
Read v. State Bar (1991) 53 Cal.3d 394
Hawk v. State Bar (1988) 45 Cal.3d 589
LA 492 (1998)
- duty to disclose interest
Rosenthal v. State Bar (1987) 43 Cal.3d 612
- fair market value is not determinative of whether a transaction is fair and reasonable to a client
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- full disclosure required
Beery v. State Bar (1987) 43 Cal.3d 802
Frazer v. State Bar (1987) 43 Cal.3d 564
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- lending money to client by attorney
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
-by attorney's spouse
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
- moral turpitude found
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
- no violation found if no financial gain and not a party to the transaction
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
CAL 2002-159
- overreaching and/or undue influence, presumption of
Ritter v. State Bar (1985) 40 Cal.3d 595
Giovanazzi v. State Bar (1980) 28 Cal.3d 465

CONFLICT OF INTEREST

- Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- stock promise to attorney is unenforceable
 - Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 strictly scrutinized for fairness
 - Rodgers v. State Bar (1989) 48 Cal.3d 300
 - Beery v. State Bar (1987) 43 Cal.3d 802
 - BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
 - Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 unsecured promissory note does not give attorney a present interest in client's property to trigger [rule](#) 3-300
 - Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
- Business transaction with former client
 - no violation of [rule](#) 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - using funds obtained in the representation
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - attorney-client relationship continues to exist
 - Hunnicut v. State Bar (1988) 44 Cal.3d 362
- Child custody proceeding, disclosure to court, improper conflict between client and child
 - suggest appointment of separate counsel for child
 - [CAL](#) 1976-37
- "Chinese Wall"
 - settlement confidentiality agreement
 - LA 512 (2004)
 - steps which must be taken to set up an effective screen
 - National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
 - vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
 - National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
- Circumstances of case evidence, reasonable possibility that district attorney's office may not act in even-handed manner
 - People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
- City
 - act against while representing insurance carrier of
 - SD 1974-22
 - advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part
 - North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
 - Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]
 - assist in representation of actions and represent city employee against city in unrelated matter
 - LA 77 (1934)
 - associate of
 - practice by
 - LA(I) 1975-4
 - attorney
 - 46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)
 - attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
 - Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
- city attorney/county counsel
 - Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
 - 74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)
 - 61 Ops. Cal. Atty. Gen. 18, 22-23 (1/5/78; No. CV 77-118)
 - [CAL](#) 2001-156
 - city attorney disqualified from representing city in matter related to prior representation of private company
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 - may serve simultaneously as a city council member
 - 85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
 - partner
 - appointed as county counsel may contract with own firm to assist in the performance of duties
 - 74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)
 - practice by
 - LA(I) 1975-4
 - partner represents
 - in criminal matters
 - LA 242 (1957), LA(I) 1975-4
 - practice by
 - associate of
 - LA(I) 1975-4
 - private attorney under contract to government agency
 - County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
 - Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
 - People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
 - recusal of
 - People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
 - simultaneously acts as a member of Coastal Regional Commission which votes on matters relating to the city
 - SD 1977-1
 - vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
 - City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- city council member
 - city council member who is also an attorney may not advocate on behalf of a client's interests when those interests are adverse to the city
 - 101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)
 - defense attorney in criminal matter
 - People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
 - practice by
 - [CAL](#) 1977-46
 - practice by partners of
 - [CAL](#) 1981-63, [CAL](#) 1977-46,
 - LA(I) 1975-4
 - SD 1976-12
 - represent tort claimants against city
 - [CAL](#) 1981-63
 - represents
 - civil litigants
 - [CAL](#) 1977-46
 - criminal defendants
 - [CAL](#) 1977-46
 - in ordinance violations
 - LA 273 (1962)
 - SD 1969-1
 - in traffic cases
 - SD 1969-1

fee, contingency contract with government agency
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
 Government Code section 1090
 -city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
 86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)

Class action
 Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
 class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
 class counsel offers to dismiss case if defendant makes multimillion dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service, Inc. (1997) 52 Cal.App.4th 1
 conflict of interest when firm who employs attorney/plaintiff is counsel for the class for which attorney/plaintiff is a class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
 defendant agreed to hire class counsel to monitor the proposed settlement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
 disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
 duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 incentive agreement between class representatives and class counsel
Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948
 no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Client [This heading is used for fact situations that do not easily fit under other, less abstract headings. Most conflict of interest matters involving clients are indexed under various other headings.]
 act against
 LA(l) 1972-15, SD 1976-10
 -in related matter
 LA 448 (1987), LA(l) 1974-13, LA(l) 1971-7
 -in unrelated matter
 LA 266 (1959), LA(l) 1975-2, LA(l) 1971-7, LA(l) 1965-2
 SD 1974-14

-witness
 --against present client
 ---in criminal proceedings
 CAL 1979-49
 --expert witness is former client of attorney
 LA 513 (2005)

former
 -act against
 LA(l) 1972-5
 --in related matter
 LA(l) 1977-1, LA(l) 1972-7, LA(l) 1971-7, LA(l) 1969-2
 SD 1970-2
 --in unrelated matter
 LA(l) 1971-7, LA(l) 1969-2, LA(l) 1964-6
 SD 1974-14, SD 1974-12, SD 1970-2
 -expert witness is former client of attorney
 LA 513 (2005)

holder of the privilege
 Evidence Code section 953
 initiation of conservatorship proceedings against
 CAL 1989-112, LA 450 (1988), SD 1978-1

multiple clients
 Evidence Code section 962

of associate
 -represent client in claim against
 CAL 1981-57
 SD 1972-15

-witness
 --against present client
 CAL 1980-52

represent
 -despite client malpractice suit against attorney's former law corporation
 SD 1978-10
 -self and
 LA 39 (1927)

Co-counsel
 attorney's self-interest does not create conflict with client when attorney seeks indemnification in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
 no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Communicate with client
 potential malpractice claim, facts related to
 CAL 2019-197, CAL 2009-178
 where attorney has professional or financial interest in the subject matter
 CAL 2009-178

Communication with treating physician
 SD 1983-9
 sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]

Concurrent representation of clients with adverse interests
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 SD 2017-2
 client as witness in another client's case
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 witness, who is a client in a concurrent matter, has right to not have her counsel put her in such a position where she is portrayed in a negative manner
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

CONFLICT OF INTEREST

Condemnation

assist governmental body, former employer, when clients of partnership involved in the matter
LA 246 (1957)

Cone of silence

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Confidential information

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]

60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)

59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)

CAL 2011-182, CAL 1976-37
LA 435 (1985), LA 418 (1983)

SD 2008-1, SD 1976-10, SD 1974-12, SD 1970-2
SF 1973-6, SF 1973-19

acquisition of by virtue of employment as associate in law firm
Kraus v. Davis (1970) 6 Cal.App.3d 484, 491 [85 Cal.Rptr. 846]

-associate switches sides

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

LA 501 (1999), LA 363 (1976)

actual versus potential disclosure

-actual use or misuse not determinative – possibility of breach of confidence controls

Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934

-associate switches sides

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

LA 501 (1999), LA 363 (1976)

-where former attorney in substantially same matter is now prosecutor

People v. Johnson (1980) 105 Cal.App.3d 884, 890-891 [164 Cal.Rptr. 746]

attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

attorney for several clients involved in business enterprise later represents one of those clients against former associates

*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

"Chinese wall"

-attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)

Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]

-burden to show presence of screening is on the party sought to be disqualified

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) (2003) 241 F.Supp.2d 1100

In re Charlis C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575

-city attorney disqualified from representing city in matter related to prior representation of private company

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

-cone of silence

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

-disqualification not required, marital relationship does not create assumption that lawyers violate duty of confidentiality

DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

-district attorney

--recusal of entire office

---not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-elements of

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

-"ethical wall" failed to prevent district attorney from discussing case with the press

People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]

-former court commissioner now associate in firm

Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]

-former government attorney now associate in law firm
LA 246 (1957)

-general analysis

Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150

- must be set up at a time when the potentially disqualifying event occurred
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
- public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- retired judge subsequently represents one of the parties in the same matter
Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
- screening of law clerk hired by law firm while clerk worked for judge before whom law firm was appearing in pending matter
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
- screening procedures must be put in place before the "tainted" attorney is brought on board
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
- separation between Public Defender and Alternate Public Defenders' offices
People v. Christian (1994) 41 Cal.App.4th 986
CAL 2002-158
- settlement confidentiality agreement
LA 512 (2004)
- steps which must be taken to set up an effective screen
Armstrong v. McAlpin (2nd Cir. 1980) 625 F.2d 433
Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- switching sides in same matter
--attorney disqualified where attorney obtained privileged information related to pending litigation during his employment at adverse party
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
--vicarious disqualification where firm failed to rebut presumption of imputed knowledge
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
- vicarious disqualification not required
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- district attorney
---recusal of entire office
----not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- vicarious disqualification of a firm denied because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
- Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- vicarious disqualification of city attorney's office where in related matter city attorney previously represented private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- vicarious disqualification of entire firm where no attempt to screen
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
- vicarious disqualification of public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- walling off of witness/employee of district attorney's office is less drastic measure than disqualification
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
- when attorney is screened from participation in the matter to the satisfaction of adverse party
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
LA 501 (1999)
- client and witness for co-defendant represented by same law firm
Leversen v. Superior Court (1983) 34 Cal.3d 530 [194 Cal.Rptr. 448, 668 P.2d 755]
- common interest doctrine
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- commonly known facts deemed not given in confidence
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
- conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- county counsel representation of both parties
Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
- detrimental use based on adverse positions as attorney for insurance company and counsel for opposing party
Anderson v. Eaton (1930) 211 Cal. 113, 116 [293 P. 788]
- disclosure
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]

CONFLICT OF INTEREST

disclosure of, based on prior relationship with former client now opposing party

Allen v. Academic Games League (1993) 831 F.Supp. 785

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619-624 [120 Cal.Rptr. 253]

LA 501 (1999)

disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure

Allegaert v. Perot (9th Cir. 1977) 565 F.2d 246

Cornish v. Superior Court (1989) 209 Cal.App.3d 467

disqualification of attorney from representing debtor is not attributable to his firm under Bankruptcy Code

In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

disqualification of attorney not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

disqualification of attorney not required where party shared information of another party, with the adverse party, where there were simply overlapping interests, no joint clients privilege

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

disqualification of attorney not required where substantial relationship is not shown and actual confidences of the former client are not breached

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]

disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown

Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]

disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

disqualification of defense counsel not required where plaintiff's expert witness was a former client of defense counsel and where expert waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

disqualification of law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

disqualifying the firm from the litigation is reversed and remanded where disqualified attorney departs from mega-firm during pendency of appeal

Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]

dissemination of information to counsel for adversary by a third party

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443 [212 Cal.Rptr. 497]

Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]

duty to protect continues after formal attorney-client relationship ends

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934 [197 Cal.Rptr. 185]

existence of in multiple representation situations

Arden v. State Bar (1959) 52 Cal.2d 310, 319-320 [341 P.2d 6]

former counsel for opposing party

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

Big Bear Mun. Water Dist. v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]

-for disqualification purposes, confidential information may include knowledge of a client's internal operations, policies, and litigation philosophies

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

-no automatic where previous representation did not expose attorney to confidential information material to the current representation

Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

former law clerk/student in firm involved in litigation against former firm's client

Allen v. Academic Games League (1993) 831 F.Supp. 785

former state-employed attorney in firm involved in litigation against state

Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]

franchise group

-franchisee law firms of franchise group obtaining confidences

LA 423 (1983)

- impute knowledge to co-counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
 LA 501 (1999)
 -to all in firm
CAL 1998-152, LA 377 (1978)
- imputed knowledge not found
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- imputed knowledge theory holds that knowledge by any member of a law firm is knowledge by all of the attorneys, partners, and associates
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
CAL 1998-152, LA 501 (1999)
- "joint-client" exception to lawyer-client privilege
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
 -when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]
- joint defense agreement implied
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
- knowledge of attitudes, strengths, weaknesses strategy
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
- material to new representation
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 LA 501 (1999)
- "materiality" of confidential information may be lost through passage of time
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- multiple representation
 SF 1973-10
- obtained from non-client and useful in representation in an action on behalf of a client
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
- Raley v. Superior Court (1983) 149 Cal.App.3d 1042, 1047
 SD 2006-1
 obtaining during course of representation of opposing party in previous lawsuit
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 573-574
 "of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
 possession of as impetus to representation of client against former client
Shaeffer v. State Bar (1934) 220 Cal. 681 [32 P.2d 140]
- potential disclosure
Galbraith v. State Bar (1933) 218 Cal. 329, 332-333 [23 P.2d 291]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- in criminal case
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 675 [153 Cal.Rptr. 295]
- representation under Joint Powers Act
 Government Code section 6500 et seq.
 60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
- presumption of possession
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109, 114 [14 Cal.Rptr.2d 184]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
Elliott v. McFarland Unified School Dist. (1985) 165 Cal.App.3d 562, 569 [211 Cal.Rptr. 802]
Civil Service Comm. v. Superior Court (1985) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489 [192 Cal.Rptr. 609]
 -attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

CONFLICT OF INTEREST

- Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-attorney never performed services for former client of attorney's wife's previously disqualified firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
-automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that the attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
-disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
-due to similarity between the two cases and the overlapping factual issues common to both, father and daughter should be treated as a single unit for determining whether a conflict exists
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
-rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
-rebuttable presumption of shared confidential information from a non-lawyer changes employment from one law firm to another
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
-significant danger as a result of law firm's prior involvement in a divorce case where firm represented the father of the opposing party that the firm had acquired confidential information of the opposing party
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
prior association with opposing party counsel by attorney for defendant
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
prior relationship with opposing party
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
prior representation of co-defendant
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]
prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
public defender may not set up separate division within office to represent criminal defendant
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
relationship with opposing party in unrelated litigation
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
CAL 2014-191
removal of expert for plaintiff not required where defense counsel had represented the expert ten years before and expert offered unqualified waiver of conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
rule 3-310(E) requires court determination that a "member" has obtained confidential information for purpose of disqualification
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
SD 2006-1
settlement confidentiality agreement
-attorney disqualified for seeking to call former clients as witnesses in pending action who were subject to
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
-confidentiality clause could not prevent former client from testifying in pending matter as to the facts and circumstances he witnessed
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
switching sides in same matter
Sheffield v. State Bar (1943) 22 Cal.2d 627, 630 [140 P.2d 376]
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
- CAL 1998-152
- LA 363 (1976), LA(l) 1962-2
- associate switches sides
LA 363 (1976)
- attorney disqualified where attorney obtained privileged information related to pending litigation during his employment at adverse party
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
- attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client put attorney in the position of being the opposing side in the same litigation in which he represented former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- defense attorney to prosecutor's office
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- telephone "hotline" taking legal inquiries from callers
LA 449 (1988)
- vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- vicarious disqualification where firm failed to rebut presumption of imputed knowledge
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
- where public defender's office held no confidential information, conflict of interest did not exist where witness in current matter had been represented by former member of public defender's office
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
- Conflicting offices
- concurrently holding
- 4 Ops. Cal. Atty. Gen. 261 (10/11/44; No. NS-5643)
- 3 Ops. Cal. Atty. Gen. 18 (1/20/44; No. NS-5288)
- 2 Ops. Cal. Atty. Gen. 177 (8/30/43; No. NS-5077)
- potential conflict
SD 1977-1
- Consent
- LA 533 (2020)
- advance waiver
- prospective client
CAL 2021-205
- associate switches sides
LA 363 (1976)
- attorney/arbitrator hiring counsel of party appearing before him requires written consent to continue arbitration
LA 415 (1983)
- authority of attorney to consent to conflict without client's personal waiver
People v. Brown (1992) 5 Cal.App.4th 950
- blanket waiver
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
- Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
- Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
- CAL 1989-115
- class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
- class representative's authority to make decisions concerning conflicts of interest for the entire class
Pettway v. American Cast Iron Pipe Company (5th Cir. 1978) 576 F.2d 1157
- client's consent to forbidden act insufficient
Ames v. State Bar (1973) 8 Cal.3d 910, 915 [106 Cal.Rptr. 489, 506 P.2d 625]
- CAL 1988-105
- conservatorship proceedings
OC 95-002, SF 1999-2
- failure to object in a timely manner deemed to be a waiver
Trust Corporation of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87-88
- failure to object to district attorney as prosecutor when former counsel in action based on same facts; deemed to be waiver
People v. Johnson (1980) 105 Cal.App.3d 884, 891-892 [164 Cal.Rptr. 746]
- franchise law firms of franchise group representing adverse or multiple clients
LA 423 (1983)
- from buyer and seller where attorney is broker for both, but attorney to only one
LA 413 (1983)
- implied
Blecher & Collins, P.C. v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
- Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- State of Arizona ex rel. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
- State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- Health Maintenance Network v. Blue Cross of So. California (1988) 202 Cal.App.3d 1043
- insufficient to resolve a conflict in a lawyer's representation of two clients, one of whom implicated co-client in a fraudulent scheme while the latter declared that she had no involvement in the illegal activity
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
- improper to request consent from client when a disinterested lawyer would conclude that the client should not agree to representation involving a conflict of interest under the circumstances
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
- loaning money received on behalf of estate to other clients without consent of administratrix
Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]
- may not be sufficient in dual representation situations where actual, present, existing conflict
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
- Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes Ltd. (1993) 12 Cal.App.4th 74 [15 Cal. Rptr.2d 585]
- Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 898 [142 Cal.Rptr. 509]

CONFLICT OF INTEREST

- [CAL](#) 1993-133
LA 533 (2020), LA 471 (1992), LA 432 (1984), LA 427 (1984)
SD 2013-1
-must withdraw
[CAL](#) 1988-96
LA 471 (1992), LA 395 (1982)
minor may not have legal capacity
LA 459 (1990)
necessity for full disclosure of representation of adverse party
[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796
[Furia v. Helm](#) (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
[Ishmael v. Millington](#) (1966) 241 Cal.App.2d 520, 526 [50 Cal.Rptr. 592]
necessity for written consent
[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796
[Visa U.S.A. Inc. v. First Data Corp.](#) (N.D. Cal. 2003) 241 F.Supp.2d 1100
[In re Airport Car Rental Antitrust Litigation](#) (N.D. Cal. 1979) 470 F.Supp. 495, 500
[Dixon v. State Bar](#) (1982) 32 Cal.3d 728, 733 [187 Cal.Rptr. 30, 653 P.2d 321]
[In re Marriage of Friedman](#) (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
3-310
[Stanley v. Richmond](#) (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
[Klemm v. Superior Court](#) (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
[Industrial Indem. Co. v. Great American Insurance Co.](#) (1977) 73 Cal.App.3d 529, 537 [140 Cal.Rptr. 806]
[Jeffry v. Pounds](#) (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
[In the Matter of Aguiluz](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
[CAL](#) 1998-152
-after disclosure of former representation of adverse party
[CAL](#) 1998-152, LA 406 (1982)
-by appropriate constituent of organization other than the constituent to be represented
[Coldren v. Hart, King & Coldren, Inc.](#) (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
[CAL](#) 1999-153
-by wife, where attorney represented husband and wife jointly on estate plans, later represents husband on *Marvin* Agreement with another woman
LA 448 (1987)
-lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program
[CAL](#) 2014-191
-potential conflict waived, attorney as scrivener to marriage settlement agreement
[In re Marriage of Egedi](#) (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
-wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
[In re Marriage of Friedman](#) (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
necessity of
[Lee v. State Bar](#) (1970) 2 Cal.3d 927, 941-942 [88 Cal.Rptr. 361, 472 P.2d 449]
[People v. Davis](#) (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
[McPhearson v. Michaels Company](#) (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
[Gilbert v. National Corporation for Housing Partnerships](#) (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
of client
-after disclosure of former representation of adverse party
LA 406 (1982)
-attorney's relationship with courtroom personnel
[CAL](#) 1987-93
-by appropriate constituent of organization other than the constituent to be represented
[Coldren v. Hart, King & Coldren, Inc.](#) (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
[Pringle v. La Chappelle](#) (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
[CAL](#) 1999-153
-corporation and board of directors in derivative suit
LA 397 (1982)
-representation of adverse party
--in unrelated action
LA 406 (1982)
LA 6 (1918)
-witness is former colleague of attorney
[CAL](#) 1987-93
of opposing party
[Earl Scheib, Inc. v. Superior Court](#) (1967) 253 Cal.App.2d 703, 705 [61 Cal.Rptr. 386]
parties pursuant to Joint Powers Act
Government Code section 6500 et seq.
60 Ops. Cal. Atty. Gen. 206 (7/7/77; No. CV 76-14)
representation of more than one party
[Arden v. State Bar](#) (1959) 52 Cal.2d 310 [341 P.2d 6]
-to continued representation
--of multiple parties
[CAL](#) 1975-35
LA 427 (1984), LA 22 (1923)
required for full disclosure
[Lysick v. Walcom](#) (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
unrelated action
61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
where current expert for plaintiff was prior client of defense counsel, no disqualification of defense counsel required when expert gives unqualified waiver and consent
[Montgomery v. Superior Court](#) (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Conservatorship proceedings
[CAL](#) 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
Contingent fee from insurer, based on percentage of medical expenses recovered, for protecting insurer's lien on recovery of expenses
LA 352 (1976)
Contract
draft
-for both parties
SF 1973-26
-for own son and other party
SF 1973-26
re-negotiation of fee contract with client while case is pending
[CAL](#) 1989-116
-no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
[Desert Outdoor Advertising v. Superior Court](#) (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
Corporation as client
actual conflict defined
[Bridgepoint Construction Services, Inc. v. Newton](#) (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
[Blue Water Sunset, LLC v. Markowitz](#) (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Corporations

Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)
In re Sidco (1993) 162 B.R. 299
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
 *Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
 acting as agent for and construing contracts for potential clients of corporation
CAL 1968-13
 acting as both receiver for and attorney against corporation
 LA 74 (1934)
 advising officers and directors when corporate control changes
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
 attorney (employee) sues employer/client
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
 -employment information versus legal services information
 SD 2008-1
 attorney acting as director and as attorney
 OC 2011-02
 attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
 because minority shareholder's derivative claims render majority shareholder's and corporation's interests adverse, majority shareholder's attempt to consent to attorney's concurrent representation of corporation over minority shareholder's objection was ineffective
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
 corporate director/attorney representing client in transaction with corporation
CAL 1993-132
 counsel for
 -corporation and CEO as individual
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 --in-house counsel represented employer and employee concurrently (to the employee's detriment) without obtaining informed consent
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
 -employer and management employees
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
 -former represents against
 LA(I) 1973-5, SD 1970-2
 -in-house counsel for corporate client represents outside company in merger with client
 LA 353 (1976)
 former attorney for corporation representing parties in litigation against corporation covering time period of previous employment
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
 organization as client
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr. 756]

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 LA 353 (1976)
 parent /subsidiary considered single entity for conflicts purposes
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoff, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113, OC 2012-1
 representation of corporation and board of directors in derivative action
 LA 397 (1982)
 representation of corporation and controlling shareholders
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
 representation of corporation and corporate director as co-defendants
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
CAL 1999-153, LA 471 (1992), SD 2017-1
 representation of corporation and directors is impermissible, but attorney can represent one party
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
 representation of corporation and officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
CAL 2003-163
 representation of corporation deemed not representation of corporate officers personally
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 290 [301 P.2d 101]
 representation of corporation not deemed representation of minority shareholder
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 representation of former shareholders against former corporate client in related matters requires disqualification because of duty of loyalty and confidentiality
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 representation of minority shareholder and director in proxy fight by former corporate general counsel
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
 represents
 -corporation against director
 LA(I) 1966-14
 -corporation and board of directors in derivative suit
 LA 397 (1982)
 -director of represents stockholder against
 LA(I) 1955-2
 -incorporate
 --later represent against one incorporator
 SD 1974-13
 shareholders derivative action
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]

CONFLICT OF INTEREST

- Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
-against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
-attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
- stockholder
-director of corporation represents stockholder against corporation
LA(l) 1955-2
- County counsel
attorney for governmental entity advises constituents with antagonistic positions
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
CAL 2001-156
collective bargaining by government attorneys
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
conflict exists when county counsel represents both minor and county department of social services
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
conflict of interest rules do not bar county counsel from suing county where no breach of duties of loyalty or confidentiality
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
dispute between district attorney and county sheriff prevented county counsel from representing either party since the two were county public officers, thus, requiring independent counsel for sheriff
Rivero v. Lake County Board of Supervisors (2014) 232 Cal.App.4th 1187 [181 Cal.Rptr.3d 769]
giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
outside counsel represents county in tort liability also may represent parties in actions against county if unrelated matter
61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
representation of both child and Department of Children Services
LA 459 (1990)
representation of both Sheriff's Department and Employment Appeals Board places burden on county to show effective screening or be disqualified
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
representation of county improper after prior representation of county commission in same matter
Civil Service Comm. v. Superior Court (1984) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]
representation of county tax assessor and appeals board by separate branches of county counsel's office proper, where effective screening procedures were shown
Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960
- representation of district organized under Municipal Water District Act of 1911 incompatible with duties as county counsel, notwithstanding provision allowing outside private law practice
30 Ops. Cal. Atty. Gen. 86, 88 (8/23/57; No. 57-149)
representation of social services department and of public conservator by separate branches of the county counsel office may not be a conflict of interest
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
- Creating a conflict
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
plaintiff's expert waives potential conflict where defense counsel previously represented expert; expert need not be removed and defense counsel need not be disqualified
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Creditor
counsel for represents debtor in resolving financial problems of
LA(l) 1969-5
counsel for uses assets of debtor in his possession to satisfy creditor's claim
LA(l) 1969-5
lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program
CAL 2014-191
represent creditor of former client against former client
SD 1974-12
- Criminal proceedings
active representation of conflicting interests deprives defendant of effective assistance of counsel
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
actual conflict that adversely affects defense counsel's performance is required to find ineffective assistance of counsel
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
People v. Perez (2018) 4 Cal.5th 421 [229 Cal.Rptr.3d 303]
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]
appointment of substitute or conflict counsel to evaluate a defendant's claim of incompetent advice regarding entry of a guilty plea
People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]
attorney's conflict of interest violates Sixth Amendment right to effective counsel (former representation of co-defendant in earlier trial)
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
Fitzpatrick v. McCormick (9th Cir. 1989) 869 F.2d 1247

-no violation of defendant's Sixth Amendment rights where defense counsel previously represented prosecution witness's spouse in a previous case
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]

city attorney disqualified from prosecuting misdemeanor where probable future representation of city to defend actions brought by same criminal defendants
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]

client
 -witness
 --against present client
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
CAL 1979-49

conflict occurs where public defender compelled by excessive caseload to choose between the rights of the various indigent defendants he or she is representing
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

-one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

court has duty to inquire into possibility of conflict of interest on part of defense counsel
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
People v. Cook (1975) 13 Cal.3d 663 [119 Cal.Rptr. 500]
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
People v. Owen (1989) 210 Cal.App.3d 561 [258 Cal.Rptr. 535]

-no duty where no potential conflict of interest exists
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

-removal of defense counsel improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

-removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]

-where court failed to inquire into potential conflicts, defendant must establish that conflict adversely affected counsel's performance
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

death penalty confirmed in spite of defense counsel's alleged conflict of interest (similar representation of defendant and witness)
People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]

death row inmate entitled to assistance from conflict-free counsel in federal habeas petition to argue equitable tolling
Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]

death threat against public defender by defendant required court to appoint conflict counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]

defense attorney consults in confidence one defendant who becomes witness against other co-defendants
 -attorney may not represent other co-defendants
 LA 366 (1977)

defense counsel and district attorney involved in personal relationship
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]

defense counsel good friend of defendant's roommate who was also a suspect
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

defense counsel left public defender's office and went to DA's office during case
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel married to bailiff
CAL 1987-93

defense counsel testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

defense counsel's separate retainer agreements with defendant and with defendant's family did not create a conflict of interest that affected counsel's performance
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

disqualification
 -ineffective representation in covering attorney's conduct in failing to file timely notice of appeal
In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]
 -recusal of entire D.A.'s office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 172
 -when former co-defendant under a joint defense agreement is prosecution witness
United States v. Henke (9th Cir. 2000) 222 F.3d 633

district attorney
 -recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 --not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

former client
 -now co-defendant
 --disqualification
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]

-now witness
 --against present client
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

CONFLICT OF INTEREST

- Rhburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
CAL 1980-52
---no prejudice where former client is witness against current client and Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
-potential witness of potential perpetrator is potential conflict and court has latitude to remove defense counsel over the objection of defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
habeas relief
-client entitled to, when trial attorney's conflict of interest results in failure of attorney to file direct appeal
Manning v. Foster (9th Cir. (Idaho) 2000) 224 F.3d 1129
-substitution of counsel should be granted where defense counsel who filed untimely petition would be required to denigrate own performance
Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]
joint defense agreement implied
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
limited conflict does not taint defense counsel's entire representation of defendant
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
mere veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
not found where defendant claimed irreconcilable conflict based on petitioner dismissed lawsuit against the public defender's office and appointed pre-trial counsel
Foote v. Del Papa (9th Cir. (Nev.) 2007) 492 F.3d 1026
post-indictment subpoena on target's counsel creates possibility of conflict of interest but is insufficient to disturb conviction
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
private attorney now district attorney prosecuting former client in a related matter
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
representation of co-defendants
-by same attorney
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-potential conflict between
CAL 1975-35, CAL 1970-22
representation of criminal defendant by member of firm acting as city prosecutor
LA 453 (1989)
representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
representation of subordinate
-superior, head of criminal organization pays legal fees
CAL 1975-35
right to counsel does not include right to any particular court-appointed counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
right to counsel includes right to waive potential conflict
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Burrows (1990) 220 Cal.App.3d 116 [269 Cal.Rptr. 206]
right to counsel may be forfeited by defendant's threatening conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
right to counsel may not be forfeited without defendant's voluntary, knowing and intelligent waiver
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
right to counsel, not infringed by court's denial of defendant's motion to substitute a retained counsel who had a conflict with a former client
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner
Ellis v. Harrison (9th Cir. 2018) 891 F.3d 1160
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
waiver of
-by defendant
People v. Pastrano (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 620]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
Alocer v. Superior Court (1988) 206 Cal.App.3d 951
--denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr. 173]
-no valid waiver found
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
withdrawal
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
witness for prosecution former client of public defender's office
Rhburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Pennington (1991) 228 Cal.App.3d 959

witness for prosecution former colleague and friend of defense counsel
[CAL](#) 1987-93

Criminal prosecution
 conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
[United States v. Henke](#) (9th Cir. 2000) 222 F.3d 633
 defendant entitled to counsel free of conflict
[Lockhart v. Terhune](#) (9th Cir. 2001) 250 F.3d 1223
[U.S. v. Christakis](#) (9th Cir. 2001) 238 F.3d 1164
[People v. Cornwell](#) (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
[People v. Avila](#) (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
[People v. Jackson](#) (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 -client may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
[Lewis v. Mayle](#) (9th Cir. 2004) 391 F.3d 989
 -lump sum payment of fees and costs does not create inherent conflict
[People v. Doolin](#) (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]

district attorney
 -recusal of entire office
 --not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
[People v. Gamache](#) (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

dual representation of co-defendants
 -by appointed counsel
[Lockhart v. Terhune](#) (9th Cir. 2001) 250 F.3d 1223
[People v. Elston](#) (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
 -by private counsel
[People v. Cook](#) (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
[People v. Amaya](#) (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]

program where volunteer attorneys staff prosecutor's office on part-time basis
 LA 377 (1978)
 -active representation of conflicting interests deprives defendant of effective assistance of counsel
[People v. Easley](#) (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

representation of criminal defendant by member of firm acting as city prosecutor
 LA 453

representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
[People v. Christian](#) (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
[CAL](#) 2002-158

threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
[People v. Almanza](#) (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

waiver of
 -by defendant
 --denied if showing of a serious potential conflict
[Wheat v. U.S.](#) (1988) 486 U.S. 153 [108 S.Ct. 1692]
[People v. Jones](#) (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
[People v. Peoples](#) (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
 -defendant may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
[Lewis v. Mayle](#) (9th Cir. 2004) 391 F.3d 989

Dating/Social Relationships
 34 Santa Clara L. Rev. 1157 (1994)
 criminal defense lawyer dating prosecutor at time of trial
[People v. Jackson](#) (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 married to bailiff
[CAL](#) 1987-93
 plaintiff attorney dating secretary of law firm representing defendant
[Gregori v. Bank of America](#) (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
 social contacts and dating conflicts of interest
 34 Santa Clara L. Rev. 1157 (1994)

Defending and indemnifying opposing party
 plaintiff's counsel in personal injury action may not enter into an agreement to defend and indemnify defendants against an action brought against them by third parties
 LA 532 (2019)

Discharge of attorney
 rights and obligations of client
[Jeffry v. Pounds](#) (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]

Disclosure
[People ex rel. Dept. of Corporations v. Speedee Oil Change Systems](#) (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
[In re Tevis](#) (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
 confidences of the client, basis for disqualification
[Panduit Corp. v. All States Plastic Mfg. Co., Inc.](#) (7th Cir. 1984) 744 F.2d 1564, 1577-1578
 disqualification denied where full disclosure of reasonably foreseeable adverse effects in testifying
[McPhearson v. Michaels Company](#) (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 disqualification proper remedy for failure to disclose reasonably foreseeable adverse effects
[Gilbert v. National Corporation for Housing Partnerships](#) (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 malpractice found where attorney failed to advise elder client of conflict where attorney would receive finder's fee and repayment of loan, by attorney to another client, from loan proceeds obtained in transaction
[Wood v. Jamison](#) (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
 potential malpractice claim, facts related to
[CAL](#) 2009-178
 requires full consent
[People v. Easley](#) (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
[Furia v. Helm](#) (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
[McPhearson v. Michaels Company](#) (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
[Lysick v. Walcom](#) (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
 to buyer and seller where attorney is broker for both, but attorney to only one
 LA 413 (1983)
 to client
 OC 2011-02
 -arguments made by attorney on opposite sides of a controverted issue in different cases
[CAL](#) 1989-108
 -attorney's relationship with courtroom personnel
[CAL](#) 1987-93
 -former representation of adverse party
[Allen v. Academic Games League](#) (1993) 831 F.Supp. 785
 LA 406 (1982)

CONFLICT OF INTEREST

- insurance cases
 - Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
 - interest in subject matter of the representation
 - CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
 - U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
 - witness is former colleague of attorney
 - CAL 1987-93
 - to court
 - attorney's relationship with courtroom personnel
 - CAL 1987-93
 - in child custody proceedings
 - conflict between client and interests of child
 - CAL 1976-37
 - in welfare proceeding
 - conflict between child and state
 - CAL 1977-45
 - inform of representation of related trust
 - Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
 - to former client
 - LA 6 (1918)
 - where attorney has professional or financial interest in the subject matter
 - CAL 2019-197, CAL 2009-178, SD 2017-1
 - Disqualification of counsel
 - People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 - Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
 - absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
 - Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 - alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
 - United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
 - appeal
 - disqualification counsel is collaterally estopped from re-litigating issue of his breach of an ethical violation that had already been decided by court that ordered the disqualification
 - A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
 - disqualification order not appealable in the grand jury context
 - In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 - from pre-trial order denying motion to disqualify counsel for conflict of interest
 - standard requires showing on appeal that order affected outcome of case
 - In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 - order disqualifying the firm from the litigation is reversed and remanded where disqualified attorney departs from mega-firm during pendency of appeal
 - Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
 - standing to challenge disqualification
 - A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
 - arbitration
 - panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata
 - Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
 - arbitrator's denial of motion to disqualify opposing counsel for conflict of interest was open to collateral attack
 - Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
 - associated counsel
 - Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
 - attorney-client relationship
 - Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
 - associate who worked on plaintiff's case is brother-in-law to presiding judge
 - Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158
 - disqualification denied where the court found that new partner who switched sides had no involvement in the instant action and had not discussed the action with the attorneys at the new law firm and where the firm had not used the new partner's services relating to the instant action
 - Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
 - disqualification despite technicality of no attorney-client relationship
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified
 - Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
 - In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]
 - Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
 - Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
 - Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
 - Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
 - Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
 - Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 - Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
 - Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
 - In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - disqualification not proper unless an attorney-client relationship existed
 - In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]
 - Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
 - Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
- attorney disqualified for an ethical violation generally not entitled to fees
 - A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

- attorney general – denied
Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
- attorney's former joint representation of parties justified disqualification from representing one against the other
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
- based on incidental social contacts and completely unrelated business transaction
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631
- based on receipt of confidential information from a non-client
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
- based on relationship between class action counsel and class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
- between the party and the attorney sought to be disqualified
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
- burden on client
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
- public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- "case-by-case" approach must be used by trial courts
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- choice of counsel of non-moving party must be taken into consideration
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- city attorney
 -city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- criminal prosecution and defense of city arising out of same incident
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
- city councilman as defense counsel in criminal action
*People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714, 716-720 [138 Cal.Rptr. 235]
 CAL 1981-63
- class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
- co-counsel
 -case law does not support "double imputation" when lawyer is two steps removed from attorney who has confidential information about a client
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- imputed knowledge to
Panduit Corp. v. All States Plastic Mfg. Co. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
- to all in firm
 LA 377 (1978)
- concurrent representation of clients with adverse interests
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- client's consent to dual representation must be based on disclosure of all material facts the attorney knows and can reveal
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
- if an attorney simultaneously represents two clients with adverse interests, disqualification is automatic
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
- with few exceptions, there is a per se rule requiring disqualification of an attorney or a law firm when there is a conflict of interest based upon concurrent representation of multiple clients
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
- confidential information delivered to opposing party's counsel
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]
- conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- conflicting liabilities between insurers and insured
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
- consultation with an independent attorney regarding the client's case may prevent the consulted attorney from representing the party adverse to the client
 SD 1996-1
- county counsel not in conflict of interest when separate branches of the office represents potentially adverse interests
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

CONFLICT OF INTEREST

criminal proceeding

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

CAL 1980-52, CAL 1979-49

-public defender's workload so excessive to warrant removal

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Cumis counsel does not have attorney-client relationship with insurer for purpose of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [39 Cal.Rptr.2d 25]

defense counsel need not be disqualified where expert for plaintiff was former client of defense counsel but gives unqualified waiver

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

denied following attorney's waiver of interest in case

Bell v. 20th Century Insurance Co. (1989) 212 Cal.App.3d 194 [260 Cal.Rptr. 489]

denied when the persons who are personally interested in the conflict filed written declarations waiving the conflict

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

dependency proceedings

-actual conflict amongst multiple siblings requires disqualification from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

discussion with party concerned fees only

Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]

disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

DCH Health Services Corp. (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

disqualification not necessary where contract with city merely set forth a "framework" for representation and did not, by itself, create an attorney client relationship

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

-Banning Ranch distinguished

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

disqualification of attorney not required even if attorney received confidential information about defendant, did not meet burden of showing the information could give plaintiff an unfair advantage or affect outcome of litigation

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will

Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

disqualification of attorney not required where attorney never performed services for former client of attorney's former firm

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

disqualification of attorney not required where client never imparted confidential information to attorney – now representing adverse party in same matter

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

disqualification of attorney not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

disqualification of attorney not required where no confidential information was disclosed

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]

disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown

Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]

disqualification of law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

disqualification when the misconduct or status has a continuing effect on judicial proceedings

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

district attorney

Penal Code section 1424

-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

-based on private party influence on the impartiality of the district attorney

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

-disqualification not required where prosecutor published novel containing factual similarities to underlying case

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

-district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

-financial assistance to prosecutor's office did not disqualify district attorney

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-financial assistance to prosecutor's office disqualified district attorney

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

-prosecution of defendant for crimes not precluded by virtue of representation of defendant's child re ward of court status

People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515, 520-522 [159 Cal.Rptr. 625]

-recusal denied when motion is solely based on public perception that prosecutor seeks death penalty to fulfill a campaign promise

People v. Neely (1999) 70 Cal.App.4th 767 [82 Cal.Rptr.2d 886]

-recusal of entire office

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573

--district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

--erroneous denial of recusal motion is harmless error if it does not involve due process violation

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

--not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

--not required where prosecutor involved in making of film about capital murder case

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-recusal of entire office due to prior association with defense firm by assistant district attorney

People v. Lopez (1984) 155 Cal.App.3d 813, 821-822 [202 Cal.Rptr. 333]

*Younger v. Superior Court (1978) 77 Cal.App.3d 892, 894-897 [144 Cal.Rptr. 34]

-recusal of entire office due to prior representation of defendant by district attorney while in private practice

People v. Lepe (1985) 164 Cal.App.3d 685

-recusal of entire office unnecessary when defendant and victim exchange roles in concurrent cases

People v. Hernandez (1991) 231 Cal.App.3d 1376

CONFLICT OF INTEREST

- without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
 - Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
- duty of loyalty does not apply where defense counsel previously had represented expert for plaintiff and where expert waives conflict
 - Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- duty of loyalty requires
 - Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
 - *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
 - Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
 - Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
 - Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 - Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
 - Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
- entire firm
 - In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
 - Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
 - Paul E. Iacono Structural Engineer, Inc. v. Humphrey (1983) 722 F.2d 435
 - Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
 - Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 - National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
 - California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
 - Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
 - A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
 - Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
 - Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
 - Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
 - Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
 - Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
 - CAL 1998-152
 - LA 501 (1999)
- attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures
 - National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
- city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- disqualification of attorney from representing debtor is not attributable to his firm under bankruptcy code
 - In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
- limited exception where the tainted lawyer can show that there was no opportunity for confidential information to be divulged within the firm
 - Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
- no automatic various disqualification of law firm when tainted attorney is properly screened
 - Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
- not required when attorney at law firm covered depositions for independent counsel
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- not required when attorney, while at another firm, represented current firm's opposing party's insurer and effectively screened from involvement in the current litigation
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- not required when tainted attorney leaves firm and there's evidence that no one other than the departed attorney had any dealings with the client or obtained confidential information
 - California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
- not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
 - Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
- not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
 - People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- presumption of shared confidences rebutted by evidence of the timely and effective screening of the tainted attorney
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
 - In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- failure to file notice of appeal and subsequent defense of that action
 - In re Fountain (1977) 74 Cal.App.3d 715, 719
- former clients, subject to confidential settlement, as witnesses in pending action
 - Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

CONFLICT OF INTEREST

former state-employed attorney in law firm employed by plaintiff to sue state

Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]

immigration matters

-representation adverse to former corporate client's employees and officers in immigration matters

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

marital relationship insufficient to deprive party of choice of counsel

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

mediator is generally not disqualified from litigating later cases against the same party

Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]

mere exposure to confidences of an adversary does not, standing alone, warrant disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590 [147 Cal.Rptr. 915]

-prior representation of opposing party's insurer

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

non-lawyer employee "switches sides"

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

not automatic where previous representation did not expose attorney to confidential information material to the current representation

Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

not required

-marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

not required when only "blue sky" work done by underwriter's counsel, no attorney-client relationship created

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel

Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm

Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826

party of moving for disqualification of counsel absent an attorney-client relationship generally does not have standing to assert conflict of interest

-no vicarious standing among members of entity in non-derivative suit

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

prejudice to non-moving party found to be, extreme where counsel had been long term counsel for non-moving and motion was brought in the middle of the case

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

prior relationship with opposing party

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

prior representation of co-defendant

In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]

-in related matter

Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]

prior representation of opposing party

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211

Trone v. Smith (9th Cir. 1980) 621 F.2d 994

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

CONFLICT OF INTEREST

- California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30 [32 Cal.Rptr. 188]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
CAL 1998-152, CAL 1993-133, LA 501 (1999)
- associate switches sides
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 - LA 363 (1976)
 - in matter relating to same transaction
 - Cord v. Smith (9th Cir. 1964) 338 F.2d 516
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
 - Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 - no automatic where previous representation did not expose attorney to confidential information material to the current representation
 - Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 - representation of attorney/client against former attorney/client
 - LA 418 (1983), SD 1984-1
 - substantial relationship to current matter not found
 - H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- prior representation of plaintiff's expert witness does not require disqualification where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
- public defender
 - where witness had been represented by former member of public defender's office and where current defendant was represented by the public defender's office and where no confidential information of witness was found, there was no conflict of interest
 - People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
- raised on appeal from the final judgment
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
- related matter, substantial relationship
 - Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
 - Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
 - Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
 - Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
 - Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
 - Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
 - Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 - Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
 - Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 - Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- disqualification of attorney where same attorney was previously disqualified in a related case
 - Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
 - no automatic where previous representation did not expose attorney to confidential information material to the current representation
 - Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 - vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - public law office
 - In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 - vicarious disqualification of entire city attorney's office where in related matter city attorney previously represented private company
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
- sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
- standards
 - difference for subsequent representation than for simultaneous
 - Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

CONFLICT OF INTEREST

standing to assert

-absent an attorney client relationship, party moving for disqualification generally does not have standing to assert a conflict of interest

In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

-no vicarious standing where action brought by member of entity against entity and its only other member is not a derivative action

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

-vicarious standing among members of Limited Liability Company

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

temporary judge lacks authority to order disqualification of lawyer

Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]

timeliness of Marsden motion

People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

timeliness of motion to disqualify

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]

Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 707-710 [61 Cal.Rptr. 386]

trial court must determine if there is a substantial relationship between the prior and current representation based on facts, legal issues, and the nature and extent of the attorney's involvement

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

trial court's power

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]

unrelated matter

Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11

-expert witness in unrelated matter

--where plaintiff's expert was previously represented by defense counsel and where expert waives conflict, removal of expert not required and disqualification of defense counsel not required

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

-simultaneous representation of defendant and plaintiff's expert witness in an unrelated matter

Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]

vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

vicarious disqualification of a firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

vicarious disqualification of a firm not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

CONFLICT OF INTEREST

vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

vicarious disqualification of city attorney's office not required when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective

City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]

vicarious disqualification of plaintiff's law firm required despite screening of former counsel for defendant who moves to and later leaves plaintiff's firm

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

withdrawal from representation of one client in the course of concurrent representation of adverse clients in separate matters may not avoid disqualification sought by the ousted client

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

District attorney

common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

conflict of interest requires a showing that the district attorney's discretionary decision making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

dispute between district attorney and county sheriff prevented county counsel from representing either party since the two were county public officers, thus, requiring independent counsel for sheriff

Rivero v. Lake County Board of Supervisors (2014) 232 Cal.App.4th 1187 [181 Cal.Rptr.3d 769]

district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

entire office

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

former

-represents

--in criminal matters

Business and Professions Code section 6131

LA(l) 1958-9

former attorney now district attorney and issue based on same facts as prior proceeding

People v. Johnson (1980) 105 Cal.App.3d 884 [164 Cal.Rptr. 746]

formerly employed as private counsel for co-defendant

In re Charles L. (1976) 63 Cal.App.3d 760, 765 [132 Cal.Rptr. 840]

formerly represented defendant as private counsel

People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]

married to bailiff

CAL 1987-93

personal animosity of district attorney towards co-defendant

*People v. Battin (1978) 77 Cal.App.3d 635, 670-672 [143 Cal.Rptr. 731]

police officer assigned to the district attorney's office related to informant

People v. McPartland (1988) 243 Cal.Rptr. 752

proceedings to have child of defendant in criminal case declared ward of court

People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515 [159 Cal.Rptr. 625]

recusal of entire office

Penal Code section 1424

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Conner (1983) 34 Cal.3d 141

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

- People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
 *Younger v. Superior Court (1978) 77 Cal.App.3d 892 [144 Cal.Rptr. 34]
 -based on private party influence on the impartiality of the district attorney
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 -defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time
Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]
 -erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
 -improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial
People v. McPartland (1988) 243 Cal.Rptr. 752
 -not necessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 1376
 -not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
 -not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
 -prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of a third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
 relative of crime victim employed in district attorney's office
 *People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
 representation of county and private citizen
Dettamanti v. Lompoc Union School District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
 representation of county by district attorney at welfare hearing permitted even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942 [280 Cal.Rptr. 785]
 representation of criminal defendant by member of firm acting as city prosecutor
 LA 453
 retired district attorney wishing to associate with law firm holding county contract to act as public defender
 62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
 CAL 1977-45
 threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
 Divorce
 community property, contingent fee
 CAL 1983-72
 post-nuptial agreement enforceable despite law firm's dual representation of husband and wife on estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- represent
 -both parties
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
shmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
 --after consulting with other about divorce
 SD 1975-1
 --client's spouse in
 LA 207 (1953), LA 192 (1952)
 --former client's spouse in
 LA(I) 1971-8
 --later other in related action
 LA 231 (1955)
 --one party
 ---after acting for marital union
 LA(I) 1958-5, LA(I) 1947-1
 ---after consulting with both about divorce
 LA(I) 1947-1
 --party in and receiver
 LA 51 (1927)
 --settlement
 SD 1984-2
 --successive wives of same husband
 LA(I) 1963-6
 -prior representation of family corporation
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
 -prior representation of other spouse
 SD 1984-2
 violation of [rule](#) 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
 Draft, military, member of selective service appeal board represents appellants before other boards
 LA(I) 1969-8
 Dual capacity
 attorney acting as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
 attorney acting as expert witness against former client
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 attorney acting as Federal Rule 30(b)(6) spokesperson
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 attorney as director and as attorney for organization
 OC 2011-02
 attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
 lobbyist and legal counsel for a state agency may be permissible
 78 Ops. Cal. Atty. Gen. 322 (11/8/ 95; No. 95-616)
 Dual professions
 CAL 1982-69
 LA 446 (1987), LA 413 (1983), LA 384 (1980)
 SD 1992-1
 85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
 Dual representation
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
 absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]

CONFLICT OF INTEREST

actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

actual conflict between Limited Liability Company and LLC member

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

attorney acts as both advocate and advisor to decision maker

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]

Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]

Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575

attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship

Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict

State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

buyer and seller in real estate transaction

CAL 1982-69

LA 413 (1983), LA 384 (1980)

SF 1973-22

by counsel

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

clients each demand the original file

LA 493 (1998)

co-defendants in criminal case

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]

People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]

People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]

-attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

concurrent representation of adverse parties in separate matters is not cured by ending relationship with previous client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

CAL 2003-163

concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated

Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083

-lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program

CAL 2014-191

consent to potential conflict

In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

SD 2017-1, SF 2020-1

corporation and board of directors in derivative suit

LA 397 (1982)

corporation and director of corporation as co-defendants

Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]

CAL 1999-153, LA 471 (1992)

corporation and directors

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

SD 2017-1

corporation and officers

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

CAL 1999-153, SD 2017-1

dependency proceedings

-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.

In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]

-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual

In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]

Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

franchisee law firms of franchisor group representing multiple clients

LA 471 (1992), LA 423 (1983)

insurance company

-insured

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

- Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278, 91 Cal.Rptr.2d 453
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Unigard Ins. Group v. O'Flaherty & Belgum (1997) 38 Cal.App.4th 1229
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
 LA 528 (2017), LA 424 (1984), LA 352 (1976)
 -party adverse to insurer
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
CAL 1975-35, CAL 1970-22
 LA 397 (1982)
 --Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
 joint defense agreement establishes an implied attorney-client relationship with the co-defendant
United States v. Henke (9th Cir. 2000) 222 F.3d 633
 living trust marketer and participant
CAL 1997-148
 mediation
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 minor and guardian
CAL 1988-96
 minority shareholder's derivative claims against corporation and officers creates an actual conflict
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
 mortgagee and mortgagor
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 of general and limited partners in partnership
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
 *Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
 of potential conflicting interests
 LA 471 (1992), LA 427 (1984)
 preparing answer for in propria persona defendant while representing plaintiff on same matter
 LA 432 (1984)
 Duty of loyalty
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Casualty Insurance Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 611
CAL 2011-182, CAL 2003-163
 SD 2013-1
 OC 2012-1
 actual conflict distinguished from direct conflict in evaluating ineffective assistance of counsel claim
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
 attorney should not represent client if representation may be materially limited by attorney's duties to another client
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
 attorney violates duty of loyalty to current client by calling client as a witness in a concurrent matter in which client/witness may be portrayed in negative manner
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

CONFLICT OF INTEREST

criminal defendant has right to representation free from conflicts of interest and to assistance of counsel whose loyalties are not divided

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

defendant denied effective assistance of counsel when his attorney not only failed to speak on defendant's behalf at forfeiture of right to counsel hearing, but also testified against defendant

King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

does not apply where defense counsel had previously represented plaintiff's expert

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

here attorney has professional or financial interest in the subject matter

U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394

ineffectiveness claim based on divided loyalty in criminal matter does not require showing of prejudice as a result of defense counsel's actual conflict

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
LA 506 (2001)

may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense

SD 2004-1

no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

where attorney has professional or financial interest in the subject matter

CAL 2009-178

Duty to both insured and insurer

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]

San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

LA 528 (2017)

cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]

extends to uninsured courtesy defense client

Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]

LA 439 (1986), LA 427 (1984), LA 424 (1984), LA 395 (1982), LA 344 (1974)

Duty to client

Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]

Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]

conflicting claims of two clients

McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d 718]

Duty to disclose attorney acting as trustee for client

discovery of conflicting duties to multiple clients

Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]

CAL 1970-22, CAL 1975-35

duty to disclose self-involvement in trust

Lyders v. State Bar (1938) 12 Cal.2d 261 [83 P. 500]

prior representation of opposing party in unrelated matter

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]

to both clients in multiple representation

LA 471 (1992), LA 427 (1984), LA 395 (1982), LA 344 (1974)

Duty to withdraw

Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

duty to prospective client

CAL 2021-205

timeliness

Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]

Pennix v. Winton (1943) 61 Cal.App.2d 761, 773-775 [145 P.2d 561]

CAL 1980-52, CAL 1979-49, LA 395 (1982)

Effect of mere prior professional relationship

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]

Effect of time lapse

Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]

Escrow

agent

-represents

--against grantor
LA 266 (1959)

--one party in dispute over escrow between parties
LA(l) 1955-6

Estate(s)

attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

attorney for

-buys estate property

LA 238 (1956)

-charges personal representative personally for services performed

CAL 1993-130, LA 347 (1975)

-claimant in bankruptcy proceeding, then later purchases property in foreclosure sale held by claimant

LA 455

-personal representative and real estate broker

SD 1992-1

-removal of beneficiary's request/demand

Estate of Efron (1981) 117 Cal.App.3d 915, 928-930 [173 Cal.Rptr. 93]

-represents

--administrator

---as contestant in probate
LA 193 (1952)

--as such and as heir

CAL 1976-41

LA 237 (1956), LA 193 (1952), LA 44 (1943), LA(l) 1967-6

CONFLICT OF INTEREST

- deceased attorney's client
 - Estate of Linnick (1985) 171 Cal.App.3d 752, 758 [217 Cal.Rptr. 552]
- plaintiffs in wrongful death action against estate
 - LA 341 (1973)
- real estate broker for the sale of estate property
 - SD 1992-1
- takes assignment of administrator's interest in estate to secure loan
 - LA 228 (1955)
- attorney representing both heir and estate beneficiary has insurmountable conflict
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
- attorney represents a client in an estate matter before the U.S. Tax Court while serving as a consultant to the IRS
 - Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
- estate executor
 - attorney for
 - beneficiary under will
 - Probate Code section 21350 et seq.
 - LA 219 (1954)
 - commission for sale of estate property
 - LA 317 (1970)
 - duty to executor and beneficiaries
 - Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
 - Estate of Efron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
 - fees from executor and statutory fees
 - CAL 1993-130
 - finders fee from purchaser of estate property
 - LA 317
 - offers to prepare claims for creditors of state for fee
 - LA(l) 1961-6
 - own partnership
 - LA 219 (1954)
 - referral fee from broker listing estate property
 - SD 1989-2
 - represents
 - person in determination of heirship
 - LA(l) 1965-8
 - reopened estate against
 - LA 269 (1960)
 - beneficiary as
 - LA 219 (1954)
 - beneficiaries in contest over heirship
 - LA(l) 1958-2
 - disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will
 - Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
- law firm's dual representation of husband and wife in estate plan did not create a conflict of interest that voided post-nuptial agreement, in which law firm only represented husband
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- partnership represents
 - member, trustee
 - LA 219 (1954)
- successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice and there is no conflict of interest arising from the duty of loyalty or confidentiality in suing for malpractice
 - Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
- trustee
 - beneficiary as
 - LA 219 (1954)
- violation of [rule](#) 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- False arrest cases on retainer for police officers/represent clients who might raise issue of false arrest
 - SD 1972-2
- Fee
 - apportioning fees where conflict between insurer and insured
 - LA 424
 - attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees
 - Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
 - Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
 - Goldstein v. Lees (1975) 46 Cal.App.3d 614
 - charging lien in hourly fee agreement requires compliance with [rule](#) 3-300
 - Fletcher v. Davis (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]
 - contingency fee agreements distinguished
 - Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 - CAL 2006-170
- conflict of interest
 - United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 - Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
 - Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
 - Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
 - prosecution's witness' offer to pay for criminal defendant's legal fees impaired defense counsel's ability to impeach witness
 - Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
 - defense of city employees pursuant to Gov. Code § 995 et seq.
 - city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
 - City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
 - dispute does not create
 - LA 521 (2007)
 - government
 - city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
 - City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
 - insurance cases
 - insurer's ability to recover attorney fees from insured
 - Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]
 - paid by co-defendant
 - attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
 - U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

CONFLICT OF INTEREST

- paid by third party
 - Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
 - CAL 1992-126, CAL 1975-35
 - LA 510 (2003), LA 471 (1992), LA 439 (1986)
 - by co-defendant in separate trial
 - U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 - by corporation to minority shareholder's attorney
 - Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
 - by insurer of client
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - LA 439 (1986), LA 352 (1976)
 - by prosecution's witness who testified against criminal defendant
 - Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
 - estate attorney charging personal representative personally for services performed
 - LA 347 (1975)
 - public agency attorney participation in a bonus program tied to savings by the agency
 - SD 1997-2
 - union pays for representation of potential class members
 - Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
- referral
 - paid to an attorney by client in an unrelated matter
 - SD 1987-2
- represent
 - in settlement when fee paid out of settlement
 - SD 1975-4
 - self and co-counsel with regards to contingent fee
 - SD 1972-1
- when in client's best interest to settle although no recovery of fees
 - Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct.1531]
 - Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
 - Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
- Fiduciary duty
 - attorney acting as director and as attorney for organization
 - OC 2011-02
 - attorney as executor of estate
 - Probate Code section 10804
 - substitution into litigation
 - Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 259 [142 Cal.Rptr. 759]
 - attorney represents estates and deceased attorney's former client
 - Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
- breach of
 - taking business clientele of a former client
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- can exist even absent express attorney-client relationship
 - Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 - Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
 - Morrison Knudsen Corp. v. Hancock, Rotherth & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]
 - 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
 - CAL 1993-132, CAL 1981-63
- not created by receipt of private information from potential client via an unsolicited email
 - SD 2006-1
- presumption of undue influence
 - BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
 - Ball v. Posey (1986) 176 Cal.App.3d 1209 [222 Cal.Rptr. 746]
- self-dealing of attorney/trustee
 - Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P.2d 500]
- Financial advice
 - 46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)
- Financial interest
 - Government Code section 1090
 - city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
 - 86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
 - "noninterest" when city council, a member of which is a deputy county counsel, enters into contract for law enforcement services if interest is disclosed to city council and noted in official records and deputy county counsel-city council member may participate in the negotiations
 - 85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
 - of lawyer
 - in corporation
 - about which the client desires legal advice
 - LA 57 (1928)
- Foreclosure
 - represent
 - plaintiff's purchase real property involved
 - LA 282 (1963)
- Former client
 - Hunnicut v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
 - acceptance of employment
 - adverse to
 - Arm v. State Bar (1990) 50 Cal.3d 763, 769 [268 Cal.Rptr. 741, 789 P.2d 922]
 - knowledge of former clients' property and property rights involved in action
 - LA 31 (1925)
 - adverse interest to
 - buying an interest in the judgment against one's client from former client's opponent
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - in litigation
 - LA 30 (1925)
 - business transaction with former client
 - no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction with former client
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - co-defendant in present criminal proceeding
 - disqualification
 - Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
 - estate plan for husband and wife, and subsequent agreement for husband
 - LA 448 (1987)

expert witness is former client of attorney
 LA 513 (2005)

insurer of current opposing party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]

taking business clientele from
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

witness against
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087 [206 Cal.Rptr. 45]

-attorney as
 LA 75 (1934)

-present client
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Pennington (1991) 228 Cal.App.3d 959
[CAL](#) 1980-52

-witness in related case
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Former office represents client
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

Franchisee law firms of franchise group
 LA 423 (1983)

Gifts to attorney
Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]

attorney/beneficiary drafts gift instrument
 Probate Code sections 15687, 21350 et seq.
Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]

inducing client to offer of free use of client's vacation property
[CAL](#) 2011-180

Government attorneys
 attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

city attorney
 -city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation
 86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)

Government code section 1090
 outside contractor attorney may be treated as an employee
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]

Grand jury
 Sixth Amendment right to counsel of one's choice does not apply
 -disqualification order not appealable
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

Guardian
 attorney for
 -deemed to represent minor
[CAL](#) 1988-96
 -former represents against as counsel for wife of deceased ward
 LA(l) 1962-5

Homeowner's association – where attorney is member of association and represents plaintiffs against association
 LA 397 (1982)

Immigration matters
 representation adverse to former corporate client's employees and officers in immigration matters
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Impropriety, appearance of
 *People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
 can exist even absent express attorney-client relationship
[CAL](#) 1981-63

Ineffective assistance of counsel
 attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the defendant
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166

Insurance cases
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]

Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Golden Eagle Insurance Co. v. Foremost Insurance Co. (1993) 20 Cal.App.4th 1372, 1395-1396
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345

CONFLICT OF INTEREST

- Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34] LA 501 (1999)
-“cumis counsel” fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
-obligation of counsel to exchange information does not sanction disclosure of client confidences
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
-statute partially changed the rule of the Cumis case
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
apportioning fees where conflict between insurer and insured LA 424 (1984)
attorney’s duty to act competently requires that decision making control over client’s litigation be given to client despite contrary instructions from client’s insurer
CAL 1995-139 LA 464 (1991)
conflict of interest does not arise every time the insurer proposes to provide a defense under a reservation of rights...insured’s right to independent counsel “depends upon the nature of the coverage issue, as it relates to the underlying case.”
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
Cumis representation is based on ethical standards, not insurance concepts
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Moser v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
dispute between insurer and insured as to policy coverage entitles insured to obtain counsel for third party claim at insurer’s expense
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Executive Aviation, Inc. v. National Insurance Underwriters (1971) 16 Cal.App.3d 799, 808-810 [94 Cal.Rptr. 347]
LA 501 (1999), LA 439 (1986)
disqualifying conflict of interest between insurer and insured ceased to exist, therefore, insurer did not have a duty to continue to provide and pay for Cumis counsel
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
duty owed to insured and insurer
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal 1995) 163 F.R.D. 574
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
American Casualty Company v. O’Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard v. O’Flaherty v. Belgium (1995) 38 Cal.App.4th 1229
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
LA 528 (2017)
-payment of insurer’s reimbursement claims without client’s consent may create conflict of interest
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
CAL 1995-139, CAL 1987-91, LA 464 (1991), LA 345 (1982), LA 344 (1974), SD 1987-1
fees
-“cumis counsel” fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
-insurer’s ability to recover from insured
Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
for independent counsel to be required, the conflict of interest must be significant and actual
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
full disclosure of conflict of interests required in representation of insurer and insureds by same attorney
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
CAL 1988-96, CAL 1987-92
LA 395 (1982), LA 344 (1974)
-insured’s right to be informed of conflict of interest
Manzanita Park, Inc. v. I.N.A. (9th Cir. 1988) 857 F.2d 549
independent counsel’s ability to represent insureds interest against insurer in coverage actions
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
independent judgment
-failure to use
SD 1974-21
insurance company attorney
-former
--acts against company in related matter
LA 217 (1953)

- represents
- assured
 - and company
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
LA 336 (1973)
- insurance company attorney represents insurance company
 - assured
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
SD 1978-5
 - criminal defendant against insured
SD 1972-2
- insured's counsel interjecting issue of collusion between defendant insured and plaintiff raises conflict of interest
Price v. Giles (1987) 196 Cal.App.3d 1469
- insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
- insurer's right to control defense provided to insured
 - right to control the defense includes what measures are cost effective provided there is no actual conflict of interest
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
- laches – delay in raising conflict of interest motion
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
- multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
- obligation of counsel to exchange information does not sanction disclosure of client confidences
LA 528 (2017)
- reinsurer did not have attorney-client relationship with counsel retained by the previous insurer to defend the insured in the absence of an express agreement
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
- representation of both insurer and insured to defeat third-party claim
Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
CAL 1987-91, LA 352 (1976)
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- representation of two insureds with potentially divergent interests requires disclosure
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
- requires independent counsel for insured
California Civil Code section 2860
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Rockwell International Corp. v. Superior Court (1994) 26 Cal.App.4th 1255
- Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
- Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
- Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
- U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
- Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]
- McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
- San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]
CAL 1995-139
LA 501 (1999), LA 439 (1986), LA 424 (1984)
- insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- insurer's control over insured's selected counsel
U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513
- rule 3-310 requires informed consent for continued representation of all clients
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
- withdrawal
LA 395 (1982), LA 344 (1974)
- Insured's consent required for prior counsel to maintain role in case on behalf of insurer
SD 1987-1
- Issues, attorney argues inconsistent positions
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]
CAL 1989-108
- Joint powers arrangement
Government Code section 6500 et seq.
Elliott v. McFarland Unified School District (1985) 165 Cal.App.3d 562 [211 Cal.Rptr. 802]
60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
- Joint Powers Act
- Joint representation of clients in the same matter
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
LA 533 (2020), SF 2020-1
corporation and corporate director as co-defendants
LA 471 (1992)
- Joint venture
LA 412 (1983)
- Judge
attorney appearing before judge is also the personal counsel of the judge
In re Georgetown Park Apartments (9th Cir.1992) 143 B.R. 557
- failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
- vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

CONFLICT OF INTEREST

Literary rights

LA 451, LA 409 (1983)

actual conflict of interest required to establish violation of 6th Amendment rights when attorney contracts to write book about trial

United States v. Hearst (1981) 638 F.2d 1190

attorney contract for publication rights about trial

United States v. Hearst (N.D. Cal. 1978) 466 F.Supp. 1068

attorney's literary rights to trial adverse to client's interests

People v. Corona (1978) 80 Cal.App.3d 684, 720 [145 Cal.Rptr. 894]

"life story" fee agreement all right if accused knowingly and intelligently waives potential conflicts

Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]

literary rights agreement not found neither prior to nor during actual trial

Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957

publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Lobbying firm

dual capacity of a lobbyist and legal counsel for a state agency may be permissible

78 Ops. Cal. Atty. Gen. 322 (11/8/95; No. 95-616)

Maintaining independence of professional judgment

Rule 1-600, Rules of Professional Conduct

Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)

LA 500 (1999)

Malpractice case based, in part, on claimed breach of loyalty

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]

Marvin agreement

representation of husband and wife on estate plan, later husband on *Marvin* agreement with another woman

LA 448 (1987)

May arise from an attorney relationship with a non-client if attorney owes duty of fidelity

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]

101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)

CAL 1993-132

Mediator

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

attorney who mediates one case is generally not disqualified from litigating later cases against the same party

Barajas v. Oren Realty and Development (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]

Minor's counsel

no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests

In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]

Motion to vacate a foreign state judgment on the basis of the existence of a conflict of interest

State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

Multiple representation

Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

CAL 2011-182, CAL 1993-132

LA 533 (2020), LA 471 (1992), LA 427 (1984)

SD 2017-1

SF 2020-1, SF 1973-26, SF 1973-15

absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint

-mortgagee and mortgagor

Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

actual versus potential conflict

Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]

LA 471 (1992), LA 427 (1984), SD 2013-1

administrative proceeding

State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

advance waiver of potential future conflict contained in a joint defense agreement found enforceable

In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336

assistant district attorney representing county and private citizen

Dettamanti v. Lompoc Unions District (1956) 143 Cal.App.2d 715 [300 P.2d 78]

attorney acts as both advocate and advisor to decision maker

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]

-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

attorney for former business associates later represents one of those clients against the others in a matter directly related to earlier representation

*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]

attorney partner in a partnership arrangement acting as counsel for both sides in a leasing transaction

Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]

attorney representing conflicting issues in litigation

State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d, 718]

attorney represents two insureds with potentially divergent interests

Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]

LA 395 (1982)

attorney's former joint representation of parties did not require disqualification where valid waiver found
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

attorney's former joint representation of parties justified disqualification from representing one against the other
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

both sides
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 SD 1976-16

business firm and clients of business
 -when attorney is partner in business
CAL 1969-18

class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

clients each demand the original file
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
 LA 493 (1998)

concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
 -lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program
CAL 2014-191

concurrent representation of clients with adverse interests
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
CAL 2003-163
 LA 528 (2017)

consent of all parties
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Image Technical Services v. Eastman Kodak Co. (N.D. Cal. 1993) 820 F.Supp. 1212
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Aquiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 LA 22 (1923), SD 2017-1, SD 1974-22, SF 2020-1
 -in-house counsel represented employer and employee concurrently (to the employee's detriment) without obtaining informed consent
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]

consultation with attorney, evidence of relationship
 [See Attorney-Client Relationship, Consultation with, prima facie case of existence of.]

corporate director/attorney representing client in transaction with corporation
CAL 1993-132

corporation and board of directors on derivative suit
 LA 397 (1982)

corporation and directors
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
CAL 1999-153, SD 2017-1

corporation and officers
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153, SD 2017-1

county counsel represents a department of the county and an individual
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
 LA 459 (1990)

creating a conflict by the mere filing of a meritless cross-complaint should not establish a conflict between opposing attorney's clients where no previous conflict existed
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

criminal defendants by public defender's office
 59 Ops. Cal. Atty. Gen.27, 28 (1/15/76; No. CV 72-278)

criminal proceeding
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
CAL 1979-49, CAL 1975-35, CAL 1970-22

criminal prosecution
 -co-defendants entitled to separate representation
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
 -privately retained counsel representing co-defendants
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]

Dependency Court Legal Services may represent multiple parties with adverse interests
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432

CONFLICT OF INTEREST

dependency proceeding

-actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.

In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]

-sanctions imposed against attorney for bringing frivolous conflict motions

In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]

-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual

In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]

Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

disqualification order not appealable in the grand jury context

In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

dissolution of marriage

Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]

divorce action

-party and receiver appointed in same action
LA 52 (1927)

-post-nuptial agreement enforceable despite law firm's dual representation of husband and wife in estate plan

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

employer and employee-alien in an immigration matter

LA 465 (1991)

estate planning matter

-representation of testator and beneficiary
SD 1990-3

franchise group of law firms

LA 423 (1983)

husband and ex-wife in tax proceedings

Devore v. Commissioner of Internal Revenue Service (9th Cir. 1992) 963 F.2d 280

husband and wife in dissolution of marriage

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]

husband and wife in estate plan, and subsequent agreement for husband only

LA 448 (1987)

in-house counsel for organization represents outside company in merger with organization

LA 353

insurance company

-and insured

MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500

Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]

Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]

Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]

American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]

LA 528 (2017)

--actual conflict

Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]

James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]

LA 528 (2017)

--and another party

Hammitt v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]

--attorney must withdraw if attorney obtains information from insured that could be provide basis for insurance carrier to deny coverage

LA 528 (2017)

--attorney who is director subject to same conflicting interests as attorney for carrier

SF 1979-2

--Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal/Rptr.2d 25]

--disqualifying conflict of interest between insurer and insured counsel ceased to exist, therefore, insurer did not have a duty to continue to provide and pay for Cumis counsel

Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]

--withdrawal

LA 395 (1982), LA 344 (1974)

-and party adverse to insurer

Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]

-no actual conflict

Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]

-providing courtesy defense

--insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured

Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]

limited and general partnerships

Johnson v. Haberman & Kasso (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]

LA 461 (1990)

malpractice found where attorney failed to advise elder client of conflict where attorney also represented another person claiming to be the nephew of the elder in obtaining a loan against property owned by elder client's trust

Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]

minor and guardian

CAL 1988-96

CONFLICT OF INTEREST

- no joint representation, where parties have simply overlapping interests
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- non-profit legal corporation created by a county board of supervisors does not give rise to a conflict of interest even if the corporation represents multiple parties with adverse interest
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
- not found where attorney had a "framework" contract with former client for "as requested" future representation, but did not currently represent the client
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
- of executor
-in individual capacity against co-executor
LA 72 (1934)
- permanency hearing where one attorney represents two brothers creates conflict when court is considering post-termination sibling visitation issues
In re Clifton B. (2000) 81 Cal.App.4th 415 [96 Cal.Rptr.2d 778]
- preparation of answer for opposing party
LA 432 (1984)
- privilege held between co-client
Evidence Code section 962
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
- probate matter
-representation of decedent's spouse and executor
LA 23 (1923)
-withdrawal from
--when lawyer represents executor being sued by beneficiary
LA 23 (1923)
- representation of corporation and controlling shareholders
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
- representation of corporation and officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
CAL 2003-163
- sale and purchase of stock of corporation
SF 1973-10
- unauthorized representation
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
- without consent of client
Gendron v. State Bar (1983) 35 Cal.3d 409, 410-411
*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
- workers' compensation insurance carrier and a claimant making a claim against one of the carrier's insureds
Smiley v. Director, Office of Workers' Compensation (9th Cir. 1992) 973 F.2d 1463
- Not automatic where previous representation did not expose attorney to confidential information material to the current representation
Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
- Obtaining loan from client
disclosure and written consent required
Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
- Of counsel
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
firm's acceptance of client adverse to of counsel's client
CAL 1993-129
LA 516 (2006)
SF 1985-1(F)
- vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Office sharer
CAL 1979-50, LA 216
represent opposing sides
SD 1972-15
- Opposing counsel
joins partnership
LA(I) 1962-2
- Opposing party
represent
-client against after obtaining information from
LA 193 (1952)
- Ordinance violation
city council member represents in
LA 273 (1962), SD 1969-1
- Outside counsel or providers of outsourced legal services, use of
CAL 2004-165
LA 518 (2006)
- Paid by third party
LA 510 (2003)
litigation funding
CAL 2020-204
- Partnership
attorney for
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
CAL 1994-137
-does not necessarily have an attorney-client relationship with an individual partner for purposes of conflict of interest rules
Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
-represents all partners
Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
Wortham & Van Liew et al. v. Superior Court (1986) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
- formation of
LA(I) 1967-11
member of partnership acting as counsel for partnership and another party transacting business with partnership
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
no conflict exists for attorney in representation when client partners pursue a common business goal
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
- opposing counsel joins
LA(I) 1962-2
- practices
-prosecutor
LA 377 (1978)
-when member is
--city attorney
LA(I) 1975-4
--city council member
CAL 1981-63, CAL 1977-46
LA(I) 1975-4
--prosecutor
LA 377 (1978)
- prior representation re partnership agreement held not conflict in subsequent litigation covering partnership asset
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542 [152 Cal.Rptr. 47]

CONFLICT OF INTEREST

- representation of both general and limited partners in partnership
 - Johnson v. Haberman & Kasoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
 - LA 461 (1990)
- representation of partner against another when represents partnership
 - LA 412 (1983)
- represents
 - against
 - when associate before joining acted for other side
 - LA 363 (1976)
 - custody proceedings
 - [CAL](#) 1976-37
 - estate
 - member against relative of client
 - LA(I) 1956-8
 - member-executor/trustee
 - LA 219 (1954)
 - when member before joining acted for other side
 - LA 269 (1960), LA 252 (1958), LA 246 (1957)
 - in civil matter
 - against city
 - when member is city councilor
 - [CAL](#) 1981-63
 - in criminal matter
 - when member is
 - city attorney
 - LA(I) 1975-4
 - city councilor
 - [CAL](#) 1977-46
 - LA(I) 1975-4
 - prosecutor
 - LA 377 (1978)
 - undertaking partnership with opposing counsel compromises client's interest and constitutes breach of fiduciary duty
 - Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
 - Partnership, business
 - regarding divorce
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
 - regarding termination agreement drafted by other counsel
 - LA(I) 1963-9
 - Personal interest in client's case
 - LA(I) 1974-8
 - Personal relationship between counsel
 - [Rule](#) 3-320, California Rules of Professional Conduct (operative as of May 27, 1989)
 - [CAL](#) 1984-83
 - Personal relationship with client
 - Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]
 - [CAL](#) 1987-92
 - Physician
 - represent
 - client's physician against client for unpaid witness's fee
 - LA(I) 1931-1
 - Police officer
 - also lawyer
 - LA 94 (1936)
 - defends criminal cases
 - LA 94 (1936)
 - Potential conflict
 - [CAL](#) 1988-9(I)
 - civil litigation
 - Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
 - Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 899 [142 Cal.Rptr. 509]
 - LA 533 (2020)
 - civil proceedings
 - Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575, 584 [184 P.2d 505]
 - criminal proceeding
 - between co-defendants
 - [CAL](#) 1970-22
 - dissolution of marriage
 - In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
 - Prior representation
 - as corporate counsel for family corporation
 - Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
 - of former client
 - attorney seeks to become party adverse to former client in the same matter in which he had represented that client
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - of opposing party's insurer
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - sufficiency
 - Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 549 [152 Cal.Rptr. 47]
 - Prosecuting attorney [[See](#) Conflict of interest, attorney general; commonwealth's attorney; district attorney.]
 - employer of, practice by
 - LA 377 (1978)
 - partner of
 - practice by
 - LA 377 (1978)
 - represents
 - in criminal cases
 - Business and Professions Code section 6131
 - LA 377 (1978)
 - private practice
 - district attorney engaged in
 - 8 Ops. Cal. Atty. Gen. 301 (12/11/46; No. 46-354)
 - 4 Ops. Cal. Atty. Gen. 39 (7/19/44; No. NS-5517)
 - representation of criminal defendant by member of firm acting as city prosecutor
 - LA 453
 - Prospective client
 - [CAL](#) 2021-205
 - Public agency attorneys
 - attorney acts as both advocate and advisor to decision maker
 - Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
 - Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
 - Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
 - Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
 - attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
 - Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
 - common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
 - People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 - participation in bonus program tied to savings by public agency
 - SD 1997-2

CONFLICT OF INTEREST

Public defender

appointment of public defender to represent defendant at sentencing not precluded by public defender's office representation of co-defendant at trial

People v. Ware (1966) 241 Cal.App.2d 143, 146-148 [50 Cal.Rptr. 252]

conflict of interest

-defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

-excessive caseload and limited resources may require removal or substitution

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

-juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

CAL 2002-158

-witness for prosecution former client of public defender's office

People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

law firm holding county contract to provide public defender wishes to associate retired district attorney

62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)

multiple representation

-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual

In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]

Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest

People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

removal of public defender was proper where defendant made credible death threat against counsel

People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]

representation of criminal defendant by separate division within office does not alleviate conflict

59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)

withdrawal

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

Public office

duality of

58 Ops. Cal. Atty. Gen. 241 (4/29/75; No. CV 74-251)

38 Ops. Cal. Atty. Gen. 121, 123 (10/9/61; No. 61-91)

Government Code section 1090

-city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation

101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)

86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)

Publication of article regarding client's case

no conflict found

LA 451 (1988)

Purpose of rule 3-300

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

SF 1997-1

Purpose of rule 3-310

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]

Purpose of rule 3-600

*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717

Real estate transactions [See Conflict of interest, foreclosure; title.]

deed of trust on client's property through use of wife of attorney

Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]

represent

-buyer and seller/later one against other

LA 471

SF 1973-22

-client in donating property to another client later same client in attempt to secure return of property

LA(l) 1970-10

Recusal of district attorney

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200, 927 P.2d 310] (mod. at 14 Cal.4th 1282D)

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

Williams v. Superior Court (1988) 198 Cal.App.3d 960 [244 Cal.Rptr. 88]

People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]

CONFLICT OF INTEREST

- *Younger v. Superior Court (1978) 77 Cal.App.3d 592 [144 Cal.Rptr. 34]
erroneous denial of recusal motion is harmless error if it does not involve due process violation
 - People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
- not required where ethical wall would be effective alternative
 - People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
- prior representation as private attorney and necessity for making claim timely
 - People v. Johnson (1980) 105 Cal.App.3d 884, 889-891 [164 Cal.Rptr. 746]
- prior representation in criminal matters now prosecuting
 - People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
- relative of crime victim employed in district attorney's office
 - *People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
 - People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
- witness victim was former non-attorney employee in DA's office
 - People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- Related matter
 - Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 - Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
 - Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 - Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
 - Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
 - City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
 - In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
 - Dill v. Superior Court (1984) 158 Cal.App.3d 301
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- Relationship with opposing counsel
 - Rule 3-320, Rules of Professional Conduct
 - Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
 - People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 - 34 Santa Clara L.Rev. 1157 (1994)
 - CAL 1984-83, SD 1989-4, SD 1976-12, OC 2012-1
- disqualification of attorney where same attorney was previously disqualified in a related case
 - Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
- Relationship with previously disqualified counsel and law firm
 - Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
- Relative
 - partnership represents member against relative of client
 - LA(I) 1956-8
 - represent
 - against client's relative
 - LA(I) 1956-8
 - daughter against son-in-law
 - SF 1973-6
 - spouse
 - represent
 - client's in divorce
 - LA 207 (1953), LA 192 (1952)
- former client's in divorce
 - LA(I) 1971-8
- Remedies of former clients
 - People v. Superior Court (Corona) (1981) 30 Cal.3d 193, 200 [178 Cal.Rptr. 334, 636 P.2d 23]
- Remedy
 - Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
- Represent
 - both client A in suit A v. B, and client B in suit B v. C
 - Rule 3-310(C)(3), California Rules of Professional Conduct
 - Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
 - Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
 - Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
 - M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
 - Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
 - Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
 - State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 - Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 - CAL 2014-191, CAL 2011-182, LA 506 (2001), LA 333 (1973)
 - both guardian and minor
 - CAL 1988-96, SD 2017-2
 - both interests of child and state
 - in welfare proceeding
 - CAL 1977-45
 - both sides
 - SF 1973-15
 - concurrent representation of mother and child with conflicting interest
 - SD 2017-2
 - multiple witnesses in a grand jury investigation
 - In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 - party to reclaim rights from federal government/parties in whom rights are vested
 - SD 1968-3
 - subpoena served on current client, by prospective client constitutes an adverse interest
 - CAL 2011-182
- Representation by public officials
 - city councilman as defense attorney in criminal proceeding
 - People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
 - county counsel acts as attorney for district under Municipal Water District Act of 1911, not permitted
 - 30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
- Representation of co-defendants
 - U.S. v. Lightbourne (9th Cir. 1996) 104 F.3d 1172
 - People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
 - Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - In re Noday (1981) 125 Cal.App.3d 507, 517-519 [178 Cal.Rptr. 653]
 - In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
 - CAL 2002-158, LA 471 (1992)
- actual conflict for joint representation can exist due to co-defendant's psychological domination of defendant sibling
 - United States v. Stites (9th Cir. 1995) 56 F.3d 1020
- actual conflict not found
 - U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

- People v. Bryant (1969) 275 Cal.App.2d 215 [79 Cal.Rptr. 549]
- attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
- U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
- public defender's office representation of co-defendant does not preclude representation of other co-defendant at sentencing hearing
- People v. Ware (1966) 241 Cal.App.2d 143 [50 Cal.Rptr. 252]
- representation of driver and passenger with potentially divergent interest requires disclosure
- LA 533 (2020)
- separate trials for co-defendants but attorneys for both associated with one another
- People v. Avalos (1979) 98 Cal.App.3d 701, 715-716 [159 Cal.Rptr. 736]
- CAL 1979-49, CAL 1970-22
- Right to effective counsel
- attorney's literary rights to trial interfered with duty of undivided loyalty to client
- People v. Corona (1978) 80 Cal.App.3d 684, 720-721 [145 Cal.Rptr. 894]
- multiple representation as violation of Sixth Amendment
- Cuyler v. Sullivan (1980) 446 U.S. 335, 348 [100 S.Ct. 1708, 64 L. Ed. 2d 333]
- United States v. Moore (9th Cir. 1998) 159 F.3d 115
- public defender refused to participate but no actual prejudice resulted
- *People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
- publication rights in trial
- United States v. Hearst (9th Cir. 1981) 638 F.2d 1190
- Sixth amendment rights not violated where co-defendant raised conflict of interest based on a mere theoretical division of loyalty
- U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
- there is no constitutional right to pay for counsel with money that is subject to a valid prior claim by a third party
- Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
- Rules developed for private sector may not squarely fit realities of public attorney's practice
- People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
- In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
- CAL 2002-158
- Salaries
- 62 Ops. Cal. Atty. Gen. 54 (2/6/79; No. CV 77-243)
- Self-dealing
- attorney as trustee
- Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265
- attorney purchasing real property subject of representation of client
- Tomblin v. Hill (1929) 206 Cal. 689 [275 P. 941]
- Settlement
- SD 2013-1
- attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)
- Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]
- conflicting instructions from insurer and insured
- LA 344 (1974)
- general antagonisms between lawyer and client, specifically, regarding settlement are not necessarily "tangible conflicts"
- Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- represent
- in when fee owed by client comes out of proceeds of
- SD 1975-4
- vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Sexual relations with client
- Rule 3-120, California Rules of Professional Conduct
- Business and Professions Code Sections 6106.8 and 6106.9
- McDaniel v. Gile (1991) 230 Cal.App.3d 363
- Barbara A. v. John G. (1983) 145 Cal.App.3d 369
- CAL 1987-92, OC 2003-02
- defense attorney's "intimate" relationship with client found not to be a conflict
- Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
- Sharing office space with another attorney
- People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
- CAL 1997-150, CAL 1986-90, CAL 1979-50
- LA 216 (1953), SD 1985-1
- represent opposing sides
- SD 1972-15
- Special counsel appointed by bankruptcy court to represent bankruptcy trustee of debtor may have a conflict as a result of duties owed to the debtor's principals
- In re Westwood Shake & Shingle, Inc. (9th Cir. 1992) 971 F.2d 387
- Special office
- created to avoid conflicts
- 62 Ops. Cal. Atty. Gen. 764 (12/7/79; No. 79-817)
- 59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
- Specially appearing attorneys
- CAL 2004-165
- Standing to assert
- Allen v. Academic Games League of America (C.D. Cal. 1993) 831 F.Supp. 785, 788
- Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
- Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
- Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
- Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
- Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
- State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
- DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
- 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
- absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
- Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
- aggrieved non-party had standing to disqualify client's counsel who had been previously disqualified in a related litigation involving non-party and client
- Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
- courts should be skeptical when disqualification motions are brought by opposing parties
- Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
- insurer has standing to sue law firm representing both insurer and insured
- Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

CONFLICT OF INTEREST

- laches
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
- litigant lacks standing to assert a third party's conflict of interest claim against opposing counsel
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
- no vicarious standing among members of entity in non-derivative suit
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
- vicarious standing defined
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
-vicarious standing distinguished
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
- where an attorney's continued representation threatens an opposing litigant with cognizable injury or would undermine the integrity of the judicial process, the trial court may grant a motion for disqualification, regardless of whether motion is brought by present or former client
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
- Substantial relationship
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
- Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
CAL 1998-152
LA 501 (1999)
applicable to determine whether information law firm received as "monitoring counsel" for corporate parent's insurance underwriters disqualified firm from representing a party against corporate subsidiary
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoff, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
attorney seeks to substitute into appeal as the party adverse to his former client in the same matter in which he had originally represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- between representation of current client(s) and prior representation of opposing party
Damron v. Herzog (9th Cir. 1995) 67 F.3d 211
Merle Norman Cosmetics, Inc. v. U.S. District Court (9th Cir. 1988) 856 F.2d 98
Trust Corp. of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998
Cord v. Smith (9th Cir. 1964) 338 F.2d 516
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 374]
Galbraith v. State Bar (1933) 218 Cal. 329 [23 P.2d 291]
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

- United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
- Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
- Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
- Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
- Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
- Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
- Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
- In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
- Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- Dill v. Superior Court (1984) 158 Cal.App.3d 301
- Global Van Lines, Inc. v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
- Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
- Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
- Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
- attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
- Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
- presumption of the exchange of confidential information
- Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
- People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
- Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
- Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
- Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
- Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
- Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Adams v. Aerojet General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
- Global Van Lines, Inc. v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- CAL 1998-152, CAL 1992-126, LA 501 (1999)
- between the cases
- Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
- city attorney disqualified from representing city in matter related to prior representation of private company
- City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- disqualification of attorney where same attorney was previously disqualified in a related case
- Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
- factors considered by the court
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
- In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
- Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
- Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
- Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
- Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
- Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- dependency proceeding
- factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
- In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- presumption of the exchange of confidential information
- Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
- modified substantial relationship test
- Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
- Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
- Jessen v. Hartford Casualty Ins. Co. (2003) 111 Cal.App.4th 698, 710 [3 Cal.Rptr.3d 877]
- Adams v. Aerojet-General (2001) 86 Cal.App.4th 1324, 1340 [104 Cal.Rptr.2d 116]
- motion to disqualify must be based on application of substantial relationship test
- Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
- Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
- Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
- Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566

CONFLICT OF INTEREST

-alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

no automatic where previous representation did not expose attorney to confidential information material to the current representation

Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

no substantial relationship found

Merle Norman Cosmetics, Inc. v. United States District Court (9th Cir. 1988) 856 F.2d 98

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]

substantial relationship test inapplicable

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

-where disqualification for former representation would be futile

Christensen v. United States District Court (9th Cir. 1988) 844 F.2d 694

-where former client, now expert witness for adverse party, waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

vicarious disqualification of entire city attorney's office where in related matter city attorney previously represented private company

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

vicarious disqualification of public law office

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

where criminal defendant's proposed substitute counsel had represented defendant's brother on prior rape charges

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

where law firm had previously represented opposing party's father, and opposing party had been a witness in that prior matter, and law firm now represents a current client adverse to opposing party in a new matter

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

Substitution of counsel

court abused discretion in denying criminal defendant's motion to appoint substitute counsel without first conducting proper inquiry

U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772

court discretion in denying criminal defendant's motion to appoint substitute counsel after learning counsel would not allow a plea of not guilty by reason of insanity

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

Successive representation

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

against former client as the adverse party in the same matter in which the attorney had represented that client

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

dependency proceeding

-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

prior representation of government witness impaired defense counsel's duty to fully cross examine witness

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

Suit against client

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

Support action, represent wife, former client in divorce, after representing former husband in unrelated matter
SF 1973-19

Tactical abuse of disqualification proceeding

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Bell v. 20th Century Ins. Co. (1989) 212 Cal.App.3d 194

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

Taking business clientele of a former client

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Three strikes cases

*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]

SD 1995-1

Thrust upon conflict defined

OC 2012-1

Undue influence

absent independent legal advice in attorney/client transaction
Gold v. Greenwald (1966) 247 Cal.App.2d 296 [55 Cal.Rptr. 660]

advantage to attorney when client disadvantaged

Plixveve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]

attorney as trustee, client as beneficiary

Probate Code sections 15687, 16002, 16004, 21350 et seq.

attorney beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

- attorney beneficiary of will
 - Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
- burden on attorney
 - to enforce fee agreement
 - Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]
 - to prove arm's length transaction
 - Gold v. Velkov (1955) 133 Cal.App.2d 622 [284 P.2d 890]
 - to show transaction fair
 - Estate of Witt (1926) 198 Cal. 407 [245 P.2d 197]
 - Clark v. Millsap (1926) 197 Cal. 765, 783 [242 P.2d 918]
 - McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]
- business dealings invalid
 - Priester v. Citizens National Trust & Savings Bank of Los Angeles (1955) 131 Cal.App.2d 314 [280 P.2d 835]
- business dealings with client
 - Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581]
 - Felton v. Le Breton (1891) 92 Cal. 457, 469 [28 P. 490]
 - courts view attorney/client transactions with suspicion
 - Stieglitz v. Settle (1920) 50 Cal.App. 581 [195 P. 705]
 - must fully inform client
 - Thornley v. Jones (1929) 96 Cal.App. 219 [274 P. 93]
 - must show validity of contract
 - Walter v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
 - Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
 - unequal relationship with
 - Blattman v. Gadd (1931) 112 Cal.App. 76, 92 [296 P. 681]
- confidence and trust in attorney induced client to sell real property at disadvantageous price
 - Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- contingent fee contract entered under free will
 - Rader v. Thrasher (1962) 57 Cal.2d 244 [18 Cal.Rptr. 736, 368 P.2d 360]
- contract without consideration to client
 - Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
- dependency proceeding
 - factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
 - In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- inducing client to offer of free use of client's vacation property
 - CAL 2011-180
- overreaching due to client's ignorance of legal matters
 - use of confession of judgment against client
 - Hulland v. State Bar (1972) 8 Cal.3d 440, 450 [105 Cal.Rptr. 152, 503 P.2d 608]
- presumption of undue influence is evidence
 - Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619, P.2d 1005]
 - Bradner v. Vasquez (1954) 43 Cal.2d 147 [272 P.2d 11]
 - Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]
- prima facie case
 - Metropolis, etc. Savings Bank v. Monnier (1915) 169 Cal. 592, 598 [147 P. 265]
- profits from transaction with client
 - Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- recording deed
 - Rebmann v. Major (1970) 5 Cal.App.3d 684 [85 Cal.Rptr. 399]
- unfair advantage to attorney
 - Carlson v. Lantz (1929) 208 Cal. 134 [280 P. 531]
- where city council member who is also a member of a law firm which seeks to represent the city raises the possibility that the member's personal considerations may conflict with the exercise of official judgment or discretion (Government Code section 1090)
 - 86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
- Vicarious disqualification of entire law firm [\[See Disqualification.\]](#)
 - Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
 - W.L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
 - Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 - Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 - Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
 - Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
 - Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
 - CAL 1998-152
 - LA 501 (1999)
- attorney and associates involved in matters
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]
- city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
 - City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- district attorney
 - recusal of entire office
 - not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
 - People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- double imputation of confidential knowledge
 - Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- hardship to client
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]
- not required because of the timely and effective screening of the tainted attorney
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

CONFLICT OF INTEREST

- Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
-public law office
In re Charlisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
not required when attorney at law firm covered depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
not required where attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
not required where attorney never performed services for former client of attorney's wife's firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
not required where attorney never performed services for former client of public defender's office
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Voluntary withdrawal
People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 157 [172 Cal.Rptr. 478, 624 P.2d 1206]
prior relationship with adverse party
Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
- Waiver of
advance waiver of potential future conflict contained in a joint defense agreement found enforceable even though the waiver does not specifically state the exact nature of the future conflict
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
both confidentiality and conflict of interest
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 1998-152, CAL 1989-115
SF 2020-1
-not found
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
by criminal defendant
People v. Peoples (1997) 51 Cal.App.4th 1513 [60 Cal.Rptr.2d 173]
- Alcocer v. Superior Court (1988) 206 Cal.App.3d 951
-client must be advised of the full range of the dangers and possible consequences of the conflicted representation and he must understand the ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
-court has discretion to deny substitution because of serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
-court has latitude to remove counsel where potential conflict exists, over objection by defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
-no valid waiver found
Wheat v. U.S. (1988) 486 U.S. 153 [103 S.Ct. 1692]
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
-no evidence that defendant understood any of the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
-valid waiver found
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
- Welfare proceeding
conflict between state and child
-disclosure by district attorney to court
CAL 1977-45
- Will
attorney as beneficiary of trust
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
attorney beneficiary of holographic will
Maltaman v. State Bar (1987) 43 Cal.3d 924
attorney drafts will making secretary executor, then represents executor for fee
LA 382 (1979)
attorney who drafted was later employed as attorney for executor
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
Estate of Efron (1981) 117 Cal.App.3d 915, 930
- Will drafting
attorney as beneficiary under terms of gift instrument
Probate Code sections 15687, 21350 et seq.
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
attorney drafts will making secretary executor, then represents executor for fee
LA 382 (1979)
counsel for organization drafts for those leaving money to organization
LA(I) 1966-17, LA 428 (1984)
draft
-when named beneficiary, executor, etc.
LA(I) 1963-4
prosecution witness is former client of attorney
SD 1974-15
- Withdrawal [See Withdrawal.]
client prevents exercise of independent professional judgment
SD 1972-1

CONSERVATORSHIP PROCEEDINGS

- probate matter, from
-where lawyer defends executor in action brought by decedent's spouse to whom lawyer also giving legal advice
LA 23 (1923)
- reasons for
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
- representation of co-defendants
CAL 1970-22
- Witness
attorney acting as
Milicevic v. Fletcher Jones Imports, Ltd. (9th Cir. (Nev.) 2005) 402 F.3d 912
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 538
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646, 655, 657-658 [29 Cal.Rptr. 150]
-against former client
LA 75 (1934)
-anticipated testimony may be sufficient to disqualify attorney and/or law firm
U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
-called by defense while member of district attorney's or attorney general's staffs
*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
--consent of client
Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
-called by opposition, testimony not prejudicial to client
Rule 2-111(A)(4),(5), Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]
Brown v. De Rugeris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
--United States Attorney's staff
U.S. v. Prantil (1985) 756 F.2d 759
-for impeachment purposes
Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
- client
-former
--against present client
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
---in criminal proceeding
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
--witness
---against present client
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
LA 513 (2005)
- in criminal proceeding
CAL 1980-52
- witness
--against present client
---in criminal proceeding
CAL 1979-49
--former co-defendant as key witness for the prosecution
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- criminal case
People v. Hernandez (1991) 231 Cal.App.3d 1376
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
-no conflict found where defense counsel previously represented wife of prosecution witness
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)
expert witness for plaintiff previously represented by defense counsel, need not be removed and defense counsel need not be disqualified where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- CONSERVATORSHIP PROCEEDINGS**
Attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2
Attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Attorney plays greater role for making fundamental choices for client once court has raised competency of criminal defendant
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
Authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
Compared with child dependency proceedings
LA 504 (2000)
Conservatee cannot obligate conservatorship estate for payment of attorney's fees
Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]
Constructive attorney-client relationship not formed between conservatee and her conservator's designated attorney
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
- Fees
value of an estate in an elder abuse case is a factor in setting fees and is consistent with rule 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
Reestablishing conservatorship by stipulation filed by conservatee's attorney
In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]
Right of prospective conservatee to effective assistance of counsel
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
- CONSULTATION WITH CLIENT** [See Attorney-client relationship.]

CONTACT WITH JURORS

CONTACT WITH JURORS

Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

[In re Loftus](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

[CAL](#) 1988-100, [CAL](#) 1987-95, [CAL](#) 1976-39

CONTACT WITH OFFICIALS [\[See](#) Judges. Judicial officials.]

Communications with

Rules 7-103 and 7-108, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 2-100 and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

CONTACT WITH WITNESSES [\[See](#) Witnesses, contact with.]

Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

[Rule](#) 4.2, Rules of Professional Conduct (operative as of November 1, 2018)

[Doe v. Superior Court of San Diego County](#) (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

With treating physician of opposing party

[CAL](#) 1975-33, SD 1983-9

CONTEMPT OF COURT

Code of Civil Procedure sections 178, 1209

Code of Civil Procedure sections 1211

[In re Ringgold](#) (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]

Attorney misbehavior in office

Code of Civil Procedure section 1209, par. 3

Criminal

attorney held in

[In the Matter of Koven](#) (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

-judge other than one bringing charges must try

[In re Martin](#) (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]

-notice to attorney required

[In re Baroldi](#) (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]

Due process requires that reasonable notice be given as to the charges and the opportunity to be heard

[Little v. Kern County Superior Court](#) (9th Cir. 2002) 294 F.3d 1075

[In re Koehler](#) (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

Impugning integrity of prosecutor and legal profession

[Hanson v. Superior Court of Siskiyou County](#) (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

Inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court

[In the Matter of Koven](#) (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

Judicial officers

power to punish for contempt

Code of Civil Procedure section 178

[Fine v. Superior Court](#) (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]

Mitigation

apology

[In re Baroldi](#) (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]

apology to the court was insufficient to excuse or to purge attorney of contempt of court

[In the Matter of Koven](#) (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

No penalty for advising client-witness to refuse to produce material demanded by a subpoena duces tecum based on 5th Amendment

[Maness v. Myers](#) (1974) 419 U.S. 449 [95 S.Ct. 584]

Procedures differ for punishing direct, hybrid and indirect contempt

[In re Koehler](#) (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

CONTINGENCY FEE [\[See](#) Fee.]

Business and Professions Code section 6147

"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)

[In the Matter of Silverton](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Adequacy of consideration is to be determined at time of contract formation

[Rader v. Thrasher](#) (1962) 57 Cal.2d 244, 252 [18 Cal.Rptr. 736, 368 P.2d 360]

Advancement of funds

[Rule](#) 4-210, California Rules of Professional Conduct (operative as of May 27, 1989)

LA 499 (1999), LA 106 (1937)

Alimony, overdue

LA 275 (1963), LA 263 (1959), LA(l) 1969-1, SF 1971-1

Attorney's fees paid in tort-based action were excludable from client's gross income

[Banaitis v. Commissioner of Internal Revenue](#) (9th Cir. 2003) 340 F.3d 1074

Award of attorney fees statutes may not allow a computation which increases the award to account for the client's retention of attorneys on a contingent fee basis

[City of Burlington v. Dague](#) (1992) 505 U.S. 557 [112 S.Ct. 2638]

Bankruptcy court's award of fees based on a pre-approved contingent fee agreement

[In re Reimers](#) (9th Cir. 1992) 972 F.2d 1127

Charging liens

contingency fee agreements distinguished from hourly fee agreements

[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

[CAL](#) 2006-170

created by contract

[Novak v. Fay](#) (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]

Child support, overdue

[CAL](#) 1983-72

LA 275 (1963), LA 263 (1959)

Civil rights

fee arrangement allowed providing fees in excess of court awarded fee

[Venegas v. Mitchell](#) (1990) 495 U.S. 82 [110 S.Ct. 1679]

Client discharges attorney

quantum meruit

[Hensel v. Cohen](#) (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

Collections

LA 275 (1963), LA 263 (1959)

percentage of amount charged creditor

LA 4 (1917)

Compensation for actual, necessary services under bankruptcy law

[Yermakov v. Fitzsimmons and Weldon](#) (9th Cir. 1983) 718 F.2d 1465

Contract

ambiguity is a question of law

[Beard v. Goodrich](#) (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

attorney abandonment of case

-quantum meruit

[Hensel v. Cohen](#) (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

attorney may pay litigation costs for clients if representing on a charitable basis

SF 1974-4

between city and private attorney
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]

Business and Professions Code section 6147 applies only to fee agreements with litigation plaintiffs and not to clients generally who have non-litigation matters
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
 -statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]

contingency lawyer may negotiate a fee contract that gives first proceeds to the lawyer and imposes on client greater risk of non-payment
 LA 526 (2015)
 contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

county attorney, private contingency fee contract
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]

discharged attorney limited to quantum meruit, premise
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
CAL 2007-170, CAL 1994-135

hybrid, hourly and contingent
 SF 1999-1

hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

interest charged on advanced costs from payment until billing
 LA 499 (1999)

lenders to attorneys for percentage of settlement
 SF 1981-1

offset recovery not actually received by client
 LA 458

recovery is in the form of an annuity
CAL 1987-94
 -attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
 -attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
 -medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311

recoverable only in event of favorable settlement
 SF 1985-2

recovery of, based upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
 SF 1985-2

strictly construed against attorney
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
 voidable at option of client if Business and Professions Code section 6147(b) not complied with
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

Costs
 LA 517 (2006)
 recovery of
 LA 495 (1998)
 Court award rebate to client
 LA 523 (2009), LA 447 (1987)
 Court not bound by contract for
Reynolds v. Ford Motor Company (2020) 47 Cal.App.5th 1105 [261 Cal.Rptr.3d 463]
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]

Deceased attorney
Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]

Determination of
 based on offset recovery which client does not actually receive
 LA 458
 cannot be determined in summary or ex parte proceedings
Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
 quote specific amount for certain services
 SD 1976-4

Discharge
 entitled to recover reasonable value of services rendered
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
 quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

Dissolution
CAL 1983-72

Divorce
 award of legal fees tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
 discipline not imposed for attorney entering into
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
 not violative of public policy
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
CAL 1983-72
 void as against public policy
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]

CONTINGENCY FEE

- Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
SF 1971-1, LA 188 (1952)
when no other recovery
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
- Effect of discharge or withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Estate
LA 144 (1943)
Failure to comply with Business and Professions Code section 6147, subdivision (a) prevented an authorization for "additional fees" from being a contingency fee agreement
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Favored in California
Newman v. Freitas (1900) 129 Cal. 283, 292 [61 P. 907]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
- Fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Fifty percent of recovery contingency fee
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Filiation action
void as against public policy
Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
- For public defender
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
- Former shareholder of law firm has no right on interpleader to contingency fee from cases which shareholder settled while working for firm
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
- From insurer, based on medical expenses recovered, for protecting insurer's lien on recovery of its expenses
LA 352 (1976)
- Governmental entities
contingency fee contract allowed where the government agency's case is brought on its own behalf, and not in the name of the public, to recover compensatory damages that the agency incurred for investigation and remediation costs
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
contingency fee contracts not allowed where, like criminal cases, neutrality of counsel is of critical concern when important constitutional liberty interests are at stake
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
- Health care provider
priority of attorney lien for fees and costs of litigation in relation to contractual medical lien
Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
representing person seeking damages against
Business and Professions Code section 6146
- Hybrid, hourly and contingent
SF 1999-1
non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
- Hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- Insist upon
LA(l) 1970-11
- Lay person hired on basis of expert
LA 45 (1927)
paralegal receives bonuses
LA 457
secretary
LA 222 (1954), LA 190 (1952)
- Malpractice
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
attorney's failure to comply with legislative mandates under Business and Professions Code section 6146 et seq. may give rise to a cause of action for professional negligence
Schultz v. Harney (1994) 27 Cal.App.4th 1611
In the Matter of Harney (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 266
- Medical injury tort claims
Business and Professions Code section 6146
attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
periodic payments to plaintiff
-attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
- Medical malpractice action
limitation on amount
-Business and Professions Code section 6146
-attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
-federal tort claims act preempts California Business and Professions Code section 6146 fee limitation
Jackson v. United States (9th Cir. 1989) 881 F.2d 707
CAL 1987-94
-fee in excess of MICRA limitations may be pursued if MICRA causes of action are brought together with non-MICRA causes of action
Waters v. Bourhis (1985) 40 Cal.3d 424
Barris v. County of Los Angeles (1997) 60 Cal.App.4th 471 [70 Cal.Rptr.2d 281]
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
-medical-legal consulting firms may contract for a contingent fee
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
-test for determining attorney fees based on periodic payments
Mai Chi Nguyen, A Minor v. Los Angeles County Harbor/UCLA Medical Center (1995) 40 Cal.App.4th 1433 [48 Cal.Rptr.2d 301]
- Minor's compromise
Probate Code sections 3500 et seq., 3600 et seq.
Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
Law Offices of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
trial court has jurisdiction to divide fees between prior and current attorneys as part of settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

- Modification of contract
Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]
- Not unconscionable
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- Notice of lien
Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
- Offset recovery
 LA 458
- One hundred percent of the amount of liens compromised is an unreasonable and unconscionable fee
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- Paid to expert witness
CAL 1984-79
- Patent prosecution
 LA 507 (2001)
- Paternity action
 void as against public policy
Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]
- Plaintiff
 agreement voidable at option of, where attorney fails to comply with Business and Professions Code section 6147
 Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- terms of written contract
 Business and Professions Code section 6147(a)(1)-(5)
- workers' compensation
 -exception for requirements of written contract
 Business and Professions Code section 6147(c)
- written contract and terms
 -workers' compensation exception
 Business and Professions Code section 6147(c)
- written contract to represent
 Business and Professions Code section 6147(a)(1)
- Presumptively invalid if attorney does not explain and client does not understand
Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
 LA 458
- Probate
 attorney's lien for fees based on settlement obtained on behalf of deceased client in probate case
Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]
 extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
- Public entities
 may contract with private attorneys on contingency fee basis under certain circumstances, supervision by neutral governmental attorneys who retain control
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
- Quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
- Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
 SF 1989-1
 determination of reasonable fee
 -trier of fact may not consider contingency nature of fee in determination of quantum meruit
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
 division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
 expert witness testimony permitted
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
 incapacitation of attorney who was associated (became judge) entitles firm to quantum meruit fees (formula for determination of fees)
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
 voluntary withdrawal of counsel without cause
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
- Reasonableness of
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
 under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465
 under California Rules of Court, rule 7.955, a 10% attorney's fee was not reasonable for trial court to award because it failed to look at other factors, such as one attorney had 47 years of experience in aviation accidents and both attorneys had many years of experience as pilots
Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]
- Reasonableness of in light of legislative activity
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Salton Bay Marina, Inc. v. Imperial Irrigation Dist. (1985) 172 Cal.App.3d 914, 952 [218 Cal.Rptr. 839]
- Rebate portion of fee to client
 LA 523 (2009), LA 447 (1987)
- Recovery is in the form of an annuity
 attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- Referral fee, duty to pay on occurrence of contingency
Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

CONTRACT

- Settlement
attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure attorney is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon
Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
- Strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668 LA 499 (1999)
- Structured settlement
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
CAL 1987-94
medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
- Validity
Estate of Kerr (1966) 63 Cal.2d 875 [48 Cal.Rptr. 707, 409 P.2d 931]
Herron v. State Bar (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Gelfand, Greer, Popko & Miller v. Shivener (1973) 30 Cal.App.3d 364 [105 Cal.Rptr. 445]
Estate of Raphael (1951) 103 Cal.App.2d 792 [230 P.2d 436]
Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135
- Voidable
at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
-statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
- Workers' compensation cases
exempted from provisions for written fee contract
Business and Professions Code section 6147(c)
- CONTRACT** [See Contract for employment, fee.]
Changing terms, pro bono to paying
SD 1983-6
Client must understand
Denton v. State Bar (1951) 101 Cal.2d [226 P.2d 723]
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Client waiver of attorney violation of Rules of Professional Conduct
CAL 1988-105
Construe contract for prospective client of corporations when attorney acting as business agent for corporation
CAL 1968-13
Contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Damages in contract causes of actions between partners of a dissolved partnership
equitable maxim to "do equity" does not preclude the recovery of damages
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Draft for
both parties
SF 1973-26
transaction between son and other party
SF 1973-26
- Effect on contingent fees of attorney withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
For reporter's services
no intention to pay
CAL 1979-48
- Implied-in-fact
CAL 2003-161
Plain language reference to whether an attorney-client relationship is formed where potential client submits legal question via website
CAL 2005-168
relationship not created based on receipt of private information from potential client via an unsolicited email
SD 2006-1
- CONTRACT ATTORNEY**
Compensation paid to non-employee attorney hired to render services to firm's client
CAL 1994-138
LA 518 (2006), LA 473 (1993), LA 503 (2000)
out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- Costs
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
LA 518 (2006)
- Ghostwriting by
OC 2014-1
Non-lawyers compensated for placing "temporary" attorneys with law firm
CAL 1992-126
Outsourcing legal services
LA 518 (2006)
Use of contract attorney, disclosure to client
CAL 1994-138, LA 518 (2006), LA 473 (1993)
ghostwriting
OC 2014-1
- CONTRACT FOR EMPLOYMENT** [See Attorney-client relationship.]
Business and Professions Code sections 6068(h), 6146, 6147
Code of Civil Procedure section 1021
Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]

Bradner v. Vasquez (1951) 102 Cal.App.2d 338 [227 P.2d 559]
 LA 226 (1955)
 Absent retainer agreement, quantum meruit
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
 Agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
 Agreement evidenced parties' intent to establish an ongoing attorney-client relationship of an open-ended nature, terminable only by specific methods described in the agreement and under conditions that included attorney's return of all property and funds to the client
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
 Agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
 LA 505 (2000)
 Agreement to divide statutory award of attorney's fees between attorney and client
 LA 523 (2009)
 Agreement to limit personal professional liability prohibited
 Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative effective May 27, 1989)
 damages limitation also prohibited
 LA 489 (1997)
 Appointment by court not a contract
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
 Arbitration fee
 binding
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
 -client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1981-56
 binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machtinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
 binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
 if an otherwise enforceable arbitration agreement is contained in an illegal contract, a party may avoid arbitration altogether
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
 Arbitration for professional liability of lawyer
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
 LA 489 (1997)
 client contract conditioned on
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1989-116, CAL 1977-47

no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
 Authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
 Bankruptcy
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
In re Hines (9th Cir. BAP 1998) 198 B.R. 769
 Business and Professions Code sections 6147 and 6148 may not contemplate the wide variety of possible fee arrangements between attorneys and clients but any revision or expansion of statutes should be left to the legislature and not the courts
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
 Charging liens
 contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
 -not adverse interest requiring disclosure to client
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 Classic retainer distinguished from "framework" contract
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
 Contingent attorney's fee
 charging liens
 -contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
 contingency lawyer may negotiate a fee contract that gives first proceeds to the lawyer and imposes on client greater risk of non-payment
 LA 526 (2015)
 domestic relations matter, discipline not imposed
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
 evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 2006-170, CAL 1994-135
 fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
 fifty percent of recovery contingency fee
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
 hybrid, hourly and
 SF 1999-1
 hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
 not violative of public policy
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
 -client has no funds to pay
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
 -percentage of recovery for spouse in divorce action
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
 strictly construed against the attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

CONTRACT FOR EMPLOYMENT

- LA 499 (1999)
to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
void as against public policy
SF 1971-1
-divorce case
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
Avres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
-examine factual background of each case
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
-however, attorney entitled to reasonable value of his services
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
voidable
-at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr. 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
--failure to include provision that fee is negotiable
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Costs
attorney may agree to advance the reasonable expenses of prosecuting and defending client's matter and waiving the right to repayment by the client if there is no recovery
LA 517 (2006)
contract provision may require that the attorney advance all reasonable necessary costs
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
interest charged on advanced costs from payment until billing
LA 499 (1999)
Criminal defense services
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
LA 466 (1991)
Evidence of value of attorney's services
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8
Fees may not be raised by a law firm without notification to clients
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569
LA 479 (1994), LA 473 (1993)
Formal contract
Jackson v. Campbell (1932) 215 Cal. 103 [8 P.2d 845]
additional compensation must not be too vague
Goldberg v. City of Santa Clara (1971) 21 Cal.App.3d 857 [98 Cal.Rptr. 862]
construe liberally in favor of client
Miller v. Wing (1935) 9 Cal.App.2d 483 [50 P.2d 470]
discharged attorney
Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]
formed after attorney-client relationship established
Preston v. Herminghaus (1930) 211 Cal. 1 [292 P. 953]
implied contract to exercise due care, skill, and knowledge
Floro v. Lawton (1960) 187 Cal.App.2d 657 [10 Cal.Rptr. 98]
promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
strictly construed against the attorney
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
-without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
unconscionable contract
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
OC 99-001
-arbitration provision within law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
"Framework" contract, where attorney and client provide a structure for future "as requested" representation, does not create a current attorney client relationship
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Banning Ranch distinguished
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Government contract
requiring attorney's clients to waive attorney-client and work product privileges
LA 435 (1985)
those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
Hybrid, hourly and contingent
OC 99-001, SF 1999-1
agreement based on fixed hourly rate which provides for possible increases based on performance is valid, but without specific agreement to do a major adjustment only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

- non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
- Hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- Illegal contract
 attorney sharing in award from dissolution
Theisen v. Keough (1931) 115 Cal.App. 353 [1 P.2d 1015]
 client compromising suit without consent of attorney
Calvert v. Stoner (1948) 33 Cal.2d 97 [199 P.2d 297] LA 505 (2000)
 contract with minor
Leonard v. Alexander (1942) 50 Cal.App.2d 385 [122 P.2d 984]
 quantum meruit upon recovery
Rosenberg v. Lawrence (1938) 10 Cal.2d 590 [75 P.2d 1082]
 when void, implied contract arises
Wiley v. Silsbee (1934) 1 Cal.App.2d 520 [36 P.2d 854]
- Imputation of agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Indigent, non-contractual is statutory
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
Arnelle v. City & County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
- Informal contract
 ambiguity in contract construction
Miller v. Lantz (1937) 9 Cal.2d 544 [71 P.2d 585]
 equitable lien created if fee not stated
Wagner v. Sariotti (1943) 56 Cal.App.2d 693
 extrinsic evidence to establish fee
Shaw v. Leff (1967) 253 Cal.App.2d 437 [61 Cal.Rptr. 178]
 intention of parties
Houge v. Ford (1955) 44 Cal.2d 706
 interpretation of agreement
Benjamin v. Frenke (1940) 40 Cal.App.2d 736 [105 P.2d 591]
 modification of agreement
Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212 [64 Cal.Rptr. 915]
 promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
 terms not in written agreement
McKee v. Lynch (1940) 40 Cal.App.2d 216
- Invalid agreement
 advertising legal services for reduced rates
 SD 1975-13
 attorney entitled to reasonable value of services rendered
Calvert v. Stoner (1948) 33 Cal.2d 97, 104 [199 P.2d 297]
 fixed fee if suit dismissed
Hall v. Orloff (1920) 49 Cal.App. 745, 749 [194 P.2d 296]
- Law firm employment agreements
 arbitration provision
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
- Modification of contract
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Severson, Werson, Berke, & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569
Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
- Walton v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675] LA 499 (1999), LA 479 (1994)
 authorization for "additional fees" could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 lien against recovery in unrelated matter to secure fees owed LA 496 (1998)
 modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
 must be in writing
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
 no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
 virtual law office (VLO) representation may require modification when services can no longer be provided via VLO, due to complexity or inability to provide services except in a traditional setting
 CAL 2012-184
 without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Oral agreements
Thomson v. Casaudoumeq (1962) 205 Cal.App.2d 549, 551 [23 Cal.Rptr. 189]
Hardy v. San Fernando Valley Chamber of Commerce (1953) 119 Cal.App.2d 523 [259 P.2d 728]
Harvey v. Ballagh (1940) 38 Cal.App.2d 348 [101 P.2d 147]
 between attorney and beneficiary
Miller v. Price (1944) 66 Cal.App.2d 126 [152 P.2d 24]
 between in-house attorney and client are voidable under Business and Professions Code section 6147
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
 discretion of trial court
Kendrick v. Gould (1921) 51 Cal.App. 712 [197 P. 681]
 reasonable value of services rendered
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
 trial court has wide discretion in fixing fee
Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
- Power of attorney clause
 improper for attorney to routinely request from clients LA 393 (1981)
- Private attorney with governmental agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
 Promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]

CONTRACT FOR EMPLOYMENT

- Providing for consequences of third-party funding of lawsuit
LA 500 (1999)
- Providing for court awarded attorney fees
absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
LA 523 (2009)
attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
district court had authority to award attorney fees for work done outside confines of litigation before court
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
except for fees specifically provided by statute, the measure and mode of compensation of attorneys is left to the agreement, express or implied of the parties (Code of Civil Procedure 1021)
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
vacation of judgment as part of post-judgment settlement effectively eliminates fee award
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- Providing for disposition of client files upon termination
LA 493 (1998)
- Providing for repayment of costs of litigation
LA 495 (1998)
prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
- Providing for trial court determination of prevailing party and award of attorney fees
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- Providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee
LA 505 (2000)
- Public policy, contrary to; is a question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
- Quantum meruit
statute of limitations for claims of
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
where services have been rendered under a contract which is unenforceable because it was not in writing
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
- Reasonable value implied when no fee specified
Buck v. Ewoka (1899) 124 Cal. 61 [56 P. 621]
Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
Hannon v. Goucher (1931) 117 Cal.App. 455 [4 P.2d 239]
in absence of agreement
Batcheller v. Whittier (1909) 12 Cal.App. 262 [107 P. 141]
- nothing said as to payment
Cusick v. Boyne (1905) 1 Cal.App. 643 [182 P. 985]
valid contract but no agreement as to compensation
Elconin v. Yalen (1929) 208 Cal. 546 [282 P. 791]
when attorney unable to complete performance
Boardman v. Christin (1924) 65 Cal.App. 413 [224 P. 97]
- Scope of representation
Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
LA 483 (1995), LA 476 (1995)
- Severability of contract
doctrine of severance inapplicable where the attorney's services in business transactions with his client could not be separated into lawful and unlawful activities
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- Sports Service Contracts
Business and Professions Code section 6106.7
Substitution of attorney clause included by attorney
LA 371 (1977)
- Term void as against public policy
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
clause regarding dismissal of suit without both client and attorney's consent
Hall v. Orloff (1920) 49 Cal.App. 745
- Unenforceable contract
incompetent person
Estate of Doyle (1932) 126 Cal.App. 646, 647 [14 P.2d 920]
minor may disaffirm
Spencer v. Collins (1909) 156 Cal. 298 [104 P.2d 320]
- not in writing
-action will generally lie upon a common count for quantum meruit
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
-attorney entitled to reasonable value of services where there is no written fee contract
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
- not signed by any party
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
- Use of "Contract Attorney Services"
CAL 2004-165
ghostwriting
OC 2014-1
- Void if consideration is unlawful
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
- Voidable
agreement voided where the attorney failed to disclose to the client material terms of their business transactions and to obtain the client's written consent, as required under [rule](#) 3-300
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
contingent attorney's fee agreement to represent plaintiff
-at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

if violates attorney's ethical duties

Hulland v. State Bar (1978) 8 Cal.3d 440, 448

modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

written contingent fee contract

-agreement not given to client in violation of Business and Professions Code sections 6068 (a) & 6147

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

written retainer agreement

-failure to comply with Business & Professions Code section 6148

Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]

Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]

-failure to enter into with client is in violation of Business and Professions Code, sections 6068 (a) and 6148 (a)

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

CORPORATION [See Attorney-client relationship.]

Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)

Corporations Code section 15634

Upjohn v. U.S. (1981) 449 U.S. 383 [101 S.Ct. 677]

Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]

LA 389 (1981), LA 185 (1955)

Agent for, attorney acting as, to solicit athletic contracts

CAL 1968-13

Corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

Counsel for

brings suit against shareholder in unrelated matter

SD 1978-11

communicates with general counsel when suing subsidiary represented by local counsel

SD 1968-2

corporation and directors

-owe fiduciary duties to all directors claiming funds held on behalf of the corporation

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

discloses unlawful act of officers or executives

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

LA 353 (1976)

-advises officer that his conduct was illegal

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

dissolution

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

duty to prevent client's communications with opposing party

LA(I) 1966-16

former

-represents

--against corporation

LA(I) 1936-1

--against officers

LA 139 (1941)

in-house attorneys come within the mandatory relief from default or dismissal provision of CCP § 473

Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]

in-house counsel entitled to award of reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198], as modified (June 2, 2000)

informs directors of criminal record of a director

LA(I) 1965-14

may be sued for malpractice by bankruptcy trustee of "sham" corporation

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

must raise privilege for communications with client before merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

no automatic attorney-client relationship between corporate counsel and corporate directors

National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]

propriety of being

-represents

--corporation against director

LA(I) 1966-14

--employees

SD 1972-3

relationship between corporate employee and corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

rendering legal services to corporation employees

SD 1975-18

role of attorney as

Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935-936 [197 Cal.Rptr. 185]

shareholder derivative suit

LA 397 (1982)

-prevailing party awarded attorney's fees under Corporations Code section 800

Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]

subsidiary also represented by corporate counsel

SD 1976-6

suspended corporation

-duty to inform the court of corporation's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

LA 408 (1982)

Director represents stockholder against corporation

LA(I) 1955-2

Enjoy attorney-client privilege

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

United States v. Rowe (9th Cir. 1996) 96 F.3d 1294

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]

National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]

Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198

CORPORATION COUNSEL

- displaced managers in merger may not assert the privilege over the wishes of current managers
Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- investigate activities by in-house counsel that do not involve legal advice may not be covered by the privilege
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
- privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- relationship between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
- shareholder derivative action against corporation does not entitle shareholders to attorney-client privilege
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- In propria persona
Van Gundy v. Camelot Resorts, Inc. (1984) 152 Cal.App.3d Supp. 29
- Incorporate
later represent against one incorporator
SD 1974-13
- In-house counsel
award of attorney fees that compensates corporation's inside and outside counsel at the same rate may be an abuse of discretion
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- entitled to award of reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- may state cause of action against employer for retaliatory discharge and breach of implied-in-fact contract
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
LA 389 (1981), SD 2008-1
- officers of the court, subject to Code of Professional Responsibility
U.S. Steel Corporation v. United States (C.A. Fed. 1984) 720 F.2d 1465, 1468
- Joint venture
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
LA 412 (1983)
- Representation of corporation and board of directors in derivative suit
LA 397 (1982)
- Representation of corporation and director
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
CAL 1999-153
- Shareholder(s)
director represents shareholder against corporation
LA(I) 1955-2
- may not pierce the privilege in that capacity
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1199
- minority, not deemed represented by counsel for corporation
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- Subsidiary
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113
- Suspended corporation
attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- duty to inform the court of corporation's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
- Trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
- CORPORATION COUNSEL** [See Client trust account. Confidences of the client. Corporation. Insurance company attorney. Law corporation.]
- COSTS** [See Advancement of funds. Client trust account. Expenses.]
- Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
- Advance
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
CAL 1976-38
LA 517 (2006), LA 379 (1979)
- Advanced costs by a law firm per terms of contingency fee agreement deductible as business expenses
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
- Apportioning costs between insurer and insured
LA 424 (1984)
- Arbitration
law firm required to pay arbitration cost of former clients who sued firm, where client is of limited economic means
Roldan v. Callahan & Blaine (2013) 219 Cal.App.4th 87 [161 Cal.Rptr.3d 493]
- Assigned counsel's duty with respect to
LA 379 (1979)
- Attorney's fees as costs
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
- Attorney's fees do not include expert witness fees
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
- Billing for costs and expenses
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
LA 499 (1999), SD 2013-3
- Common fund doctrine
attorney acting in propria persona may recover costs
Leiper v. Gallegos (2021) 69 Cal.App.5th 284 [284 Cal.Rptr.3d 349]

- Contract attorney
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993
 outsourcing of legal services
 LA 518 (2006)
- Costs incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10
In re Findley (9th Cir. 2010) 493 F.3d 1048
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
In re Taggart (2001) 249 F.3d 987
In the Matter of Mackenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
 payment of costs to State Bar under 2003 amendments to Business and Professions Code § 6086.10 are not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
 retroactive application of amended statute
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
- Criminal proceedings
 assignment of costs and fees against criminal defendant requires notice, hearing, and evidence of actual costs
People v. Poindexter (1989) 210 Cal.App.3d 803 [258 Cal.Rptr. 680]
- Donation of legal services and costs as prize
 LA 434 (1984)
- Error in awarding costs
 district court erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes
Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955
 family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
 prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
- Expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
- Expert witnesses obtained through a medical-legal consulting firm
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
- Failure to hold advance costs in client trust account
Aronin v. State Bar (1990) 52 Cal.3d 276
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
- Failure to refund unused advanced costs
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- Filing fee
 client's inability to pay
Alexander v. Carson Adult High School (1993) 9 F.3d 1448
- Flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- Interest charged on advanced costs from payment until billing
 LA 499 (1999)
- IRS pre-litigation activities in tax assessment case did not warrant litigation costs to taxpayer
Estate of Merchant v. Commissioner Internal Revenue Service (9th Cir. 1991) 947 F.2d 1390
- Paid by lawyer
 LA 499 (1999), LA 379 (1979), LA 149 (1944)
 SF 1974-4
- Pro bono representation
 LA 379 (1979)
- Reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
- Recovery of, by party
Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
 cost of preparing administrative record may be recovered when reasonable and necessary
Otay Ranch, L.P. v. County of San Diego (2014) 230 Cal.App.4th 60 [178 Cal.Rptr.3d 346]
 cost of typing briefs for photocopying recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
 necessarily incurred traveling expenses recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
- Recovery of, defending a frivolous civil action
Kobzoff v. Los Angeles County Harbor/UCLA Medical Center (1998) 19 Cal.4th 851 [80 Cal.Rptr.2d 803]
- Recovery of, upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
 LA 495 (1998)
 SF 1985-2
- Reimbursing public entity for costs in paying subpoenaed peace officers is the responsibility of litigant and litigant's counsel
Maddox v. City of Costa Mesa (2011) 193 Cal.App.4th 1098 [122 Cal.Rptr.3d 629]
- Rules 460-462, Rules of Procedure of the State Bar
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
- Trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
- COURT** [See Broadcasting. Candor. Judge.]
- Abuse of discretion
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306
 bankruptcy court abused its discretion by reducing documented fees without explanation
Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775
 bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
- Abuse of judicial process
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
- Appointment of defense attorney for criminal defendant
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
- Attorney's acts under Civil Code section 47(2) not privileged where damages do not stem directly from those acts
Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]
- Attorney's deception in collection of debt not protected by judicial process' absolute privilege under Civil Code section 47
Carney v. Rotkin, Schmerin & McIntyre (1988) 206 Cal.App.3d 1513 [254 Cal.Rptr. 478]
- Authority
 Code of Civil Procedure section 128

COURT

- appellate court
 - Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
 - Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148] LA 88 (1935)
- attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
 - Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
- to disqualify law firm
 - Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048
- to impose sanctions
 - Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
 - Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
 - Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170-1173
 - court cannot sanction pro hac vice attorney for bad faith misconduct in a manner that a California attorney could not be sanctioned
 - Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 - court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
 - Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
 - court has no statutory authority to impose monetary sanctions against pro hac vice attorney for bad faith misconduct
 - Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 - for delay
 - In re Silberkraus (9th Cir. 2003) 336 F.3d 864
 - In re Deville (9th Cir. BAP 2002) 280 B.R. 483
 - Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
 - Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
 - People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5
- to order ancillary criminal defense services
 - Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 318-323
- to order second defense counsel
 - Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318
- Bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
 - In re Levander (9th Cir. 1999) 180 F.3d 1114
 - Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]
- Chooses not to speak on ethical issues
 - United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354
- Client's cross-examination of witnesses
 - People v. Davis (1984) 161 Cal.App.3d 796, 802-804
- Discretion
 - court has discretion to take into consideration a criminal defendant's desire to have a particular attorney appointed at the public's expense
 - Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
 - unreasonable application of clearly established federal law
 - Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Discretion with respect to attorney-client relationship
 - People v. Davis (1984) 161 Cal.App.3d 796, 802
- Duty to determine presence of coercive element in plea bargaining
 - In re Ibarra (1983) 34 Cal.3d 277 [193 Cal.Rptr. 538, 666 P.2d 980]
- Duty to inform
 - aid court in avoiding error
 - *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 - Furlong v. White (1921) 51 Cal.App. 265, 271
 - attorney ghostwriter's involvement
 - OC 2014-1
 - by witness
 - SD 1983-8
 - of a known misrepresentation
 - *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 - of perjury by the client
 - CAL 1983-74
- Electronic devices in courtroom
 - Rule 1.15, California Rules of Court
- Failure to take judicial notice of statute pursuant to Evidence Code section 451 is trial court error
 - Kasem v. Dion-Kindem (2014) 230 Cal.App.4th 1395 [179 Cal.Rptr.3d 711]
- Federal courts
 - district court's reliance upon distinction that State Bar makes between active and inactive members to limit practice of inactive attorneys is not improper exercise of court's rulemaking authority
 - In re North (9th Cir. 2004) 383 F.3d 871
 - have inherent and broad regulatory authority to make rules respecting admission, practice, and discipline of attorneys appearing in those courts
 - Russell v. Hug (9th Cir. 2002) 275 F.3d 812
 - Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631
 - new district court rule requiring that attorneys appearing before it must be members of that jurisdiction does not deprive attorney of his constitutionally-protected property interest in his license to practice law
 - Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
- Fraud on the court must harm the integrity of the judicial process
 - In re Levander (9th Cir. 1999) 180 F.3d 1114
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
 - United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Information disclosed to
 - LA(I) 1972-3
- Informed about fee agreement
 - LA 261 (1959)
- Jurisdiction
 - California Code of Civil Procedure 1008
 - circumscribes courts' jurisdiction over applications to reconsider is strictly applied to applications or motions for reconsiderations and renewals of previous motions and not to any order to revisit an earlier ruling
 - Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
 - California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
 - Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
 - court's reservation of jurisdiction over the enforcement of a settlement agreement extends to attorneys who represent class members other than as class counsel
 - Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]

refusal of a California court to give foreign state judgment full faith and credit where a party to the Arizona proceeding was denied due process under the Fifth and Fourteenth Amendments due to attorney's conflict of interest

State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

Powers

attorney attire in courtroom

Jensen v. Superior Court (1984) 154 Cal.App.3d 533 [201 Cal.Rptr. 275]

court has no statutory power to discipline pro hac vice attorney; that power rests exclusively with the Supreme Court and with the State Bar

Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

Reciprocity admission

Arizona Supreme Court rule allowing admission on motion (AOM) for out of state attorneys is constitutional because it does not discriminate against non-residents

National Association for the Advancement of Multijurisdiction Practice v. Berch (9th Cir. 2014) 773 F.3d 1037

Responsibility, to ensure high standards of ethics

Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]

Unification of municipal and superior courts not intended to fundamentally alter existing rights and procedures or parity of treatment of the parties

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

COURT REPORTER

Duty to pay court reporter

CAL 1979-48

Improper to condition delivery of deposition transcripts on the former client's paying the reporter's fees

LA 425 (1984)

Ministerial officers of the court subject to the court's inherent authority over judicial proceedings

Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]

CREDIT CARD [See Fee, financing of.]

Borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

CREDITOR [See Collections. Conflict of interest, creditor.]

CRIMINAL CASE [See Conflict of interest, criminal proceeding.

Ineffective assistance of counsel. Prosecutorial misconduct.]

Penal Code section 1473.7

counsel must be appointed if a defendant's presence is waived or good cause exists to excuse a defendant's presence, such as when a defendant is confined in federal immigration custody or defendant is indigent and in federal custody

People v. Fryhaat (2019) 35 Cal.App.5th 969 [248 Cal.Rptr.3d 39]

Abandonment

Brooks v. Yates (9th Cir. 2016) 818 F.3d 532

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

by appellate counsel was good cause for substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

Adequacy of appointed counsel

People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]

People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

Appeal

California use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706

Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]

Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]

Communication with a represented party

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

LA 466 (1991)

Defense counsel's declarations regarding informant

People v. Oppel (1990) 222 Cal.App.3d 1146 [272 Cal.Rptr. 340]

Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude

In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61

Habeas petition

federal habeas petition based on alleged ineffective assistance of counsel

Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093

tolling of habeas petition deadline when prisoner did not have access to file

Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Negotiation of private agreement to compromise civil claim arising from crime

CAL 1986-89

Negotiation of private agreement to prosecute crime

CAL 1986-89

Private prosecution

California law does not permit private prosecution of criminal case without presence of public prosecutor

People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]

Represent

defendant

-after representing party who is now prosecution witness

LA 366 (1977)

-defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

when client is complaining witness

SD 1974-15

Right of criminal defendant to consult privately with counsel

People v. Torres (1990) 218 Cal.App.3d 700 [267 Cal.Rptr. 213]

Right to ancillary defense services under Penal Code section 987.9

Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]

Right to counsel

U.S. v. Yamashiro (9th Cir. 2015) 788 F.3d 1231

U.S. v. Walters (9th Cir. 2002) 309 F.3d 589

United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Clemmons (1990) 224 Cal.App.3d 1500

CROSS REFERENCE TABLES

court has latitude to remove counsel where potential conflict exists, over objection by defendant

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
defendant has right to counsel of choice and includes right to discharge retained counsel

U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

does not attach at arrest or at an extradition hearing

Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175

includes criminal defendant's Sixth Amendment right to use her own "innocent" assets (those not traceable to a criminal offense) to pay a reasonable fee for the assistance of counsel

Luis v. United States (2016) ___ U.S. ___ [136 S.Ct. 1083]

may not be forfeited without defendant's voluntary, knowing intelligent waiver

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

no abuse discretion found where court denied motion to substitute retained counsel; based on a conflict that was not properly waived

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

Sixth Amendment right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

Sixth Amendment right to conflict-free representation

U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

Sixth Amendment right violated when counsel not present during the allocation phase of sentencing proceeding

U.S. v. Yamashiro (9th Cir. 2015) 788 F.3d 1231

Sixth Amendment right violated where attorney pursued defenses that did not comport with defendant's insistence that he did not commit the alleged criminal act

People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]

under 18 U.S.C. § 3005

-defendant not entitled to second court-appointed counsel when death penalty not sought

U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915

waiver of right must be knowing and intelligent

U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

CROSS REFERENCE TABLES

History of Rules of Professional Conduct of the State Bar of California [See part III.D. of this Compendium.]

State Bar Act of 1939 [See part I.A. to this Compendium at "Cross Reference Table."]

DAMAGES

Damages in tort and contract causes of actions between partners of a dissolved partnership

equitable maxim to "do equity" does not preclude the recovery of damages

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Data processing, information about cases given for purpose of

CAL 1971-25

LA 374 (1978)

Recovery of emotional suffering damages

Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]

DEBTOR [See Collections.]

DECEASED LAWYER

Business and Professions Code section 6180 et seq.

Division of fees with estate of, spouse of

Rule 3-102(A)(1), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Little v. Caldwell (1894) 101 Cal. 553, 561 [86 P. 107]

Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]

Heywood v. Sooy (1941) 45 Cal.App.2d 423 [114 P.2d 361]

CAL 1975-34

LA 361 (1976), LA 162 (1947), LA(I) 1974-15

SD 1969-4, SD 1968-5

File of, buy

LA 361 (1976)

Law practice, sale of

Rule 2-300, California Rules of Professional Conduct

[See Practice of Law.]

Name

firm name, continue use of

CAL 1986-90

letterhead

LA(I) 1962-5

-use of deceased or retired attorneys on

CAL 1986-90

used

-by sole survivor

LA 265 (1959)

-in partnership's name

LA 265 (1959), LA 248 (1958), LA(I) 1962-5

Practice

maintain for widow of

SD 1969-4

sale of

Rule 2-300, California Rules of Professional Conduct

SD 1968-5

transfer of

LA 361 (1976), SD 1968-5

DEGREES [See Advertising, academic degrees.]

DELAY IN HANDLING CASE [See Competence. Misconduct.

Trial conduct.]

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

For attorney's gain

Business and Professions Code section 6128(b)

Until fees are paid

CAL 1968-16

SD 1973-3

DISABLED LAWYER [See Deceased lawyer. Substitution of counsel. Withdrawal.]

Business and Professions Code section 6180 et seq.

Associate's duties with respect to practice of

LA 348 (1975)

DISBARMENT [See Disciplinary Action. Resignation. Suspension.]

Attorney appeared telephonically during suspension

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Attorney holding himself out as entitled to practice law and actually practicing law while suspended

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Based on severity of offense

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

California attorney is disbarred for practicing law in other states by settling consumer debt matters

In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250

Conviction of crime need not be in California

People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]

In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250

Disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court

Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]

Disbarment recommendation does not retroactively require involuntary inactive enrollment

In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

Disregard for obligations to clients and profession

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Duties of disbarred lawyer

Rule 9.20, California Rules of Court

Bercovich v. State Bar (1990) 50 Cal.3d 116

In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646

Effect on application for licensure by other agencies

rejection by the Department of Real Estate of application for a license was based on applicant's previous disbarment as an attorney and his underlying fraud judgment

Berg v. Davi (2005) 130 Cal.App.4th 223 [29 Cal.Rptr.3d 803]

Excessive and punitive, where the most compelling mitigating circumstances clearly predominate

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

Failure to report charge of crime involving moral turpitude

In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

Federal court

In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222] disbarment from state does not result in automatic disbarment from Federal Court

In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]

must afford due process before disbarment of attorney based on state court disciplinary adjudication

In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]

In re Kramer (9th Cir. 1999) 193 F.3d 1131

-disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court

Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]

Judge systematically and routinely sold his office and his public trust

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Many violations surrounded by serious, extensive aggravation

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Misappropriation generally warrants disbarment unless clearly extenuating circumstances are present

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Multiple acts involving moral turpitude and dishonesty warrant disbarment

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Necessary when attorney was previously disbarred for serious misconduct

In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Not reserved for attorneys with prior disciplinary record

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Offenses concerning the administration of justice are serious

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Reciprocal disbarment

In re Kramer (9th Cir. 2002) 282 F.3d 721

Reinstatement

Calaway v. State Bar (1986) 41 Cal.3d 743

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894

In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373

Summary disbarment

attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Business and Professions Code section 6102(c) cannot be applied retroactively to summarily disbar an attorney for felony convictions

In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51

In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936

In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740

In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729

In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71

deserved for only those crimes which inherently involved moral turpitude

In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

forgery

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

no evidentiary hearing

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

DISCIPLINARY ACTION

DISCIPLINARY ACTION [See Misconduct. Moral Turpitude.]

Business and Professions Code sections 6075-6087

Rules 1-100 and 9-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 1-100 and 1-110, Rules of Professional Conduct (operative as of May 27, 1989)

Abandonment of client

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

[In the Matter of Doran](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Acts committed by attorney outside of professional capacity

attorney can be disciplined for

[Segal v. State Bar](#) (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

[Marquette v. State Bar](#) (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]

[In the Matter of Jensen](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283

Administrative in nature and not governed by criminal procedure rules

[In re Crooks](#) (1990) 51 Cal.3d 1090

[Hawkins v. State Bar](#) (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]

[Emslie v. State Bar](#) (1974) 11 Cal.3d 210

Admonishment considered appropriate discipline in light of extenuating circumstances and mitigation

[In the Matter of Respondent C](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439

Aggravating circumstances

absence of remorse

[In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

[Conroy v. State Bar](#) (1990) 51 Cal.3d 799

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

conflicts of interest

[In the Matter of Maloney and Virsik](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774

dishonesty and concealment

[In the Matter of Romano](#) (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

[In the Matter of Downey](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

dishonesty to State Bar

[Natali v. State Bar](#) (1988) 44 Cal.3d 456 [247 Cal.Rptr. 165]

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

[In the Matter of Torres](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

disobedience of probation condition

[Conroy v. State Bar](#) (1991) 53 Cal.3d 495

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

disregard for obligations to profession and clients

[In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

extensive disciplinary record

[Phillips v. State Bar](#) (1989) 49 Cal.3d 944

[Blair v. State Bar](#) (1989) 49 Cal.3d 762

[In the Matter of Rubin](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

[In the Matter of Lenard](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250

[In the Matter of Fahy](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

failure to abide by probationary conditions

[Phillips v. State Bar](#) (1989) 49 Cal.3d 944

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

[In the Matter of Harris](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219

failure to accept responsibility for or understand wrongfulness of actions

[Gadda v. State Bar](#) (1990) 50 Cal.3d 344 [787 P.2d 95]

[Bernstein v. State Bar](#) (1990) 50 Cal.3d 221 [786 P.2d 352]

[Van Sloten v. State Bar](#) (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]

[Carter v. State Bar](#) (1988) 44 Cal.3d 1091, 1100-1101 [245 Cal.Rptr. 628, 751 P.2d 894]

[In the Matter of Gordon](#) (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610

[In the Matter of Fahy](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In the Matter of Peavey](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

[In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Jenkins](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

[In the Matter of Lais](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

-respondent's continued assertions that the law governing loan modification services and fees was debatable despite a finding that the language of the statute is not ambiguous

[In the Matter of Swazi Elkanzi Taylor](#) (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

failure to appreciate seriousness of misconduct

[In the Matter of Dale](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

[In the Matter of Torres](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

failure to comply with discovery requests by State Bar

[In the Matter of Torres](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

[In the Matter of Lais](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

failure to cooperate with disciplinary investigation

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

failure to disclose misdemeanor on Moral character application

[In the Matter of Pasyanos](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

failure to file timely pre-trial statement

[In the Matter of Lais](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

failure to make restitution

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

failure to report criminal charges or convictions to bar

[In the Matter of Sullivan II](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

- failure to return unearned fees
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Phillips v. State Bar (1989) 49 Cal.3d 944
- harm to the administration of justice
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- indifference and lack of insight
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
- indifference to rectifying consequences of misconduct
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- lack of candor in disciplinary proceeding
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- lack of insight into the seriousness of misconduct
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
 -significant weight assigned to respondent's lack of insight because it suggests that his misconduct may reoccur
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- lack of remorse
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- multiple acts of misconduct
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
- In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
In the Matter of Wenzel (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- overreaching and bad faith
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- pattern of misconduct
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- personal gain
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- pervasive carelessness
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
- presentation of misleading evidence in mitigation
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- prior record of discipline
In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
- record of prior discipline
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

DISCIPLINARY ACTION

- In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
- In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
- In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
- In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- repeated reminders and pressure from State Bar to complete restitution
- In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
- serious, repeated misconduct
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- significant harm
- In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536
- In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
- In the Matter of Wenzel (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
- In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- single disciplinary violation does not amount to bad faith
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- uncharged violations
- In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- Edwards v. State Bar (1990) 52 Cal.3d 28, 35-36
- In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
- In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- In the Matter of Kopinski (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716
- withdrawal of agreement regarding authenticity of documents does not amount to failure to cooperate with State Bar
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Alternative Discipline Program (ADP)
- In the Matter of Geyer (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 74
- Appearing for party without authority
- Business and Professions Code section 6104
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
- “appearing” defined for purposes of B&P § 6104
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Appropriateness of discipline
- Tarver v. State Bar (1984) 37 Cal.3d 122 [207 Cal.Rptr. 302]
- Palomo v. State Bar (1984) 36 Cal.3d 785
- In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
- In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- Alcohol dependency
- In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Associate assigned to client matters may not be blamed for supervising attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Attorney entitled to procedural due process
In re Kramer (9th Cir. 2002) 282 F.3d 721
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
attorney deprived of opportunity to request Early Neutral Evaluation Conference prior to issuance of Notice of Disciplinary Charges
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Attorney must be afforded a fair and reasonable opportunity to be heard
In re Kramer (9th Cir. 2002) 282 F.3d 721
Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661 P.2d 160]
due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Attorney-client privilege may be waived if client fails to assert it at a disciplinary hearing
Calvert v. State Bar (1991) 54 Cal.3d 765

Authority of Bankruptcy Court
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

Authority of State Bar
abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
inherent power to discipline attorneys is consistent with its role as a disciplinary entity
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
misconduct in immigration matters
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
out-of-state arbitration representatives
Code of Civil Procedure section 1282.4
sovereign immunity of the State Bar as an arm of the state
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

Authority of Supreme Court
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Alberton v. State Bar (1984) 37 Cal.3d 1, 11-12 [206 Cal.Rptr. 573]
inherent authority includes power to appoint judges of the State Bar Court and this power is not impaired by permissible appointment mechanisms specified by the legislature
Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]

Bar Examination
taking bar examination for another
In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]

Bias and prejudice by hearing judge is claimed by respondent
In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

Bias and prejudice against respondent manifested by referee are claimed by respondent as prejudicial error
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

Breach of fiduciary duty
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009
Hartford v. State Bar (1990) 50 Cal.3d 1139
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

Burden is on petitioner to demonstrate that findings of State Bar Court are unsupported by substantial evidence
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Smith v. State Bar (1984) 37 Cal.3d 17, 23-24 [206 Cal.Rptr. 545]
Montag v. State Bar (1983) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]
In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219

Burden of proof
State Bar of California, clear and convincing
In re Morales (1983) 35 Cal.3d 1
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

California Professional Responsibility Examination
purpose of
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

California State Bar Court is not governed by civil or criminal rules of procedure
In re Taggart (2001) 249 F.3d 987

Censure
pro hac vice attorney
United States v. Summet (9th Cir. 1988) 862 F.2d 784

Civil findings by themselves are not dispositive of disciplinary issues
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Collateral estoppel from previous litigation
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725, 731
In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318, 329

Commencement of disciplinary proceeding
period of limitations
Rule 51, Rules of Procedure of the State Bar of California

Communications with the State Bar are privileged
Business and Professions Code section 6094
Lebbos v. State Bar (1985) 165 Cal.App.3d 656 [211 Cal.Rptr. 847]
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
Chen v. Fleming (1983) 147 Cal.App.3d 36

Complaint
lapse of time in the filing of a disciplinary complaint is no defense unless specific prejudice is shown
Yokozeki v. State Bar (1974) 11 Cal.3d 436, 449
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
malicious prosecution charges against complainant not permissible as public policy
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

DISCIPLINARY ACTION

- presentation of a false and malicious complaint may give rise to a misdemeanor
Business and Professional Code section 6043.5
presenting charges of attorney misconduct
contact State Bar Office of Investigations
(800) 843-9053
- Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Condition of psychiatric treatment requires clear or expert evidence that the respondent attorney had a specific mental or other problem
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
- Conditions attached to public or private reprovals under Rule 956
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of John Collier Pyle (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929
- Conduct warranting discipline
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- dishonesty to court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- misappropriation of client's funds
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
- moral turpitude
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
In re Morales (1983) 35 Cal.3d 1, 9-10
In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713
In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Wenzel (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380
In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
-warranting disbarment absent compelling mitigating circumstances
In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536
- Confidentiality of disciplinary investigations
Business and Professional Code section 6086.1(b)
- Contempt of court as basis for
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- Continuances of proceedings
Palomo v. State Bar (1984) 36 Cal.3d 785, 791-792
- Conviction of crime need not be in California
People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
- Conviction proceedings
differentiated from underlying original proceedings
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
- due process protections
In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110
- Costs
incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10
In re Findley (9th Cir. 2010) 493 F.3d 1048
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
In re Taggart (2001) 249 F.3d 987
In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
-payment of costs to State Bar under 2003 amendments to Business & Professions Code § 6086.10 are not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
retroactive application of amended statute
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
- Criminal conviction
attorney cannot collaterally attack criminal conviction in disciplinary proceeding
In re Prantili (1989) 48 Cal.3d 227 [255 Cal.Rptr. 890, 768 P.2d 109]
attorney's conviction of a crime is conclusive evidence of guilt
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]
In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
summary disbarment for attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
summary disbarment for forgery
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
- Criminal procedures do not apply in disciplinary proceedings
Palomo v. State Bar (1984) 36 Cal.3d 785, 792

Deception of court

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

attempting to mislead a judicial officer

Maltaman v. State Bar (1987) 43 Cal.3d 924
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774

misrepresentation to judge while attorney served on jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

Default by respondent attorney

appropriate method for calculation of discipline

*In the Matter of Marsh (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291

due process protections

In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110

recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension

In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

requirement for probation conditions reasonably related to misconduct

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

requirement for specific period of stayed suspension

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

respondent claims disability affected memory

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Default, no relief despite technical errors

In the Matter of Navarro (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 192

Defendants' burden of proof

Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]

Defense

attorney has right to argue ethical obligations establish a bona fide legal representation defense

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

Defenses and mitigating circumstances

Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]

Palomo v. State Bar (1984) 36 Cal.3d 785

In the Matter of Smithwick (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 320

good character

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

good faith is a defense to a charge of dishonesty

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

pro bono activities

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Delays during disciplinary process

+In the Matter of Aquiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502

no prejudice

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Description of the attorney disciplinary system in California

In re Taggart (2001) 249 F.3d 987

Hirsh v. Justices of the Supreme Court (9th Cir. 1995) 67 F.3d 708, 711-12

In re Rose (2000) 22 Cal.4th 430 [93 Cal.Rptr.2d 298]

Disbarment appropriate when large sums of money misappropriated from several clients

In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

Disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court

Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]

Disbarment despite attorney's claim of emotional and physical problems caused by chronic diarrhea

Bercovich v. State Bar (1990) 50 Cal.3d 116

Disbarment despite contention that attorney was incompetent and unable to assist in his defense

Slaten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]

Disbarment despite mitigating circumstances if convicted of offense including intent to deceive or defraud and offenses committed while practicing law

In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]

Disbarment for abandonment and failure to return unearned fees

Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]

Disbarment for federal crime

protection of public

In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]

Disbarment for intentional acts of moral turpitude

In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

Disbarment for misappropriation of clients' identity

In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

Disbarment for misappropriation of funds from client trust account and partnership operating account

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Disbarment for misappropriation unless clearly extenuating circumstances are present

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Disbarment for moral turpitude

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

attempting to receive stolen property

In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]

attorney's conviction for possession of child pornography

In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]

conspiracy to commit offenses against the United States

In re Bloom (1987) 44 Cal.3d 128

In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

conspiracy to obstruct justice, failure to report conviction to bar

In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

convicted of felony vehicular manslaughter while driving under the influence of prescription drugs

In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536

failure to establish compelling mitigating circumstances

In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536

filing false election documents

In re Rivas (1989) 49 Cal.3d 794

guilty of felony criminal charges

In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713

DISCIPLINARY ACTION

- judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- mail fraud
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
- misappropriation of firm's funds
-attorney disbarred for misappropriating funds during breakup of firm
Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398, 751 P.2d 457]
- misrepresentation to judge while attorney served on jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- multiple acts of moral turpitude and dishonesty warrant disbarment
In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- summary disbarment for forgery
+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
- taking bar examination for another
In re Lamb (1989) 49 Cal.3d 239
- Disbarment for practicing law in other states by settling consumer debt matters and holding himself out as entitled to practice in those jurisdictions
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
- Disbarment for repeated and persistent misconduct in multiple cases
after commencement of State Bar proceedings
Gordon v. State Bar (1982) 31 Cal.3d 748
- conviction of conspiracy to distribute cocaine
In re Meacham (1988) 47 Cal.3d 510
- disciplinary action
Lebbos v. State Bar (1991) 53 Cal.3d 37
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
In re Aquino (1989) 49 Cal.3d 1122
Phillips v. State Bar (1989) 49 Cal.3d 944
Sands v. State Bar (1989) 49 Cal.3d 919
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
Jones v. State Bar (1989) 49 Cal.3d 273 [777 P.2d 170]
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
Weber v. State Bar (1988) 47 Cal.3d 492
Garlow v. State Bar (1988) 44 Cal.3d 689
Ballard v. State Bar (1983) 35 Cal.3d 274
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
- filing false election documents
In re Rivas (1989) 49 Cal.3d 794
- timeliness
Blair v. State Bar (1989) 49 Cal.3d 762
- Disbarment for repeatedly representing parties in arbitration while suspended from practice of law
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
- Disbarment for violating duties as a civil juror
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- Disbarment may be appropriate discipline even where there is no prior record of discipline
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr.9
- Disbarment necessary when attorney was previously disbarred for serious misconduct
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- Disbarment would be excessive and punitive where the most compelling mitigating circumstances clearly predominate
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- Disbarred or disciplined attorney
Rule 9-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-110, Rules of Professional Conduct (operative effective May 27, 1989)
compliance with rule 9.20, California Rules of Court
Rule 9.20, California Rules of Court
In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
- disbarment despite contention that attorney was incompetent and unable to assist in his defense
Slaten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]
- judge disbarred in California after disbarment in Michigan
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- non-compliance with rule 9.20, California Rules of Court
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
- Disciplinary order, failure to comply
Dahlman v. State Bar (1990) 50 Cal.3d 1088 [790 P.2d 1322]
In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- Disciplinary proceedings are neither civil nor criminal in character; they are administrative and of their own nature
In re Taggart (2001) 249 F.3d 987
- Disciplinary proceedings are not governed by the rules of procedure governing criminal and civil litigation
In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
- Disciplinary proceedings before State Bar
failure to appear at State Bar hearing
Bledsoe v. State Bar (1991) 52 Cal.3d 1074

- In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19
- In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- failure to cooperate with investigation
- Bach v. State Bar (1991) 52 Cal.3d 1201
- Conroy v. State Bar (1991) 53 Cal.3d 495
- Friedman v. State Bar (1990) 50 Cal.3d 235
- In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
- In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
- In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
- member not entitled to traditional criminal safeguards because proceedings only quasi-criminal in nature
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Slaten v. State Bar (1988) 46 Cal.3d 48, 57
- Frazer v. state Bar (1988) 43 Cal.3d 564, 567
- Yokozeki v. State Bar (1974) 11 Cal.3d 436, 447
- right to counsel
- Walker v. State Bar (1989) 49 Cal.3d 1107
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Slaten v. State Bar (1988) 46 Cal.3d 48, 57
- Dixon v. State Bar (1981) 39 Cal.3d 335, 342-343
- timeliness
- Blair v. State Bar (1989) 49 Cal.3d 762
- Disciplinary summaries
- Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
- Discriminatory enforcement
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- Dismissal
- In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
- In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Disregard for obligations to the legal profession and to clients
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- District court's order cannot stand as attorney disciplinary order where order to show cause was not issued, a hearing was not held, and complaining judge imposed the purported discipline
- Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- "Double jeopardy" defense
- In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
- Driving under influence of alcohol, conviction for
- In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
- In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
- In re Carr (1988) 46 Cal.3d 1089
- In the Matter of Herich (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820
- In the Matter of Caplin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 768
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- failure to cooperate with investigation
- Friedman v. State Bar (1990) 50 Cal.3d 235
- significant professional discipline may be imposed for multiple misdemeanor convictions of driving under the influence
- In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402
- Due process
- claim based on an amendment of the notice to show cause
- In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- claim based on denial of request for a continuance
- Martin v. State Bar (1991) 52 Cal.3d 1055
- claim based on publication of disciplinary summary in State Bar Journal and State Bar website.
- Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
- denied if culpability is based on uncharged misconduct
- Rose v. State Bar (1989) 49 Cal.3d 646, 654 [262 Cal.Rptr. 702]
- not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument
- In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
- State of California provides attorneys subject to discipline with more than constitutionality sufficient procedural due process
- Scheer v. Kelly (9th Cir. 2016) 817 F.3d 1183
- Duties of disbarred attorney in connection with rule 9.20, California Rules of Court
- Bercovich v. State Bar (1990) 50 Cal.3d 116
- non-compliance with rule 9.20, California Rules of Court
- In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
- Duties of suspended lawyer
- Rule 9.20, California Rules of Court
- purpose of imposition of requirement to comply with rule
- In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
- Estoppel if party stipulates to proceeding in excess of jurisdiction
- In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
- Ethical violations
- complaint against individual lawyer made against his firm
- SD 1975-10
- duty to report violation by another attorney
- LA 440 (1986), SD 1992-2, SF 1977-1
- same misconduct may result in more than one violation
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495, 504
- In the Matter of Kaplan (Review Dept. 1993) 3 Cal. State Bar Ct. Rptr. 547, 554
- serious ethical violation required for forfeiture of fees
- Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
- Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- Ethics school
- as a condition of reproof
- In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85
- In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
- completion is required if discipline is imposed
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- completion may be required as a probation condition
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- completion may be required at the time of a ruling on a motion to terminate actual suspension
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

DISCIPLINARY ACTION

- failure to complete
 - In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- Evidence
 - admissibility
 - federal trial transcript containing evidence counter to California rules admissible
 - In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595, 777 P.2d 631]
 - adverse credibility determination
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - circumstantial evidence can establish intent
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 - no error in excluding evidence of respondent's willingness to stipulate to reasonable discipline
 - In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
 - sanctions order may be relied upon as evidence of misconduct
 - statute of limitations, Rule 51
 - Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
 - trial evidence considered only to determine aggravation and mitigation
 - In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- Excuse of misconduct
 - Ballard v. State Bar (1983) 35 Cal.3d 274
- Fabrication of evidence for State Bar proceeding
 - Borré v. State Bar (1991) 52 Cal.3d 1047
- Factors to be considered in assessing appropriate discipline where there was discipline imposed in an earlier original proceeding
 - In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
- Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude
 - In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
- Failure to appreciate seriousness of numerous violations
 - Walker v. State Bar (1989) 49 Cal.3d 1107
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 - In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to comply with rule 9.20, California Rules of Court
 - In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
 - In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
 - In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
- Failure to comply with Rule 955
 - Dahlman v. State Bar (1990) 50 Cal.3d 1088 [790 P.2d 1322]
 - Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
 - Powers v. State Bar (1988) 44 Cal.3d 337 [243 Cal.Rptr. 386]
 - Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]
 - In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646
- In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
- Failure to comply with Rule 956
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of John Collier Pyle (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929
- Failure to comply with Rule 958
 - Warden v. State Bar (1999) 21 Cal.4th 628
 - Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
- Failure to comply with State Bar investigation
 - Baca v. State Bar (1990) 52 Cal.3d 294
 - Conroy v. State Bar (1990) 51 Cal.3d 799
 - Middleton v. State Bar (1990) 51 Cal.3d 548
 - Walker v. State Bar (1989) 49 Cal.3d 1107
 - In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
 - In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
- Failure to discharge statutory duties as a civil juror
 - In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- Failure to file reports of employment taxes
 - In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
- Failure to obey a court order
 - In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
 - In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- Failure to protect client's interests
 - Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to render an appropriate accounting
 - In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Failure to report sanctions
 - In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
 - In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- Failure to return promptly an unearned fee
 - In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Failure to supervise associate
 - Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
 - In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

- Failure to supervise non-attorney employees
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Federal court abstention from interference with a State Bar disciplinary proceeding
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
- Federal court must afford due process before disbarment of attorney based on state court disciplinary adjudication
In re Kramer (9th Cir. 2002) 282 F.3d 721
- Federal courts review
 suspension from federal practice is not dictated by state rules
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
 when State Bar has no procedure for review of letters of admonishment
Miller v. Washington State Bar Association (1982) 679 F.2d 1313
- Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
- Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- Federal system has no uniform procedure for disciplinary proceedings
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170
- Felony determination at the time plea of nolo contendere was made, for State Bar purposes, although crime reduced to misdemeanor at time of sentencing by trial judge
In the Matter of Jackson (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 610
- Frivolous allegations against judges
Standing Com. on Dis. of United States (9th Cir. 1984) 735 F.2d 1168, 1171
- Goal of Supreme Court
Smith v. State Bar (1984) 37 Cal.3d 17, 26
- Grounds and defenses
Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189
- Habitual disregard of client's interests
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Harassment of client
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Hearing referee accused of being biased against respondent
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- Illegal drug transactions
In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]
 conspiracy to distribute cocaine, conviction for
In re Meacham (1988) 47 Cal.3d 510
- Illegal fee
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- loan modification services
In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- Inducing client to withdraw disciplinary complaint
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Intent
 circumstantial evidence can establish
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Intentional infliction of emotion distress
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Interim suspension
*In the Matter of Respondent M (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 465
- credit for
In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502
- Investigations
 Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
- Involuntary Inactive Enrollment
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523
In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261
*In the Matter of Heiner (Review Dept. 1993) 1 Cal. State Bar Ct. Rptr. 301
 not retroactively required upon a disbarment recommendation
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
- Involuntary Inactive Status
In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658
 amendment to § 6007(c)(4) allowing for automatic inactive enrollment, but may not be retroactively required upon a disbarment recommendation
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
 procedures for enrollment of attorney satisfies due process requirements
Conway v. State Bar (1989) 47 Cal.3d 1107 [255 Cal.Rptr. 390, 767 P.2d 657]
Phillips v. State Bar (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
- Jurisdiction
 California courts' non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
 inherent jurisdiction of the California Supreme Court
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
 over out-of-state arbitration representatives
 Code of Civil Procedure section 1282.4
- Labor Code violation
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]

DISCIPLINARY ACTION

Lack of insight into wrongfulness of actions by attorney

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Sodikoff v. State Bar (1975) 14 Cal.3d 422, 432 [121 Cal.Rptr. 467, 535 P.2d 331]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Level of discipline does not depend on how many rules or statutes proscribe the same misconduct

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

License cancellation

In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

Loan modification services

collecting pre-performance fees in violation of the law

In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

unbundling services and collecting a fee for each service where prohibited by law

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

Malicious prosecution charges against disciplinary complainant not permissible as public policy

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Manslaughter

In re Nevill (1985) 39 Cal.3d 729 [217 Cal.Rptr. 241]

Mental examination order requires showing of good cause and least intrusive means

*In the Matter of Respondent B (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 424

Misappropriation of client's funds

Grim v. State Bar (1991) 53 Cal.3d 21

Snyder v. State Bar (1990) 49 Cal.3d 1302

Baker v. State Bar (1989) 49 Cal.3d 804

Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549, 779 P.2d 293]

Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280, 775 P.2d 1049]

Weber v. State Bar (1988) 47 Cal.3d 492

Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209]

Edmundson v. State Bar (1981) 29 Cal.3d 339 [172 Cal.Rptr. 899, 625 P.2d 812]

Comden v. Superior Court (1978) 20 Cal.3d 906, 915

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

warrants discipline even absent finding that attorney's conduct willful

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Misappropriation of firm's funds

attorney disbarred for misappropriating funds during breakup of firm

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398, 751 P.2d 457]

Misconduct in another jurisdiction

In re Kramer (9th Cir. 2002) 282 F.3d 721

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Misconduct prior to admission to the State Bar

Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]

In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483

In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297

In the Matter of Passenheim (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 62

Misconduct spanned 10 years

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

Misleading hearing panel as aggravating circumstance in imposition of discipline

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]

Mismanagement of client's trust by attorney trustee

Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

Mitigating circumstances

Edwards v. State Bar (1990) 52 Cal.3d 28

Young v. State Bar (1990) 50 Cal.3d 1204 [791 P.2d 994]

Friedman v. State Bar (1990) 50 Cal.3d 235

Bercovich v. State Bar (1990) 50 Cal.3d 116

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Baker v. State Bar (1989) 49 Cal.3d 804

Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]

Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549]

In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]

In re Nadrich (1988) 44 Cal.3d 271 [243 Cal.Rptr. 218]

Mephram v. State Bar (1986) 42 Cal.3d 943

In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 108]

Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207 Cal.Rptr. 302]

Smith v. State Bar (1984) 37 Cal.3d 17, 24

Chefsky v. State Bar (1984) 36 Cal.3d 116, 132-133

Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]

In the Matter of Caplin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 768

In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413

In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330

In the Matter of Smithwick (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 320

In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
- In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- alcohol dependency
- Harford v. State Bar (1990) 52 Cal.3d 93
- Bates v. State Bar (1990) 51 Cal.3d 1056
- In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
- Slavkin v. State Bar (1990) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- candor and cooperation
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
- In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- character evidence
- In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
- In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- community activities
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
- comprehensive stipulation of facts
- In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- consideration must be given to when imposing discipline
- Hipolito v. State Bar (1989) 48 Cal.3d 621, 257 Cal.Rptr. 331 [770 P.2d 743]
- cooperation with the State Bar of California
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- delay by the State Bar in initiating disciplinary proceedings
- Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- drug addiction
- Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
- Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
- In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]
- Rosenthal v. State Bar (1987) 43 Cal.3d 658 [238 Cal.Rptr. 394]
- In re Possino (1984) 37 Cal.3d 163, 171-172 [207 Cal.Rptr. 543, 689 P.2d 115]
- extreme emotional difficulties
- Porter v. State Bar (1990) 52 Cal.3d 518
- In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- In re Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- extreme physical disabilities
- In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- factual stipulation
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- factual stipulation, very limited mitigation for
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- financial difficulties, if extreme and unforeseeable or beyond the attorney's control
- In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
- In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- good character
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- good faith belief
- In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- heavy caseload at time of misconduct is not mitigation
- In re Naney (1991) 51 Cal.3d 186
- In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- incurable personality disorder not mitigating circumstance
- Phillips v. State Bar (1989) 49 Cal.3d 944
- isolated and relatively minor incident
- In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
- lack of harm
- In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- not found
- In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- lack of prior discipline
- Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
- Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

DISCIPLINARY ACTION

- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In re Michael Brown (1995) 12 Cal.4th 205
-entitled to very little weight when attorney had practiced law for only seven years before start of misconduct
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
-may be considered as a mitigating factor although the present misconduct is serious
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
-not mitigating factor where attorney only in practice for a brief time
- Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
lack of prior disciplinary record, no bar to discipline when numerous serious acts of misconduct
- Weber v. State Bar (1988) 47 Cal.3d 492
lengthy period of exemplary behavior
- In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
marital stress
- Kaplan v. State Bar (1991) 52 Cal.3d 1067
- Friedman v. State Bar (1990) 50 Cal.3d 235, 245
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
membership in a foreign/sister state
- In the Matter of Aquiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
mental illness
- In re Possino (1984) 37 Cal.3d 163, 171-172 [207 Cal.Rptr. 543, 689 P.2d 115]
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
most compelling mitigating circumstances
- In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
multiple acts of misconduct
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
murder of respondent's son as severe emotional stress
- In the Matter of Aquiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
naivete and trust in others
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
no financial loss to anyone
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
objective steps taken to atone for consequences of misconduct
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
passage of considerable time without evidence of further misconduct
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
pro bono work
- Gadda v. State Bar (1990) 50 Cal.3d 344
- Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599, 754 P.2d 1096]
- In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
-slight credit
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
prompt action to report employee embezzlement to police and to make amends to clients
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
prompt, willing attempt to resolve disciplinary proceeding
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
remorse and sorrow in accepting responsibility for conduct
- In re Crooks (1990) 51 Cal.3d 1090
- In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
respondent's claim of inadequate time to prepare and present evidence of mitigation
- In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
service as judge pro tem
- In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
stress associated with illness in the family
- In re Crooks (1990) 51 Cal.3d 1090
trauma associated with death in family
- In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
youth and inexperience not mitigating in misappropriation setting
- Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Monetary sanctions against law firm for aiding in unauthorized practice of law
- In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
Multiple acts involving moral turpitude and dishonesty warrant disbarment
- In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
- In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
Multiple complaints
- Smith v. State Bar (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
Need to maintain high ethical standards
- Comden v. Superior Court (1978) 20 Cal.3d 906, 915
Nolo contendere plea sufficient proof of guilt
- Business and Professions Code section 6101
- In re Gross (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
Notice of disciplinary charges
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
attorney should be afforded opportunity to request Early Neutral Evaluation prior to issuance
- In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

- due process protections
 - [In the Matter of Miller](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110
- Notice to show cause
 - [In the Matter of Glasser](#) (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163
- allegation of a Bus. & Prof. Code, § 6106 violation encompasses a lesser allegation of a rule violation for misuse of trust funds when the pleading clearly raises such issue
 - [In the Matter of Respondent F](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- reciprocal disbarment
 - [In re Kramer](#) (9th Cir. 2002) 282 F.3d 721
- violations not alleged in notice
 - [Edwards v. State Bar](#) (1990) 52 Cal.3d 28
 - [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - [In the Matter of Koehler](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 - [In the Matter of Respondent D](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 517
- Participate in
 - solely to obtain advantage in civil matter
 - Rule 7-104, Rules of Professional Conduct (operative until May 26, 1993)
 - [Rule 5-100](#), Rules of Professional Conduct (operative effective May 27, 1993)
- Partnership with a non-attorney
 - [In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Permitting client trust account to fall below amount due client
 - [Warner v. State Bar](#) (1983) 34 Cal.3d 36
- Persistent inability to adhere to duties of an attorney
 - [In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Petition to set aside order for interim suspension
 - [In the Matter of Meza](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
- Post-misconduct behavior
 - effect on discipline imposed
 - [Cooper v. State Bar](#) (1987) 43 Cal.3d 1016
- Preemption
 - Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
 - [Schindler v. Finnerty](#) (E.D.N.Y. 1999) 74 F.Supp.2d 253
 - Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
 - [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - [In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- Pretrial discovery by accused attorney
 - [Brotsky v. State Bar](#) (1962) 57 Cal.2d 287
- Prior disciplinary action considered
 - [In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
 - [Arm v. State Bar](#) (1990) 50 Cal.3d 763 [268 Cal.Rptr. 741, 789 P.2d 922]
 - [Gary v. State Bar](#) (1988) 44 Cal.3d 820
 - [Alberton v. State Bar](#) (1984) 37 Cal.3d 1, 16
 - [In the Matter of Moriarty](#) (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
 - [In the Matter of Eldridge](#) (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
 - [In the Matter of DeClue](#) (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
 - [In the Matter of Smithwick](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 320
 - [In the Matter of Lawrence](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- [In the Matter of Sullivan II](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
- [In the Matter of Downey](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- [In the Matter of Fahy](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- [In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- [In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- [In the Matter of Chestnut](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- [In the Matter of Posthuma](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
- Private reproof
 - may be disclosed on the State Bar's website
 - [Mack v. State Bar of California](#) (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
- Probation conditions
 - abstention from all gambling
 - [In the Matter of Petilla](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - attendance at Gamblers Anonymous meetings not warranted
 - [In the Matter of Petilla](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Probation modification ruling
 - standard of review, abuse of discretion, or error of law
 - [In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
- Probation violations
 - failure to appear in a probation violation proceeding
 - [In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - failure to comply with conditions
 - [In the Matter of Braun](#) (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
 - [In the Matter of Lawrence](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
 - [In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 - [In the Matter of Laden](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
 - [In the Matter of Gorman](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
 - [In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 - [In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - [In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - [In the Matter of Rodriguez](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
 - failure to comply with conditions of private reproof
 - warrants 90-day suspension
 - [In the Matter of Meyer](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
 - warrants public reproof
 - [In the Matter of Posthuma](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
 - failure to enroll in ethics school
 - [In the Matter of Gorman](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
 - failure to make restitution payments
 - [In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 - [In the Matter of Laden](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
 - [In the Matter of Gorman](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
 - [In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - [In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

DISCIPLINARY ACTION

- misguided labels of "substantial," "insubstantial" and "technical" violations
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- probation reporting requirements
In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Weiner (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759
- probation revocation case remanded to the hearing judge re modification of a probation condition
In the Matter of Parker (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- probation revoked for failing to fully comply with probation requirements
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
+In the Matter of John Henry Hunter (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81, 89
In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
- sparse record requires remand
In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
- Procedures
- due process protections
In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110
- modification of stipulations
Wells v. State Bar (1984) 36 Cal.3d 199, 205-207
- overview of procedures and review
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
- partial stipulation to facts binds the parties
In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
- parties bound by stipulated facts despite judge's rejection of stipulation
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- Rules of Practice Before the State Bar Court and Rules of Procedure of the State Bar Court
Text is located in:
Deerings Annotated California Codes, Court Rules, and in West's Annotated California Codes, Court Rules, vol. 23, pt 3
Text available through State Bar's home page:
<http://www.calbar.ca.gov>
- Public Repeal is not sufficient discipline after conviction for not paying tax amounts withheld from employee wages
+In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
- Publication of member disciplinary records
Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
- Purpose
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Tarver v. State Bar (1984) 37 Cal.3d 122, 133 [207 Cal.Rptr. 302]
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- of imposition of requirement to comply to California Rule of Court 9.20
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
- preservation of public confidence
Gordon v. State Bar (1982) 31 Cal.3d 748, 758
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- protection of the public
In re Findley (9th Cir. 2010) 493 F.3d 1048
Young v. State Bar (1990) 50 Cal.3d 1204
Porter v. State Bar (1990) 52 Cal.3d 518
Edwards v. State Bar (1990) 52 Cal.3d 28
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
In re Severo (1986) 41 Cal.3d 493
Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- maintain highest professional standards, preserve integrity of and confidence in the legal profession
Conroy v. State Bar (1990) 51 Cal.3d 799
Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]
- Purview of Supreme Court, not Labor Board
Katz v. Worker's Comp. Appeals (1981) 30 Cal.3d 353 [178 Cal.Rptr. 815, 636 P.2d 1153]
- Reciprocal disbarment
In re Kramer (9th Cir. 2002) 282 F.3d 721
- Reciprocal discipline
imposition of reciprocal discipline by a federal court on a member of its bar based on a state's disciplinary adjudication
In re North (9th Cir. 2004) 383 F.3d 871
- Recommendation extending actual suspension until compliance with rule 205 of Rules of Procedure of the State Bar, title II, State Bar Court Proceedings
recommendation must state definite period of actual suspension and, if appropriate, stayed suspension
In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103
- Rehabilitation
bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation
Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]
discipline requirement of demonstrating learning in general law found unjustified
Snyder v. State Bar (1990) 49 Cal.3d 1302
- under stds. 1.3 and 1.4(c)(ii), Stds. for Atty. Sanctions for Prof. Misconduct
In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571
- showing may be imposed even when doing so may extend the length of stayed suspension
In the Matter of Rolando M. Luis (2004) 4 Cal. State Bar Ct. Rptr. 737
- Reinstatement
Calaway v. State Bar (1986) 41 Cal.3d 743
In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
- attorney must reimburse Client Security Fund prior to filing petition for reinstatement
In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

- bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation
 - Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]
- omitting material information from reinstatement application
 - In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
 - In the Matter of Giddens (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25
- unauthorized practice of law and lack of candor demonstrated the lack of moral reform that is necessary for reinstatement
 - In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630
- Remand for retrial due to inconsistent findings and conclusions
 - *In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321
- Reproval
 - In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85
- Requirements for reinstatement
 - In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
 - In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
 - In the Matter of Distefano (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 668
- Restitution
 - bankruptcy does not bar order of restitution as part of attorney discipline
 - Brookman v. State Bar (1988) 46 Cal.3d 1004
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - condition of probation intended to promote rehabilitation
 - In re Findley (9th Cir. 2010) 493 F.3d 1048
 - Sorensen v. State Bar (1991) 52 Cal.3d 1036
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - considerations of due process and fundamental fairness
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - failure to make restitution grounds for denial of reinstatement
 - In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27
 - not a means of awarding tort damages for legal malpractice
 - In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
 - not a means of compensating the victim of wrongdoing
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - willful failure to comply with restitution duties of probation
 - In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 - In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Potack (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525
- RICO and Sherman Antitrust Act not a defense
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
- Rules of Professional Conduct in effect at relevant times used as basis for discipline
 - Friedman v. State Bar (1990) 50 Cal.3d 235
 - Bernstein v. State Bar (1990) 50 Cal.3d 221
- Scope of review
 - In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
 - Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
 - Tarver v. State Bar (1984) 37 Cal.3d 122, 131-132 [207 Cal.Rptr. 302]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Selective prosecution claim is found to be without merit
 - In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- Serious and repeated misconduct
 - In re Trebilcock (1981) 30 Cal.3d 312 [178 Cal.Rptr. 630, 636 P.2d 594]
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Service of decision
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Sharing legal fee with a non-attorney
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Single publication rule defined
 - Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
- Sovereign immunity of the State Bar as an arm of the state
 - In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219
- Standard for subjecting attorney to discipline
 - moral turpitude
 - In re Fahey (1973) 8 Cal.3d 842 [106 Cal.Rptr. 313, 505 P.2d 1369]
- Standard of review
 - In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Standard of review by California Supreme Court
 - Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
 - Galardi v. State Bar (1987) 43 Cal.3d 683
 - Alberton v. State Bar (1984) 37 Cal.3d 337
- Standard of review by State Bar [Court] Review Department
 - Rule 9.12, California Rules of Court
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In re Morse (1995) 11 Cal.4th 184, 207 [44 Cal.Rptr.2d 620]
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
 - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571
 - In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- State Bar
 - advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code
 - Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]
 - failure to timely file request for review
 - In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
 - inherent power to discipline for conduct in or outside the profession
 - Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
 - In re Scott (1991) 52 Cal.3d 968

DISCOVERY

- lacks authority to discipline an attorney until final judgment of criminal conviction on appeal or the time for appeal has passed
In re Strick (1983) 34 Cal.3d 891 [196 Cal.Rptr. 293, 671 P.2d 125]
- sui generis arm of the Supreme Court
In re Attorney Discipline System: Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
- Stipulation
partial stipulation to facts binds the parties
In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
parties bound by stipulated facts despite judge's rejection of stipulation
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
parties' inability to reach stipulated discipline does not affect analysis of mitigation
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
very limited mitigation for factual stipulation
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Substantial discipline
multiple violations
Finch v. State Bar (1981) 28 Cal.3d 659, 665 [170 Cal.Rptr. 629, 621 P.2d 253]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- Substitution
failure to timely execute substitution of attorney form
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
- Sufficiency of evidence to sustain facts
Tarver v. State Bar (1984) 37 Cal.3d 122, 132-133 [207 Cal.Rptr. 302]
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Summary disbarment
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
+In the Matter of Paquirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
Business and Professions Code section 6102 (c) cannot be applied retroactively to summarily disbar an attorney for felony convictions
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740
- Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney
Husted v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]
- Threat to present disciplinary charges to obtain advantage in civil action
Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)
- Threatening to report immigration status
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
- Unconscionable fees
attorney fails to disclose to client that contingency fee to be in addition to fee earned
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
- Untimely filing of decision
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Vicarious versus personal liability for another attorney's misconduct
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
"Willful" defined for non-compliance with California Rule of Court 9.20
Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]
Durbin v. State Bar (1979) 23 Cal.3d 461 [152 Cal.Rptr. 749]
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
"Willfulness" of violations
bad faith finding not required
McKnight v. State Bar (1991) 53 Cal.3d 1025
King v. State Bar (1990) 52 Cal.3d 307
Conroy v. State Bar (1990) 51 Cal.3d 799
Zitney v. State Bar (1966) 64 Cal.2d 787
repeated failure to attend to client needs is attorney conduct which need not be shown to be willful
Kapelus v. State Bar (1987) 44 Cal.3d 179, 188
Van Sloten v. State Bar (1989) 48 Cal.3d 921, 932
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
- Willful failure to communicate, and to perform services
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Bach v. State Bar (1991) 52 Cal.3d 1201
King v. State Bar (1990) 52 Cal.3d 307
Baca v. State Bar (1990) 52 Cal.3d 294
Cannon v. State Bar (1990) 51 Cal.3d 1103
In re Billings (1990) 50 Cal.3d 235 [787 P.2d 617]
Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
McMorris v. State Bar (1983) 35 Cal.3d 78
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
In the Matter of Trillo (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 59
- Withdrawal from employment with prejudice to client is not a violation inconsistent with discipline for failure to communicate
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- DISCOVERY** [See Interrogatory, sanctions on motion to compel.]
Copy of results given to another lawyer with some interest in matter
LA(l) 1965-16

DISCRIMINATORY CONDUCT IN A LAW PRACTICE

Deposition of opposing counsel

Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]

Estate of Ruchti (1993) 12 Cal.App.4th 1593 [16 Cal.Rptr.2d 151]

Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Sanctions appropriate for willful failure to comply with discovery order

Los Defensores, Inc. v. Gomez (2014) 223 Cal.App.4th 377 [166 Cal.Rptr.3d 899]

Sanctions not available against attorney whose client unreasonably denies a request for admissions under CCP section 2033.420

Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

Sanctions not available to attorney who litigates in propria persona under CCP sections 2030(1) and 2023(b)(1)

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

DISCRIMINATORY CONDUCT IN A LAW PRACTICE

Rule 2-400, Rules of Professional Conduct (operative as of March 1, 1994)

DISQUALIFICATION [See Conflict of interest, disqualification. Termination of attorney-client relationship. Withdrawal from employment.]

Attorney general – denied

Cornish v. Superior Court (1989) 209 Cal.App.3d 467

Attorney retained by insurer to represent insured does not have attorney-client relationship for purposes of

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Attorney-client relationship must have existed before disqualification is proper

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717, 1723

Authority of court

Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]

Doe v. Yim (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613]

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Class action

representation of unnamed class member who would appear as witness in concurrent class action warranted disqualification

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

where the conflict arises between members of different classes in different cases and seriously threatens the policy concerns underlying the duty of loyalty—a client's right to be represented by counsel whose interests are not encumbered—the automatic disqualification rule applies

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

Concurrent representation of adverse parties in separate matters is not cured by withdrawal from representation of the less favored client who explicitly refuses to consent

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Truck Insurance Exchange v. Fireman's Fund Insurance (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

Concurrent representation of clients with adverse interests

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

client as witness in another client's case

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

with few exceptions, there is a per se rule requiring disqualification of an attorney or a law firm when there is a conflict of interest based upon concurrent representation of multiple clients

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Confidences of adversary

disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

disqualification required where confidences acquired inadvertently

Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]

LA 531 (2019)

disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

inadvertent disclosure requires disqualification

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]

LA 531 (2019)

mere exposure to does not, standing alone, warrant disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

DISQUALIFICATION

- where attorney for plaintiff formerly had borrower-lender relationship with defendant
 - Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
 - Confidences of the client
 - actual possession need not be proven – test
 - Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
 - Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
 - disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown
 - Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]
 - disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial
 - Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
 - inadvertent disclosure requires disqualification
 - Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
 - LA 531 (2019)
 - documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
 - Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - material to current representation
 - Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 - rebuttable presumption of shared confidences among the attorneys in a firm
 - County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 - vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- County counsel
- contingency fee agreement with private attorney does not always require
 - County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
- Disclosure of confidences of the client
- Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577-1578
 - Gregori v. Bank of America (1989) 207 Cal.App.3d 291
- Disqualification affirmed
- alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
 - United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
- Disqualification denied because former legal secretary of defendant became a client, not an employee of attorney for plaintiff
- Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
- Disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case
- Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- District attorney
- conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed
- within the influence and control of a private party with a particular interest in the prosecution of the defendant
- People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]
 - People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
 - People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
 - People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
- disqualification based on private party influence on the impartiality of the district attorney
- People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
- district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness
- Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]
- entire office
- Penal Code section 1424
 - People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
 - People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
 - People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
 - Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
 - People v. Eubanks (1996) 14 Cal.4th 580
 - People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
 - People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
 - People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
 - People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]x
 - People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 - Lewis v. Superior Court (1977) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
 - People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
 - Williams v. Superior Court (1988) 198 Cal.App.3d 960
- not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
- People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- recusal not required where ethical wall would be effective alternative
- People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
- Examine circumstances of each case
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 - Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
 - In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 - William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
- Expert witness
- Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
 - Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
 - Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]

- Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
- Toyota Motor Sales, U.S.A. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
- Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
- defendant may not disqualify opposing counsel based on alleged exchange of confidential information between counsel and expert witness without providing nature of information
- DeLuca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]
- need not be removed where expert for plaintiff was previously represented by defense counsel and waives conflict
- Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Extended to law firm
- Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 608 [168 Cal.Rptr. 196]
- Financial management company
- LA 372 (1978)
- Financial stake in action
- People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24, 705 P.2d 347]
- Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
- Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
- Former client ordinarily must be the moving party to seek disqualification based on a conflict of interest
- Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
- Grand jury
- Sixth Amendment right to counsel of one's choice does not apply
- In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
- Inadvertent disclosure requires disqualification
- McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
- Interest in subject matter of the representation
- disqualification granted where payment of attorney legal services were paid from allegedly tainted funds
- U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
- no disqualification where attorney owned shares in a company that purchased shares from a client that the attorney represented
- CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
- Marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel
- Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
- DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- Mediator is generally not disqualified from litigating later cases against the same party
- Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
- attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)
- Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]
- Motion
- attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
- Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- disqualification may not be available when an attorney-client relationship never existed between the moving party and the attorney sought to be disqualified
- Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
- Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
- Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
- Motion brought by in propria persona party against opposing counsel
- McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
- Motion for disqualification that is still pending does not automatically require stay of all trial matters
- Reed v. Superior Court (Case Financial) (2001) 92 Cal.App.4th 448, mod. at 92 Cal.App.4th 1346B [111 Cal.Rptr.2d 842]
- Motion must be timely filed
- Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 605
- Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
- River West, Inc. v. Nickel (1987) 188 Cal.App.3d 1297, 1311
- Multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
- Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463
- Non-client litigant has no standing to assert conflict and no expectation of confidentiality
- Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
- DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
- Non-client litigant may have standing to move for disqualification of counsel in cases where they have a sufficient personal stake
- Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
- Non-client litigant must establish a personal stake in a motion to disqualify
- Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
- Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
- Not automatic where previous representation did not expose attorney to confidential information material to the current representation
- Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
- Not required even if attorney received confidential information about defendant because defendant did not meet burden of showing that the information could give plaintiff an unfair advantage or affect outcome of litigation
- Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
- Not required where no confidential information disclosed by current directors when their separate counsel had given permission for adverse counsel's communication with them
- La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
- Notice of motion to disqualify a district attorney
- Penal Code section 1424
- Paralegal "switches sides"
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Penal Code § 1424 prosecuting attorney's conflict of interest
- People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
- In re Marriage of Abernethy (1992) 5 Cal.App.4th 1193 [7 Cal.Rptr.2d 342]

DISQUALIFICATION

- abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal
Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]
- Possibility of breach of client confidences
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
- Presumption of shared confidences
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463
- rebuttable
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
- Prior relationship with opposing party
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
- attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
- Prior relationship with opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- Prior representation of opposing party
Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr. 537] [36 Cal.Rptr.2d 537]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr. 327]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Rosenfeld Construction v. Superior Court (1991) 235 Cal.App.3d 566
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
- Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30
In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
CAL 1998-152
- alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
- city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- not automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
- unrelated matter
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 611
- Prior representation of plaintiff's expert witness does not required disqualification where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Public defender
juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
- prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
- Raised on appeal from final judgment
requires showing that denial of motion affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
- Required when attorneys change sides in factually related cases
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1000-1001
- Review procedures for denial of motion to disqualify
People v. Broxson (1991) 228 Cal.App.3d 977 [278 Cal.Rptr. 917]
- Risk of disclosure of confidential information
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1050
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 898 [175 Cal.Rptr. 575]
- rebuttable presumption of shared confidences among the attorneys in a firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

- vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Services never performed for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- Services never performed for former client of attorney's wife's previously disqualified firm
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
- Settlement officer
Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]
- Sixth Amendment
 no right to counsel of one's choice in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 trial court's ex parte removal of counsel and ex parte substitution of new counsel, without the participation of defendant, infringed on the constitutional protections of defendant's free choice of counsel
 *Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
- Standards
 different for subsequent representation than for simultaneous representation
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Standing to assert
 disqualification may not be available when an attorney-client relationship never existed between the moving party and the attorney sought to be disqualified
In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
 vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
- Timeliness of mitigation claims
Bercovich v. State Bar (1990) 50 Cal.3d 116
- Timeliness of motion to disqualify
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- Vicarious disqualification to law firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
Bankruptcy of Mortgage and Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
- Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
 CAL 1998-152
 attorney and associates involved in matters
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]
 city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 district attorney
 -recusal of entire office
 --not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
 hardship to client
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]
- not automatic
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
 not required, where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
 where attorney at law firm covers depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
 where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- When attorney acts as witness
Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]
Doe v. Yim (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613]
- When misconduct or status has a continuing effect on judicial proceedings
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]

DISTRICT/MUNICIPAL ATTORNEY

Misconduct by [See Prosecutorial misconduct.]

DIVISION OF FEES

DIVISION OF FEES [See Fee. Lay intermediaries. Partnership.]
Rules 2-102(A), 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)
[Rules](#) 1-600, 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

LA 503 (2000)

Agreement to divide statutory awarded of attorney's fees between attorney and client

LA 523 (2009)

Attorney as partner or employee of two law firms

LA 511 (2003)

Attorneys' oral agreement to form joint venture to share legal fees held enforceable notwithstanding argument that such arrangement may have violated rules of professional conduct requiring clients' consent to share fees and waiver of conflict of interest

[Jorgensen v. Cassidy](#) (9th Cir. 2003) 320 F.3d 906

Between attorneys

[Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr.](#) (9th Cir. 2001) 250 F.3d 1234

[Huskinson & Brown v. Wolf](#) (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

[Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

[Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

[Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

[Strong v. Beydoun](#) (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

[Mark v. Spencer](#) (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

[Mink v. MacCabee](#) (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]

[Padilla v. McClellan](#) (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

[Sims v. Charness](#) (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

[Margolin v. Shemaria](#) (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

[City of Morgan Hill v. Brown](#) (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

[Compagna v. City of Sanger](#) (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

[Scolinos v. Kolts](#) (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

[Emmons, Williams, Mires & Leech v. State Bar](#) (1970) 6 Cal.App.3d 565

[Kallen v. Delug](#) (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

[Moran v. Harris](#) (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]

[Breckler v. Thaler](#) (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]

[Altschul v. Sayble](#) (1978) 83 Cal.App.3d 153, 159-164 [147 Cal.Rptr. 716]

[Bunn v. Lucas, Pino & Lucas](#) (1959) 172 Cal.App.2d 450 [342 P.2d 508]

[Turner v. Donovan](#) (1935) 3 Cal.App.2d 485, 488

[CAL](#) 1994-138

LA 385 (1980), LA 204 (1953), LA(l) 1965-5

SF 1980-1

2-200 requirement

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

[Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

[Cohen v. Brown](#) (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

association of outside counsel not a basis for exemption from 2-200 requirements

[Huskinson & Brown v. Wolf](#) (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

[Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

[Cohen v. Brown](#) (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

attorney fee division agreement was unenforceable based on ethical violation of failure to disclose lack of professional liability insurance

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

[Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr.](#) (9th Cir. 2001) 250 F.3d 1234

between class counsel

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

[Carder v. Patten](#) (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

between franchisee law firms

LA 423 (1983)

between law firm and outside lawyers or providers of outsourced legal services

[CAL](#) 2004-165, [CAL](#) 1994-138

LA 518 (2006), LA 473 (1993)

between subleasing attorneys and landlord-attorney

LA 486 (1995)

bonus to an "of counsel" attorney

LA 470 (1992)

contingent referral fee

-duty of successor attorney to pay matures upon occurrence of contingency

[Mason v. Levy and Van Bourg](#) (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

contract to divide

[Huskinson & Brown v. Wolf](#) (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

[Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

[Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

[Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

[Margolin v. Shemaria](#) (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

[Scolinos v. Kolts](#) (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

[Kallen v. Delug](#) (1984) 157 Cal.App.3d 940, 951

-attorney may not prevent law firm from obtaining client consent in order to render contract non existent

[Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

-attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement

[Mark v. Spencer](#) (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

-failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement

[Huskinson & Brown v. Wolf](#) (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

[Cohen v. Brown](#) (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

- attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
- court appearances
[CAL](#) 2004-165
SD 1974-2
- enforceable despite difference between agreement and actual division of labor
Breckler v. Thaler (1978) 87 Cal.App.3d 189 [151 Cal.Rptr. 50]
- failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- failure to comply with [rule](#) 2-200 violated policy consideration and an oral agreement is unenforceable
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
- foreign
LA 35 (1927)
- former partner associated on a particular case
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
- if illegal, is void
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
- independent contract attorney
LA 503 (2000)
- merits of a declaratory relief action must be resolved in the trial court's discretion
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
- minor's compromise
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
- partner
 - former
LA(I) 1979-1
 - interstate partnership
LA 385 (1980), LA 325 (1972)
- partner leaves firm
[CAL](#) 2020-201, [CAL](#) 1985-86
- allocation of fees for unfinished cases taken by departing attorney
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
- partnership dissolution
[CAL](#) 2020-201, [CAL](#) 1985-86
- allocation of income from unfinished business
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
- dissolved law firm had no interest in the fees or profits associated with unfinished hourly fee matters
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
- post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- right to share in proceeds from future business of new partnership
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
- referral of legal business
LA 385 (1980), LA 232 (1956), LA(I) 1965-12
SD 1992-1, SD 1984-6
- fee-splitting agreement is enforceable even if referring attorney had improper fee splitting agreement with another, non-attorney; unclean hands doctrine does not apply
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
- foreign lawyer
LA 35 (1927)
- suspended lawyer
LA(I) 1937-1
- shareholder leaves firm
 - has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
- successor attorney's obligation to notify prior attorney of the existence of a settlement
[CAL](#) 2008-175
- where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule](#) 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- with dead lawyer's widowed spouse and estate
Rule 3-102(a)(1), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
Little v. Caldwell (1894) 101 Cal. 553, 561 [114 P. 361]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [36 P.2d 107]
[CAL](#) 1975-34
- with foreign attorney
LA 426 (1984)
- with former employer for work done after termination
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
SD 1976-13
- with lawyer who is not partner, associate, or shareholder of the law firm
[CAL](#) 1994-138, LA 473 (1993), LA 470 (1992)

DIVISION OF FEES

- with lay entity
 - insurance company
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - lawyer referral service
 - SD 1978-5
 - non-profit organization
 - SF 1973-27
 - to attorney for percentage of contingency fee
 - SF 1981-1
- with out-of-state lawyer
 - LA 518 (2006), LA 385 (1980), LA 325 (1972), LA 166 (1947), LA 99 (1936), LA(I) 1969-3
- Bonus
 - to lay employee
 - LA 457
- Class action
 - attorney may not prevent class consent to fee-splitting agreement pursuant to [rule](#) 2-200
 - Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
 - attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
 - Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
 - dispute among class counsel
 - Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
- Definition of term "associate" for purposes of [rule](#) 2-200
 - Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
 - Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
 - LA 511 (2003)
 - sharing in fees as partner or employee of two law firms
 - LA 511 (2003)
- Definition of term "partner" and "partnership" for purposes of [rule](#) 2-200
 - Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- Disclosure to client
 - Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
 - Hawkins v. State Bar (1979) 23 Cal.3d 622, 628-629 [155 Cal.Rptr. 234, 591 P.2d 524]
 - Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
 - Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
 - Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
 - Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
 - Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 - [CAL](#) 1994-138
 - SD 1987-2
 - failure to obtain client's written consent in compliance with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
 - Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 - attorney precluded from recovering from client
 - Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- [rule](#) 2-200 requires that client consent be obtained prior to a division of fees, but does not require that such consent be obtained prior to lawyers entering into a fee-splitting arrangement or the commencement of work on the client's matter
 - Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 - Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
- where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule](#) 2-200
 - Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Disclosure to court
 - attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
 - Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
- Non-lawyers
 - collection agencies
 - Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
- Outsourcing legal services
 - LA 518 (2006)
- Paralegal fees under 42 USC 1997(e), 42 USC 1988, and 18 USC 3006A are subject to the same cap as attorney fees under Prison Litigation Reform Act
 - Perez v. Cate (9th Cir. 2011) 632 F.3d 553
- Partnership dissolution
 - [CAL](#) 2020-201, [CAL](#) 1985-86
 - division of post-dissolution profits from unfinished partnership business
 - Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
 - Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Quantum meruit
 - discharged attorney attempts to enforce contingent fee contract made with substituted counsel
 - Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
 - discharged attorney attempts to enforce division of fees agreement with former co-counsel
 - Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
 - discharged attorney entitled to reasonable value of services
 - Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
 - Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
 - failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
 - Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 - attorney precluded from recovering from client
 - Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
 - failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

- partnership entitled to
 - for unfinished cases taken by departing partner
 - Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
 - SF 1989-1
- succeeding attorney's duty to honor withdrawing attorney's lien
 - Pearlmutt v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]
- successor attorney's obligation to notify prior attorney of the existence of a settlement
 - CAL 2008-175
- terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200
 - Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
- under contingent fee contract, discharged attorney limited to quantum meruit recovery
 - Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]
- attorney precluded from recovering from former co-counsel
 - Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
- voluntary withdrawal without cause forfeits recovery
 - Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
 - Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
- Rationale underlying fee splitting prohibition
 - Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
- Referral fee
 - Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 - Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
 - Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
 - Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]
 - Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
 - Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 593]
 - CAL 1994-138, LA 503 (2000), LA 486, LA 467, SD 1984-6
- acceptance by attorney of "take it or leave it" referral fee constitutes accord and satisfaction
 - Thompson v. Williams (1989) 211 Cal.App.3d 566 [259 Cal.Rptr. 518]
- acceptance of where firm represents carrier represents a conflict of interest
 - SD 1987-2
- gift or gratuity
 - LA 503 (2000)
- paid to attorney for executor from broker listing estate property
 - SD 1989-2
- paid to attorney from doctor for referral of clients for medical services
 - LA 443 (1988)
- referral of legal business, fee-splitting agreement is enforceable even if referring attorney had improper fee-splitting agreement with another, non-attorney; unclear hands doctrine does not apply
 - Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
- requires written disclosure to client and client's written consent
 - Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
- where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200, and no case referral is involved
 - Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Void under Business and Professions Code section 16600
 - Muggill v. Reuben H. Donnelley Corp. (1965) 62 Cal.2d 239
 - Frame v. Merrill, Lynch, Pierce, Fenner & Smith, Inc. (1971) 20 Cal.App.3d 668
- With franchisor
 - LA 423 (1983)
- With lay entity
 - barter organization
 - CAL 1981-60, CAL 1977-44
 - bona fide legal services program or activity
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
 - business manager of client
 - LA 431 (1984)
 - collection agency
 - LA 522 (2009), LA 36 (1927)
 - consulting firm
 - LA 194 (1952)
 - consumer organization which arranged for employment
 - SF 1973-27
 - dead lawyer's estate
 - Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
 - LA 361 (1976)
 - SD 1969-4, SD 1968-5
 - doctor
 - LA 443 (1988)
 - employment agency
 - CAL 1992-126, LA 359 (1976)
 - entity that helps persons get government loans
 - LA(I) 1976-5
 - financial management company
 - LA 372 (1978)
 - franchise group
 - LA 423 (1983)
 - group legal services organization
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
 - independent contractor
 - In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
 - insurance company
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - CAL 1987-91
 - investment/portfolio manager
 - CAL 1999-154
 - lawyer
 - who is not a partner, associate or shareholder
 - CAL 1994-138, LA 473 (1993)

DIVISION OF FEES

- lawyer referral service
 - Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)
 - [Rule](#) 1-600(B), Rules of Professional Conduct (operative as of May 27, 1989)
 - Sections 8.1-8.2, State Bar Minimum Standards for a Lawyer Referral Service
- lay entity's for referral of business
 - LA 96 (1936), LA(I) 1965-7, SD 2021-1
- lender to attorney of percentage of settlement
 - SF 1981-1
- living trust marketers
 - [CAL](#) 1997-148
- management company
 - LA 488 (1996)
- marketing programs
 - SD 2019-2
- medical liaison
 - [CAL](#) 1995-143
- medical-legal consulting service
 - [Oieda v. Sharp Cabrillo Hospital](#) (1992) 8 Cal.App.4th 1
- membership organization
 - LA 401 (1982)
- networking group
 - SD 2021-1
- non-profit referring organization
 - SF 1976-2, SF 1973-27
- outsourced legal services
 - LA 518 (2006)
- prepaid legal services organization
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - [Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- property management firm
 - LA 461 (1990)
- publishing company employees
 - LA 446 (1987)
- spouse in marital dissolution
 - [In re the Marriage of Foley](#) (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
- voluntary legal services organization
 - Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
 - [Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- With non-lawyers
 - [In re Carlos](#) (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
 - [Kitsis v. State Bar](#) (1979) 23 Cal.3d 857 [153 Cal.Rptr. 836, 592 P.2d 323]
 - [In re Arnoff](#) (1978) 22 Cal.3d 740, 745 [150 Cal.Rptr. 479, 586 P.2d 960]
 - [Sawyer v. State Bar](#) (1934) 220 Cal. 702 [32 P.2d 369]
 - [McIntosh v. Mills](#) (2004) 121 Cal.App.4th 333 [17 Cal.Rptr.3d 66]
 - [In the Matter of Kreitenberg](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
 - [In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - [In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - [In the Matter of Scapa and Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
 - [In the Matter of Jones](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411
 - [CAL](#) 1992-126
 - LA 510 (2003), LA(I) 1972-19
- assistant
 - [Gassman v. State Bar](#) (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675]
- attorney, not licensed at time services performed
 - may not be entitled to legal fees
 - [Hardy v. San Fernando Valley Chamber of Commerce](#) (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
- bonuses to lay employee
 - LA 457
- business associate
 - [Alpers v. Hunt](#) (1890) 86 Cal. 78, 87 [24 P. 846]
- client
 - LA 523 (2009), LA 461 (1990)
 - difference between original contingency fee and larger court award of fees
 - LA 447 (1987)
 - refund of an overpayment
 - LA 515 (2005)
- client assistant
 - LA 437 (1985)
- collection agencies
 - LA 522 (2009)
- corporate employer
 - LA 510 (2003)
- dead lawyer's widowed spouse or estate
 - [Rule](#) 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
 - [Estate of Cartwright v. Commissioner of Internal Revenue](#) (9th Cir. 1999) 183 F.3d 1034
 - [Little v. Caldwell](#) (1894) 101 Cal. 553, 561 [36 P. 107]
 - [Heywood v. Sooy](#) (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
 - [CAL](#) 1975-34, LA 361 (1976), LA 162 (1947), LA(I) 1974-15, SD 1968-5
- debt collection matter solicited in person by non-lawyer
 - LA 96 (1936)
- disbarred attorney
 - [Crawford v. State Bar](#) (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
- doctor
 - LA 443
- employee
 - LA 222 (1954), LA 190 (1952)
- employer
 - LA 510 (2003)
- employment agency
 - [CAL](#) 1992-126
- expert witnesses provided by consulting service
 - [CAL](#) 1984-79
- fee rebate to client
 - LA 523 (2009), LA 447 (1987)
- fee sharing agreement unenforceable under doctrine of illegality of contract
 - [McIntosh v. Mills](#) (2004) 121 Cal.App.4th 333 [17 Cal.Rptr.3d 66]
- financial planning company
 - LA 510 (2003)
- heir hunter
 - [Utz v. State Bar](#) (1942) 21 Cal.2d 100, 107
- independent contractor
 - [In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- insurance adjuster
 - [Cain v. Burns](#) (1955) 131 Cal.App.2d 439, 441 [280 P.2d 888]
- investigator
 - employed by attorney
 - based upon contingent of recovery of unsatisfied judgment proper unless division of fees
 - LA 89 (1936)
- investment/portfolio manager
 - [CAL](#) 1999-154
- lawyer referral service
 - [Hildebrand v. State Bar](#) (1950) 36 Cal.2d 504, 512 [255 P.2d 508]

Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
SD 2019-2

living trust marketer
[CAL](#) 1997-148

management company
LA 488 (1996)

medical liaison
[CAL](#) 1995-143

medical-legal consulting services
Oieda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
[CAL](#) 1984-79

organized lender
SF 1981-1

outsourced legal services
LA 518 (2006)

paralegal
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
LA 391, LA 457
-Prison Litigation Reform Act does not set a separate benchmark rate for paralegal fees
Perez v. Cate (9th Cir. 2011) 632 F.3d 553

private investigator
Lyons v. Swope (1957) 154 Cal.App.2d 598, 600 [317 P.2d 121]

professionals, other
-participating in service exchange
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(l) 1965-18

real estate agents/broker
Provisor v. Haas Realty, Inc. (1967) 256 Cal.App.2d 850, 856 [64 Cal.Rptr. 509]
LA 384 (1980), LA 18 (1922)
-attorney/real estate licensee who shares a commission with a person who does not perform any act for which a license is required (the Real Estate Law, Bus. & Prof. Code §§ 10000-10580)
88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

receiver
LA 44 (1927)

resigned attorney
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
-with charges pending
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

service exchange
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(l) 1965-18

spouse in marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]

tax consultant
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]

tax specialist
-employed by attorney
--to assist clients
LA 86 (1935)

DIVORCE [See Alimony. Collusion. Confidences of the client. Conflict of interest, divorce, multiple representation. Fees.]
Award of attorney's fees
tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
when other spouse is able to pay
In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464

Communication of confidences
LA 417 (1983)

Completion and filing of selected forms by divorce center
SD 1983-12

Contingent fee for [See Contingent fee, divorce.]
[CAL](#) 1983-72, LA 188 (1952)

Counsel for one party holding trust fund executes against other's share for back child support
LA(l) 1971-15

In propria persona
advise legal aid client how to obtain
SD 1972-6

Litigation privilege
absolute and protects attorney from derivative tort actions based on statements made in the context of dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205

No fault
communicate with other party in
[CAL](#) 1996-145
LA 334 (1973)

Opposing party
fee paid by
LA 226 (1955)

Represent
client's spouse
LA 207 (1953), LA 192 (1952)
family corporation formerly
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
former client's spouse in
LA(l) 1971-8

one party
-after acting for marital union
LA(l) 1958-5, LA(l) 1947-1
-after consulting with both about divorce
LA(l) 1947-1, SD 1977-6
-after consulting with other about divorce
SD 1984-2, SD 1975-1
-settlement
SD 1984-2
-subsequently other in related action
LA 231 (1955), LA(l) 1968-8

other spouse previously
SD 1984-2

party in and receiver
LA 51 (1927)

successive wives of same husband
LA(l) 1963-6

Rights of spouse to fees
In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212

DONATIONS [See Fee, donation of legal fees.]
Charitable
[CAL](#) 1982-65
SF 1974-4

Legal services
LA 434 (1984), SD 1975-14, SD 1974-19
contingent upon bequest to certain organization
LA 428 (1984)

Merchandise
SD 1973-2

DRAFT, MILITARY
Member of selective service appeal board represents appellants before other boards
LA(l) 1969-8

DRUG ABUSE [See Alcohol abuse.]

DUAL PROFESSIONS [See Advertising. Conflict of interest. Law office. Practice of law.]

DUTIES OF ATTORNEY [See Candor. Professional liability. Withdrawal from employment.]
Business and Professions Code sections 6068, 6077, 6103
[Rule](#) 3-101(B), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
[CAL](#) 2019-198, [CAL](#) 1983-71

DUTIES OF ATTORNEY

Abide by Rules of Professional Conduct, the American Bar Association, and applicable court decisions

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170

Accept rulings of the court

People v. Davis (1984) 160 Cal.App.3d 970, 984

Action

encouraging commencement or continuation from corrupt motive

Business and Professions Code section 6068(c)

Canatella v. California (9th Cir. 2002) 304 F.3d 843

Business and Professions Code section 6068(g)

Canatella v. California (9th Cir. 2002) 304 F.3d 843

legal or just

-duty to counsel or maintain only

Business and Professions Code section 6068(c)

In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

LA 464 (1991)

Address maintained on official records

In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

In the Matter of Peterson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 73

Adequacy and effectiveness of counsel

People v. Garcia (1983) 147 Cal.App.3d 409

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

specialty appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Adequately research and know the law

Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]

Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]

Adequately research triable issues of fact

Aloy v. Mash (1983) 144 Cal.App.3d 768, 773 [192 Cal.Rptr. 818]

no duty to consult medical specialist unless such consultations recommended by other doctors

Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]

Adequately supervise [See Competence, Failure to adequately supervise. Employee.]

Adhere to Rules of Professional Conduct

People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]

Advance no fact prejudicial to honor or reputation of a party or witness, unless required by the justice of the cause

Business and Professions Code section 6068(f)

-applies to the advance of prejudicial facts, but perhaps not prejudicial intimations

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Adverse parties

duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties

In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]

no duty of care

Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. (1990) 50 Cal.3d 205 [786 P.2d 365]

Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]

Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]

Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]

Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]

CAL 2013-189

-acceptance of ministerial function invokes a duty

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

-attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary

Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]

Adverse pecuniary interest

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Advise adversary of campaign contribution to presiding judge in case

LA 387 (1981)

Advise client of disability of employer attorney

LA 348 (1975)

Advise client of partner and firm's malpractice

LA 383 (1979)

Advise client of prior attorney's malpractice

LA 390 (1981)

Advise client of reasonably apparent legal problems outside the scope of representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

LA 502 (1999)

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

Advise client of settlement and liability exposure

Garris v. Severson, Merson, Berke & Melchior (1988) 205 Cal.App.3d 301

SD 2013-1

Advise client of significant developments in case

Business and Professions Code section 6068(m)

Rule 3-500, Rules of Professional Conduct

CAL 2020-203

Advise court of material fact

Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]

OC 95-001

Advise court of violation of court order by third party

LA 394 (1982)

Advise court to correct known misrepresentation

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Agent

no fiduciary duty

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)

Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Allocation of authority

lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal

acts in manner that is professionally unreasonable

In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

Appeal

counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing

Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]

In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

defendant expressly requested an appeal and counsel's performance was deficient by disregarding the defendant's request despite an appeal waiver

Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]

United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216

indigent defendant constitutionally entitled to counsel's best argument for an appeal before court rules on withdrawal

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Artifice

never seek to mislead judge or judicial officer with Business and Professions Code section 6068(d)

[Rule 5-200\(B\)](#), Rules of Professional Conduct

Associate's duties runs to client

LA 383 (1979)

Attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156 [65 Cal.Rptr. 406]

Attorney's liability for fraud extends to non-clients

Hererich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

attorney's signature block on contract stating approval as to form and content not actionable misrepresentation

Monster Energy Company v. Schechter (2018) 26 Cal.App.5th 54 [236 Cal.Rptr.3d 669]

Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]

Avoid involving client in murky areas of law when alternatives are available

Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]

Candor

client's absence from court, attorney may not answer court's inquiry if harmful to client

SD 2011-1

dishonesty to court

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

-while attorney served on civil jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

distortions of record

Amstar Corp. v. Envirotech Corp. (C.A. Fed 1984) 730 F.2d 1476

electronic data, concealing in violation of law

SD 2012-1

no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure

LA 502 (1999)

quotations containing deletions

Amstar Corp. v. Envirotech Corp. (C.A. Fed. 1984) 730 F.2d 1476

sanctioned for false statements to the court and concealment of facts regarding actions of opposing counsel

Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]

withdrawal from representation of a minor child

LA 504 (2000)

Care

counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Class action

conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative

Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment

Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]

Client

diminished capacity

People v. Bolden (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]

[CAL 2021-207](#)

prospective clients

[CAL 2021-205](#)

Commence remedial action

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

[CAL 1983-74](#)

Communicate with clients

Business and Professions Code section 6068(m)

[Rule 3-500](#), Rules of Professional Conduct

-failure to disclose to client that another attorney would represent her at a creditors' meeting and to obtain client's prior consent

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Lai v. State of California (9th Cir. 2010) 610 F.3d 518

Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623

U.S. v. Leontij (9th Cir. (Hawaii) 2003) 326 F.3d 1111

Conroy v. State Bar (1991) 53 Cal.3d 495

Borré v. State Bar (1991) 52 Cal.3d 1047

Harford v. State Bar (1990) 52 Cal.3d 93

Kapelus v. State Bar (1987) 44 Cal.3d 179

Butler v. State Bar (1986) 42 Cal.3d 323 [721 P.2d 585]

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

DUTIES OF ATTORNEY

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
[In the Matter of Greenwood](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
[In the Matter of Hindin](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
[In the Matter of Sullivan, II](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
[In the Matter of Johnston](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
[In the Matter of Nunez](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
[In the Matter of Ward](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
[In the Matter of Collins](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
[In the Matter of Tindall](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
[In the Matter of Taylor](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
[In the Matter of Respondent C](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439
[CAL](#) 2014-190, [CAL](#) 2011-182, [CAL](#) 2008-175, [CAL](#) 2003-163
OC 2011-01, SF 2011-1
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
LA 527, SF 2015-1
basis for calculating fees
OC 99-001
client/plaintiff overpaid by defendant under settlement agreement
LA 520 (2007)
counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
[Garza v. Idaho](#) (2019) ___ U.S. ___ [139 S.Ct. 738]
[Roe v. Flores-Ortega](#) (2000) 528 U.S. 470 [120 S.Ct. 1029]
[United States v. Fabian-Baltazar](#) (9th Cir. 2019) 931 F.3d 1216
counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350
[Winans v. Timar](#) (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
digitally stored document preservation obligations, litigation hold
SD 2012-1
discovery sanctions against the attorney and client may be a significant development which should be communicated to the client
[CAL](#) 1997-151
duty to preserve client confidences and trust in attorney
[CAL](#) 2020-203
failed to respond to client's status inquiries
[In the Matter of Gonzalez](#) (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632
failure to advise or inform client whether to accept plea bargain
[Missouri v. Frye](#) (2012) 566 U.S. 133 [132 S.Ct. 1399]
failure to communicate due to assigned associates inability to speak Spanish
[In the Matter of Whitehead](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

failure to communicate for two and a half years does not reasonably mean that client should have known that attorney had withdrawn or abandoned the case for purposes of tolling the statute of limitations on filing a malpractice action
[Gonzalez v. Kalu](#) (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
failure to communicate with board of corporation
[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
gross negligence in failing to communicate may be deemed abandonment
[Mackey v. Hoffman](#) (9th Cir. 2012) 682 F.3d 1247
[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense
SD 2004-1
misleading client deliberately and depriving client of opportunity to preserve rights
[Community Dental Services v. Tani](#) (2002) 282 F.3d 1164
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
[Desert Outdoor Advertising v. Superior Court](#) (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
no duty, as an element of malpractice action, to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter
[First Interstate Bank of Arizona v. Murphy, Weir & Butler](#) (9th Cir. 2000) 210 F.3d 983
on any matter which requires client understanding, the attorney must take all reasonable steps to insure that the client comprehends the legal concepts involved and advice given
LA 504 (2000)
potential malpractice claim, facts related to
[CAL](#) 2019-197, [CAL](#) 2009-178
prohibited from advising a debtor to incur more debt because the debtor is filing for bankruptcy, rather than for a valid purpose. However, attorneys may talk fully and candidly about the incurrence of debt in contemplation of filing a bankruptcy case. The inhibition of frank discussion serves no conceivable purpose within the statutory scheme
[Milavetz v. United States](#) (2010) 559 U.S. 229 [130 S.Ct. 1324]
radio call-in show format is unlikely to support a reasonable expectation of confidentiality, loyalty or competence
[CAL](#) 2003-164
"reasonable status inquiry" for purpose of B&P § 6068(m)
[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
settlement offers
-which include fee-waiver provisions under fee shifting statutes
[CAL](#) 2009-176
use of outside lawyers or outsourcing legal services
[CAL](#) 2004-165, [CAL](#) 1994-138
LA 518 (2006), OC 2014-1, SD 2007-1
use of specially appearing attorney
[CAL](#) 2004-165
use of technology via virtual law office (VLO) may require additional reasonable steps to ensure that client comprehended legal concepts and advice given
[CAL](#) 2012-184
Compelled to deal directly with opposing party
[Gregory v. Gregory](#) (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
[CAL](#) 1987-93, [CAL](#) 1984-83

Competence

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-110](#), Rules of Professional Conduct (operative as of May 27, 1989)
[Rule 5.2](#), Rules of Professional Conduct (operative as of November 1, 2018)
[CAL 2021-206](#), OC 2011-01, SF 2011-1 conservatorship proceedings
 -duty of counsel to perform in an effective and professional manner is implicit in statute (Welf. & Inst. Code § 5365) providing for appointment of attorney for proposed conservatee
[In re Conservatorship of Estate of David L.](#) (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
 incapacitated lawyer
[CAL 2021-206](#)
 obligation to anticipate reasonably foreseeable risks
[Lombardo v. Huysentruyt](#) (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
 Comply with and be familiar with standards of professional conduct required of members of the State Bar of California, Civil Local Rule 11-4
[CRS Recovery, Inc. v. Laxton](#) (9th Cir. 2010) 600 F.3d 1138
 Comply with State Bar reporting requirements
 Business and Professions Code section 6068(j)
 California Rule of Court 9.20
[Rule 1-311](#), Rules of Professional Conduct (operative as of May 27, 1989)
[In the Matter of Chavez](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
[In the Matter of Amponsah](#) (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 Condone violation of duties, violates public policy
[Academy of Calif. Opt. Inc. v. Superior Court](#) (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
 Confidences of client
 OC 2011-01
 client's absence from court, attorney may not answer court's inquiry if harmful to client
 SD 2011-1
 duty to follow a minor client's instruction not to disclose confidential information
 LA 504 (2000)
 duty to maintain inviolate
 Business and Professions Code section 6068(e)
 LA 519 (2006)
 duty to maintain where client comes to attorney to discuss concerns regarding co-counsel
 SF 2011-1
 duty to preserve client confidence and trust in attorney
[Oasis West Realty, LLC v. Goldman](#) (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
[People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc.](#) (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
[City National Bank v. Adams](#) (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
[CAL 2010-179](#), [CAL 1981-58](#), [CAL 1987-93](#), [CAL 1987-92](#)
 LA 506 (2001)
 -after termination of the attorney-client relationship
 LA 519 (2006)
 duty to protect client confidences and secrets
 -after death of client
[Swidler & Berlin v. United States](#) (1998) 524 U.S. 399
 LA 414 (1983)
 -after termination of attorney-client relationship
[Woods v. Superior Court](#) (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
 LA 463 (1990), LA 452 (1988), LA 400 (1982), LA 386 (1980)

fundamental ethical obligation not changed by court appointment to represent minor in dependency proceeding
 LA 504 (2000)
 Conflict of duties may require withdrawal
[CAL 2003-163](#)
 Conform to professional standards of attorney in whatever capacity
[Marquette v. State Bar](#) (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
[Crawford v. State Bar](#) (1960) 54 Cal.2d 659, 668 [7 Cal.Rptr. 746, 355 P.2d 490]
[Libarian v. State Bar](#) (1944) 25 Cal.2d 314 [153 P.2d 739]
[Raley v. Superior Court](#) (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
[In the Matter of McCarthy](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 California Rules of Professional Conduct do not apply only to lawyers who are acting in their roles as advocates for others
[In re Elkins](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
 conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
[Brand v. 20th Century Insurance Company](#) (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
[American Airlines v. Sheppard Mullin, Richter & Hampton](#) (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 rendering legal and non-legal services to a single client
[Kelly v. State Bar](#) (1991) 53 Cal.3d 509
[Layton v. State Bar](#) (1990) 50 Cal.3d 889
[Furia v. Helm](#) (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
[In the Matter of Priamos](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
[CAL 1999-154](#)
 Constitution, support of United States and California
 Business and Professions Code section 6068(a)
 LA 527 (2015)
 -attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1
 -no discipline for a negligent mistake made in good faith
[In the Matter of Respondent P](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
 Consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive
[CAL 2009-177](#)
 Control communications of employees under attorney's letterhead and signature
[Crane v. State Bar](#) (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
 Cooperate in disciplinary proceeding
 Business and Professions Code section 6068(i)
 Corrupt motive of passion or interest
 not to encourage action or proceeding from
 Business and Professions Code section 6068(g)
[Rule 3-200\(A\)](#), Rules of Professional Conduct
 Costs
 no duty to advance for pro bono client
 LA 379 (1979)
 Counsel or maintain such actions, proceedings, or defenses only as appear legal or just
 Business and Professions Code section 6068(c)
[Canatella v. California](#) (9th Cir. 2002) 304 F.3d 843
[Sorensen v. State Bar](#) (1991) 52 Cal.3d 1036
[In the Matter of Maloney and Virsik](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774

DUTIES OF ATTORNEY

- In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- Courts of justice
maintain respect for
Business and Professions Code section 6068(b)
respectfully yield to rulings of court, whether right or wrong
In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
Dominquez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [247 Cal.Rptr. 599]
- Deal honestly and fairly with adverse party and counsel
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[CAL](#) 2013-189
- Defend client
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
- Defense counsel
People v. Fatone (1985) 165 Cal.App.3d 164 [211 Cal.Rptr. 228]
In re Spears (1984) 157 Cal.App.3d 1203, 1210 [204 Cal.Rptr. 333]
People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
- Defenseless, cause of
duty not to reject for personal considerations
Business and Professions Code section 6068(h)
report child abuse
Penal Code section 11165
- Dependency proceeding
factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
representation of a minor client
LA 504 (2000)
- Depositions, representing client at
instructions not to answer sanctionable
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
reconciling potentially divergent duties
LA 497 (1999)
- Disclose
[CAL](#) 1969-19
SD 1983-8
altered evidence to opponent
SD 1983-3
death of client to opposing party
LA 300 (1967)
identity of informant to defendant
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]
legal authority in the controlling jurisdiction which is adverse to client
Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
violation of court order by third party
LA 394 (1982)
- Dispute
conflict of interest not created by
[CAL](#) 2009-178
- District attorney
In re Martin (1983) 150 Cal.App.3d 148, 169 [197 Cal.Rptr. 655]
- Document review, use and understanding of technology
assisted review (TAR)
SD 2018-3
- Duty to preserve client confidence/trust in attorney
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195, [CAL](#) 1987-93, [CAL](#) 1987-92
OC 2012-1
- Duty to report impropriety of another attorney
Business and Professions Code section 6100 et seq.
LA 440 (1986)
SD 1992-2, SF 1977-1
- Duty to supervise
incapacitated lawyer
[CAL](#) 2021-206
non-attorney employees
-performed all legal services and attorney was not involved in any case unless the staff consulted him
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
-permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Employ means consistent with truth
Business and Professions Code section 6068(d)
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
[Rule](#) 5-200, Rules of Professional Conduct
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- Employee duties to employer
Labor Code section 2650
- Estate executor and beneficiary
Estate of Efron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
- Exercise independent professional judgment in best interest of clients
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
LA 383 (1979)
outsourcing legal services
LA 518 (2006)
- Failure to appear in numerous matters
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- Failure to communicate status of case to client
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to communicate with client severs principal-agent relationship
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
Failure to communicate, to preserve client's ability to appeal, and to withdraw from the case constitutes abandonment
Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Failure of counsel to investigate and file a federal tort claim imputed to client

Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]

Failure to disclose expert witness notes

People v. Lamb (2006) 136 Cal.App.4th 575 [40 Cal.Rptr.3d 609]

Failure to perform duties

Rossmann v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]

Newton v. State Bar (1983) 33 Cal.3d 480 [189 Cal.Rptr. 372, 658 P.2d 735]

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

attorney neither pursued client's action nor took active steps to withdraw

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

specialty appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Fairness to opposing counsel

CAL 1984-78

False statement of fact or law

never seek to mislead judge or judicial officer with Business and Professions Code section 6068(d)

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

Rule 5-200, Rules of Professional Conduct

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Fidelity to client

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

Anderson v. Eaton (1930) 211 Cal. 113

B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]

CAL 1987-93, CAL 1981-83

Fidelity to non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Fiduciary

Read v. State Bar (1991) 53 Cal.3d 394, modified at 53 Cal.3d 1009

Hartford v. State Bar (1990) 50 Cal.3d 1139

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]

Krusesky v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. 196

actions based on breach of duties owed to client are not SLAPP suits

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

adverse party

Sternlieb v. State Bar (1990) 52 Cal.3d 317

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Crooks v. State Bar (1970) 3 Cal.3d 346

Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

-attorney seeks to become party adverse to former client in the same matter in which he had represented that client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

adverse party or non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

-attorney breached duty as escrow holder

Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]

-disbursement of assets in dissolution without consent of parties

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

attorney acting as director and as attorney for organization

OC 2011-02

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

breach of duty to a former client

Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

fiduciary duties owed to former client even after termination of the relationship

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

Zador v. Kwan (1995) 31 Cal.App.4th 1285, 1293 [37 Cal.Rptr.2d 754]

legal obligation to give notice of impending default in plaintiff's suit

Bellm v. Bellia (1984) 150 Cal.App.3d 1036 [198 Cal.Rptr. 389]

no duty to co-counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

DUTIES OF ATTORNEY

- Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)
- no duty to co-counsel regarding advice by attorney to terminate co-counsel
SF 2011-1
- no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
- relationship ends when insured sues its insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- rule requiring that trust funds disputed by client be maintained in the client trust account until the dispute is resolved also applies to disputes concerning funds held for the benefit of non-clients to whom the attorney owes fiduciary duties
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- standard for the relationship
Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
- statute of limitations
Stoll v. Superior Court (1992) 9 Cal.App.4th 1362
- successor counsel to prior counsel
CAL 2009-177
- to client's prior attorney
CAL 2008-175
- to non-client joint ventures
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)
- to non-client, where a confidential relationship of trust and dependency was created
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- to third-party non-client
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Files [See Files.]
- Fraud
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- false representation that attorney had received escrow funds and was holding in trust
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- Gross negligence in failing to communicate may be deemed abandonment
Brooks v. Yates (9th Cir. 2016) 818 F.3d 532
- Honesty
deception and concealment amounting to moral turpitude
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- dishonesty to court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- misrepresentation to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- fundamental rule of ethics, common honesty
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
Alkow v. State Bar (1952) 38 Cal.2d 257, 264 [239 P.2d 871]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- stock pledged by third party creates fiduciary duty under Business and Professions Code section 6068(a)
Hartford v. State Bar (1990) 50 Cal.3d 1139
- Improve and enhance the rule of law
Capotosto v. Collins (1991) 235 Cal.App.3d 1439
- Indigent
duty to represent
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336 [222 Cal.Rptr. 854]
SD 1968-4
- private employment contract with
SD 1968-4
- Inform court [See Court.]
correct known misrepresentation
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- non-party witness perjury
CAL 2019-200, SD 1983-8
- of client perjury
CAL 1983-74
- Insist that trustee receivers keep accurate records
Southwestern Media, Inc. v. Rau (9th Cir. 1983) 708 F.2d 419
- Instruct client with respect to communications with opposing party
SD 1983-2
- Insured's attorney owes no duty of good faith and fair dealing to insurer
Cooper v. Equity General Insurance (1990) 219 Cal.App.3d 1252 [268 Cal.Rptr. 692]
- Insured's attorney owes no duty to insurer to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Investigate financial affairs of clients
attorney not permitted to be willfully ignorant on how the attorney's fees were paid when attorney was objectively on notice that the fees might have been derived from a pool of frozen assets

Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127

impractical and would unduly interfere with duties to clients
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]

Investigate potential securities fraud

Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]

Investigate prior to filing lawsuit

Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835

Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

Investigate statements made by own client

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049

Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

VLO practice may require particular caution in verifying client's identity and that the type of case can be handled in a VLO setting

[CAL](#) 2012-184

Joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

Judge

never to mislead with artifice or false statement

Business and Professions Code section 6068(d)

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

[Rule](#) 5-200(B), Rules of Professional Conduct

Judicial office

maintain respect due

Business and Professions Code section 6068(b)

never to mislead with artifice or false statement

Business and Professions Code section 6068(d)

Keep accurate records

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]

Laws, support of United States and California

Business and Professions Code section 6068(a)

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

no discipline for a negligent mistake made in good faith

In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631

Litigation privilege

Civil Code section 47(b)

-insurer's attorney improperly transmitting insureds' tax return to insurer after mistakenly receiving returns from insureds' accountant constituted communicative conduct protectable by litigation privilege

Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]

-not limited to statements made during trial or other proceedings

Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]

does not protect attorney's alleged fraudulent statement about insurance coverage

Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

Loyalty

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]

Jeffry v. Pounds (1977) 67 Cal.App.3d 611

[CAL](#) 2011-182, SD 2013-1, OC 2012-1

attorney's duty of loyalty to client assignee for the benefit of creditors cannot be divided or diluted by a duty owed to the class of creditors

Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]

bonus program for public agency attorneys tied to savings by agency

SD 1997-2

breach may arise even if adversity involves attorney's own personal actions rather than another client's representation

Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]

client's absence from court, attorney may not answer court's inquiry if harmful to client

SD 2011-1

DUTIES OF ATTORNEY

conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative

Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

does not extend to a party that claims third-party beneficiary status and whose interests are potentially adverse to those of the client

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OC 95-001

may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense

SD 2004-1

no fiduciary duty owed to co-counsel where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

SF 2011-1

owed to one client does not consume that owed the other client

Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688, 716 [201 Cal.Rptr. 528]

personal duty not delegable

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]

self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

LA 506 (2001)

Maintain

contact with informants

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]

inviolate confidences and secrets of client

Business and Professions Code section 6068(e)

-outlasts employment

LA 389 (1981)

Make available client files on withdrawal

CAL 1994-134

SD 1997-1, SD 1984-3, SD 1977-3

SF 1996-1

exception: Penal Code 1054.2 requires court consent before release of address or telephone number of a victim or witness

Penal Code 1054.2

exception: Penal Code 1054.10 requires court consent before release of copies of child pornography

Penal Code 1054.10

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

MCLE (Minimum Continuing Legal Education)

Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330

superior court research attorneys are exempt from mandatory continuing education

Obbard v. State Bar of California (2020) 48 Cal.App.5th 345 [262 Cal.Rptr.3d 16]

Mediator

attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

Medical marijuana

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

CAL 2020-202, LA 527, SF 2015-1

Meritorious claims and contentions

Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d 301]

Misappropriation of funds

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Misleading judge or judicial officer

Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]

court responsible for ascertaining attorney's role in preparation and presentation of sham evidence

Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049

duty not to mislead by an artifice or false statement of fact or law

Rule 5-200(B), Rules of Professional Conduct

Business and Professions Code section 6068(d)

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

OC 95-001

duty to report possible violation of court order

LA 394 (1982)

while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

No constitutional right to every defense

counsel need not raise every non-frivolous claim

Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]

No duty to consult medical specialist unless such consultations recommended by other doctors

Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]

Not required to make futile objections

People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]

Not to encourage actions brought from a corrupt motive of passion or interest

Rule 3-200(A), Rules of Professional Conduct

Sorensen v. State Bar (1991) 52 Cal.3d 1036

Obey court orders

Business and Professions Code section 6103

Barnum v. State Bar (1990) 52 Cal.3d 104

In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]

In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41

CAL 2015-192

disregard of order by a workers' compensation judge

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

- filing quiet title action in spite of injunction not to do so
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- law firm violated injunction by depositing client's check into client trust account
Commodity Futures Trading Commission v. Co. Petro Mktg. (9th Cir. 1983) 700 F.2d 1269, 1284
- lawyer failed to serve answer as ordered by court
Community Dental Services v. Tani (2002) 282 F.3d 1164
- monetary sanctions not warranted for premature departure from courthouse and returning late from lunch
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- no penalty of contempt for advising client-witness not to produce incriminating material based on 5th Amendment
Manness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]
- Obey oath
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-131 [202 Cal.Rptr. 349]
- Of discharged attorney
 to sign settlement draft/check to facilitate former client's receipt of settlement proceeds
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
 CAL 2009-177
- Of succeeding attorneys
 honor preceding attorneys' liens
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Offensive personality, duty to abstain from
 Business and Professions Code section 6068(f)
- Officer of court
Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
- attorneys, by virtue of their professional position, must undertake certain special duties to avoid conduct that undermines the integrity of the adjudicative process
Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127
- On withdrawal not affected by who terminates the relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
- Opposing counsel
 disclose death of client during settlement negotiation
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
 LA 300 (1967)
- dishonesty to
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 -attorney's signature block on contract stating approval as to form and content not actionable misrepresentation
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
- making settlement offers which include fee-waiver provisions under fee shifting statutes
 CAL 2009-176
- Opposing party
 attorney by purchasing judgment against client seeks to become the party adverse to former client in the appeal on the same matter in which he had originally represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- attorney has duty to avoid knowingly making false statements and misrepresentations to non-clients
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
- attorney may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- disbursement of funds to client and attorney when funds held for the benefit of client and the adverse party without knowledge or consent of the adverse party and opposing counsel
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- litigation privilege
 -insurer's attorney improperly transmitting insureds' tax return to insurer after mistakenly receiving returns from insureds' accountant constituted communicative conduct protectable by litigation privilege
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]
- is absolute and protects attorney from tort actions based on misleading statements made to opposing side
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
- criminal proceedings
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]
- dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
- in all torts except malicious prosecution
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
- settlement negotiation
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
- justifies dismissal of defamation action against law firm
Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
- letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was not only protected by the litigation privilege but also protected under the anti-SLAPP statute
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]
- not limited to statements made during trial or other proceedings
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]
- protects attorney conduct which is communicative in nature
Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
- should not be extended to litigating in the press
GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
- no California authority allows an attorney to disclose attorney-client communications or confidential information in defense of a lawsuit by a third party
 LA 519 (2006)
- no duty of care owed
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]

DUTIES OF ATTORNEY

to advise regarding opposing party's mistake of law affecting settlement
LA 380 (1979)

Oppressed, cause of duty not to reject for personal considerations
Business and Professions Code section 6068(h)

Outlast employment
LA 389 (1981)
does not dissolve when attorney is discharged
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
duties to client extend beyond the closing of the client file
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

Owed to third parties [See Professional liability, duty owed to third parties.]
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
attorney for corporation owes no duty to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
Boronian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
non-fiduciary who is asked for or volunteers information in the course of a business negotiation must be truthful to non-client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
settlement negotiations
CAL 2015-194

Partner's malpractice
associate's duty to disclose to client
LA 383 (1979)

Partnership dissolution
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 2020-201, CAL 2014-190, CAL 1985-86
fiduciary duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Party
honor of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)
reputation of
-advance no fact prejudicial to
Business and Professions Code section 6068(f)

Pay court reporter fees
CAL 1979-48

Perform services for client
Butler v. State Bar (1986) 42 Cal.3d 323
McMorris v. State Bar (1983) 35 Cal.3d 78
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Personal considerations, not to reject cause of defenseless or oppressed for
Business and Professions Code section 6068(h)
LA 445 (1987)

Power of attorney, on advice of attorney
Civil Code section 2421(3)(2)

Preserve confidences and secrets
Business and Professions Code section 6068(e)

Privileged communication
tax returns are privileged from disclosure; is not absolute and will not be upheld under certain conditions
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]

Pro bono client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
*Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 397

Proceeding
encouraging commencement or continuance from corrupt motive of passion or interest
Business and Professions Code section 6068(g)
legal or just
-duty to counsel or maintain only
Business and Professions Code section 6068(c)

Professionalism
LA 339 (1973), LA 272 (1962)

Prosecutor
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d, 5]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
People v. Manson (1976) 61 Cal.App.3d 102, 164
duty to seek justice, not merely to convict
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]

Protect a client in every possible way
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744

Public agency attorneys
participation in bonus program tied to savings by agency
SD 1997-2

Public defender
acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Radio call-in show formal is unlikely to support reasonable expectation of confidentiality, loyalty, or competence.
no duty of confidentiality, loyalty, competence
CAL 2003-164

Refer client to specialist
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]

Reject for personal considerations
cause of defenseless or oppressed
Business and Professions Code section 6068(h)
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
Waitz v. Zumwalt (1985) 167 Cal.App.3d 835 [213 Cal.Rptr. 529]
CAL 1981-64

Report
child abuse
Penal Code section 11165 et seq.
LA 504 (2000)
crime discovered
SF 1975-2
impropriety of another attorney
Business and Professions Code section 6100 et seq.
LA 440 (1986)
SD 1992-2, SF 1977-1

- to the IRS
 -cash receipts from any one transaction (or two related transactions) of \$10,000 or more during one year
 Internal Revenue Code section 6050(l)
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
- to the State Bar
 -address of attorney
 Business and Professions Code section 6002.1
 -civil judgment for fraud, misrepresentation and breach of fiduciary duty in a professional capacity
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
 -conviction of attorney
 Business and Professions Code section 6068(o)(5)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
 -imposition of discipline
 Business and Professions Code section 6068(o)(6)
 -indictment or information
 Business and Professions Code section 6068(o)(4)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
 -judgment against attorney for moral turpitude
 Business and Professions Code section 6068(o)(2)
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
 -judicial sanctions
 Business and Professions Code section 6068(o)(3)
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
Canatella v. California (9th Cir. 2002) 304 F.3d 843
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
CAL 1997-151
 --duty to report runs from the time sanctions ordered regardless of pendency of an appeal
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
- malpractice lawsuits
 Business and Professions Code section 6068(o)(1)
- Represent client zealously
 *People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Pangelina (1984) 153 Cal.App.3d 1
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
CAL 2019-200
 attorneys generally must pursue all available legal theories although it is impossible to know in advance whether a potential theory will prevail
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
 attorneys obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results
- and expedite resolution; anything less would be unethical and dishonorable
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 should not interfere with attorney's duties under rule 3-200 or B&P § 6068(c)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
 zeal must be subordinate to an attorney's paramount obligation to assure orderly administration of justice
Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
- Research law
In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865
 Respect courts and judicial officers
 Business and Professions Code section 6068(b)
 *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- Return client files to client
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 2007-174
 SD 1997-1, SD 1984-3, SD 1977-3
 SF 1996-1, SF 1984-1
 exception: Penal Code 1054.2 requires court consent before release of address or telephone number of a victim or witness
 Penal Code 1054.2
 exception: Penal Code 1054.10 requires court consent before release of copies of child pornography
 Penal Code 1054.10
- Return records mistakenly delivered to sender
 SD 1987-3
- Reveal
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084
 client perjury in a civil non-jury trial
CAL 1983-74
 the fruits of crime in his possession to the prosecutor
CAL 1984-76, LA 466 (1991)
 witness perjury
CAL 2019-200
- Secrets of client
 duty to preserve
 Business and Professions Code section 6068(e)
 duty to supervise [See Employee.]
- Serve indigent client without compensation
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 470
- Settlement
 attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156
 settlement check issued only to client, but delivered to attorney who has a lien
 OC 99-002
 successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
- Special obligation to obey the law
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
- Statutory duty to assist indigent
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
- Statutory requirement for service on attorney
National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
- Supervise client trust account
Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]

DUTIES OF ATTORNEY

- In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
LA 488 (1996)
responsibility to monitor client trust account is nondelegable, notwithstanding even reasonable reliance on partner, associate, or responsible employee
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- Supervise employees
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Palomo v. State Bar (1984) 36 Cal.3d 785
Crane v. State Bar (1981) 30 Cal.3d 117, 122
Black v. State Bar (1972) 7 Cal.3d 676, 692
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
CAL 1997-150, CAL 1988-103
LA 522 (2009), LA 488 (1996)
OC 94-002
- attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
-pattern of similar constitutional violations by untrained employees was necessary to demonstrate deliberate indifference for purposes of failure to train, where exculpatory evidence was not produced as requested under Brady
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]
- outside lawyers or providers of outsourced legal services
CAL 2004-165, CAL 1994-138
LA 518 (2006)
SD 2007-1
- paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
OC 94-002
-lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
- Support of United States and California Constitution and Laws Business and Professions Code section 6068(a)
-attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
LA 527, SF 2015-1
-no discipline for a negligent mistake made in good faith
Silberg v. Anderson (1990) 50 Cal.3d 205
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
- Take reasonable measures to determine law at time of action
no duty to foresee changes in law
Jones v. Stevenson (1983) 149 Cal.App.3d 560, 565
*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Third party
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
estate planning
-duty to act with due care as to the interests of the intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304
-no duty owed to non-client potential beneficiary absent testator's express intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
no duty to insurer to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
no duty to third party
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
non-fiduciary who is asked for or volunteers information in the course of a business negotiation must be truthful to non-client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- not to convert funds
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
LA 454
reasonable duty to communicate with a lienholder as to the subject of the fiduciary obligation
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- To adverse party
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. 50 Cal.3d 205
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
- To clients
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
advice attorney to in propria persona litigants
LA 502 (1999)
breach warrants discipline
Alberton v. State Bar (1984) 37 Cal.3d 1, 14-15
class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

- counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
- duty owed to client, not to potential beneficiary
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
- good faith and fiduciary duty owed to clients
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235, 771 P.3d 1323], mod. 49 Cal.3d 38a
Gassman v. State Bar (1976) 18 Cal.3d 125, 130
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- To client's prior attorney
 successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
- To co-clients
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
- To co-counsel
 specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 LA 454
- To communicate
McMorris v. State Bar (1983) 35 Cal.3d 78
 policy limits to client
 LA 350 (1975)
 with client
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
CAL 1983-77
 -basis for calculating fees
 OC 99-001
- To former client's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- To honor medical lien when client consents
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
- To insured when retained by insurer
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
 no duty to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- To judge
 mislead about facts relating to actions of opposing counsel
Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]
- To non-clients
Silberg v. Anderson (1990) 50 Cal.3d 205
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
Boronian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
- Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Hall v. Superior Court (2003) 108 Cal.App.4th 706 [133 Cal.Rptr.2d 806]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoff, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
Pierce v. Lyman (1991) 1 Cal.App.4th 1093
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 accepting non-client funds/securities to secure client fees
Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675, 741 P.2d 172]
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774, 739 P.2d 134]
- attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
- attorney for corporation owes no duty to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- attorney may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
- duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
- estate planning
 -attorney has duty to act with due care as to the interests of the intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
 -attorney has no duty of care to non-client potential beneficiary absent testator's express intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
- joint venture
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
- limitations on liability do not apply to liability for fraud
 -non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- no duty to third-party absent an intent to benefit third party
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
- no obligation to indemnify agent when no attorney-client relationship established between client's attorney and client's agency who negotiated a contract concurrently on behalf of their mutual client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]

EDUCATIONAL ACTIVITY

unrepresented party to pre-marital agreement negotiation, duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties
In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]

wife, an attorney, was advised of potential conflict of interest orally and twice in writing, and wife voluntarily entered into the post-nuptial agreement while acting as her own attorney
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

To refrain from acquiring pecuniary interest adverse to former client

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

To third parties

estate planning

-attorney has duty to act with due care as to the interests of the intended beneficiary

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Truth, employ means only consistent with

Business and Professions Code section 6068(d)

Rule 5-200, California Rules of Professional Conduct

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

LA 504 (2000), LA 464 (1991)

Truthfulness

advice to client to terminate co-counsel

SF 2011-1

Undivided loyalty to client

Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]

LA 428 (1984)

Unpaid

settlement negotiations do not require attorney to withdraw

CAL 2009-178

Use such skill and diligence as others in the profession commonly used

Harris v. Smith (1984) 157 Cal.App.3d 100, 103-104

Violations of California Rules of Professional Conduct

SD 1992-2, LA 440 (1986), SF 1977-1

Withdrawal [See Conflict of interest. Substitution. Withdrawal.]

foreseeable prejudice to client's rights

CAL 2014-190

reasonable steps to avoid reasonably foreseeable prejudice to client's rights

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

-attorney's active steps to prejudice client's rights

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

violation of professional responsibility

Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090-1091 [206 Cal.Rptr. 45]

Witness

honor of

-advance no fact prejudicial to

Business and Professions Code section 6068(f)

reputation of

-advance no fact prejudicial to

Business and Professions Code section 6068(f)

EDUCATIONAL ACTIVITY [See Broadcasting. Business activity. Publication.]

Lectures, seminars, teaching, etc.

Belli v. State Bar (1974) 10 Cal.3d 824

Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

CAL 1972-29

LA 321 (1971), LA 286 (1965), LA 221 (1954), LA(l)1973-8

SD 1974-21, SD 1974-16, SD 1969-8, SD 1969-6

ELECTIONS [See Political activity.]

ELECTRONIC SERVICE; ELECTRONIC TRANSMISSION; ELECTRONIC NOTIFICATION

Defined

Code of Civil Procedure section 1010.6(1)(A)-(C)

ELECTRONIC SURVEILLANCE [See Recording.]

EMBEZZLEMENT [See Client trust fund, misappropriation. Misappropriation. Misconduct.]

EMPLOYEE [See Fee, lay person. Lay employee. Unauthorized Practice of Law.]

Disclosure of client confidences [See Confidences of the client.]

CAL 1979-50

Duty of attorney

to adequately supervise

-attorney is responsible for calendaring error regardless of whether the error was made by the attorney or paralegal

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

-attorney liable for overdrawn bank account

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

-attorney unaware collection procedures already initiated

Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]

-calendaring paralegal

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

-employees' repeated neglect of client's case

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

-improper correspondence sent by staff

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]

-lapses in office procedure deemed willful

Trousil v. State Bar (1985) 38 Cal.3d 337, 342 [211 Cal.Rptr. 525]

Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]

-negligent office management

Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]

In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

-regarding client trust account

--no intent to defraud need be shown

Waysman v. State Bar (1986) 41 Cal.3d 452 [224 Cal.Rptr. 101]

-secretary's negligent management of client trust account

Gassman v. State Bar (1976) 18 Cal.3d 125 [132 Cal.Rptr. 675]

to instruct concerning preserving confidences and secrets of clients

CAL 1979-50

Duty to employer

Labor Code section 2650

Public agency attorney may be compelled, under threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

EMPLOYEE ASSOCIATION [See Labor union.]

EMPLOYMENT [See Acceptance of employment. Attorney-client relationship. Confidences of the client. Conflict of interest.]

Of attorney by office secretary

SD 1972-3

EMPLOYMENT AGENCY

CAL 1992-126

EMPLOYMENT WANTED [See Advertising. Collections. Insurance company attorney. Lay intermediaries. Referral of legal business. Solicitation of business. Substitution of counsel.]

- Accept employment from
 - committee of accident victims
LA 165 (1947)
 - customers of own business
LA 205 (1953), LA(l) 1977-2, LA(l) 1976-9, LA(l) 1976-7
 - group of property owners
LA 257 (1959)
 - lay person or entity to serve customers of
LA 327 (1972), LA(l) 1969-4, LA(l) 1963-5
SD 1974-20
 - employees of
SD 1972-3
 - members of client association
LA(l) 1974-14, LA(l) 1947-8
 - participants in educational activity
[CAL](#) 1972-29
 - party when criticized work of counsel of
LA 313 (1969)
 - pro bono clients
LA(l) 1975-6
 - viewers of television program
LA 318 (1970)
- Except when selected from list prepared by insurance agent
LA(l) 1964-3

ENVELOPE [See Advertising, Solicitation.]

ESCROW [See Real estate transaction.]

- Agent
 - represents against grantor
LA 266 (1959)
 - one party in dispute over escrow
LA(l) 1955-6
 - returns client's deposit after discovery that client was fraudulently induced into agreement
LA(l) 1957-1
- Lawyer employee for escrow company prepares escrow documents for customers of employer
LA 205 (1953)
- Sue client for damages while holding client's stock in
LA 266 (1959)

ESTATE [See Conflict of interest, estate. Fee. Will.]

- Administrator
 - beneficiary under will
Probate Code section 21350 et. seq.
 - own employee for opponent's estate
LA 341 (1973)
- Administrator's attorney
 - buys property for estate
LA 238 (1956)
 - extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
[Estate of Stevenson](#) (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
 - represents administrator in that capacity and in capacity as heir
[CAL](#) 1976-41
LA 237 (1956), LA 193 (1952), LA 144 (1943), LA 72 (1934), LA(l) 1967-6
 - takes assignment of administrator's interest in estate to secure loan
LA 228 (1955)
- Attorney as beneficiary of trust
[Bank of America v. Angel View Crippled Children's Foundation](#) (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
- Attorney for conservatee owes no duty to beneficiary of conservatee's estate
[Hall v. Kalfayan](#) (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Attorney-client relationship does not extend to beneficiaries
[Chang v. Lederman](#) (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client
[Chang v. Lederman](#) (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]

- Executor
 - beneficiary as
LA 219 (1954)
 - commission for sale of estate property
LA 317 (1970)
 - employs own lawyer employer as executor's attorney
LA 382 (1979)
 - in individual capacity against co-executor
LA 72 (1934)
 - lawyer's secretary as
LA 382 (1979)
 - represents
 - beneficiaries in contest over heirship
LA(l) 1958-2
 - will contents revealed to after incompetency of client
LA 229 (1955)
- Executor's attorney
 - acts as real estate broker in the sale of estate property
SD 1992-1
 - attorney-client relationship extends only to the executor not to the beneficiaries
[Lasky, Haas, Cohler & Munter v. Superior Court](#) (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
SD 1990-2
 - commission for sale of estate property
LA 317 (1970), SD 1992-1
 - fee for doing executor's work
Probate Code sections 10804 and 15687
LA 382 (1979), LA 347 (1975)
 - fees for services rendered to executor in individual capacity
[Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore](#) (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
 - offers to prepare claims of creditors of estate for fee
LA(l) 1961-6
 - own partnership
LA 219 (1954)
 - referral fee from broker listing estate property
SD 1989-2
 - represents beneficiaries against reopened estate
LA 269 (1960)
 - estate as contestant in probate
LA 193 (1952)
 - person in determination of heirship
LA 193 (1952), LA(l) 1965-8
 - re-opened estate against
LA 269 (1960)
- Independent review required under Probate Code section 21350
[Winans v. Timar](#) (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
- Liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor
[Lombardo v. Huysentruyt](#) (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- Liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
[Winans v. Timar](#) (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
[Osornio v. Weingarten](#) (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
- Partnership
 - represents member-executor/trustee
LA 219 (1954)

ETHICS COMMITTEES

Personal representative
attorney for heir bills for services covered by statutory fees to be paid from estate
LA(l) 1956-7

Reasonableness of fees in trust administration, inefficient and duplicative not permitted

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

Successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Successor in interest may be liable for award of attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Trustee

as beneficiary

LA 219 (1954)

attorney-client relationship does not extend to beneficiaries

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]

Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]

Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282

-successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borissoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

attorney's fees

-denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust

Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]

-trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith

Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

mishandling of estate

Layton v. State Bar (1990) 50 Cal. 889 [789 P.2d 1026]

Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

partnership represents when member is

LA 219 (1954)

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

Will

will depository, Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent

CAL 2007-173

will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests

CAL 2007-173

ETHICS COMMITTEES

State Bar of California:

Committee on Professional Responsibility and Conduct

State Bar of California

180 Howard Street, San Francisco, California 94105

Telephone: (415) 538-2116

California Lawyers Association

Ethics Committee

400 Capitol Mall, Suite 650, Sacramento, California 95814

Telephone: (916) 516-1760

Los Angeles County:

Professional Responsibility and Ethics Committee

Los Angeles County Bar Association

444 South Flower Street, Suite 2500, Los Angeles, California 90071

Telephone: (213) 627-2727

Orange County:

Professionalism and Ethics Committee

Orange County Bar Association

P.O. Box 6130, Newport Beach, California 92658

Telephone: (949) 440-6700

San Diego:

Legal Ethics and Unlawful Practice Committee

San Diego County Bar Association

401 W. A. Street, Suite 1100, San Diego, California 92101

Telephone: (619) 231-0781

San Francisco:

Legal Ethics Committee

Bar Association of San Francisco

201 Mission Street, Suite 400, San Francisco, California 94105

Telephone: (415) 982-1600

EVIDENCE

Adverse credibility determination in a disciplinary proceeding

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Affirmative duty to reveal "fruit of crime" evidence to prosecution

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

LA 466 (1991)

Attorney-client privilege survives client's death

Swidler & Berlin v. United States (1998) 524 U.S. 399

Attorney-client privilege survives corporate merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Conclusiveness of a final disciplinary order in another jurisdiction unless the misconduct in that jurisdiction would not warrant discipline in California or unless the disciplinary proceeding in that jurisdiction lacked fundamental constitutional protection

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Discovery of critical evidence and improper vouching by federal prosecutor

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

Duty to disclose altered evidence to opposing counsel

SD 1983-3

Immaterial that evidence used is embarrassing to opponent

Rule 5-220, Rules of Professional Conduct

LA 208 (1953)

Inadequate evidence to determine conflict of interest

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege

Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

No error in excluding evidence of attorney's willingness to stipulate to reasonable discipline

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

Objections must be timely and specific

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

State rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

Substantial evidence in a standard 1.4(c)(ii) proceeding

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Waiver of a constitutional due process and equal protection argument against the application of B&P Code section 6049.1

respondent failed to argue before the hearing department or in his briefs that culpability in a Michigan disciplinary proceeding required proof only by a preponderance of the evidence

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

EX PARTE COMMUNICATION WITH JUDGE [See Judge, Communication with judicial officers]

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

SD 2013-2

"Judge" defined

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

CAL 1984-82

Judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Publication of article regarding pending case

LA 451 (1988), LA 343 (1974)

Regarding matter on appeal

CAL 1984-78

EXECUTOR [See Estate, executor.]

EXPENSES [See Advancement of funds. Costs. Reimbursement of attorney for expenses.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-210, Rules of Professional Conduct (operative effective May 27, 1989)

Advance

LA 379 (1979), LA 106 (1936)

Advanced costs by law firm per contingency fee agreement deductible as business expenses

Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016

Assigned counsel's duty with respect to

LA 379 (1979)

Court reporter fees

CAL 1979-48

Lawyer pays

LA 379 (1979), LA 158 (1945), LA 149 (1944), LA 106 (1936)
SF 1974-4

Of litigation

lawyer advances

LA 106 (1936)

-interest from payment until billing

LA 499 (1999)

Physician's lien

CAL 1988-101, LA 478 (1994), LA 368, LA 357

FACSIMILE TRANSMISSIONS

Filing via

Rosenberg v. Superior Court (1994) 25 Cal.App.4th 897

Solicitations via

faxing of unsolicited advertisements prohibited

Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54

FEE ARBITRATION

Business and Professions Code sections 6200-6206

Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs

Text is located in:

Deerings Annotated California Codes, Court Rules, and in West's Annotated California Codes, Court Rules, Rules of Procedure for Fee Arbitration and the Enforcement of Awards, vol. 23, pt 3, p. 679

Information about the State Bar Fee Arbitration Program is available from:

State Bar of California

Fee Arbitration Program

180 Howard Street, San Francisco, California 94105

Telephone: (415) 538-2020

Arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Attorney's dismissal of fee action was an attempt to evade both mandatory fee arbitration award and the arbitral process as a whole

Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]

Binding agreement

arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

Binding clause in retainer agreement

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Binding contract provision

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

CAL 1981-56

Binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

Client waiver of arbitration rights

Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Client's fee guarantor entitled to arbitrate fee dispute

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

Correction of arbitration award

Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]

FEES

Insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

Notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

OC 99-002

dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Public policy

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

Untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

FEES [See Advancement of funds. Arbitration. Attorney's lien. Barter. Commission. Contingent fee. Contract for employment. Division of fees. Divorce, fee. Lien. Minimum fees. Solicitation of business.]

Business and Professions Code sections 6147-6149

Civil Code section 47(b)

did not bar plaintiff's claims because defendant engaged in a course of tortious conduct depriving plaintiff of attorney fees

Mancini & Associates v. Schwetz (2019) 39 Cal.App.5th 656 [252 Cal.Rptr.3d 315]

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

Accounting

failure to provide accounting under 4-100(b)(3)

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Gonzalez (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632

Actions for recovery of compensation [See] 88 A.L.R.3d 246]

court cannot determine fees at ex parte or summary proceeding

Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]

Additional compensation for unanticipated services

awarded if contract anticipated additional services

McKee v. Lynch (1940) 40 Cal.App.2d 216 [104 P.2d 675]

awarded where attorney employee performs unanticipated services

Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]

awarded where contract silent on fees

Brooks v. Van Winkle (1958) 161 Cal.App.2d 734 [327 P.2d 151]

unavailable if attorney failed to notify client of additional services performed

Baldie v. Bank of America (1950) 97 Cal.App.2d 70 [217 P.2d 111]

unavailable where attorney's contract with client is a "bad bargain" on behalf of the attorney

Reynolds v. Sorosis Fruit Co. (1901) 133 Cal. 625 [66 P. 21]

"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Advance payment requested from client

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

CAL 1976-38, LA 360 (1976), LA(l) 1966-4, SF 1974-4

Advance payment retainer distinguished from true retainer

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Agreement

acquisition of adverse interest, in general

Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]

CAL 2006-170

SF 1997-1

agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee

LA 505 (2000)

ambiguity is a question of law

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

arbitration clause

-binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machtinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

-binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

billing practices

CAL 1996-147, OC 99-001

charging liens

-contingency fee agreements distinguished from hourly fee agreements

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170

confidential nature of

Business and Professions Code section 6149

contract formation is governed by objective manifestations, not subjective intent of parties

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

court informed of

LA 261 (1959)

divorce

In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

LA 261 (1959), LA 226 (1955)

evaluated at time of making

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

CAL 2006-170

- fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding in bankruptcy matter
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
- handle probate matter
 -for less than statutory fee
 LA 102 (1936)
- hybrid, hourly and contingent
 SF 1999-1
- hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- prepayment required
 LA 360 (1976), LA(l) 1966-4
- presumption of undue influence
 -contract between attorney and client giving attorney interest in subject matter of representation
Cooley v. Miller & Lux (1914) 168 Cal. 120 [142 P. 83]
 -fee contract with client after creation of attorney-client relationship – attorney carried burden to demonstrate fairness
Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212, 227 [64 Cal.Rptr. 915]
 -lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to
 LA 496 (1998)
 -presumption does not attach where fee agreement reached before or at creation of attorney-client relationship
Berk v. Twenty-Nine Palms Ranchos Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
 -presumption of overreaching is rebuttable
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 -presumption that contract is without sufficient consideration
Lady v. Worthingham (1943) 57 Cal.App.2d 557, 560 [135 P.2d 205]
- statutory clauses required
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- strictly construed against attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
 -without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- to divide statutory award of attorney's fees between attorney and client
 LA 523 (2009)
- Appeal of dismissal required to obtain appellate ruling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281
- Appeal of order denying fees
Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
 on the basis of excusable negligence
Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298
- Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
 order denying attorney's fees under Civil Code section 2424.12 is not appealable
Sese v. Wells Fargo Bank N.A. (2016) 2 Cal.App.5th 710 [206 Cal.Rptr.3d 715]
 order denying award of attorney fees to plaintiff who successfully opposes an anti-Slapp motion is not immediately appealable
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
- Appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032
- Appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]
- Appointment of counsel
Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
 additional fees not available when case is not extended or complex
United States v. Diaz (1992) 802 F.Supp. 304
 billing for services rendered prior to appointment
In re Russell John Larson (9th Cir. 1994) 174 B.R. 797
- Apportionment between attorneys
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903
Walsh v. Woods (1982) 133 Cal.App.3d 764 [184 Cal.Rptr. 267]
 SD 1969-4
- Apportionment between clients
 LA 424 (1984)
- Apportionment of fee award between successful and unsuccessful claims
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
- Arbitration [See Fee Arbitration.]
 Business and Professions Code section 6200 et seq.
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
Shepard v. Green (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165 [199 Cal.Rptr. 246]
 arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]

FEES

arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award

Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

binding agreement

-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

clarification of award suggested that attorney's fees were not included

Bennett v. California Custom Coach, Inc. (1991) 234 Cal.App.3d 333

clause in retainer agreement

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

CAL 1981-56

client waived right to arbitration under Mandatory Fee Arbitration Act (MFAA) when he failed to request arbitration within the required 30 days

Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]

failure to comply with 6201(a) does not compel court to dismiss action

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

fee guarantor entitled to arbitrate fee dispute

Wager v. Mirzavance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

initiation of a State Bar-sponsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

LA 521 (2007), OC 99-002

public policy

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

-arbitration agreement is invalid and unenforceable if it is made as part of a contract that was invalid and unenforceable because it violated public policy

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

trial court ordered to either assign the two attorneys the same rate of compensation or to articulate a reasonable basis for any difference

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

trial de novo after award of fees by arbitrator not preserved by client's filing of malpractice action

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587

vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence

Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]

Arrangement not subject to attorney-client privilege, no revelation of confidential information

Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424

Phaksuan v. U.S. (9th Cir. 1984) 722 F.2d 591, 594

Assigned counsel's private arrangement with client

SD 1969-9

Attempt to collect

Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

accrued interest on balance due

In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

confidences divulged in collection effort

LA 452 (1988)

discharge [See 24 Hastings Law Journal 771; 61 Cal.L.Rev. 397; 9 Cal.Western L. Rev. 355; 6 West L.A. L.Rev. 92; 3 G.G. L.Rev. 285; 92 L.L.R.3d 690.]

Abrams & Fox v. Briney (1974) 39 Cal.App.3d 604, 609 [114 Cal.Rptr. 328]

-contingent [See Fee, attempt to collect, discharge, quantum meruit.]

--attorney properly discharged for cause entitled to enforce lien to extent of reasonable value of services performed to date of discharge

Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]

--discharged attorney entitled only to reasonable value of services performed before discharge

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

--right of discharged attorney to sue for agreed fee does not arise until recovery through services of the substituted attorney

Echlin v. Superior Court (1939) 13 Cal.2d 368, 375-376 [90 P.2d 63]

-quantum meruit [See Liens.]

--attorney discharged with or without cause entitled to recover only reasonable value of services rendered prior to discharge

Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

SD 2019-3

---calculation of quantum meruit for unearned flat fee

SD 2019-3

--discharged attorney entitled to quantum meruit recovery for reasonable value of services, upon occurrence of contingency

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

- discharged attorney refuses to accept offer of reasonable value of services from substituted attorney
Kallen v. Delug (1984) 157 Cal.App.3d 940, 947 [203 Cal.Rptr.879]
- pro rata formula used where contingent fee insufficient to meet quantum meruit claims of both discharged and existing counsel
Spires v. American Buslines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- duty of succeeding attorney
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
- action to recover
LA 109 (1937)
- award of attorney fees based on expert testimony fixing reasonable value of services
Mayock v. Splane (1943) 56 Cal.App.2d 563, 573 [132 P.2d 827]
- award of attorney fees based on reasonable value of services supported by expert testimony
Matthiesen v. Smith (1936) 16 Cal.App.2d 479-482 [60 P.2d 873]
- by associate attorney
Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]
- *Civil Code section 2235 dealing with the presumption of invalidity in contracts between trustee and beneficiary does not apply to attorney/client contracts (Civil Code section 2235 was repealed 7/1/87)
Probate Code sections 16002 and 16004
Walton v. Broglio (1975) 52 Cal.App.3d 400, 403-404 [125 Cal.Rptr.123]
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- contracts between attorney-client; client cannot escape full payment of fees merely because attorney's services prove less valuable than contemplated
Berk v. Twentynine Palms Ranchos, Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
- determination of reasonable attorney fees primarily a question of fact for trial court; expert testimony unnecessary
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
- discretion of trial court in setting value of services and in considering expert testimony; review by appeals court
Libby v. Kipp (1927) 87 Cal.App. 538 [262 P. 68]
- effect of express contract on fees where attorney performs additional services beyond contract
Biaggi v. Sawyer (1946) 75 Cal.App.2d 105, 111-112 [170 P.2d 678]
- evidence considered in determining attorney fees
Deberry v. Cavalier (1931) 113 Cal.App. 30, 35-36 [297 P. 611]
- expert opinion by attorney on value of services questions of fact for jury; overhead office expenses may be considered in fixing value of services
Tasker v. Cochrane (1928) 94 Cal.App. 361, 365-366, 368 [271 P. 503]
- expert testimony on value of services admissible, but not essential
Spencer v. Collins (1909) 156 Cal. 298, 306-307 [104 P. 320]
- factors considered by court in determining reasonable value of attorney fees; when appeals court may modify award
Boller v. Signal Oil & Gas Co. (1964) 230 Cal.App.2d 648, 652-653, 656 [41 Cal.Rptr. 206]
- fee arbitration
Business and Professions Code §§ 6200-6206
- power of jury to use independent judgment in fixing value of attorney services irrespective of expert testimony
Lady v. Ruppe (1931) 113 Cal.App. 606, 608 [298 P. 859]
- suit for reasonable value of services under oral contract; trial court's power to determine value independently
Elconin v. Yalen (1929) 208 Cal. 546, 548-550 [282 P. 791]
- trial court determines what constitutes reasonable attorney fees; factors considered
Melnyk v. Robledo (1976) 64 Cal.App.3d 618, 623-624 [134 Cal.Rptr.602]
- where no finding of fact made as to reasonable value of services by trial court, but evidence exists in records, Supreme Court will enter finding
Kirk v. Culley (1927) 202 Cal. 501, 508 [261 P. 994]
- from trustee in bankruptcy
-post-petition services
In re Alcalá (9th Cir. 1990) 918 F.2d 99
- judgment debtor was entitled to notice of judgment creditor's post judgment fee application
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
- post-judgment interest on attorney fees
Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
- quantum meruit
-attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
- legal services rendered to executor in individual capacity
Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
- reasonable value of services
-attorney not entitled to lodestar multiplier in divorce action where seeking the reasonable value of his services and where there was no risk that attorney would not receive compensation under a contingency fee agreement
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
- effect of contract for attorney fees made after attorney-client relationship exists
Estate of Mallory (1929) 99 Cal.App. 96, 103 [278 P. 488]
Countryman v. California Trona Co. (1917) 35 Cal.App. 728, 735 [170 P. 1069]
- reasonable rate component of lodestar determination not required where the hourly rate is specified in a valid fee agreement
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- reasonable rate component of lodestar determination not required where the attorney has entered into a valid fee agreement with the client
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- under invalid contingent fee contract, attorney entitled to reasonable value of services
Calvert v. Stoner (1948) 33 Cal.2d 97, 104-105 [199 P.2d 297]
- under invalid contract with client, attorney may secure reasonable value of services
Hall v. Orloff (1920) 49 Cal.App. 745, 749-750 [194 P. 296]
- Attorney
applies to all causes of action arising from malpractice claim
Waters v. Bourhis (1985) 40 Cal.3d 424 [220 Cal.Rptr. 666]

FEES

- illegal
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
Attorney obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
Attorney's fees agreed to by contract
Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
allowed to oversecured creditor
In re Salazar (9th Cir. BAP 1988) 82 B.R. 538
authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
vacation of judgment as part of post-judgment settlement effectively eliminates court awarded fees based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
Attorney/client interests
so great as to make both parties on appeal for attorney's fees
Kordich v. Marine Clerks Association (9th Cir. 1983) 715 F.2d 1392
Attorney's fees should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271
Authority of arbitrator
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
Authority of arbitrator to award fees under the terms of the controlling arbitration agreement
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
Authority of attorney
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
Authority of court to compensate counsel
court may appoint counsel, but may not compensate without statutory authorization
San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
Award of attorney's fees
Civil Code section 51 (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
Civil Code section 54 et seq. (Disabled Persons Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney
Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]
absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
LA 523 (2009)
-limited to cases where the parties do not have an agreement as to award of fees
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
adjustment of award to account for unsuccessful claims
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
administrative hearings
-award of attorney fees under Welfare and Institutions Code section 10962 does not include fees incurred in administrative hearings
K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
after dismissal of complaint
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
Parrott v. Mooring Townhomes Ass'n Inc. (2003) 112 Cal.App.4th 873 [6 Cal.Rptr.3d 116]
against government
Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
Hoang Ha v. Schweiker (9th Cir. 1983) 707 F.2d 1104, 1106
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
-conflict between city ordinance and state statute
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city ordinance conflicts with state law which forbids unilateral recovery of fees by city
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city ordinance had retroactive application, which changed the legal consequences of past conduct by imposing new or different liabilities based on that conduct
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
-denied where city rent control ordinance authorizes recovery of attorney fees only between landlords and tenants
Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
-fees awarded pursuant to a city council resolution
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]

--fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state

Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]

--plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees

Porter v. Winter (9th Cir. 2010) 603 F.3d 1113

--under Brown Act

Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]

--court has discretion to deny fees if defendant can show the existence of special circumstances that would render the award unjust

Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]

--under California Tort Claims Act

--CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney

Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]

--defense fees and costs awarded to public entity under CCP § 1038

California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

--under Civil Asset Forfeiture Reform Act

--Anti-Assignment Act voids claimants' assignment of attorney fees to their attorney but attorney retains lien interest

U.S. v. Kim (9th Cir. 2015) 797 F.3d 696

--under Code of Civil Procedure 1021.5

Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]

Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]

Burgess v. Coronado Unified School District (2020) 59 Cal.App.5th 1 [272 Cal.Rptr.3d 919]

Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]

City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]

San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]

Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]

Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]

--denied in action brought under Government Code section 12974

Dept. of Fair Employment and Housing v. Cathy's Creations, Inc. (2020) 54 Cal.App.5th 404 [269 Cal.Rptr.3d 1]

--attorney's fees can only be recovered against opposing parties

McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]

Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]

--denied because lawsuit did not cause defendant's change in behavior

Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]

Marine Forests Society v. California Coastal Commission (2008) 160 Cal.App.4th 867 [74 Cal.Rptr.3d 32]

--denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement

People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]

--denied where benefit does not affect general public

Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]

--fees should sometimes be awarded even where litigant's own benefits exceed its' actual costs

City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]

--must be successful party

Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]

--not disqualified for fee award under private attorney general statute based on work done in proceedings

Robles v. Employment Development Department (2019) 38 Cal.App.5th 191 [250 Cal.Rptr.3d 611]

--respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award

City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]

--suspended corporation is not entitled to attorney fees

City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]

--trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate

Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]

--under Equal Access to Justice Act

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659

Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830

Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

Le v. Astrue (9th Cir. 2008) 529 F.3d 1200

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

--award of fees should indicate exactly what fees are traceable to the government's bad faith litigation conduct

Rodriguez v. US (9th Cir. 2008) 542 F.3d 704

--fees award warranted when reckless conduct is combined with and additional factor, such as frivolousness, harassment, or improper purpose

Rodriguez v. US (9th Cir. 2008) 542 F.3d 704

--may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements

2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984

FEES

- under Government Code § 12989.2
 - fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state
 - Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]
- under Hyde Amendment (18 U.S.C. § 3006A)
 - U.S. v. Hristov (9th Cir. (Nev.) 2005) 396 F.3d 1044
 - U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
- under U.S.C.A. § 7430
 - Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
 - Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484 F.3d 1103
- against party, not attorney, for "costs of proof" in discovery requests for admission
 - Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
- agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
 - Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
 - Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
- Indian tribe sovereign immunity argument used in construction contract fee dispute
 - Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
- allocation of fees
 - not required where attorney also represented other parties who had no written contracts because work pertained to legal issues common to all the parties and separation of attorney's activities into compensable and non-compensable time units was impossible
 - Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
- "American Rule" that each party must bear its own legal fees
 - city manager, analogous to a corporate employee, not liable for attorney's fees based upon conduct on behalf of employer
 - Golden West Baseball Co. v. Talley (1991) 232 Cal.App.3d 1294
 - does not apply where each parties have agreed to allocate attorney fees by contract
 - Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 - Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
- exceptions
 - Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
 - public interest and substantial benefit doctrine
 - doctrine does not require a fee award merely because the litigation produced changes which were relatively minor and had no actual or concrete impact on the actions taken by the adverse party
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
 - Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]
- prevailing party in nonpayment of wages action could not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
 - Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
- no equitable exception where party prevailed in showing that written contract was voided for lack of mutual assent
 - Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078
- rule applies to regents of defendant university who are constitutionally immune from the statutory fee-shifting provision of Labor Code § 218.5
 - Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
- statutory authority for
 - City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
- "third-party tort" exception
 - In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
 - Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
 - Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
- Americans with Disabilities Act
 - district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
 - Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
 - fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
 - Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
 - fees denied to prevailing defendant where such award under state law is pre-empted by federal law
 - Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
 - fees granted where plaintiff enters into legally enforceable settlement agreement with defendant
 - Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
- Anti-SLAPP (Strategic Lawsuits Against Public Participation)
 - arising out of defamation action
 - Murray v. Tran (2020) 55 Cal.App.5th 10 [269 Cal.Rptr.3d 231]
 - arising out of malicious prosecution action
 - Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]
 - Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
 - defined
 - burden of proving fees were covered by award following successful motion
 - Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
 - court that lacks subject matter jurisdiction over a claim may grant motion to strike the claim under CCP § 425.15 and award attorney's fees to the defendant
 - Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
 - mandatory award may be based on attorney's declarations instead of time records
 - Raining Data Corp. v. Barrechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

- the issue in an Anti-SLAPP motion (to strike) is whether the challenged action was one arising from an activity protected by the anti-SLAPP statute CCP § 426.16 (i.e. public interest, protected speech or petitioning activity)
 - Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 - Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
 - Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
 - Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
 - Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
 - Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 - Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
 - Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
 - Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
 - Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
- complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
 - Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
- appeal renders award not final
 - Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032
- appellate review of order fixing amount of attorney fees not available until entry of final judgment
 - Nimmagadda v. Krishnamurthy (1992) 3 Cal.App.4th 1505
- appellate work
 - reduction in number of hours as duplicative unjustified where the court failed to take into account the differences between trial court and appellate work, which entails rigorous original work in its own right and which receives greater judicial scrutiny
 - Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- apportionment of fees
 - not required if successful and unsuccessful claims are interrelated
 - Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]
- arbitration cases
 - Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
 - Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
 - arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
 - M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 - Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
 - arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
 - Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
 - Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
- arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
 - Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
 - Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
 - Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
- arbitrator's determination of prevailing party is not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
 - Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
- authority of arbitrator to amend or correct a final award
 - Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
- authority of arbitrator to award fees
 - Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
- pursuant to Civil Code section 1717
 - Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
- court properly corrected award and remanded to arbitrator to determine reasonable fees and costs
 - Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]
- failure to comply with 6201(a) does not compel court to dismiss action
 - Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
- fees and costs awarded in proceeding to confirm or vacate an arbitration award
 - Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
- plaintiffs cannot be required to pay arbitral expenses and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute
 - D.C. a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- prevailing party
 - Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 - Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]
- untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
 - Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
- assignment
 - Anti-Assignment Act voids claimants' assignment of attorney fees to their attorney but attorney retains lien interest
 - U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
 - right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney
 - Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

FEES

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

attorney-client fee agreements may provide for reasonable
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

attorney-litigant representing self in pro se

Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189 [198 Cal.Rptr. 447]

attorney's fees and costs to prevailing party

Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803

In re Marriage of Ankola (2020) 53 Cal.App.5th 369 [267 Cal.Rptr.3d 569]

Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]

PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]

Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]

County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]

Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]

In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

-absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-net monetary award to a party does not determine the prevailing party when there are two fee shifting statutes involved in one action

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

-no abuse of discretion where court failed to reduce award of attorney fees under Davis-Stirling Common Interest Development Act

Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

-settlement offer that is silent on the issue of attorney fees and costs

Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]

-trial court reduced an attorney fee award based on its' reasonable determination that routine, non-complex case was overstuffed to a degree that significant inefficiencies and inflated fees resulted

Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]

-when there are two fee shifting statutes in separate causes of action, there can be a prevailing party for one cause of action and a different prevailing party for the other cause of action

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

attorney's fees that are recoverable as compensatory damages

Mai v. HKT (2021) 66 Cal.App.5th 504 [281 Cal.Rptr.3d 255]

authority of arbitrator to award fees

-may fashion relief that is just or fair

Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]

authority of arbitrator to determine whether the filing of a complaint before mediation barred award of fees

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

bail bond forfeiture proceedings

-motion of fees denied where there is no provision in the relevant statute to recover fees as costs

People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]

bankruptcy action

Lamie v. United States Trustee (2004) 540 U.S. 526 [124 S.Ct. 1023]

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Levander (9th Cir. 1999) 180 F.3d 1114

In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29

Bankruptcy of Harvey (9th Cir. 1994) 172 B.R. 314

-attorney employed by a trustee is entitled to compensation for legal services

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

-attorney's fees and costs awarded against debtors for dragging proceedings for too long due to inaction

In re Starky (9th Cir. BAP 2014) 522 B.R. 220

-attorney's fees and costs not dischargeable when awarded for debtor's willful and malicious conduct

In re Suarez (9th Cir. BAP 2009) 400 B.R. 732

-attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract

Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

-attorney's fees denied to debtor in discharging student loan debt

In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558

-attorney's fees denied without court authorization

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

-attorney's fees incurred during litigation after the confirmation of a Chapter 11 bankruptcy plan were discharged by that bankruptcy

In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028

-attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court

In re Bertola (9th Cir. BAP 2004) 317 B.R. 95

-authority of bankruptcy court to award fee enhancements
In re Pilgrim's Pride Corp. (5th Cir. (Texas) 2012) 690 F.3d 650

-automatic stay of proceedings

In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]

In re Stinson (9th Cir. BAP 2003) 295 B.R. 109

In re Hines (9th Cir. BAP 1998) 198 B.R. 769

-award of fees is void when underlying claim is in violation of stay

In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726

-award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract
In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204

-bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

-bankruptcy court erred in awarding debtor's their attorney fees and costs under statute
In re Fitalia (9th Cir. BAP 2016) 561 B.R. 767

-bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

-bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

-chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

-chapter 11 debtor's counsel entitled to attorney's fees only for services benefitting the estate
In re Xebec (9th Cir. 1992) 147 B.R. 518

-claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray
In re Ybarra (9th Cir. 2005) 424 F.3d 1018

-contingent fee agreement, pre-approved by the bankruptcy court, should control the amount of compensation awarded unless it is determined that the agreement was "improvident" in light of unforeseeable developments
In re Reimers (9th Cir. 1992) 972 F.2d 1127

-court may enhance fee in exceptional circumstance
In re Manoa Finance Company (9th Cir. 1988) 853 F.2d 687

-creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227

-creditor's efforts to recover post-judgment attorney's fees incurred to enforce a judgment
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

-debtor awarded appellate attorney's fees pursuant to 11 USCA § 362(k)
In re Schwartz-Tallard (9th Cir. 2014) 765 F.3d 1096

-discharge applies to attorney fees and costs awarded against a debtor in an unsuccessful post-petition state court suit based on pre-petition causes of action
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

-dischargeability of a contempt judgment
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

-disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490

-disgorgement of attorney fees against firm not proper where law firm representation was approved by court
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

-disgorgement of attorney fees is allowed after violation of bankruptcy code and rules
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926

-emergency nature of legal services provided before court appointment justifies fee award to former counsel
Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797

-expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

-failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt
In re Marriage of Sprague & Spiegel-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

-fees incurred in opposing objections to final fee application for winding up estate properly disallowed
In re Riverside-Linden Investment Co. (9th Cir. 1991) 945 F.2d 320

-fees recoverable if they are linked to litigation seeking to enforce a contract
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567 [27 Bankr.Ct.Dec. 201]
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]

-in accordance with state law
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693

-involuntary, debtors entitled to fees, costs and punitive damages in obtaining dismissal under 11 U.S.C. 303, though not for post-dismissal motions themselves
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456

-not awarded to alleged tortfeasor who was wholly exonerated and sought attorney fees from co-defendant on theory of implied indemnity under CCP § 1021.6
Watson v. Department of Transportation (1998) 68 Cal.App.4th 885 [80 Cal.Rptr.2d 594]

-open book account attorney's fees claim not barred by statute of limitations
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248

-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

-"reasonable attorneys' fees" calculated by court only a small fraction of actual amount charged by plaintiff's attorneys
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]

-request must be scaled to expected recovery
In re Kitchen Factors, Inc. (9th Cir. 1992) 143 B.R. 560
Unsecured Creditors' Committee v. Puget Sound Plywood (9th Cir. 1991) 924 F.2d 955

-right to based on contract
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693-694
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

FEES

- self-appointed monitor of appellate proceedings by creditor not entitled to fees on the grounds that the validity of creditor's liens and the prospect of full payment were never at issue
 - In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
- totality of circumstance test applied when awarding attorney's fee
 - Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
- trustee fees not proper for duties that are not practice of law
 - In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
- waiver of fees and costs
 - entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief
 - In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
- based on bad faith actions
 - Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
 - McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167
 - Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541
 - Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
 - Cassim v. Allstate Insurance Company (2004) 33 Cal.4th 780 [16 Cal.Rptr.3d 374]
 - Brandt v. Superior Court (1985) 37 Cal.3d 813 [210 Cal.Rptr. 211]
 - Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
 - United Services Automotive Association v. Dalrymple (1991) 232 Cal.App.3d 182 [283 Cal.Rptr. 330]
 - On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568 [272 Cal.Rptr. 535]
- bad faith cannot be inferred from fact that party was unsuccessful
 - Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
- Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
 - Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
- injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
 - Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
- trial court did not abuse its discretion in declining to assess attorney fees against colleague under objective standard
 - Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]
- based on underlying suit
 - Stanwood v. Green (9th Cir. 1984) 744 F.2d 714
- basis for court decision
 - attorney conduct
 - justified by the vexatious, oppressive, obdurate, and bad faith conduct of litigation
 - Landsberg v. Scrabble Crossword Game Players, Inc. (9th Cir. 1984) 736 F.2d 485
 - Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
 - limits zealous advocacy
 - Lone Ranger Television v. Program Radio Corp. (9th Cir. 1984) 740 F.2d 718, 727
 - attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
 - Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 - condition precedent must be met
 - Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
 - court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
 - Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
 - court misapplied the factors on which it focused while omitting analysis of other factors that may have allowed award of attorney fees
 - Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033
 - court must articulate factors used to calculate award
 - Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]
 - Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 - Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
 - no general rule requiring trial courts to explain their decisions on motions seeking attorney fees
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
 - criteria for award of fees
 - Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
 - denial of attorney's fees in second case where primary benefit already conferred upon client in first case
 - Kerr v. Screen Extras Guild, Inc. (9th Cir. 1975) 526 F.2d 67; Cert. denied 425 U.S. 951 [96 S.Ct. 1726]
 - district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
 - district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund
 - Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
 - explanation required of trial court's calculation in order to withstand review
 - United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 - in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
 - Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
 - in dissolution matter, award of post-judgment interest on attorney fees
 - In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
 - in dissolution matter, denial of attorney's fees under CC § 4370 (Family Law Act)
 - Brink v. Brink (1984) 155 Cal.App.3d 218, 223 [202 Cal.Rptr. 57]
 - in dissolution matter, denial of attorney's fees under Family Code § 2030
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

- large fee reduction requires a relatively specific articulation of court's reasoning
 - Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
- plaintiff obtains some relief on merits of claim and is thus entitled to attorney's fees
 - Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
- sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
 - 569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]
- trial court has its own expertise in the value of legal services performed in a case; expert unnecessary
 - Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trial court may make its own determination of the value of the legal services performed; expert unnecessary
 - Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trial court properly reduced attorney fee award based on size of settlement
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- basis of computation
 - City of Burlington v. Daugue (1992) 505 U.S. 557 [112 S.Ct. 2638]
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
 - Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
 - Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
 - Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 - McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167
 - Jones v. Espy (9th Cir. 1993) 10 F.3d 690
 - State of Florida v. Dunne (9th Cir. 1990) 915 F.2d 542
 - D'Emanuele v. Montgomery Ward & Co. (9th Cir. 1990) 904 F.2d 1379
 - United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
 - People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
 - Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 - Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804, 811-812 [204 Cal.Rptr. 727]
- award may be based on attorney's declarations instead of time records
 - Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
 - Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
- burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
 - Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
- consideration of indigent losing party's financial condition
 - People v. Rodriguez (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
 - Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- court must articulate factors used to calculate award
 - Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 - Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 - Winger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
 - Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]
 - Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
- no general rule requiring trial courts to explain their decisions on motions seeking attorney fees
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- degree of success achieved by civil rights plaintiff a critical factor in determining the proper amount of attorney's fees
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
- district court may cut the hours where lawyer does unnecessary duplicative work
 - Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
- extent of plaintiff's success
 - Cinevision Corp. v. City of Burbank (9th Cir. 1984) 745 F.2d 560, 581
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 - Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
 - Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- in Title VII action
 - Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
 - Maldonado v. Lehman (9th Cir. 1987) 811 F.2d 1341
- marital dissolution cases
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- negative multiplier decreasing the lodestar is justified where amount of time attorney spent on class action case was unreasonable and duplicative
 - Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- prevailing market rate in relevant community
 - Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
- action by corporate in-house counsel under Civil Code section 1717
 - PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- award may exceed actual hourly rate
 - Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

FEES

- Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
--under USCS section 928 (Longshore and Harbor Workers' Compensation Act)
Shirrod v. Director, Office of Workers' Compensation Programs (9th Cir. 2015) 809 F.3d 1082
Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
-rule of practice, generally requires filing of cross-appeal to increase award
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
-social security cases
--lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
-trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
-under 18 U.S.C. § 3663A, bank fraud victim entitled to restitution of attorney's fees not limited to those incurred to participate in law enforcement's investigation and prosecution of a defendant but also including those incurred as direct and foreseeable result of the defendant's wrongful conduct
U.S. v. Eyraud (9th Cir. 2015) 809 F.3d 462
-under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
-value of an estate is a factor in setting fees in elder abuse cases
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
-where both frivolous and nonfrivolous claims are closely intertwined
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
"benchmark" fee calculation
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Brown Act
-court has discretion to award attorney fees where it found that legislative body of a local agency has violated the Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
-defendant must show that special circumstances exist to make award unjust
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
catalyst theory
Skaff v. Rio Nido Roadhouse (2020) 55 Cal.App.5th 522 [269 Cal.Rptr.3d 578]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
-did not apply since the merits of customer's claims were thoroughly litigated to a final judgment
Skaff v. Rio Nido Roadhouse (2020) 55 Cal.App.5th 522 [269 Cal.Rptr.3d 578]
civil rights cases
Civil Code section 51 (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
--fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn. of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]
Texas State Teachers Association v. Garland Independent School District (1989) 489 U.S. 782 [109 S.Ct. 1486]
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Stewart v. Gates (9th Cir. 1993) 987 F.2d 1450
Trevino v. Gates (1995) 888 F.Supp. 1509
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
-award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-consent decree's silence as to attorney's fees not waiver for prevailing party
Muckleshoot Tribe v. Puget Sound Power & Light Co. (9th Cir. 1989) 875 F.2d 695
-costs or out-of-pocket expenses are recoverable only with respect to claims for which attorney's fees are recoverable
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963
-court erred in granting fees to prevailing defendant by dividing general fees equally across both frivolous and non-frivolous claims and by attributing a pro-rata share of the total fees to frivolous civil rights claims
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963
-denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-district court's enhancing the lodestar figure was justified when it found plaintiff's counsel achieved excellent results for clients under extreme pressure and with limited response
Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085
-fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
-fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions affecting state prisoners and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

- lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
- no basis for a bright-line prohibition on awarding fees to successful civil rights plaintiffs who are represented by their attorney-spouses
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
- party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- party who wins nominal damages for violation of their civil rights may be denied attorney's fees from those they sue
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- three factors test
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
- party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
- federal common law, rather than California law, applied to activist's claim for attorney fees
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
- proportionality of a fees award to the amount of damages recovered not an issue where plaintiff is able to isolate the time spent on successful claim or claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- settlement offers containing a fee-waiver provision under fee shifting statutes
CAL 2009-176
- spouse, attorney who represents spouse entitled to fees
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
- waiver of
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
- claim for legal fees in Chapter 11 matter not time barred
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
- class action
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Sneede v. Coye (1994) 856 F.Supp. 526
Morganstein v. Esber (1991) 768 F.Supp. 725
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
LA 445 (1987)
- absent class members not liable for employer's attorney's fees in overtime dispute
Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
- amount of fees determined to be reasonable in light of quantity and quality
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
- attorney's fees for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
- award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
- awarded pursuant to Civil Code section 1717
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
- basis of award to an unnamed member of putative class who defeats class certification is not entitled to attorney's fees
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
- extra award allowed lawyer who creates common fund
Paul v. Graulty (9th Cir. 1989) 886 F.2d 268
- fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
- fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- Iodestar multiplier method
--adjustment based on benefit conferred on class by class counsel
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
Winger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- reduction is justified where amount of time attorney spent on case was unreasonable and duplicative
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- settlement shall not include attorney fees as portion of common fund established for benefit of class
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
- trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

FEES

-no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

-practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

-standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323

-standing to appeal awards of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

--class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084

-standing to pursue an award of fees

--attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566

--standing to pursue claim for interest on award of attorney's fees
Koszidin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

-trial court has no inherent authority to sanction pro hac vice attorney for bad faith conduct by requiring payment of fees to opposing counsel
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

-when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

client security fund

-assisting applicant
Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367, 702 P.2d 525]

collections
 LA 522 (2009)

common fund/equitable apportionment doctrine
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
State of Florida ex rel. Butterworth v. Exxon Corp. (9th Cir. 1997) 109 F.3d 602
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

-exceptions

--attorney acting in propria persona
Leiper v. Gallegos (2021) 69 Cal.App.5th 284 [284 Cal.Rptr.3d 349]

-passive beneficiary
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903

computation of under Code of Civil Procedure 998 offer congressional intent
Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
Kreutzer v. County of San Diego (1984) 153 Cal.App.3d 62, 75 [200 Cal.Rptr. 322]

constitutional immunity

-regents of defendant university, as an arm of the state, are immune from the fee-shifting provision of Labor Code § 218.5
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]

contingency fee, court not limited to
Reynolds v. Ford Motor Company (2020) 47 Cal.App.5th 1105 [261 Cal.Rptr.3d 463]
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]

contract for
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
De La Cuesta v. Superior Court (1984) 152 Cal.App.3d 945 [200 Cal.Rptr. 1]

-agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]

-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]

-basis for
Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

-complete mutuality of remedy when contract purports to make recovery of attorney fees available to one or more parties
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
Harbor View Hills Community Association v. Torley (1992) 5 Cal.App.4th 343 [7 Cal.Rptr.2d 96]

-defendant-sellers in real estate case are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]

-did not provide for entitlement to fees award for either party under such facts
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

-governed by equitable principles
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]

-reciprocal provision
Westwood Homes, Inc. v. AGCPII Villa Salerno Member (2021) 65 Cal.App.5th 922 [280 Cal.Rptr.3d 417]
Nasser v. Superior Court (1984) 156 Cal.App.3d 52 [202 Cal.Rptr. 552]

- recovery of attorney's fees may be awarded notwithstanding an invalid contract
 - Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
- except when parties are in pari delicto
 - Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]
- resolving ambiguity in contracts or insurance
 - American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]
- state reciprocity rule for attorney's fees by contract applies to damages based on federal law
 - United States v. Callahan (9th Cir. 1989) 884 F.2d 1180
- third party claimant who was not intended beneficiary of attorney fee clause in contract denied award
 - Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
- vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- contractual
 - Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]
 - Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
 - Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
 - PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
 - D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
 - Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
 - Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
 - Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
 - PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
 - Share v. Casiano-Bel-Air Homeowners Assn. (1989) 215 Cal.App.3d 515 [263 Cal.Rptr. 753]
 - California Teachers Assn. v. Governor's Board of the Simi Valley Unified School District (1984) 161 Cal.App.3d 393 [207 Cal.Rptr. 659]
- absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
 - Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 - M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 - LA 523 (2009)
- limited to cases where the parties do not have an agreement as to award of fees
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- agreement requiring patent licensor to indemnify licensee for attorney's fees for alleged infringement or violation of any patent, copyright, trademark, or other right did not require licensor to pay licensee's fees incurred in successfully defending against licensor's claim
 - Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
 - Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
- attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
 - Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
 - Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- available for successfully defending or prosecuting an appeal
 - MST Farms v. C.G. 1464 (1988) 204 Cal.App.3d 304 [251 Cal.Rptr. 72]
- award may be proper under broadly-worded attorney fee provision even where claim did not arise out of the agreement
 - Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th 911 [184 Cal.Rptr.3d 326]
- award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
 - Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
- broadly worded attorney fee provision construed against drafting party
 - Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th 911 [184 Cal.Rptr.3d 326]
- claim for attorney's fees on a breach of contract action must be based on a specific right agreed to by the contracting parties
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
 - M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- condition precedent must be met to recover attorney fees
 - Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
- denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
 - Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
- denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
 - Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
- did not provide for entitlement to fees award for either party under such facts
 - Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
- fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
 - Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
- law firm not entitled to attorney fees incurred in suit to recover unpaid fees from client, who had already paid entire contractual debt to firm before trial
 - David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
- members of dissolved LLC are liable for attorney fees up to amount distributed upon dissolution for breach of contract by LLC
 - CB Richard Ellis, Inc. v. Terra Nostra Consultants (2014) 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]

FEES

-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

-prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

-prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement

County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

-recovery of attorney's fees may be awarded notwithstanding an invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

-under CC § 1717, provision for attorney's fees may be awarded even if contract is invalid or unenforceable

Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]

Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

--party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-under CC § 1717, provision for attorney's fees must be applied mutually and equally to all parties even if written otherwise

MSY Trading, Inc. v Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

Kandy Kiss of California, Inc. v. Tex-Ellent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]

Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]

Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

--decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

--no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor

In re Brosio (9th Cir. BAP 2014) 505 B.R. 903

-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

-where attorney's fees clause in contract is phrased broadly enough, it may support an award of fees to prevailing party in an action alleging both contractual and tort claims

Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]

Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

-where the attorney fee provision of a release agreement is narrowly drawn to actions to enforce the terms of a release, the provision cannot be extended to tort claims

Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]

-where written contract was found to be voided for lack of mutual assent, attorney fees not available to prevailing party

Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078

contractual versus statutory

Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]

Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]

Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]

-attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees

Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]

-attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

-award on contract claims in accordance with Civil Code § 1717

In re Penrod (9th Cir. 2015) 802 F.3d 1084

Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]

Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]

MSY Trading, Inc. v Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

Kandy Kiss of California, Inc. v. Tex-Ellent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]

Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
Thompson v. Miller (2003) 112 Cal.App.4th 327 [4 Cal.Rptr.3d 905]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
--attorney fees may be awarded to more than one prevailing party in a breach of contract dispute
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
--attorney's representation by associates of his firm precluded recovery of attorney fees after winning case against former client
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
--does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
--does not bar recovery of attorney's fees for non-contract claims voluntarily dismissed by the plaintiff if attorney's fees clause is broad enough to encompass non-contract claims
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
--generally applies in favor of the party prevailing on a contract claim whenever that party would have been liable under the contract for attorney fees had the other party prevailed
Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
--no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
--no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosio (9th Cir. BAP 2014) 505 B.R. 903

--party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

--plaintiffs who were assigned developer's express indemnity cross-action against subcontractor were liable for attorney fees to subcontractor who prevailed in trial

Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]

--prevailing party status irrelevant when defendant was not a party to the underlying contract

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

--vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

-computation of under CCP § 998 offer

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]

Varney Entertainment Group, Inc., v. Avon Plastics, Inc. (2021) 61 Cal.App.5th 222 [275 Cal.Rptr.3d 394]

Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]

Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]

Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]

Wilson's Heating & Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]

Harvard Investment Co. v. Gap Stores, Inc. (1984) 156 Cal.App.3d 704, 712-714 [202 Cal.Rptr. 891]

--when a Section 998 offer is silent on costs and fees, the prevailing party is entitled to costs and fees, the prevailing party is entitled to costs and fees, if authorized by statute or contract

Wohlgemuth v. Catepillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]

-corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)

Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]

-effect of voluntary dismissal upon recovery of non-contractual causes of action

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

-Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney

In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

-fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906

Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]

-indemnification agreement enforced

City of Watsonville v. Corrigan (2007) 149 Cal.App.4th 1542 [58 Cal.Rptr.3d 458]

FEES

- limitation on contingency contract under MICRA as codified in Bus. & Prof. Code § 6146
Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920, 925-926 [211 Cal.Rptr. 77]
- misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
- prevailing party entitled to attorney's fees under Civil Code section 1717 if opposing party has sought attorney's fees under it
MSY Trading, Inc. v. Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 507-509
- prevailing party entitled to fees under Code of Civil Procedure section 1032 even where no net recovery by prevailing party
Pirkig v. Dennis (1989) 215 Cal.App.3d 1560
- prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- statute containing a unilateral fee shifting provision controls where all causes of action arise out of one transaction, notwithstanding a contract containing a fee award to prevailing party
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
- Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
- section 800 is a bond or security statute, not a liability statute, and as such, prevailing defendant was precluded from recovering fees and costs in excess of the posted bond
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
- cost of litigation includes attorney fees and expert witness fees for purposes of applying automatic stay provisions
Pecsock v. Black (1992) 7 Cal.App.4th 456 [9 Cal.Rptr.2d 12]
- court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
- court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous
Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299
- court has discretion to consider the success or failure of the litigation as one factor in assessing attorney fees
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
- court may require declaration before ordering
Lang v. Superior Court (1984) 153 Cal.App.3d 510, 517 [200 Cal.Rptr. 526]
- depends upon whether plaintiff is entitled to fees and whether court has discretion
Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192
- court of appeal will not disturb trial court's decision on a party's request for attorney fees unless it is clearly an abuse of discretion
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
- trial judge in best position to evaluate value of attorney's services in courtroom
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
- criminal law
-under Penal Code § 1202.4(f)(3)
In re Imran Q. (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
--allows restitution only for that portion of attorney fees attributable to the victim's recovery of economic damages
People v. Kelly (2020) 59 Cal.App.5th 1172 [274 Cal.Rptr.3d 158]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
--victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
- Davis-Stirling Common Interest Development Act
-determination of reasonable attorney's fees and costs
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]
- decedent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
- default judgment
-attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
- defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
- defendant employer's aborted appeal allows employee who prevailed in administrative hearing to recover attorney's fees
Royal Pacific Funding Corp. v. Arneson (2015) 239 Cal.App.4th 1275 [191 Cal.Rptr.3d 687]
- defendants not entitled to attorney fees under the anti-SLAPP statute when plaintiff dismissed all claims against the moving defendants before they filed their motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
- delay enhancement
Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
- delay in payment should be considered in determining award
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
- despite party's failure to file noticed motion
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]

- California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]
- Disabled Persons Act (Civil Code section 54 et seq)
- Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
- discretion of appellate court
- Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
- discretion of arbitrator to award fees
- Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 259]
- discretion of district court
- abuse where quality of representation was used to reduce lodestar amount
- Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
- Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- discretion of trial court
- Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]
- Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
- Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
- applying a contingent risk 1.4 multiplier to entire lodestar amount where the case is only partially contingent
- The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
- Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- court may appoint counsel, but may not compensate without statutory authorization
- San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
- court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
- Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
- court may determine need of spouse for award of attorney's fees – abuse of discretion where court exceeds bounds of reason
- In re Marriage of Schaffer (1984) 158 Cal.App.3d 930, 935-936 [205 Cal.Rptr. 88]
- court may order one spouse to pay other spouse's attorney fees directly to attorney even after substitution form filed
- In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
- de minimus damages award merits de minimus fee award
- Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- determining number of hours attorneys reasonably expended for calculating lodestar
- The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- district court abused its discretion when it denied attorney's fees based in part on court's exasperation with other, similar but unrelated suits
- Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033
- FEHA matter
- Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
- court denied plaintiff attorney fees even though plaintiff suffered adverse employment decision in which discrimination was a motivating factor
- Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]
- filing deadline for fee award is not triggered by an order granting summary judgment
- Saben, Earlix & Associates v. Fillet (2005) 134 Cal.App.4th 1024 [36 Cal.Rptr.3d 610]
- not required to reduce lodestar amount base on fees covered by insurance policy
- The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- to apply hourly rates to lodestar analysis that exceeded hourly rate actually paid for attorney's defense
- Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- to award fees, but only when just
- Martin v. Franklin Capital Corp. (2005) 546 U.S. 132 [126 S.Ct. 704]
- trial judge in best position to evaluate value of attorney's services in courtroom
- Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
- Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
- Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
- Vella v. Hudgins (1984) 151 Cal.App.3d 515, 522 [198 Cal.Rptr. 725]
- trial judge's discretion to issue a fee reduction
- Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
- Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- Trask v. Superior Court (1994) 22 Cal.App.4th 346 [27 Cal.Rptr.2d 425]
- value of legal services a matter in which the trial court has its own expertise
- PLMC Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1096
- Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- dissolution proceedings
- In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
- district court required to consider twelve factors
- Laborers' Clean-up Contract v. Uriarte Clean-up Service (9th Cir. 1984) 736 F.2d 516, 525
- MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- fees denied officers and directors who were not parties to a licensing agreement
- Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- each party is expected to pay own fees
- Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509
- effect of an appeal on
- Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
- Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

FEES

- elder abuse by attorney
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
- elder abuse cases
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
-fees denied where plaintiffs failed to prove causation by clear and convincing evidence
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
-value of an estate is a factor in setting fees
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- enforcement of foreign judgment
Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
- entitlement
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
-based on contract or statute
Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
Wutzke v. Bill Reid Painting Service, Inc. (1984) 151 Cal.App.3d 36, 46-47
-entitlement to attorney's fees, but not the amount of the fee award is interlocutory. An appeal from a post judgment order awarding attorney's fees may be reviewed as to the entitlement and the amount of the fees awarded.
PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
-party is entitled to compensation for attorney's fees if opposing party would have been entitled to them
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
- Equal Access to Justice Act
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Le v. Astrue (9th Cir. 2008) 529 F.3d 1200
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
United States v. Rubin (9th Cir. 1996) 97 F.3d 373
Holt v. Shalala (9th Cir. 1994) 35 F.3d 376
-abuse of discretion not found
Williams v. Bowen (9th Cir. 1991) 934 F.2d 221; 966 F.2d 1259
-applies to contested petitions for naturalization
Abela v. Gustafson (9th Cir. 1989) 888 F.2d 1258
-award denied
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Gray v. Secretary, Health and Human Services (1993) 983 F.2d 954
--may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements
2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984
-award should encompass fees incurred in subsequent litigation to protect that fee award
Spurlock v. Sullivan (1992) 790 F.Supp. 979
Byrnes v. Riles (1984) 157 Cal.App.3d 1170 [204 Cal.Rptr. 100]
-award subject to offset to satisfy claimant's pre-existing debt to government
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
-error to deny award on basis that the court lacked subject matter jurisdiction
United States v. 87 Skyline Terrace (9th Cir. 1994) 26 F.3d 923
-judicial relief required for prevailing party status to recover attorney fees under the Act
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
-may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements
2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984
-navy officer who successfully challenged his discharge for stating that he was gay is entitled to attorney fees
Meinhold v. U.S. Dept. of Defense (C.D. Cal. 1997) 123 F.3d 1275
-standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
- ERISA matter
-either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]
- excessive
-attorney fee award not excessive
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
-lodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
-social security cases
--collection of fees in excess of those allowed by the court is a criminal offense (42 U.S.C. § 406(b)(2))
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]
failure to request fees at time that she requested and obtained default judgment did not forfeit right to seek attorney fees in landlord tenant breach of contract action, where trial court's grant of lessee's motion to vacate the default made case into contested adversarial proceeding,

lessee filed an answer, became a party, and initiated litigation to which lessor had to respond, and lessor incurred attorney fees to protect her judgment

Vincent v. Sonkey (2020) 59 Cal.App.5th 160 [273 Cal.Rptr.3d 285]

Fair Debt Collections Practices Act (15 U.S.C. § 1692 et seq.)

Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

family law

-abuse of discretion where court refused and failed exercise discretion; failed to make needs-based analysis and where court refused to review billing records

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

-bankruptcy court has exclusive jurisdiction in determining whether family law matters are exempted from the automatic bankruptcy stay

In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]

-breach of spouse's fiduciary duty

In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]

-fees based on totality of the circumstances

In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]

--domestic violence restraining order

In re Marriage of Ankola (2020) 53 Cal.App.5th 369 [267 Cal.Rptr.3d 569]

-fees denied based on totality of the circumstances

Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]

-fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)

Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]

-fees denied where the litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation

Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]

-given wife's authorization, trial court had jurisdiction to order direct payment of attorney fees even after substitution form filed

In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

-no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities

In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

-order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

family law court fee awards must be reasonable and based on factual showings

Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]

In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]

fee arbitration

Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]

fee award for appeal proper after paternity adjudication

Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

FEHA matter

Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]

Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]

-courts discretion to deny attorney fees

Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]

Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]

--prevailing defendant under this statute can only recover fees upon a showing that the plaintiff's action was frivolous, unreasonable, or without foundation

Lopez v. Routt (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]

final judgment determining the prevailing party is a prerequisite for the district court to have jurisdiction to rule on a petition for fees

Scanlon v. Sullivan (9th Cir. 1992) 974 F.2d 107

final judgment for purposes of an order to pay attorney fees refers to a final determination made at trial

People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

for number of hours worked

White v. City of Richmond (N.D. Cal. 1982) 559 F.Supp. 127, 131

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

frivolous appeal

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

general right to

In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693

generally should be awarded pursuant to Equal Access to Justice Act (EAJA) where government's underlying action was unreasonable even if government advanced reasonable litigation position

Ibrahim v. U.S. Department of Homeland Security (9th Cir. 2019) 912 F.3d 1147

Handicapped Children's Protection Act

-retroactive application of attorney's fees recovery permissible

Abu-Sahyun v. Palo Alto Unified School District (9th Cir. 1988) 843 F.2d 1250

if party prevails against the United States

Lacy v. Lehman (S.D.Cal. 1983) 563 F.Supp. 111

in anti-trust cases

Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378

-award goes to successful plaintiff, not to plaintiff's counsel

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

FEES

in bankruptcy proceedings permitted unless court abused discretion or erroneously applied the law

In re Intern. Environmental Dynamics, Inc. (9th Cir. 1983) 718 F.2d 322

-interest in post-petition attorney fees

In re Riverside-Linden Investment Co. (9th Cir. BAP 1990) 111 B.R. 298

in collective bargaining contract arbitration case preempted by federal law

Warehouse, Processing, Distribution Workers Union Local 26 v. Hugo Neu Proler Company (1998) 65 Cal.App.4th 732 [76 Cal.Rptr.2d 814]

inappropriate when opponent lacked notice

Mayer v. Wedgewood Neighborhood Coalition (9th Cir. 1983) 707 F.2d 1020

-amended party must be given opportunity to respond and contest personal liability before judgment is entered against him

Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]

indemnification clause

-fees denied where clause makes no reference to attorney's fees which were incurred under circumstances not addressed in the agreement

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

Indian tribal law

Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]

Individuals with Disabilities Education Act

Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087

T.B. ex rel. Brenneise v. San Diego Unified School District (9th Cir. 2015) 806 F.3d 451

Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255

Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114

inherent power of federal court to amend

In re Levander (9th Cir. 1999) 180 F.3d 1114

INS matter

Commissioner, INS v. Jean (1990) 110 S.Ct. 2316

-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable

Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894

insurance cases

Allstate Insurance Co. V. Superior Court (2007) 60 Cal.Rptr.3d 782

interest on award of attorney's fees pursuant to statutes governing post-judgment interest

Khazan v. Braynin (2012) 206 Cal.App.4th 796 [142 Cal.Rptr.3d 118]

In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

interest on fees, attorney has standing to seek

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

interest on prejudgment award of fees begins to accrue upon entry of judgment

Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]

interpleader funds

-award of attorney's fees from interest accrued on interpleader funds statutorily prohibited by Code of Civil Procedure section 386.6

Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]

-from dispute between client and medical providers

Shayan v. Spine Care and Orthopedic Physicians (2020) 44 Cal.App.5th 167 [257 Cal.Rptr.3d 437]

-interpleader action allows courts to adjudicate competing claims to disputed settlement funds under Code of Civil Procedure section 386.6

Shayan v. Spine Care and Orthopedic Physicians (2020) 44 Cal.App.5th 167 [257 Cal.Rptr.3d 437]

IRS matter

Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658

Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Smith v. Brady (9th Cir. 1992) 972 F.2d 1095

Huffman v. Commissioner of Internal Revenue (U.S. Tax Ct. 1992) 978 F.2d 1139

Bertolini v. Commissioner Internal Revenue Service (9th Cir. 1991) 930 F.2d 759

jurisdiction of court

-trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction

Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]

labor management dispute

-denial of fees where district court erred in remanding case to state court

Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074

landlord-tenant cases

Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

liability for, regardless who the recipient is

Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 21-22 [206 Cal.Rptr. 303]

limits on

Leslie Salt Co. v. St. Paul Mercury Ins. Co. (9th Cir. 1984) 637 F.2d 657, 662

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

Moore v. American United Life Ins. Co. (1984) 150 Cal.App.3d 610, 643-644 [197 Cal.Rptr. 878]

-prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800

West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

lis pendens action

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

"lodestar" multiplier method of fee calculation

Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097

Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607

Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
 -adjustment of a lodestar figure serves to fix the attorney's fee at the fair market value for the particular action
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -basic fee for comparable legal services in the community may be adjusted after consideration of several factors
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
 -court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
 -court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
 -court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that hiring local counsel was impracticable
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]

-court must articulate factors used to calculate award
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]
Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
 -detailed billing statements are not always necessary to support award of attorney fees under lodestar method
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
 -district court erred by awarding an inconsistent fee based on the lodestar and a flat fee method
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 -even though prevailing party was charged a reduced rate
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
 -federal district court in calculating lodestar amount for ERISA attorney fee, was required to explain its reduction in hourly rate
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
 -increase in fees
 --superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
 -limited success
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
 -lodestar enhancement is discretionary, not mandatory
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 -reasonable rate component not required where the attorney's hourly rate is specified in a valid fee agreement
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
 -not required where the attorney has entered into a valid fee agreement with the client
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
 -propriety of a multiplier is based on contingent risk and the amount of the multiplier is an open question entrusted to the court's discretion
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
 -reduction in fees
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 --district court judge was required to provide more specific reasons for making such a significant reduction in fees (37%)
Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

FEES

- no fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
- trial court reduced attorney fee award based on its reasonable determination that routine, non-complex case was overstaffed to a degree that significant inefficiencies and inflated fees resulted
Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
- related/unrelated claims
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
- trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
- malpractice action
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
- alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
- denial of fees where district court erred in remanding case to state court
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
- market rate prevailing in relevant community used to determine award of attorney's fees
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- may be imposed when the lawsuit is frivolous, unreasonable, or without foundation
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
- Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
- attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
- In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
- may include fees for appellate and post-remand services
-court instructions not necessary
Newhouse v. Roberts' Ilima Tours, Inc. (9th Cir. 1983) 708 F.2d 436, 441
- Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
- memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
- "more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- municipal court
-court may award attorneys' fees in excess of \$25,000 jurisdictional amount
Stokus v. Marsh (1990) 217 Cal.App.3d 647
- must be reasonable
Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378, 1385
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- it is not unreasonable for amount of attorney fees to exceed the amount of client's recovery
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
- mutuality of remedy when contract permits recovery of attorney fees
Jones v. Drain (1983) 149 Cal.App.3d 484, 490
- needy spouse when other spouse is able to pay
In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464 [204 Cal.Rptr. 660]
- negligence of plaintiff's attorney does not entitle defendant's attorney to award
Sooy v. Peter (1990) 220 Cal.App.3d 1305 [270 Cal.Rptr. 151]
- no fees where plaintiff did not seek fees in requesting default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
- no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
- no recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights
Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]

no recovery of attorney's fees unless contractual condition precedent is met

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

no recovery of attorney's fees unless they are specifically authorized by contract, statute, or law

Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

no recovery of attorney's fees where petitioner fails to provide pre-lawsuit notification

Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]

nominal damages, no entitlement to attorney fees where only Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]

not imposed when plaintiff presents a colorable claim and adverse jury verdict is less than unanimous

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

not limited by terms of contingency fee contract

Clark & Bunker v. City of Los Angeles (9th Cir. 1986) 803 F.2d 987

Vella v. Hudgins (1984) 151 Cal.App.3d 515, 519 [198 Cal.Rptr. 725]

not recoverable beyond surety's penal sum

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

not recoverable unless they are specifically authorized by contract, statute, or law

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

nuisance abatement actions

City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]

out-of-state attorney

-out-of-state attorney who merely assists California lawyer may recover attorney fees

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

paid by surety

Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

party awarded nominal damages not entitled to attorney fees where statute provided award of fees for actions to recover damages to personal or real property

Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]

Patent Act Section 145 specifying that expenses of proceedings shall be paid by applicant does not authorize the Patent and Trademark Office to recover a share of the salaries of attorney and paralegal employees of the PTO who worked on the case. The statutory language referencing expenses was not sufficient to rebut the "American Rule" presumption that parties are responsible for their own attorney's fees

Peter v. Nantkwest, Inc. (2019) ___ U.S. ___ [140 S.Ct. 365]

pension cases

Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

periodic payment

-attorney's fees not subject to

Orellana v. Mejia (1988) 203 Cal.App.3d 337 [249 Cal.Rptr. 828]

petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees

California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

pleading and proof required

No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]

plus cost

Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

-defendants denied recovery when anti-SLAPP motion filed after plaintiff's voluntary dismissal of entire action without prejudice

S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]

prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves

Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

prevailing parties

-defined

Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9] Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

--alter ego liability claim

MSY Trading, Inc. v. Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]

--Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods

Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]

--party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

FEES

- petitioner whose writ of mandate and complaint against defendant university ended in a favorable settlement was not considered to be an action within the meaning of Labor Code § 218.5 nor was the petitioner considered to be the prevailing party
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
- plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
- when trial court renders a simple, unqualified decision in favor of defendant on the only contract claim in the action, the defendant is the party prevailing on the contract as a matter of law and therefore entitled to reasonable attorney fees under section 1717
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
- party prevailing on a contract claim generally entitled to attorney's fees under the reciprocal contractual attorney fee statute
Westwood Homes, Inc. v. AGCPII Villa Salerno Member (2021) 65 Cal.App.5th 922 [280 Cal.Rptr.3d 417]
- proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- private attorney general doctrine
People ex rel. Becerra v Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]
Meija v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
- Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
- advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
- exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
- award improper where de minimus public benefit
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
- Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]
- award improper where remand to reconsider a perceived procedural defect did not result in change in the decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- award of fees justified where court determined that vindication of a constitutional or statutory right fulfilled a fundamental legislative goal
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
- calculation for
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538, 552-553 [207 Cal.Rptr. 705]
- class action judgment against bank warrants award of attorneys' fees
Beasley v. Wells Fargo Bank, N.A. (1991) 235 Cal.App.3d 1383, opn. mod. 235 Cal.App.3d 1407
- criteria for award of fees
Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
Schmier v. Supreme Court (2000) 96 Cal.App.4th 873 [117 Cal.Rptr.2d 497]
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396 [4 Cal.Rptr.2d 35]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]
Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
- supplemental fees request based on greater success on appeal
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- denied on the grounds that in pro per party's petition for fees was untimely
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]

- discovery may be allowed by the trial court
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
- effect of Budget Act on
Green v. Obledo (1984) 161 Cal.App.3d 678 [207 Cal.Rptr. 830]
- entitled to fee award under private attorney general statute based on work done in proceedings
Robles v. Employment Development Department (2019) 38 Cal.App.5th 191 [250 Cal.Rptr.3d 611]
- entitled to fees because action resulted in enforcement of an important right affecting the public interest
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
--fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- family law
--fees denied where litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- fees
Schwartz v. City of Rosemead (1984) 155 Cal.App.3d 547 [202 Cal.Rptr. 400]
- fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
- jurisdiction of trial court is retained to award costs and fees despite filing of compromise agreement by the parties
Folsom v. Butte County Association of Governments (1982) 20 Cal.3d 668 [186 Cal.Rptr. 589, 652 P.2d 437]
- no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
- no award of attorney's fees under Code of Civil Procedure section 1021.5 where pecuniary interest of public entity outweighed burden of litigation
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
- no important right is vindicated
Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- standard for
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
Bocato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
--fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- Supreme Court's exclusive discretion to fashion equitable awards of attorney fees
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Serrano v. Priest (1977) 20 Cal.3d 24 [141 Cal.Rptr. 315, 569 P.2d 1303]
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
- test
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
--burden to plaintiffs compared with personal cost
Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
- unnamed member of putative class who defeats class certification
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
- pro bono fee arrangement not precluded from award of fees based on hourly rate of reasonable market value of attorney's services
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- pro bono organization is entitled to an award of fees in child support cases
In re Marriage of Ward (1992) 3 Cal.App.4th 618 [4 Cal.Rptr.2d 365]
- pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

FEES

pro se attorney litigant with an assisting counsel
Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

probate matters

- attorney fees are not awarded when matter is resolved or settled without the actual appointment of a conservator
Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]
- discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
- includes work reasonably performed by attorney to establish and defend own fee claim
Estate of Trynin (1989) 49 Cal.3d 868
- no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative
In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
- party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
- probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee
Pizarro v. Reynoso (2017) 10 Cal.App.5th 172 [215 Cal.Rptr.3d 701]
Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]
- trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
- under Probate Code 2640.1
Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]
- under Probate Code section 17211(b)
Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]

probation

- trial court may not require reimbursement for attorneys' fees as a condition of probation
People v. Faatiliqa (1992) 10 Cal.App.4th 1276 [13 Cal.Rptr.2d 190]

proper despite party's failure to file noticed motion
California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]

purpose of the cost-shifting settlement

- offer statute is to encourage the settlement of litigation without trial, by punishing the party who fails to accept a reasonable settlement offer from its opponent
Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]

purpose of the statute
Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193

qui tam action

- denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

reasonableness of

- Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
- Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
- Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
- Martino v. Denevi (1986) 182 Cal.App.3d 553, 558-559 [227 Cal.Rptr. 354]
- Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]
- certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
- compensation sought by creditor's attorney in connection with an involuntary bankruptcy was permissible so long as the creditor met the statutory standard
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
- consideration of indigent losing party's financial condition
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that it was impracticable to hire local counsel
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
- court should look first to the contingent fee agreement, then test it for reasonableness
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
- district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- district court must provide a concise but clear explanation of its reasons for the fee award, even though it has discretion to determine a reasonable fee
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
- district court must provide more specific reasons for making such a significant reduction in fees (37%)
Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
- factors of attorneys' skill and novelty and difficulty of case in determining lodestar and multiplier not impermissible double counting
The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

- fees award that was three times the compensatory damages awarded to plaintiff not necessarily a consideration in determining a reasonable fee
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- has to be reasonable in comparison to the actual damages award
 - Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]
- medical malpractice cases
 - Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
- monitoring state officials' compliance with settlement
 - Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
- no abuse of discretion found where court awarded fees even though attorney had about three years of licensure, had graduated from an unaccredited law school, and had experience mainly in another area of law
 - Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
- rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
 - Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
- rate determined by lodestar calculation reasonable even where may have exceeded actual hourly rate
 - Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
- rate determined by lodestar calculation reasonable even where may have exceeded actual hourly rate
 - Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
 - EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- reduction of fees by trial court without identifying which factors made the requested hourly rates unreasonable
 - Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
 - Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
- trial judge in best position to determine value of services
 - Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
 - Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- under 42 U.S.C. § 406(b) (social security benefits)
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
 - Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
 - Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
- under 42 U.S.C. § 1983, 1988
 - section 1988 vests the right to attorney's fees in the prevailing party, not the attorneys
 - Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
 - under 42 U.S.C. § 1988
 - amount requested was unreasonable in comparison to the actual damages award; trial court properly denied request
 - Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]
 - rebate portion to client
 - LA 523 (2009), LA 447 (1987)
 - recoverable even where documents at issue not proven under the statute
 - Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]
 - recovery of costs and fees under a sister state judgment not prohibited under California law
 - Aspen International Capital Corporation v. Marsch (1991) 235 Cal.App.3d 1199
 - reviewable on appeal
 - Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 - Hadley v. Krepel (1985) 167 Cal.App.3d 677 [214 Cal.Rptr. 461]
 - Catello v. I.T.T. General Controls (1984) 152 Cal.App.3d 1009, 1012
 - Mackinder v. OSCA Development Co. (1984) 151 Cal.App.3d 728, 738-739
 - appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
 - Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]
 - arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
 - Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
 - arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
 - Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
 - Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
 - arbitrator's determination of prevailing party is not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
 - arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
 - Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
 - authority of arbitrator to amend or correct a final award
 - Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
 - risk factor analysis
 - Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
 - Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
 - risk should be assessed when an attorney determines that there is merit to claim, likely before lawsuit is filed
 - Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
 - sanctions for delay
 - Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

FEES

- attorney fees may not be awarded as a sanction to an attorney representing himself
 - Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
- award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
 - Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- sanctions imposed and expanded pre-filing order on vexatious litigant and their attorney for filing frivolous appeals
 - Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
- sanctions order reversed where trial court improperly awards full compensation of all attorney fees as a sanction for violating a Rule of Court
 - Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
- sanctions where conduct frustrates a settlement and increases the cost of litigation
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- settlement agreement
 - Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
 - Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
 - agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
 - Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
 - award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pre-trial settlement agreement
 - Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 - CCP § 998 offer invalid if settlement is conditioned on confidentiality
 - Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
 - fees denied where the terms of the settlement agreement failed to establish that plaintiff was the prevailing party on the claims for which fees were sought
 - Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
 - parties to settlement agreement can validly specify a prevailing party
 - Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]
 - settlement offer did not specify a particular amount of fees did not render it unenforceable
 - Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
 - statutory rule that there is no prevailing party where action is dismissed does not bar a fee award where prevailing party's right to recover fees arises under a fee-shifting statute
 - Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 - trial court erred by modifying existing settlement agreement by reducing award of attorney fees and costs without parties mutual consent
 - Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
 - which include fee-waiver provisions under fee shifting statutes
 - CAL 2009-176
- settlement of class actions
 - In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
- shareholder derivative action
 - Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
- SLAPP action
 - Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
 - GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
 - arising out of malicious prosecution action
 - Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
 - attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees
 - Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
 - law firm may not recover attorney fees after winning anti-SLAPP motion, even though it used 'contract attorney' to work on that motion
 - Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
 - attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
 - Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 - burden of proving fees were covered by award following successful motion
 - Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
 - defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
 - Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
 - Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
 - defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
 - Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
 - defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
 - S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
 - defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
 - Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 - denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
 - Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
 - despite plaintiff's voluntary dismissal with prejudice
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
 - does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal
 - Wanland v. Law Offices of Mastagni, Holstedt & Chiuazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
 - fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
 - Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

- litigant who is only partially successful on anti-SLAPP motion entitled to recover attorney fees
 - Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
 - Mann v. Quality Old Time Service, Inc., (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
- mandatory award may be based on attorney's declarations instead of time records
 - Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
- plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous
 - Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
 - Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 - Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
 - Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
- sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
 - 569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]
- time limits for filing motion for attorney's fees do not commence to run until entry of judgment at the conclusion of litigation
 - Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
- will revision considered protected activity for anti-SLAPP motion purposes
 - Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
- "SLAPPback"
 - fees not recoverable
 - Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]
- small claims court
 - Dorsey v. Superior Court (2015) 241 Cal.App.4th 583 [193 Cal.Rptr.3d 834]
- social security
 - determination
 - Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 - determination of "reasonable fee" to attorney out of prevailing claimant's recovery
 - Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
 - fees awarded in successful social security claims reversed and affirmed for various reasons
 - Straw v. Bowen (9th Cir. 1989) 866 F.2d 1167
 - limit on the award of attorney's fees at court hearings under 42 U.S.C. § 406(b) is not applicable to hearings before the Administration
 - Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
- special hearing required under FOIA
 - Church of Scientology v. U.S. Postal Service (9th Cir. 1983) 700 F.2d 486, 494
- spousal support, subsequent proceedings
 - Civil Code section 4370
 - In re Marriage of Joseph (1989) 215 Cal.App.3d 416
 - Paduano v. Paduano (1989) 215 Cal.App.3d 346
- standard for award of attorney fees under Probate Code 2640.1
 - Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]
- statutory authority for
 - Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 20-21 [206 Cal.Rptr. 303]
- statutory basis for
 - Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
 - Jacobson v. Delta Airlines, Inc. (9th Cir. 1984) 742 F.2d 1202
 - Timms v. United States (9th Cir. 1984) 742 F.2d 489
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
 - Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
 - John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
 - Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
 - Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
 - Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
 - Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
 - Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 - In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
 - People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - CAL 2009-176
- bail bond forfeiture proceedings
 - motion of fees denied where there is no provision in the relevant statute to recover fees as costs
 - People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]
- defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
 - Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
- False Claims Act provides for award of fees under rare and special circumstances
 - County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
- family law
 - George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
 - In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]
- fees awarded pursuant to a city council resolution
 - Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
- SLAPP action
 - Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
 - Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
 - Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
 - Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
 - Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
 - Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
 - GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
 - Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
 - Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

FEES

- Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
--attorney fees incurred in enforcement of anti-SLAPP judgment recoverable
York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
-standing to assert
Willard & Mitchell v. City of Los Angeles (9th Cir. 1986) 803 F.2d 526
statutory limit
-award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
-in excess of
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
--prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
-reasonably necessary
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
In re Marriage of Newport (1984) 154 Cal.App.3d 915, 918 [201 Cal.Rptr. 647]
-under 42 U.S.C. § 406(b) (social security benefits)
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
--courts should review the contract to ensure that its fee provisions do not exceed the limit
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
statutory threshold required to establish eligibility for fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
Filipino Accountants Assn. v. State Board of Accountancy (1984) 155 Cal.App.3d 1023 [204 Cal.Rptr. 913]
statutory to prevailing party
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Oregon Natural Resources Council v. Madigan (1992) 980 F.2d 1330
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Braun v. City of Taft (1984) 154 Cal.App.3d 332, 348-349 [201 Cal.Rptr. 654]
-award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
-prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
stipulations and settlements are controlling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281, 283
subtraction of hours for discovery was not abuse of discretion
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
temporary order to award
Civil Code section 4370
third-party actions
-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
-entitled to attorney fees based on workman's compensation lien amount
Raisola v. Flower Street, Ltd. (1988) 205 Cal.App.3d 1004
-under Code of Civil Procedure § 701.020 et seq.
--fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
Ishin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award
Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
third-party liability
-judgment creditor entitled to recover fees and costs from third-party who helped judgment debtor hide assets
Cardinale v. Miller (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]
third-party tortfeasor doctrine
Mega RV Corporation v. HWH Corporation (2014) 225 Cal.App.4th 1318 [170 Cal.Rptr.3d 861]
Vacco Industries, Inc. v. Van Den Berg (1992) 5 Cal.App.4th 34 [6 Cal.Rptr.2d 602]
time limits
-fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
-fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
-time limits for filing motion for attorney's fees do not commence to run until entry of judgment at the conclusion of litigation
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
-under Family Code section 271, award of attorney fees as sanction against party who frustrates policy to promote settlement, encourage cooperation and reduce cost of litigation
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
timeliness for filing of fees
-relief from default
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]

to prevailing party

- Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]
- Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
- Meija v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
- Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
- absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney
 - Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]
- absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
 - Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 - limited to cases where the parties do not have an agreement as to award of fees
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- absent an express waiver of attorney's fees & costs in an CCP section 998 offer, prevailing party is entitled to compensation of expenses incurred in the lawsuit
 - Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
 - Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
- action dismissed as part of post-judgment settlement effectively eliminates fee award based on contract
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- action dismissed but fees awarded under contractual provision
 - Elms v. Builders Disbursements Inc. (1991) 232 Cal.App.3d 671 [283 Cal.Rptr. 515]
- action for negligent performance of contractual duties
 - Perry v. Robertson (1988) 201 Cal.App.3d 333 [247 Cal.Rptr. 74]
- action on contract
 - Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]
 - People ex rel. Dept. of Corporations v. SpeeDee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
 - Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 - Bussey v. Affleck (1990) 225 Cal.App.3d 1162 [275 Cal.Rptr. 646]
 - Valley Bible Center v. Western Title Ins. Co. (1983) 138 Cal.App.3d 931, 933 [188 Cal.Rptr. 335]
 - abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
 - De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
- ADEA matter
 - Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

- Americans with Disabilities Act
 - district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
 - Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
- anti-hate crime matter
 - D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- anti-SLAPP suits
 - arising out of malicious prosecution action
 - Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
 - defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
 - Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 - fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
 - Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
 - protected activity, fees permitted
 - G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
 - will revision considered protected activity for anti-SLAPP motion purposes
 - Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
 - withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest
 - Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- apportionment not required if successful and unsuccessful claims are interrelated
 - Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]
- arbitration cases
 - Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]
 - arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
 - Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
 - arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
 - Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
 - arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
 - Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 - Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
 - Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
 - arbitrator's determination of prevailing party is not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

FEES

- court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
 - Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
- prevailing party in action to forestall arbitration
 - Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
- attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
 - Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
- attorney who acted per se in contract action may recover reasonable attorney fees for legal services of assisting counsel
 - Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
- attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
 - Farmers Insurance Exchange v. Law Offices of Conrado Joe Savas, Jr. (9th Cir. 2001) 250 F.3d 1234
 - Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- attorney's fees may be awarded to taxpayer who incurred attorney's fees even if initially paid by others
 - Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
- bankruptcy matter
 - fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
 - In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
- bond not required to stay award pending an appeal
 - More Direct Response v. Callahan (1992) 10 Cal.App.4th 140 [12 Cal.Rptr. 573]
- California Public Records Act
 - Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
 - Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- trial court abused its discretion by applying an inapposite decision to deny attorney fees without prior notice to the plaintiff
 - Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
- class actions
 - absent class members not liable for employer's attorney's fees in overtime dispute
 - Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
 - attorney's fees for securities class action suits should be based on individual case risk
 - In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 - attorney's fees should be adequate to promote consumer class action
 - Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
- In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
- district court presiding over settlement fund had equitable power to award attorney's fees for work outside litigation immediately before court where that work helped create settlement fund
 - Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees
 - Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
- Clean Water Act matter
 - Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
 - fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
 - Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012
- Code of Civil Procedure 1987.2
 - plaintiff awarded attorney fees when non-party refused to comply with subpoena to produce electronically stored information
 - Vasquez v. California School of Culinary Arts, Inc. (2014) 230 Cal.App.4th 35 [178 Cal.Rptr.3d 10]
- constitutional right to free exercise of religion at issue
 - Friend v. Kolodziejczak (9th Cir. 1992) 965 F.2d 682
- construction contract fee provision not applicable to breach of limited partnership agreement
 - Pilcher v. Wheeler (1992) 2 Cal.App.4th 352
- contrary provision in lease contract
 - Beverly Hills Properties v. Marcolino (1990) 221 Cal.App.3d Supp. 7 [270 Cal.Rptr. 605]
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
 - PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- court was obligated to determine which of the litigants was the prevailing party where the statutory language makes a fees award mandatory, even though the lawsuit was resolved by a settlement agreement
 - Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
- Davis-Stirling Common Interest Development Act
 - determination of reasonable attorney's fees and costs
 - Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]
- defendant entitled to reasonable attorney's fees arising from defendant's petition to compel arbitration of a dispute between the parties arising under a lease agreement
 - Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
- defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
- defendant prevails in Title VII action brought by EEOC
 - Equal Employment Opportunity Commission v. Bruno's Restaurant (9th Cir. 1992) 976 F.2d 521
- defendants entitled to attorney's fees even though plaintiffs dismissed appeal
 - Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

- defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
 - S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
- definition of prevailing party under Code of Civil Procedure § 1032 et seq.
 - deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
 - Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]
 - Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 - Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
- denied where litigant was unable to materially alter the legal relationship of the parties by judgment or by consent decree
 - Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal
 - Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
- employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims
 - Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
- enforcement of foreign judgment
 - Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
- environmental groups are not "prevailing parties" since they do not prevail against EPA
 - Idaho Conservation League, Inc. v. Russell (9th Cir. 1991) 946 F.2d 717
- Equal Access to Justice Act
 - Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
 - entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable
 - Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
 - standing to contest an offset where attorney fees awarded to prevailing party not to attorney
 - Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
 - under 28 U.S.C.A. 2412(d)(1)(A)
 - Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
 - Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
- ERISA matter
 - computerized research may be recovered as attorney fees
 - Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
 - either party may recover, not just prevailing party; claimant must show some degree of success on the merits
 - Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]
 - under 29 U.S.C. 1123(g)(1)
 - Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
- McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167
- Cann v. Carpenters' Pension Trust Fund for Northern California (1993) 989 F.2d 313
- Downey Community Hospital v. Wilson (9th Cir. 1992) 977 F.2d 470
- Bogue v. Ampex Corporation (9th Cir. 1992) 976 F.2d 1319
- under 29 U.S.C. 1332(g)(1)
 - Simonia v. Glendale Nissan/Infiniti Disability Plan (9th Cir. 2010) 608 F.3d 1118
- under 29 U.S.C. 1332(g)(2)(D)
 - Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
- fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
 - In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]
- fees awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless
 - Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
 - Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
 - Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
- fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees
 - Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
- fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions
 - Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
- fees granted where plaintiff enters into legally enforceable settlement agreement with defendant
 - Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
- fees reduced by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
 - EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- FEHA matter
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 - Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]
 - Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]
 - Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
 - Young v. Exxon Mobil Corp. (2008) 168 Cal.App.4th 1467 [86 Cal.Rptr.3d 507]
 - Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
 - Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
 - Hon v. Marshall (1997) 53 Cal.App.4th 470 [62 Cal.Rptr.2d 11]

FEES

- Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
 --prevailing defendant under this statute can only recover fees upon a showing that the plaintiff's action was frivolous, unreasonable, or without foundation
Lopez v. Rouff (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]
- Government Code section 970 et seq.
 --property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
- Government Code section 6250
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- Government Code section 6259(c)
Crews v. Willows Unified School District (2013) 217 Cal.App.4th 1368 [159 Cal.Rptr.3d 484]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
- Government Code section 6259(d)
Crews v. Willows Unified School District (2013) 217 Cal.App.4th 1368 [159 Cal.Rptr.3d 484]
Belth v. Garamendi (1991) 232 Cal.App.3d 896 [283 Cal.Rptr. 829]
- Government Code section 12965(b)
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
- Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- Handicapped Children's Protection Act
Barlow/Gresham Union High School District v. Mitchell (9th Cir. 1991) 940 F.2d 1280
 -hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- IDEA (Individuals with Disabilities Education Act) matter
Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087
T.B. ex rel. Brenneise v. San Diego Unified School District (9th Cir. 2015) 806 F.3d 451
Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255
V.S. ex rel. A.O. v. Los Gatos-Saratoga Joint Union High School Dist. (9th Cir. 2007) 484 F.3d 1230
Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
 --attorney-parent not entitled to recover attorney fees for representing their children in IDEA proceedings
Ford v. Long Beach Unified School District (9th Cir. 2006) 461 F.3d 1087
 --child and parent may be entitled to attorney fees as the prevailing party
Park, ex rel. Park v. Anaheim Union High School Dist. (9th Cir. 2006) 464 F.3d 1025
- includes a defendant in whose favor a dismissal is entered
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
- Labor Code § 98.2
Nishiki v. Danko Meredith, APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
 --former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
 --"more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- law providing for fees and cost to prevailing plaintiff applies to either party
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
- lis pendens action
Shah v. McMahan (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
Doyle v. Superior Court (1991) 226 Cal.App.3d 1355
 --absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
- multiple prevailing parties
Hunt v. Fahnestock (1990) 220 Cal.App.3d 628 [269 Cal.Rptr. 614]
- no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
- no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
- no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
- not entitled to award of attorney's fees under CC § 1717 where party brings tort action on the grounds that the action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
- notice of appeal may subsume later order setting the amounts of the award
Grant v. List & Lathrop (1992) 2 Cal.App.4th 993
- out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
- partially prevailing defendant not entitled following voluntary dismissal of entire action
Rosen v. Robert P. Warmington Co. (1988) 201 Cal.App.3d 939
- partially prevailing party subject to reduction in fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]

-party entitled to costs on appeal may establish legal basis to recover attorney's appellate fees
Butler-Rupp v. Lourdeau (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]

-party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable
Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

-party prevails if he was able to achieve most or all of his litigation objectives
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]

-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

-peer review lawsuit
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]

-petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

-plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]

-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]

-plaintiff obtained some relief on merits of claim
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803

-pleadings
Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 508 [207 Cal.Rptr. 508]

-prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

-prevailing party as defined by statute versus one defined by contract
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]

-prevailing party is ascertained by pragmatic assessment of the parties' ultimate positions vis à vis their litigation objectives, not by technicalities of pleading and procedure
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

-prevailing party status irrelevant when defendant was not a party to the underlying contract
Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943

-proper to award attorney fees to defendant attorney even though he was representing himself
Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 --attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

-proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]

-reasonable fees under Davis-Stirling Common Interest Development Act
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

-real estate purchase agreement
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Xuereb v. Marcus & Millichap, Inc. (1992) 3 Cal.App.4th 1338

-settlement agreement
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
 --parties to settlement agreement can validly specify a prevailing party
Khavarian Enterprises Inc. v. Compline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]

-SLAPP action
 --burden of proving fees were covered by award following successful motion
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
 --partially successful motion constitutes prevailing party unless no practical benefit from bringing motion
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]

-standard for awarding attorney's fees under Endangered Species Act
Carson-Truckee Water Conservancy District v. Secretary of the Interior (9th Cir. 1984) 748 F.2d 523, 525-526
 --catalyst theory applied
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879

-standard for awarding attorney's fees under Equal Access to Justice Act
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
Beach v. Smith (9th Cir. 1984) 743 F.2d 1303, 1306-1307

FEES

McQuiston v. Marsh (9th Cir. 1983) 707 F.2d 1082, 1085

- summary judgment on complaint not appealable final judgment
- Day v. Papadakis (1991) 231 Cal.App.3d 503 [282 Cal.Rptr. 548]
- trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
- Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
- trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
- Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- under 18 U.S.C. § 3006(A)
- U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
- under 35 U.S.C. § 285
- Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
- Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]
- under 42 U.S.C. §§ 1983, 1988
- Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
- Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
- Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
- under 42 U.S.C. § 12205 (ADA)
- fees denied to prevailing defendant where such award under state law is pre-empted by federal law
- Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
- under Business and Professions Code § 809.9
- Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
- under California Education Code § 44944(f)
- application of lodestar methodology in determining reasonable attorney's fees
- Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
- under California Tort Claims Act
- CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
- Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
- under Civil Asset Forfeiture Reform Act
- U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
- under Civil Code section 798.85
- Canyon View Ltd. v. Lakeview Loan Servicing, LLC (2019) 42 Cal.App.5th 1096 [256 Cal.Rptr.3d 233]
- Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]
- Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
- under Civil Code section 1354
- Grossman v. Park Fort Washington Association (2013) 212 Cal.App.4th 1128 [152 Cal.Rptr.3d 48]
- Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
- under Civil Code section 1717
- In re Penrod (9th Cir. 2015) 802 F.3d 1084
- Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
- Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]
- Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
- Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]

Kandy Kiss of California, Inc. v. Tex-Elent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]

Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]

SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]

PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]

Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]

Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

--absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation

Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]

--arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration

Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

--attorney fees may be awarded to more than one prevailing party in a breach of contract dispute

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

--attorney fees may not be awarded to a prevailing attorney acting in pro se

Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]

--decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

--denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status

Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]

--denied where action was voluntarily dismissed

Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043

--does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial

David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

- no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
- no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosio (9th Cir. BAP 2014) 505 B.R. 903
- prevailing party law firm not entitled to attorney fees when represented by their own of counsel
Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]
- voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
- under Civil Code section 1942.4
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
- under Civil Code section 1942.5
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
- under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
- under Civil Code section 5975
Champir, LLC v. Fairbanks Ranch Association (2021) 66 Cal.App.5th 583 [281 Cal.Rptr.3d 286]
Coley v. Eskaton (2020) 51 Cal.App.5th 943 [264 Cal.Rptr.3d 740]
- under Civil Rights 1983
Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020
- under Code of Civil Procedure section 128.7
 --attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
 --criteria for recovery of fees and costs in opposing motion for sanctions
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
- under Code of Civil Procedure section 340.1
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
- under Code of Civil Procedure section 405.38
 --in lis pendens action, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
 --in lis pendens action, to challenge attorney fee award to prevailing party on motion to expunge, requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
- under Code of Civil Procedure section 425.16
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
- Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
 --attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 --defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 --does not authorize an award of attorney fees against plaintiff's counsel
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
 --litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
 --sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]
 --withdrawal of funds was not protected conduct because it was neither communicative nor an issue of public interest
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
- under Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
People v. Investco Management & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]

Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]--advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
 ---exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
 --application of catalyst theory
Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
 --apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
 --attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 --does not preclude award of such fees in a family law case
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
 --litigant's personal non-pecuniary interest may not be used to deny litigant recovery of legal fees under the statute
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
 --must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
 --no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
 --party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
 --requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]

--respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
 --right to attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
 --suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]
 --trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
 --under Code of Civil Procedure section 1021.9
Hoffman v. Superior Ready Mix Concrete (2018) 30 Cal.App.5th 474 [241 Cal.Rptr.3d 476]
 --under Code of Civil Procedure section 1032
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 --under Code of Civil Procedure section 1038
 --CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
 --no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 --under Code of Civil Procedure section 1094.5
No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
 --under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 --under Endangered Species Act
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
 --under Fair Credit Reporting Act
 --certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
 --under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
 --under Freedom of Information Act
Schoenberg v. Federal Bureau of Investigation (9th Cir. 2021) 2 F.4th 1270
Poulsen v. Department of Defense (9th Cir. 2021) 994 F.3d 1046
 --under Government Code section 800
 --finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
 --under Health Care Decisions Law
Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]

- under Labor Code § 218.5
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
 - Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
 - fees denied when prevailing party fails to request in initial complaint
 - Shames v. Utility Consumers' Action Network (2017) 13 Cal.App.5th 29 [219 Cal.Rptr.3d 846]
 - Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
 - Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]
 - party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable
 - Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
 - salaried employee entitled to recover attorney's fees in action for non-payment of wages
 - On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698]
 - prevailing party in nonpayment of wages action not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
 - Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
- under Labor Code § 1194
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
- under Labor Code § 4607
 - Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
- under Lanham Act
 - SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179
- under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
 - People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
 - People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- under Probate Code section 17211(b)
 - Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
- under Revenue and Taxation Code section 1611.6
 - Chinese Theatres, LLC v. County of Los Angeles (2021) 59 Cal.App.5th 484 [273 Cal.Rptr.3d 640]
- under Song Beverly Act
 - Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
 - Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]
 - Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- under Uniform Foreign Money Judgments Recognition Act
 - Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
- under Uniform Trade Secrets Act
 - Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- under Vehicle Leasing Act
 - Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]
- under Welfare and Institutions Code section 10962
 - K.L. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
- unsuccessful plaintiff
 - McLarand, Vasquez & Partners v. Downey Savings & Loan Assoc. (1991) 231 Cal.App.3d 1450 [282 Cal.Rptr. 828]
- to prevailing party buyers of real property denied attorney fees as offset against purchase price
 - Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
- to VA patient not proper where government's position is substantially justified
 - Foster v. Tourtellotte (9th Cir. 1983) 704 F.2d 1109
- tort claims
 - award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
 - Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
 - insured's assignment of a cause of action against an insurance company for tortious bad faith was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
 - Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
 - under Code of Civil Procedure section 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
 - California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- "tort of another" theory
 - Mai v. HKT (2021) 66 Cal.App.5th 504 [281 Cal.Rptr.3d 255]
- trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- trial court properly denied request when it was unreasonable in comparison to the actual damages award
 - Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]
- tribal law may require tribal remedy exhaustion in contract disputes
 - Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
- under 11 U.S.C. § 303
 - In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456
- under 11 U.S.C. § 330
 - In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
 - In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
- under 15 U.S.C. § 15
 - Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- under 15 U.S.C. § 784(a)(6)
 - fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 - under 15 U.S.C. § 1117(a), fees may be awarded in exceptional trademark cases
 - K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079
 - Waterco, Ltd. v. Liu (9th Cir. 2005) 403 F.3d 645
- under 15 U.S.C. § 1117(c)
 - election of statutory damages precludes award
 - K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079

FEES

- under 15 U.S.C. § 1692 et seq.
-determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- under 15 U.S.C. § 1692k(a)(3)
Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
- under 17 U.S.C. § 505 (Copyright Act)
Shame On You Productions, Inc. v. Banks (9th Cir. 2018) 893 F.3d 661
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
- under 18 U.S.C. § 3006A (Hyde Amendment)
-denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
- under 28 U.S.C. § 1291
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
- under 28 U.S.C. § 1447(c)
Moore v. Permanente Medical Group, Inc. (9th Cir. 1992) 981 F.2d 443
-standard for awarding fees turns on the reasonableness of the case from state court to federal court
Gardner v. UICl (9th Cir. 2007) 508 F.3d 559
- under 28 U.S.C. § 2412(d)
Jones v. Espy (1993) 10 F.3d 690
Oregon Natural Resources Council v. Madigan (9th Cir. 1992) 980 F.2d 1330
-social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
- under 29 U.S.C. § 621 et seq.
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- under 29 U.S.C. § 794 (Rehabilitation Act)
-claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
- under 29 U.S.C. § 1132(g)(1)
Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]
- under 31 U.S.C. § 3729(a)(1), False Claims Act
-court must provide detailed findings in support of any award
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999
- under 33 U.S.C. § 921(d)
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032
- under 33 U.S.C. § 1365
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
- under 35 U.S.C. § 285
Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]
- under 42 U.S.C. § 406(a)
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
- under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
- under 42 U.S.C. §§ 1983, 1988
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
- Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- under 42 U.S.C. § 1988
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Corder v. Gates (9th Cir. 1996) 104 F.3d 247
BFI Medical Waste Systems v. Whatcom (1993) 983 F.2d 911
Thomas v. Bible (1993) 983 F.2d 152
People ex rel. Becerra v Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
CAL 1994-136
-denied
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
-lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
-plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
-superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
- under 42 U.S.C. § 2996
-fees award to legal foundation on the grounds that such awards violated the Legal Services Corporation Act cannot be challenged in private litigation; sole remedy is through an administrative complaint with Legal Services Corporation
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
- under 42 U.S.C. § 6972(e)
-release of EPA records pursuant to FOIA
Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
- under 42 U.S.C. § 9607
Key Tronic Corp. v. U.S. (1993) 984 F.2d 1025
Stanton Road Associates v. Lohrey Enterprises (1993) 984 F.2d 1015

under 42 U.S.C. § 12205 (ADA)
 -claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
 -fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
 -fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
 --Civil Code section 55 mandatory award of attorney fees is not preempted by the federal American with Disabilities Act
Les Jankey et al. v. Song Koo Lee etc. (2012) 55 Cal.4th 1038 [150 Cal.Rptr.3d 191]
 -prevailing party's conduct in unreasonably prolonging the litigation did not justify outright denial of fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
 under 11 U.S.C.A. § 503(b)(4)
 -statutory silence regarding expenses incurred by a creditor does not necessarily mean foreclosure of a fee award from the debtor estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
 under 28 U.S.C.A. § 2412(d)
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
 -judicial relief required for prevailing party status to recover attorney fees under the Act
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
 under 28 U.S.C.A. § 2412(d)(1)(B)
 -fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
 under Business and Professions Code § 17200 (Unfair Competition)
 -denial of fees to city in its successful lawsuit against a landlord, as the city sued only under the unfair competition law, which does not allow for recovery of attorney's fees
People ex rel. City of Santa Monica v. Gabriel (2010) 186 Cal.App.4th 882 [112 Cal.Rptr.3d 574]
 -district attorney may hire private counsel to pursue civil penalties under California's Unfair Competition Law
American Bankers Management Company, Inc. v. Heryford (9th Cir. 2018) 885 F.3d 629
 under California Education Code § 44944(f)
 -application of Iodestar methodology in determining reasonable attorney's fees
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
 under California Environmental Quality Act
Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
 under California Public Records Act
Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]

Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
 under Civil code section 51 et seq. (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
 under Civil Code section 55
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 -Civil Code section 55 mandatory award of attorney fees is not preempted by the federal American with Disabilities Act
Les Jankey et al. v. Song Koo Lee etc. (2012) 55 Cal.4th 1038 [150 Cal.Rptr.3d 191]
 under Civil Code section 998(d)
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
 under Civil Code section 1354
Grossman v. Park Fort Washington Association (2013) 212 Cal.App.4th 1128 [152 Cal.Rptr.3d 48]
 -untimely filing of motion for fees
 --attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
 under Civil Code section 1717
In re Penrod (9th Cir. 2015) 802 F.3d 1084
In re Baroff (9th Cir. 1997) 105 F.Supp. 439
Bankruptcy of Job (9th Cir. 1996) 198 B.R. 768
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Trope v. Katz (1995) 11 Cal.4th 274 [45 Cal.Rptr.2d 241]
Hsu v. Abbara (1995) 9 Cal.4th 863 [39 Cal.Rptr.2d 824]
Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]
Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]
Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
Rickleby v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

FEES

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Snyder v. Marcus & Millichap (1996) 46 Cal.App.4th 1099 [54 Cal.Rptr.2d 268]
Republic Bank v. Marine National Bank (1996) 45 Cal.App.4th 919 [53 Cal.Rptr.2d 90]
Honey Baked Hams, Inc. v. E. Robert Dickens (1995) 37 Cal.App.4th 421 [43 Cal.Rptr.2d 595]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faitz (1992) 9 Cal.App.4th 129
Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
-agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
-arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
-attorney who acted pro se in contract action may recover reasonable attorney's fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
-attorney's fees denied because prevailing party's tort action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]

-attorney's fees denied to transferee of patent and trademark rights on the basis of reciprocity, because licensor would not have been entitled to recovery of fees if it had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
-attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
-attorney's representation by associates of his firm precluded recovery of attorney fees after winning case against former client
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
-California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
-corporate in-house counsel entitled to reasonable fees
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
-court rule permitted trial court to exercise its discretion in awarding higher fees based on "lodestar" method under statute authorizing attorney fee awards
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
-denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
-denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
-equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
-no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
-no statutory authority to impose forfeiture. the forfeiture here barred plaintiff from her statutory right under section 1717 to seek attorney fees for ultimately prevailing post-default judgment on her contract cause of action
Vincent v. Sonkey (2020) 59 Cal.App.5th 160 [273 Cal.Rptr.3d 285]
-no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosio (9th Cir. BAP 2014) 505 B.R. 903

- party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
- plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
- precluded where plaintiff voluntarily dismisses unlawful detainer matter sounding in contract
Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9]
- trial court must determine if an attorney-client relationship existed between co-plaintiffs before awarding attorney fees to pro se attorney in contempt proceedings
Rickle v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
- vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- where both contract and statute govern award of attorney's fees, prevailing party may also be entitled to recovery of appellate fees
Butler-Rupp v. Lourdeaux (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]
- under Civil Code section 1780
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
- prevailing party entitled to fees where statutory language which provides for such fees is mandatory
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
- under Civil Code section 1794
Patel v. Mercedes-Benz USA (2019) 43 Cal.App.5th 1007 [256 Cal.Rptr.3d 603]
- Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
- under Civil Code section 1798.48(b)
- application of lodestar methodology by court in determining "reasonable attorney's fees"
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- under Civil Code section 2981 (Rees-Levering Act)
- award not barred by CCP § 1717
Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
- under Civil Code section 3186
- denied because public entity is not entitled to attorney fees under stop notice laws
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
- under Civil Code section 3260
- claim to recover is a simple breach of contract claim and not a claim to recover a "retention," therefore fees are not recoverable
Yassin v. Solis (2010) 184 Cal.App.4th 524 [108 Cal.Rptr.3d 854]
- under Civil Code section 3426 et seq. (Uniform Trade Secrets Act)
Aerotek v. Johnson Group Staffing Co. (2020) 54 Cal.App.5th 670 [269 Cal.Rptr.3d 147]
- denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- prevailing defendant may recover attorney fees if the plaintiff pursued an action with subjective bad faith, regardless of whether there was some evidence supporting plaintiff's contentions
Sasco v. Rosendin Electric, Inc. (2012) 207 Cal.App.4th 837 [143 Cal.Rptr.3d 828]
- under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
- under civil rights statute
- anti-hate crime matter
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- denied when plaintiff did not establish violation of protected right
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
- lodestar calculation
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
- Beatty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
- Davis v. City & County of San Francisco (9th Cir. 1992) 976 F.2d 1536
- Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]
- Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- mere fact defendant prevails does not automatically result in award of fees
Coverdell v. Dept. of Social & Health Services (9th Cir. 1987) 834 F.2d 758, 770
- court's discretion – test
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
- Sherman v. Babbitt (9th Cir. 1985) 772 F.2d 1476, 1478
- nominal damages received by plaintiff
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
- Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
- Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- federal law, rather California law, applied to activist's claim for attorney's fees
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
- partial success of prevailing attorneys may reduce amount of fee awarded
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
- Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
- application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
- Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
- waiver or limitation of attorney fees in section 1983 case must be clear and unambiguous
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114

FEES

- Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
under civil rights statute appropriate only when action was frivolous, unreasonable, or without foundation
- Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
-attorney's fees denied where opposing party's claims were not frivolous, unreasonable, or without foundation
- Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
- Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
- Boatowners and Tenants Ass'n, Inc. v. Port of Seattle (9th Cir. 1983) 716 F.2d 669, 674
- Parks v. Watson (9th Cir. 1983) 716 F.2d 646, 665
-party awarded attorney's fees to be paid by opposing counsel as sanction for filing frivolous brief
- Hamblen v. County of Los Angeles (9th Cir. 1986) 803 F.2d 462, 465
- under Clayton Act § 4
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- under Code of Civil Procedure 128.7
-attorney fees may not be awarded as a sanction to an attorney representing himself
- Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
-criteria for recovery of fees and costs in opposing motion for sanctions
- Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
- under Code of Civil Procedure 340.1
- John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
- under Code of Civil Procedure 386.6
-award of attorney's fees from the interest accrued on interpleader funds statutorily prohibited
- Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
-fees denied where party failed to satisfy criteria for interpleader action
- Wells Fargo Bank, N.A. v. Zinzel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
- under Code of Civil Procedure section 391.7 (vexatious litigant statute)
- Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
-not authorized where complaint was dismissed for failure to post security bond
- Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]
-sanctions imposed and expanded pre-filing order on vexatious litigant and their attorney for filing frivolous appeals
- Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
- under Code of Civil Procedure section 425.16
- Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
- Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
- Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
- Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
- York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
- Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
- Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
- Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
- Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
- Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
- G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
- Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
- Hylton v. Frank E. Rogozlenski, Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
- Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
- Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
- Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
- Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
- Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
- Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
- Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
- Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
- Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
- Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
- Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
-defendants entitled to attorney's fees even though plaintiffs dismissed appeal
- Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
-defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
- S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
- Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
-does not authorize an award of attorney fees against plaintiff's counsel
- Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
- Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
- litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
- Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
- Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
- motion to strike found to be frivolous or solely intended to cause unnecessary delay
- Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
--complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
- Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
-party prevailing on an anti-SLAPP motion may seek fee award through three different avenues
- Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]

- prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
- trial court had jurisdiction to award anti-SLAPP fees in dismissing attorney's challenge to State Bar discipline
Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
- withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- under Code of Civil Procedure section 425.18
 - fees not recoverable
Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]
- under Code of Civil Procedure section 473
 - attorney may not amend complaint during trial seeking more fees against former client
Duchrow v. Forrest (2013) 215 Cal.App.4th 1359 [156 Cal.Rptr.3d 194]
 - untimely filing of motion for fees
 - attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
- under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
- under Code of Civil Procedure section 580
 - attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
- under Code of Civil Procedure section 685.020 et seq.
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
- fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
- under Code of Civil Procedure section 685.040
Conservatorship of McQueen (2014) 59 Cal.4th 602 [174 Cal.Rptr.3d 55]
- Highland Springs Conference etc. v. City of Banning (2019) 42 Cal.App.5th 416 [255 Cal.Rptr.3d 331]
- York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
- Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
- Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
- Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
- under Code of Civil Procedure § 701.020 et seq.
 - fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
Ilshin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
- under Code of Civil Procedure section 720.260
 - attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
- under Code of Civil Procedure section 907
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
- under Code of Civil Procedure section 916
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
- former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]
- under Code of Civil Procedure section 998
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
- Varney Entertainment Group, Inc., v. Avon Plastics, Inc. (2021) 61 Cal.App.5th 222 [275 Cal.Rptr.3d 394]
- Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
- On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698]
- Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
- Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
- denied where settlement offer did not provide for sufficient time for acceptance
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
- entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
- plaintiff not liable for paying defendant's costs in defamation suit if defendant's offer of settlement is conditioned on confidentiality
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
- prevailing plaintiff in lemon law suit could recover only pre-offer fees and costs where compromise offer exceeded damage award
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- settlement offer silent as to right to recover fees and costs does not constitute a waiver of that right
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
- Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
- Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
- trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
- under Code of Civil Procedure section 1021
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
- Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
- Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

FEES

- party may receive attorney's fees incurred in an administrative hearing
- Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
- under Code of Civil Procedure section 1021.5
- Cabrera v. Martin (9th Cir. 1992) 973 F.2d 735
- Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
- Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
- Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d. 882]
- Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
- Burgess v. Coronado Unified School District (2020) 59 Cal.App.5th 1 [272 Cal.Rptr.3d 919]
- La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
- People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
- San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
- Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
- Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
- Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
- Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
- Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
- Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
- Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
- Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
- McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
- Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
- Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
- Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
- In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
- Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
- Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
- Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
- Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
- Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
- Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
- Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
- Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
- Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]
- Lerner v. Ward (1993) 13 Cal.App.4th 155 [16 Cal.Rptr.2d 486]
- Planned Parenthood v. Aakhus (1993) 12 Cal.App.4th 1119
- Cummings v. Benco (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
- California Labor Federation AFL-CIO v. California Occupational Safety and Health Standards Board (1992) 221 Cal.App.3d 1547
- MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
- administrative appeal
- Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
- advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
- Connerly v. State Personnel Board (2006) 37 Cal.4th. 1169 [39 Cal.Rptr.3d 788]
- exception when amicus brief advocates same position as asserted in another case in which amici is a party
- Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
- against police department following plaintiff's voluntary release of civil liability by stipulation
- Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
- apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
- Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
- attorney's fees can only be recovered against opposing parties
- McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
- family law
- fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
- Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- fees awarded to prevailing public entity against another public entity
- County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
- fees denied where benefit did not affect general public
- Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
- fees denied where remand to an administrative agency to reconsider a perceived procedural defect did not result in a change in the agency's decision
- Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- fees limited to persons who pursue public interest litigation at a cost that is out of proportion to any personal interests they might have in the outcome
- People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- must be successful party
- Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]

- no provision under this statute, unlike CCP 128.5, giving courts authority to impose sanctions in the form of attorney fees for vexatious or "obdurate behavior"
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- right of attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
- significant public benefit
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
- supplemental fees request based on greater success on appeal
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]
- time limit
--attorney's fees incurred in post-judgment proceedings not time barred by rule 3.1702, California Rules of Court
Highland Springs Conference etc. v. City of Banning (2019) 42 Cal.App.5th 416 [255 Cal.Rptr.3d 331]
Crespin v. Shewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
- under Code of Civil Procedure section 1021.7
-no award of fees based on plaintiffs' pursuit of a legitimate appeal
Thompson v. City of Capitola (1991) 233 Cal.App.3d 465
- under Code of Civil Procedure section 1021.9
-may be awarded for trespass on agricultural land being cultivated even where defendant did not damage crops or interfere with agricultural operations
Hoffman v. Superior Ready Mix Concrete (2018) 30 Cal.App.5th 474 [241 Cal.Rptr.3d 476]
- party awarded nominal damages not entitled to attorney fees where statute provided award of fees for actions to recover damages to personal or real property
Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]
- under Code of Civil Procedure section 1032 et seq.
deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- under Code of Civil Procedure section 1033.5
-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
- plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
- under Code of Civil Procedure section 1036
-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc., et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
- under Code of Civil Procedure section 1038
-does not authorize attorney fees for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- under Code of Civil Procedure section 1094.5
No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
- under Code of Civil Procedure section 1286.2
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- under Code of Civil Procedure section 2030
-attorney fees may not be awarded to prevailing attorney acting in pro per
Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
- under Code of Civil Procedure section 2033.420
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
- under Corporations Code section 317
-fees denied on the grounds that employer is a limited liability company and as such is governed by the Limited Liability Company Act (Corporations Code § 17000 et seq.) which contains no provision similar to section 317 in mandating indemnification for claims against its agents and employees
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
- outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
- under Corporations Code section 8337
-failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]
- under Corporations Code section 15634
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
- under Corporations Code section 16701
-no abuse of discretion found in denying discretionary attorney fees
Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]
- under Davis-Stirling Common Interest Development Act
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

FEES

- under Family Code section 271
 - award of attorney fees as sanction against party who frustrates policy to promote settlement, encourage cooperation and reduce cost of litigation
 - George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
- under Family Code section 272
 - In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
- under Family Code section 1101(g)
 - In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]
- under Family Code section 2030
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 - Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
 - In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
 - former wife entitled to recover attorney fees incurred to enforce spousal support agreement
 - In re Marriage of Bendetti (2013) 214 Cal.App.4th 863 [154 Cal.Rptr.3d 329]
- under Federal Rule of Civil Procedure section 11
 - In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456
- under Federal Rule of Civil Procedure section 17(c) to guard the interests of minors
 - Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177
- under Federal Rule of Civil Procedure section 23(h)
 - practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
 - In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988
- under Federal Rule of Civil Procedure section 37(c)(2)
 - Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
- under Federal Rule of Civil Procedure section 58(e)
 - under Lanham Act
 - Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068
 - untimely filing of motion for fees
 - Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068
- under Federal Rule of Civil Procedure section 69(a)
 - Carnes v. Zamani (9th Cir. 2007) 488 F.3d 1057
- under Freedom of Information Act
 - Schoenberg v. Federal Bureau of Investigation (9th Cir. 2021) 2 F.4th 1270
 - Poulsen v. Department of Defense (9th Cir. 2021) 994 F.3d 1046
- under Government Code section 800
 - finding of arbitrary and capricious action against school district
 - Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
- under Government Code section 6250
 - Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- under Government Code section 12989.1 et seq. (discrimination in housing)
 - Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
- under Government Code section 25845
 - County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- under Government Code section 38773 et seq.
 - city ordinance which provided for unilateral recovery of attorney fees found invalid because it conflicted with state statute permitting recovery of fees by a prevailing party
 - City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
- under Government Code section 51200 et seq. (the Williamson Act)
 - County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
- under Health & Safety Code section 13009.1
 - fees not recoverable unless they are specifically authorized by contract, statute, or law
 - California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]
- under Health & Safety Code section 17980.7
 - City and County of San Francisco v. Ballard (2006) 136 Cal.App.4th 381 [39 Cal.Rptr.3d 1]
- under Health Care Decisions Law
 - Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]
- under Information Practices Act (California)
 - lodestar method in calculating attorney's fees
 - Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- under Labor Code § 98.2
 - Nishiki v. Danko Meredith, APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
 - former employee's attorneys entitled to attorney's fees even if they represent party without charge
 - Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
- under Labor Code § 218.5
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
- under Labor Code § 510
 - failure to pay overtime compensation
 - Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
- under Labor Code § 1194
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney
 - Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]
 - arbitrator improperly awarded defendant employer attorney's fees for defeating plaintiff's overtime claim prohibited by labor code
 - Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]
 - manager who prevailed on employee's unpaid minimum and overtime claims on grounds he was not employee's employer was not entitled to recover attorney fees from employee even though manager and employee were employed by same employer
 - Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
- under Labor Code § 2699
 - Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
- under Labor Code § 2802
 - employer not required to pay fees and costs incurred by employee in defending against lawsuit when employees refuses to retain employer's attorney
 - Carter v. Entercom Sacramento, LLC (2013) 219 Cal.App.4th 337 [161 Cal.Rptr.3d 782]

- fees denied on the grounds that the section 2802 is applicable to indemnification of employees sued by third parties, not to claims by employer against its own employees
 - Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
- under Labor Code §§ 3856 and 3860
 - claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
 - Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
- under Labor Code § 5801
 - attorney fees not automatically awarded to injured employee who prevailed in defending against employer's petition for writ of review
 - Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
- under Lanham Act
 - SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179
- under Penal Code section 1202.4
 - lodestar method not applicable in determining attorney fees in crime victim restitution awards
 - People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
- under Petroleum Marketing Practices Act
 - Chevron U.S.A. Inc. v. M&M Petroleum (9th Cir. 2011) 658 F.3d 948
- under Probate Code section 10810
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 - no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative
 - In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
- under Probate Code section 17211(b)
 - Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
- under Proposition 65
 - Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- under Proposition 103, section 1861.10
 - State Farm General Insurance Company v. Lara (2021) 71 Cal.App.5th 197 [286 Cal.Rptr.3d 124]
- under Public Utilities Code § 1757 et seq.
 - recalculation of fees to outside counsel retained by consumer group to assist in its work before a commission where outside counsel offered different services than in-house counsel
 - Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- under Public Utilities Code § 1806 et seq.
 - Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- under Revenue and Taxation Code section 1611.6
 - Chinese Theatres, LLC v. County of Los Angeles (2021) 59 Cal.App.5th 484 [273 Cal.Rptr.3d 640]
- under Song Beverly Act
 - Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 - Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
 - Wohlgemuth v. Catepillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- under U.S.C.A. § 7430
 - Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
 - fees denied even though taxpayer prevailed on most significant issue on the grounds that statutory language does not include government's pre-litigation conduct
 - Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484 F.3d 1103
- under Uniform Foreign Money Judgments Recognition Act
 - Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
 - foreign order to pay attorney fees unenforceable where constitutes support
 - In re Marriage of Lyustiger (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
- under unlawful detainer action
 - Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
- under USCS section 928
 - Shirrod v. Director, Office of Workers' Compensation Programs (9th Cir. 2015) 809 F.3d 1082
 - Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
- under Welfare and Institutions Code § 10962
 - K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
- under Welfare and Institutions Code §§ 15600 et seq.
 - Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
 - denial of fees to prevailing defendant where statute contains a unilateral fee shifting provision
 - Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
- under Welfare and Institutions Code § 15657
 - Conservatorship of McQueen (2014) 59 Cal.4th 602 [174 Cal.Rptr.3d 55]
 - Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
 - Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
- undertaking action
 - attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
 - Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
- unilateral recovery of attorney fees by city under local ordinance found invalid where it conflicted with state statute which provides for recovery of fees by a prevailing party
 - City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
- United States liability for
 - Lauritzen v. Lehman (9th Cir. 1984) 736 F.2d 551
 - waiver of
 - Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531] LA 445 (1987)
 - not presumed from silent record
 - Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
 - untimely filing of motion for fees
 - attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
 - Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
- vexatious litigant statutes does not authorize attorney fees award where complaint is dismissed for failure to post security bond
 - Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]

FEES

void

-in violation of stay

In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726

waiver of

-settlement agreements which include fee-waiver provisions under fee shifting statutes

CAL 2009-176

will not be disturbed absent abuse of discretion

-Americans with Disabilities Act

--district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees

Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122

-court abused discretion by denying attorney fees to successful party in copyright lawsuit

Traditional Cat Assn. Inc. v. Gilbreath (9th Cir. 2003) 340 F.3d 829

-district court was required to provide more specific reasons for making such significant reduction in fees (37%)

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

-federal securities fraud matter remanded because the trial court did not adequately explain the basis for the award of attorney fees

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-no abuse of discretion shown

Rite Nail Packaging Corp. v. Berry Fast (1983) 706 F.2d 933, 936

Binet v. California Health and Welfare Agency (9th Cir. 1983) 704 F.2d 1465, 1473

-trial court abused discretion in limiting award of attorney's fees

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

Hadley v. Krepel (1985) 167 Cal.App.3d 677, 682-683, 686-687 [214 Cal.Rptr. 461]

-Workers' Compensation lien fund and trial court's authority to allocate amount for attorney fees

Hartwig v. Farms (1992) 2 Cal.App.4th 1550

Workers' Compensation

Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]

-award of fees to employee justified on the grounds that employer's petition for writ of review indisputably lacked merit

Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]

-burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)

Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041

-claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

-non-attorney's law firm representative of injured employee may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

-successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act

Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066

Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044

-under Labor Code § 4607

Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]

Award of compensation for law clerk and paralegal time reasonably spent on plaintiff's case

Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

ERISA matter under 29 U.S.C. 1332(g)(2)(D)

Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253

Bankruptcy

attorney award of fees and costs for bad faith

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

attorney cannot use confidences of former client to challenge client's discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

attorney employed by a trustee is entitled to compensation for legal services

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

attorney fees and costs awarded against debtors for dragging proceedings for too long due to inaction

In re Starky (9th Cir. BAP 2014) 522 B.R. 220

attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct

In re Suarez (9th Cir. BAP 2009) 400 B.R. 732

attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

In re Mendez (9th Cir. BAP 1999) 231 B.R. 86

attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable

In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]

attorney's fees and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor

In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

attorney's fees are administrative expenses that must be paid first

In re Shorb (1989) 101 B.R. 185

attorney's fees claim against lender's collateral barred where law firm negotiated and approved comprehensive waiver in loan agreement which bared surcharge or assessment against the collateral

In re Cooper Commons LLC (9th Cir. 2008) 512 F.3d 533

attorney's fees denied to debtor in discharging student loan debt

In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558

attorney's fees denied without court authorization

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court

In re Bertola (9th Cir. BAP 2004) 317 B.R. 95

authority of bankruptcy court to award fee enhancements

In re Pilgrim's Pride Corp. (5th Cir. (Texas) 2012) 690 F.3d 650

automatic stay not applicable to attorney's efforts to collect previously agreed-upon fees for post-petition services

In re Hines (9th Cir. BAP 1998) 198 B.R. 769

award of fees is void when underlying claim is in violation of stay

In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726

award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract

In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204

awarding interim fees to attorney in bankruptcy action

In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322

bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney

In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

bankruptcy court erred in awarding debtor's their attorney fees and costs under statute

In re Fitalia (9th Cir. BAP 2016) 561 B.R. 767

bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments

In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

bankruptcy court has jurisdiction to approve post-petition attorney fees

In re Knudsen Corporation (1988) 84 B.R. 668

bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts

In re Levander (9th Cir. 1999) 180 F.3d 1114

Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]

bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))

-bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services

Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

-BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge

Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services

In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

chapter 7 estate trustee's attorney may be denied fees if attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

chapter 9 fee agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

chapter 13

In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592

claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray

In re Ybarra (9th Cir. 2005) 424 F.3d 1018

court had authority under tax code to pay debtor's attorney fees

In re Germaine (1993) 152 B.R. 619

creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305

In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236

creditor's claim for attorney's fees incurred during the state court litigation after confirmation of debtor's Chapter 11 plan was discharged by debtor's bankruptcy

In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028

debtor awarded appellate attorney's fees pursuant to 11 USCA § 362(k)

In re Schwartz-Tallard (9th Cir. 2014) 765 F.3d 1096

delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees

In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944

disgorgement of attorney fees against firm and attorney employee is proper

Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490

disgorgement of attorney fees against firm not proper where law firm representation was approved by court

In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

disgorgement of attorney fees for professional misconduct

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

disgorgement of attorney fees is allowed after violation of bankruptcy code and rules

In re Peterson (1994) 163 B.R. 665

Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926

expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

failure to obtain court approval for employment of counsel may operate to deny payment of attorney fees

In re Shirley (1992) 134 B.R. 940

fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"

In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506

fees for wife's attorney in dissolution dischargeable in bankruptcy

In re Gibson (1989) 103 B.R. 218

fees recoverable if they are linked to litigation seeking to enforce a contract

Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]

following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs

In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558

no recovery of attorney's fees if chapter 7 bankruptcy estate trustee's attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding

Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

pro rata sharing of attorney fees properly awarded against co-owners

In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

FEES

- security retainer agreements require appropriate fee applications made to the court
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
- totality of circumstance test applied when awarding attorney's fee
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701
- trustee expenses incurred in marketing & selling property & defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co-owner of property
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
- trustee fees not proper for duties that are not practice of law
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
- trustee may withhold non-debtor, co-owner's share of proceeds from sale of property pending resolution of claims by co-owner relating to such sale
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]
- waiver of fees and costs
-entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
- Bankruptcy action
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
- Based on agreement
Tarver v. State Bar (1984) 37 Cal.3d 122
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Based on bad faith action
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
- Basis for court decision
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
large fee reduction requires a relatively specific articulation of court's reasoning
Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157
- Between attorneys
the merits of a declaratory relief action must be resolved in the trial court's discretion
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
- Billing
billing service, use of
LA 423 (1983), LA 374 (1978)
clients must understand and consent to billing practices
CAL 1996-147, OC 99-001
"double billing"
CAL 1996-147, OC 99-001
fee agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- justification
-in billing for paralegal work, court, in its discretion, may not allow hearsay by attorney as the sole justification for award such fees
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
"over-billing"
-district court may not reduce fees without identifying the hours spent inefficiently or providing any explanation of the particular degree of reduction
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
- district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
OC 99-001
-fiduciary duty to clients, both civil and criminal, requires that fee agreements and billings be fair, reasonable, and fully explained to the client
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
-preparation of false and misleading billing statements involves moral turpitude
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
LA 522 (2009)
-trial court reduced the rates based on findings that the matter was not complex, that it did not go to trial, that the same partners were doing work that could have been done by lower-billing attorneys and that all attorneys were doing work that could have been done by paralegals
Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
rates originally agreed to by a client may not be raised by a law firm without first notifying the client
Severson, Werson et. al. v. Bollinger (1991) 235 Cal.App.3d 1569
LA 479 (1994)
services of law clerks, legal assistants (paralegal), and secretaries
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
LA 522 (2009), LA 391 (1981)
use of block billing rather than listing separately time expended to perform each task
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
- Billing statements are not protected by attorney-client privilege
Clarke v. American Commerce National Bank (9th Cir. 1992) 974 F.2d 127
CAL 2002-159
- Bonus
to lay employee
LA 457
- Brandt fees
R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
- Charge interest
CA Constitution Art. 15, Usury § 1, par. 2
-on past due receivables
CAL 1980-53, LA 374 (1978), LA 370 (1978), SD 1983-1, SD 1976-8, SF 1970-1
- Child custody cases
fee-shift of attorney's fees pursuant to Family Code section 7605
C.T. v. K.W. (2021) 71 Cal.App.5th 679 [286 Cal.Rptr.3d 409]
post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
- Child support
Boutte v. Nears (1996) 50 Cal.App.4th 162 [57 Cal.Rptr.2d 655]
attorney's fees not classified as gross income in calculating child support obligations
M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]

child support act
 -putative father's successful defense of paternity/reimbursement action does not include right to attorney fees
County of Santa Barbara v. David R. (1988) 200 Cal.App.3d 98 [245 Cal.Rptr. 836]
 no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities
In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]
 Civil Code section 51 et seq. (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
 fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
 Civil Code section 1717
 absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
 attorney litigating in propria persona
 -attorney litigating in propria persona cannot be said to incur compensation for his time and lost business opportunities
Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
 -award of discovery sanctions under CCP § 2030(1) analogized to award of attorney's fees under CC § 1717
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
 -may recover reasonable attorney fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
 attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 award of attorney's fees applies mutually and equally to all parties even if written otherwise
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
 California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
 denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]

distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
 limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
 mutuality of remedy when contract permits recovery of attorney fees
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
 party that prevails is entitled to attorney's fees only if it can prove it would had been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
 plaintiffs who were assigned developer's express indemnity cross-action against subcontractor were liable for attorney fees to subcontractor who prevailed in trial
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
 standard third-party indemnity clause not within scope
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
 voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
 Class action
 absent class members not liable for employer's attorney's fees in overtime dispute
Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
 amount of attorney's fees determined to be reasonable in light of quantity and quality
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
 attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
 attorney's fees for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 attorney's fees should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271

FEES

award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation

Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]

awarded pursuant to Civil Code section 1717

Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]

basis for court decision

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

basis of award to an unnamed member of putative class who defeats class certification

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

clear sailing agreements

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

common fund doctrine defined

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

dispute among class counsel

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

large fee reduction requires a relatively specific articulation of court's reasoning

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

"lodestar" multiplier method when risk was slight

In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

negative multiplier decreasing the lodestar is justified where amount of time attorney spent on case was unreasonable and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

no abuse of discretion where trial court granted a temporary restraining order to prevent firm from distributing fees to itself without court approval

Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]

settlement shall not include attorney fees as portion of common fund established for benefit of class

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Staton v. Boeing Co. (9th Cir. (Wash.) 2003) 327 F.3d 938

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

standing to appeal awards of

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

-class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class

Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084

-objector has standing to appeal deal of own claim for fees even if objector did not submit a settlement claim

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

under Code of Civil Procedure section 916

-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal

Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]

under Federal Rule of Civil Procedure 23(h), the practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion

In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

Collection of [See Collections.]

CAL 1982-68

attorney collection agency

-Business and Professions Code section 6077.5

-Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]

bankruptcy action

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

bankruptcy court must scrutinize a law firm's unsecured claim for attorney's fees

In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462

billing service, use of

LA 423 (1983), LA 374 (1978)

collection agency, use of

LA 522 (2009), LA 373 (1978)

use of state procedure to execute federal judgment

In re Levander (9th Cir. 1999) 180 F.3d 1114

Confession of judgment signed by client to assure fee collection

improper

Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

Conflict of interest

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

United States ex. Rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 36-37 [267 Cal.Rptr. 896, 906-907]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]

Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]

Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]

attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees

Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442

fees paid by third-party

-litigation funding

CAL 2020-204

lump sum payment of fees and costs does not create inherent conflict

People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]

no recovery of attorney's fees where attorney engaged in conflicting representation without obtaining informed written consent

- Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
- Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
- Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

where the attorney's ethical violation in question is a conflict of interest between the attorney and the client, the appropriate fee is zero

- Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

Conflict of interest, fees paid by co-defendant

- U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

Conflict of interest, fees paid by third party

- Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
- CAL 1975-35

Conservatorship

attorney fees are not awarded when matter is resolved or settled without the actual appointment of a conservator

- Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]

conservatee cannot obligate conservatorship estate for payment of attorney's fees

- Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]

Contingent [See Contingent Fee.]

Contract

attorney fees awarded under contract to law firm seeking to collect unpaid legal bills

- Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]

award of fees may be proper under broadly-worded attorney fee provision even where claim did not arise out of the agreement

- Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th 911 [184 Cal.Rptr.3d 326]

contingency lawyer may negotiate a fee contract that gives first proceeds to the lawyer and imposes on client greater risk of non-payment

- LA 526 (2015)

contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147

- Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

contrary to law, policy, or morals

- Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
- Kallen v. Delug (1984) 157 Cal.App.3d 940, 949-950 [203 Cal.Rptr. 879]

defendant-sellers in real estate case are not required to seek mediation prior to recovery of attorney fees

- Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]

denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status

- Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]

denial of award of fees where each party agreed under written contract to pay their own attorney's fees for arbitration and ancillary judicial proceedings

- California Union Square, L.P. v. Saks & Co. LLC (2021) 71 Cal.App.5th 136 [286 Cal.Rptr.3d 115]

denial of fees where contract is deemed to be entirely voided versus award of fees where a contract is found to be divisible, voidable, or rescindable

- Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078

denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision

- Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]

fee agreements and billings must be fair, reasonable, and fully explained to the client

- Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
- In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980

members of dissolved LLC are liable for attorney fees up to amount distributed upon dissolution for breach of contract by LLC

- CB Richard Ellis, Inc. v. Terra Nostra Consultants (2014) 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]

no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied

- Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

- Leamon v. Krajewicz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]

recovery of attorney's fees may be awarded notwithstanding an invalid contract except when parties are in pari delicto

- Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]

social security cases

- Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]

- Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

under Civil Code § 1717

- In re Penrod (9th Cir. 2015) 802 F.3d 1084
- Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

- Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]

- Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]

- Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]

- Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

- Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]

- David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

- Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]

- De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

- PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]

- Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

- Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]

- Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]

- Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

- Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

- Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]

- Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]

- Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503

-attorney fees may be awarded to more than one prevailing party in a breach of contract dispute

- Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

FEES

-attorney fees may not be awarded to a prevailing attorney acting in pro se

Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]

-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]

-denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]

-distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred

EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

-limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees

In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

-misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-party claiming entitlement to fees estopped from later challenging the fees provision

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

-party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

Copyright Act

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142

court misapplied the factors on which it focused while emitting analysis of other factors that may have allowed award of attorney fees

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

does not preempt California law permitting contractual fee-shifting provisions

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

use of block billing rather than listing separately time expended to perform each task

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

Costs

bail bond forfeiture proceedings

-motion of fees denied where there is no provision in the relevant statute to recover fees as costs

People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]

certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)

Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577

district erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes

Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955

County beneficiary of SSI benefits in debtor-creditor relationship with recipients of county funds no duty to share costs of plaintiff's attorney's fees

Neal v. County of Stanislaus (1983) 141 Cal.App.3d 534 [190 Cal.Rptr. 324]

County has discretion to award under Criminal Justice Act

Matter of Baker (9th Cir. 1982) 693 F.2d 925

County must consider relevant guidelines in setting fees

Fitzharris v. Wolff (9th Cir. 1983) 702 F.2d 836

Criminal law matter

court imposed on criminal defendant [a criminal laboratory analysis fee] and a drug program fee under Penal Code § 182(a) which constituted punishment pursuant to Legislature's intent

People v. Ruiz (2018) 4 Cal.5th 1100 [232 Cal.Rptr.3d 714]

court may award crime victim attorney's fees in a restitution order when the victim incurred the expenses to participate in law enforcement's investigation and prosecution of defendant

U.S. v. Eyraud (9th Cir. 2015) 809 F.3d 462

lodestar method not applicable in determining attorney fees in crime victim restitution awards

People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]

Delay of client's matter to collect [See Unpaid fee.]

Business and Professions Code section 6128

CAL 1968-16

when court awards none

LA(I) 1962-4

Demand from third party

LA 226 (1955)

award of attorney fee provision in contract applies to third-party beneficiary

Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]

Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]

third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award

Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]

Derivative action

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

Cziraki v. Thunder Cats, Inc. (2003) 111 Cal.App.4th 552 [3 Cal.Rptr.3d 419]

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

Determination of [See Bid for legal work.]

agreement

-in divorce

LA 226 (1955)

by statute and contract

Code of Civil Procedure section 1021

- charge less than
 -allowed by court
 LA 65 (1931)
 -schedule, custom, or statute
 LA 102 (1937)
- charge more than allowed by court
 LA(l) 1962-4
- quote specific amount for certain services
 LA 342 (1973)
- rate increased during representation
Severson, Werson, Berke & Melchior v. Bollinger (1991)
 235 Cal.App.3d 1569
 LA 479 (1994)
 -fee agreement based on fixed hourly rate but provides
 for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212
 [4 Cal. Bankr. Ct. Rep. 117]
- Discharge of attorney with cause
 attorney entitled to collect for services rendered prior to
 misconduct
Moore v. Fellner (1958) 50 Cal.2d 330 [325 P.2d 857]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
 attorney's behavior which undermines trust may be grounds
 for discharge
Moser v. Western Harness Racing Association (1948) 89
 Cal.App.2d 1, 8 [200 P.2d 7]
 client has implied right to discharge
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr.
 385]
 failure to use ordinary care furnishes cause for discharge
Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124
 P.2d 21]
- Disclosure in bankruptcy proceeding
 LA 452
 lien against client file
 -void
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51
 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
- Discounted as consideration for referrals
CAL 1983-75
- Discretion of trial judge to award in county actions for recovery
 of support payments
County of Kern v. Ginn (1983) 146 Cal.App.3d 1107 [194
 Cal.Rptr. 512]
- Disgorgement of excessive fees by bankruptcy petition preparer
 for engaging in unauthorized practice of law
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
- Disgorgement of fees and costs as equitable relief
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36
 Bankr.Ct.Dec. 79]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49
 Cal.Rptr.3d 60]
 funds derived from illegal activity and used to pay attorney's
 fees may be subject to forfeiture
Federal Trade Commission v. Network Services Depot,
 Inc., et al. (9th Cir. 2010) 617 F.3d 1127
- Disgorgement of fees in bankruptcy matter as amount paid
 exceeded reasonable value of work performed
Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016)
 544 B.R. 886
- Dispute
 absent a contract determining a different disposition, attorney
 fees awarded under Labor Code section 1194, should be
 made payable directly to the attorney
Henry M. Lee Law Corporation v. Superior Court (Chang)
 (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]
 absent agreement, fees awarded pursuant to California
 FEHA belong to attorneys who labored on case and not to
 client
Flannery v. Prentice (2001) 26 Cal.4th 572 [110
 Cal.Rptr.2d 809, 28 P.3d 860]
- limited to cases where the parties do not have an
 agreement as to award of fees
Beard v. Gary Goodrich (2003) 110 Cal.App.4th 1031
 [2 Cal.Rptr.3d 160]
 action brought by criminal defendant against former counsel
 for billing improprieties is not necessarily a claim of legal
 malpractice
Bird, Marella, Boxer & Wolpert v. Superior Court (2003)
 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
 attorney cannot use confidences of former client to challenge
 client's Chapter 7 discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33
 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 between law firm and former shareholder
 -former shareholder has no ownership or lien interest
 upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th
 1114 [84 Cal.Rptr.2d 361]
 binding private arbitration clause in attorney-client fee
 agreement may be enforced under the California Arbitration
 Act (CAA) once the Mandatory Fee Arbitration Act (MFAA)
 arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP
 (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machitinger LLP v.
 Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d
 489]
 binding private arbitration clause in attorney-client fee
 agreement not effective where client requested mandatory
 arbitration pursuant to State Bar rules for fee disputes
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th
 1034 [79 Cal.Rptr.2d 567]
 client given benefit of doubt regarding modified contract for
 fees
Baron v. Mare (1975) 47 Cal.App.3d 304[120 Cal.Rptr.
 675]
 conflict of interest not created by
 LA 521 (2007)
 criminal defendant need not allege that he was innocent of
 the crime charged in order to bring an action against former
 law firm over a fee dispute
Bird, Marella, Boxer & Wolpert v. Superior Court (2003)
 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
 funds properly withdrawn from a client trust account under
rule 4-100(A)(2) and later disputed by the client do not need
 to be re-deposited into the trust account
CAL 2006-171
 governmental entity
 -municipal indebtedness or liability limitations under
 article XVI, section 18 of the California Constitution
 --contingency fee contract between attorney and city
 did not violate the constitutional municipal debt
 limitation because attorney's fees were neither a
 charge against the city's general fund nor an
 obligation to be by tax levies
Lapidus v. City of Wasco (2004) 114 Cal.App.4th
 1361 [8 Cal.Rptr.3d 680]
 jurisdiction issues
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4
 Cal. Bankr. Ct. Rep. 117]
 settlement check issued only to client, but delivered to
 attorney who has a lien
 OC 99-002
 under Civil Code section 2860 "cumis counsel" fee dispute
 requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th
 1460 [78 Cal.Rptr.3d 483]
 unnamed class member who failed to intervene at trial in a
 securities fraud action had standing to appeal the trial court's
 award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

FEES

- with co-counsel
 - terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200
 - [Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
- Dissolution
 - [In re the Marriage of Tharp](#) (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 - [In re Marriage of Jovel](#) (1996) 49 Cal.App.4th 575 [56 Cal.Rptr.2d 740]
 - [In re Marriage of Munquia](#) (1983) 146 Cal.App.3d 853 [194 Cal.Rptr. 199]
 - fees for wife's attorney in dissolution dischargeable in bankruptcy
 - [In re Gibson](#) (9th Cir. 1989) 103 B.R. 218
 - no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities
 - [In re Marriage of M.A.](#) (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]
 - post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
 - [Alan S. Jr. v. Superior Court](#) (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
 - rationale for awarding attorney's fees in dissolution of marriage cases
 - [In re Marriage of Hobdy](#) (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
 - rights of spouse to
 - [In re the Marriage of Tharp](#) (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 - [In re Marriage of Askren](#) (1984) 157 Cal.App.3d 205, 212 [203 Cal.Rptr. 606]
- District court
 - determination of
 - [Muniz v. United Parcel Services Inc.](#) (9th Cir. 2013) 738 F.3d 214
 - [Jeff D. v. Evans](#) (9th Cir. 1984) 743 F.2d 648, 650-651
 - [In re County of Orange](#) (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Diversity cases
 - award of fees based on the reasonableness of removal of the case from state court to federal court
 - [Gardner v. UICI et al.](#) (9th Cir. 2007) 508 F.3d 559
- Division of, between attorneys or law firms associated on a particular matter
 - [Huskinson & Brown v. Wolf](#) (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - [Chambers v. Kay](#) (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
 - [Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
 - [Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
 - [Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 - [Strong v. Beydoun](#) (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
 - [Mark v. Spencer](#) (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
 - [Sims v. Charness](#) (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
 - attorney may not prevent law firm from obtaining client consent in order to render contract nonexistent
 - [Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
 - dispute among class counsel
 - [Carder v. Patten](#) (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
 - merits of a declaratory relief action must be resolved in the trial court's discretion
 - [Carder v. Patten](#) (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]
- Division of, when partnership dissolves
 - [Fox v. Abrams](#) (1985) 163 Cal.App.3d 610 [21 Cal.Rptr. 260]
 - [Jewel v. Boxer](#) (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
 - post-dissolution profits from unfinished partnership business
 - [Heller Ehrman LLP v. Davis Wright Tremaine LLP](#) (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
 - [*Dickson, Carlson & Campillo v. Pole](#) (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
 - dissolved law firm no property interest in the fees or profits associated with unfinished hourly fee matters
 - [Heller Ehrman LLP v. Davis Wright Tremaine LLP](#) (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
- Division of, when shareholder leaves firm
 - former shareholder has no right on interpleader to contingency fee from cases which shareholder settled while working for firm
 - [City of Morgan Hill v. Brown](#) (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
 - duty to submit to bar association arbitration committee
 - LA 309 (1969)
 - hold client's papers
 - LA 330 (1972), LA(l) 1970-6
 - SD 1977-3, SF 1973-12
 - unilateral withdrawal of funds by attorney
 - LA 438 (1985)
- Division when partnership dissolves
 - valuation of buyout price for dissociating partner
 - [Rappaport v. Gelfand](#) (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
- Donation of legal fees
 - LA 434 (1984)
 - contingent upon bequest to certain organization
 - LA 428 (1984)
 - for charitable auction
 - [CAL](#) 1982-65, SF 1973-27
- Driver License Compact
 - no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
 - [Villarreal v. Gordon](#) (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
- Due an attorney on matters unrelated to the malpractice issue at bar
 - [American Home Assurance Co. v. Miller](#) (9th Cir. 1983) 717 F.2d 1310
- Each party must pay own
 - Code of Civil Procedure section 1021
 - [Gray v. Don Miller & Associates, Inc.](#) (1984) 35 Cal.3d 498, 504-509
- Elder Abuse and Dependent Adult Civil Protection Act
 - [Bickel v. Sunrise Assisted Living](#) (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
 - [Perlin v. Fountain View Management, Inc.](#) (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
 - value of an estate is a factor in setting fees and is consistent with [rule](#) 4-200
 - [Conservatorship of Levitt](#) (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
- Employees of government may recover certain costs of defense if the action arose from acts or omissions in course of employment
 - [City of Redondo Beach v. Delong](#) (1981) 123 Cal.App.3d 1035 [177 Cal.Rptr. 77]
- Environmental Quality Act
 - [Center for Biological Diversity et al. v. County of San Bernardino](#) (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
 - [Riverwatch v. County of San Diego Dept. of Environmental Health](#) (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]

Equal Access to Justice Act

against government

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 -factors considered under CCP § 1021.5
 --social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
 -fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 -prevailing market rates
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]
 reasonable market rates
Brown v. Sullivan (9th Cir. 1990) 916 F.2d 492
 recovery of paralegal time at prevailing market rates
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]
 requires attorney's fees absent substantially justified government position
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
Thomas v. Peterson (9th Cir. 1988) 841 F.2d 332
 standard for awarding attorney's fees under Equal Access to Justice Act
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]
 standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
 statutory basis for
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 to prevailing party
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 -must show that counsel's distinctive knowledge and skill were needful to the litigation in order to justify attorney fees above statutory cap
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
 -standard for awarding attorney's fees under Equal Access to Justice Act
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 under 28 U.S.C. section 2412(d)
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600

U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899

U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

-fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits

Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]

-standing to contest an offset where attorney fees awarded to prevailing party not to attorney

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

value of plaintiff's assets determined

United States v. 88.88 Acres of Land (9th Cir. 1990) 907 F.2d 106

warranted full award of reasonable attorney fees and costs where government authority acted in bad faith

Ibrahim v. U.S. Department of Homeland Security (9th Cir. 2019) 912 F.3d 1147

ERISA matter

either party may recover, not just prevailing party; claimant must show some degree of success on the merits

Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]

Error in awarding fees

court erred in awarding attorney fees given limited success of plaintiffs' enforcement of consent decree

In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous

Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299

district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

district court erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes

Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955

district court erred in reducing attorney's fees under ERISA statute to amount well below prevailing market rate for ERISA plaintiff's attorneys of comparable skill

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

in civil rights case, district court abused discretion in reducing attorney fee award

Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106

Estate

abuse of discretion in determining

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

administrator's attorney's fee for representing administrator as heir

LA 237 (1956)

attorney for administrator claiming fees for extraordinary services

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

FEES

- attorney for personal representative bills heir for services for which estate is liable
LA(l) 1956-7
decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
executor's attorney charges for performance of delegable duties of executor
Probate Code sections 10804 and 15687
LA 347 (1975)
executor's attorney's fee when secretary is executor
LA 382 (1979)
independent review required under Probate Code section 21350 et seq. is not met when attorney may be entitled to executor fees and the so called independent attorney shared office space with drafter
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
legal fees for administration chargeable to estate
Houghton v. Coberly (1962) 201 Cal.App.2d 820 [20 Cal.Rptr. 489]
no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative
In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
Excellent work does not justify enhanced fee; inadequate work may serve to reduce fee
Southwestern Media Inc. v. Rau (9th Cir. 1983) 708 F.2d 419
Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
- Excessive
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Alexander v. Superior Court (1994) 22 Cal.App.4th 901 [27 Cal.Rptr.2d 732]
Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]
Goldstone v. State Bar (1931) 214 Cal. 490, 497 [6 P.2d 513]
argument that fees were too high unpersuasive where defendants were unable to point to any particular fee entries or claimed hours
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
Iodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
negative multiplier decreasing the Iodestar is justified where amount of time attorney spent on case was unreasonable and duplicative
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- plaintiff failed to provide sufficient record on appeal to support its claim that the amount of fees awarded to defendant's attorneys for time spent on prior appeal was unreasonable
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
- Exorbitant
district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
exorbitant and unconscionable fee charged
Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
CAL 1996-147, CAL 1994-135
OC 93-002
fee charged in excess of reasonable value of services does not of itself warrant discipline
Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402 [49 P.2d 832]
gross overcharge by attorney may warrant discipline
Bushman v. State Bar (1974) 11 Cal.3d 558, 562, 564 [113 Cal.Rptr. 904, 522 P.2d 312]
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
test for impermissible overcharge – "shock the conscience"
Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207 Cal.Rptr. 302]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
- Expert witness fees
expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
- Failure to return unearned fees
Bernstein v. State Bar (1990) 50 Cal.3d 221
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Ballard v. State Bar (1983) 35 Cal.3d 274
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
more than minimal preliminary services required to justify retention of advanced fees
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

until after disciplinary action initiated
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Fair Debt Collection Practice Act
 authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
 does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

False Claims Act provides for award of fees under rare and special circumstances
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999
 defendant entitled to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]

Family law
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89] abuse of discretion where court refused and failed exercise discretion; failed to make needs-based analysis and where court refused to review billing records
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 child support obligations ordered by family court have priority over fees deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
 failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt
In re Marriage of Sprague & Spiegel-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
 fees denied under Code of Civil Procedure 1021.5 where litigant had done nothing to curtail a public right, but sought a judgment only to settle her private rights and those of her children, notwithstanding the public benefit to others whose
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
 fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)
Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]
 if the attorney has ceased to be the attorney for the party in whose behalf the order was made, the attorney may enforce the order only if it appears of record that the attorney has given to the former client or successor counsel 10 days' written notice of the application for enforcement of the order. During the 10-day period, the client may file in the proceeding a motion directed to the former attorney for partial or total reallocation of fees and costs to cover the services and cost of successor counsel. On the filing of the motion, the enforcement of the order by the former attorney shall be stayed until the court has resolved the motion
 Family Code section 272
 no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities
In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
 subject to subdivision (c), the order providing for payment of the attorney's fees and costs may be enforced directly by the attorney in the attorney's own name or by the party in whose behalf the order was made
 Family Code section 272
 where the court orders one of the parties to pay attorney's fees and costs for the benefit of the other party, the fees and costs may, in the discretion of the court, be made payable in whole or in part to the attorney entitled thereto
 Family Code section 272

Fee arbitration
 Business and Professions Code sections 6200-6206
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]
Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
 arbitration award becomes binding 30 days after notice of award
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
 arbitrator's authority to determine own jurisdiction
 -authority to rule on the issue does not always mean authority to make a binding (and hence unreviewable) ruling on the issue
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 binding agreement
 -arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 -independent review on issue of whether the parties agreed to binding arbitration
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 binding clause in retainer agreement
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
 correction of arbitration award
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
 notice of client's right to arbitrate a dispute must be given after dispute has arisen
 OC 99-002
 rejection of offer of binding arbitration
 -where one party offers binding arbitration and the offeree rejects the offer, the offeror's offer is effectively rejected and cannot later be accepted by the offeree
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 waiver of due to filing pleading for affirmative relief
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587 [223 Cal.Rptr. 95]

FEES

Financing

[CAL](#) 2007-172, [CAL](#) 2002-159, [CAL](#) 1980-53
LA 308 (1968), SD 1983-1
Board Policy Statement (April 20, 1967) III.A.1., supra
credit card
LA(I) 1972-26, SD 1974-6, SD 1972-13, SD 1972-10
Board of Governors Policy Statement (April 20, 1967)
III.A.1., supra.
through banks
LA 288 (1965)
through lending institutions
LA 288 (1965)

Finder's fee

Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187
Cal.App.3d 609 [231 Cal.Rptr. 706]

For

alimony payments, processing of
LA(I) 1969-1
child support payments, processing of
LA(I) 1969-1
collections
LA 275 (1963), LA 263 (1959), LA(I) 1955-1
service of process by lay employee
LA(I) 1968-4

Foreclosures

attorney fees awarded where borrowers obtained TRO
Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th
714 [243 Cal.Rptr.3d 911]
in an action seeking to prevent a nonjudicial foreclosure, the
borrowers "prevailed" for purposes of attorney fees pursuant
to Civ. Code § 2924.12, subd. (i), because they obtained
preliminary, not solely permanent, injunctive relief against a
trustee's sale of their home
Monterossa v. Superior Court (2015) 237 Cal.App.4th
747 [188 Cal.Rptr.3d 453]
statutory fees limitation applies to both judicial and non-
judicial foreclosures
Bruntz v. Alfaro (1989) 212 Cal.App.3d 411 [260 Cal.Rptr.
488]

Forwarding fees

Rule 2-108(A), Rules of Professional Conduct (operative until
May 26, 1989)
[Rule](#) 2-200, Rules of Professional Conduct (operative as of
May 27, 1989)
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49
Cal.Rptr.2d 676]
Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d
635]
Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr.
519]
Dunne & Gaston v. Keltner (1975) 50 Cal.App.3d 560 [123
Cal.Rptr. 430]
[CAL](#) 1994-138, LA 486, LA 467

Freedom of Information Act

Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
fees awardable if public benefit outweighs economic benefit
United Assn. of Journeymen Apprentices v. Department
of the Army (9th Cir. 1988) 841 F.2d 1459

Frivolous action under Code of Civil Procedure section 128.7

McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270
Cal.Rptr.3d 803]
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165
[249 Cal.Rptr.3d 601]

Government

Anti-Assignment Act voids claimants' assignment of attorney
fees to their attorney but attorney retains lien interest
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
city ordinance which provided for unilateral recovery of
attorney fees found invalid because it conflicted Government
Code section 38773 et seq. permitting recovery of fees by a
prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th
1530 [58 Cal.Rptr.3d 218]

defense of city employees pursuant to Gov. Code § 995 et
seq.

-city is not obligated to provide for defense of employees
separate from that retained to jointly represent the city
and the employees

City of Huntington Beach v. Peterson Law Firm (2002)
95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]

-public employees are entitled to reimbursement of
attorney fees in defense of civil judicial proceedings but
not for preliminary investigations that do not result in civil
judicial proceedings

Thornton v. California Unemployment Insurance
Appeals Board (2012) 204 Cal.App.4th 1403 [139
Cal.Rptr.3d 737]

exception to award of attorney's fees

-where the public entity is the state itself & acts through
its Attorney General whose public responsibility is to
serve the interests of the state at large

People ex rel. Brown v. Tehama County Board of
Supervisors (2007) 149 Cal.App.4th 422 [56
Cal.Rptr.3d 582]

fee application timely filed pursuant to 28 U.S.C.A. §
2412(d)(1)(B) may be amended after filing period has run
may still qualify for consideration and determination on the
merits

Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct.
1856]

fees awarded to city retirement board of members pursuant
to a city council resolution authorizing payment of all
expenses incurred in connection with any claim arising from
any act or omission in the scope of their duties as board
members

Torres v. City of San Diego (2007) 154 Cal.App.4th 214
[64 Cal.Rptr.3d 49]

municipal indebtedness or liability limitations under article
XVI, section 18 of the California Constitution

-contingency fee contract between attorney and city did
not violate the constitutional municipal debt limitation
because attorney's fees were neither a charge against
the city's general fund nor an obligation to be by tax
levies

Lapidus v. City of Wasco (2004) 114 Cal.App.4th
1361 [8 Cal.Rptr.3d 680]

property owner is entitled to attorney's fees as prevailing
party in action to enforce inverse condemnation judgment
against city

Mix v. Tumanjan Development Corp. (2002) 102
Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Andre v. City of West Sacramento (2001) 92 Cal.App.4th
532 [111 Cal.Rptr.2d 891]

Downen's, Inc. et al. v. City of Hawaiian Gardens
Redevelopment Agency (2001) 86 Cal.App.4th 856 [103
Cal.Rptr.2d 644]

retroactive application of city ordinance providing for
recovery of attorney fees found invalid on the grounds that
the ordinance changed the legal consequences of past
conduct

City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th
1530 [58 Cal.Rptr.3d 218]

social security claimant timely files for attorney fees

Van v. Barnhart (9th Cir. 2007) 483 F.3d 600

under 26 U.S.C.A. § 7430

Morrison v. Commissioner of Internal Revenue (9th Cir.
2009) 565 F.3d 658

Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484
F.3d 1103

under Code of Civil Procedure § 1021.5, prevailing public
entity entitled to collect fees from another public entity

County of Colusa v. California Wildlife Conservation
Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]

- under Code of Civil Procedure § 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- Gross overcharge
Bushman v. State Bar (1974) 11 Cal.3d 558, 563 [113 Cal.Rptr. 904]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
- Group legal services
 LA(l) 1971-9
 SD 1973-7
- Guidelines for courts to follow [See Award of attorneys' fees. Sanctions.]
 29 U.S.C section 1132(q)
Hummell v. S.E. Rykoff & Co. (9th Cir. 1980) 634 F.2d 446, 452-453
- Guidelines for setting attorneys' fees
 retirement branch
Sapper v. Lenco Blade, Inc. (9th Cir. 1983) 704 F.2d 1069, 1073
- Handicapped Children's Protection Act
 attorney's fees recoverable by plaintiff
McSomebodies v. San Mateo School District (9th Cir. 1990) 886 F.2d 1559
McSomebodies v. Burlingame Elementary School District (9th Cir. 1990) 886 F.2d 1558
- Homeowners Bill of Rights (HOBR)
 request for attorney fees
Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]
- Hybrid, hourly and contingent
 OC 99-001
 SF 1999-1
- Illegal fee
Coviello v. State Bar (1953) 41 Cal.2d 273
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 2 [77 Cal.Rptr.2d 463]
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
 *Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 LA 466 (1991), OC 99-001
 award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
 counsel for plaintiffs "practiced law in California" without pro hac vice admission therefore fee section of settlement deemed illegal
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
 fee contract between an attorney and an applicant in a workers' compensation case, is not prohibited by the Labor Code; instead, the Workers' Compensation Appeals Board has authority to approve, increase, or reduce the fees within the contract
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
- fees collected while engaged in UPL in another jurisdiction constitute
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- loan modification services
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
 -collecting pre-performance fees in violation of the law
In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- Immigration cases
 Equal Access to Justice Act
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
- Improper billing
 billing for paralegal work, court, in its discretion, may not allow hearsay by attorney as the sole justification for award of such fees
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
 district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 LA 391 (1981), OC 99-001
- Improper for court to withhold past-due SSI benefits for payment of attorney's fees
Bomen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
- In propria persona client and advisor counsel share handling of case
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
- Indigent person
 Business and Professions Code section 6068(h)
CAL 1981-64, SF 1974-4
 additional fee from family of
 LA 245 (1957)
 county hospital lien against indigent patient's tort recovery from third party subject to pro rata reduction for patient's reasonable attorney's fees
City and County of San Francisco v. Sweet (1995) 32 Cal.App.4th 1483 [38 Cal.Rptr.2d 620]
 court should consider indigent losing party's financial condition before awarding reasonable attorney's fees to prevailing party
People v. Rodriguez (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- criminal cases
 -right to ancillary defense services under Penal Code section 987.9
Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]
- litigation cost not limited as tool to deny pro per litigant access to court
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- representation by legal aid foundation
 -award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]

FEES

Insurance agent may be liable for attorney fees incurred by insured

Saunders v. Cariss (1990) 224 Cal.App.3d 905 [274 Cal.Rptr. 186]

Insurance cases

Civil Code section 2860 – reactivity

San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]

-award of attorney's fees to insurance company from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6

Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]

Civil Code section 2860(c)

-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer

Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]

Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

-disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

-insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute

Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]

-no right to fee dispute where no determination of whether insurer has duty to defend

Intergulf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]

Cumis counsel

-insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

fees not recoverable from insurer in suits filed outside scope of policy terms

Olson v. Federal Insurance Co. (1990) 219 Cal.App.3d 252 [268 Cal.Rptr. 90]

-landlord's intentional discrimination in renting was willful conduct which precluded indemnification by liability insurer for costs and attorney fees

Combs v. State Farm Fire & Casualty Company (2006) 143 Cal.App.4th 1338 [49 Cal.Rptr.3d 917]

injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld

Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]

insured entitled to reimbursement of attorney's fees incurred in a forfeiture proceeding

American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]

insurer's ability to recover attorney fees from insured

Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]

Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]

Interest on unpaid [See Charge interest.]

California Constitution Art. 15

Usury section 1, par. 2

CAL 1980-53

LA 370 (1978), LA 374 (1978)

SD 1983-1, SD 1976-8

SF 1970-1

in the absence of an agreement as to any accrued interest, the interest belongs to the attorney who owns the fee judgment upon which interest is accruing

Hernandez v. Siegal (2014) 230 Cal.App.4th 165 [178 Cal.Rptr.3d 417]

interest on prejudgment award of fees begins to accrue upon entry of judgment

Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]

standing to pursue claim for interest on award of attorney's fees

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

Interim award of attorney's fees not an appealable collateral order

Hillery v. Rusher (9th Cir. 1983) 702 F.2d 848

Interim awards appropriate to party substantially prevailing

Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192

Interim bankruptcy

In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322

Interpleader funds

award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure 386.6

Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]

fees denied where party failed to satisfy criteria for interpleader action pursuant to Code of Civil Procedure section 386.6

Wells Fargo Bank, N.A. v. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]

fees denied where public entity failed to file interpleader action pursuant to Code of Civil Procedure 386.6

Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]

Invalid contract

Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

IRS matter

Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658

Jurisdiction of federal court

district court that presided over the underlying action denied law firm's motion to enforce a note on the grounds that the note was not collateral to the action and therefore outside of the court's supplemental jurisdiction

Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

over Title VII claim for attorney's fees for legal work performed in state, local or administrative proceedings

Porter v. Winter (9th Cir. 2010) 603 F.3d 1113

Labor Management Act (§ 301)

Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074

Law clerks and paralegals

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

LA 391 (1981)

non-attorney collection agency employees

LA 522 (2009)

Lien

absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)

Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

client may by agreements to secure fees

United States v. Stonehill (9th Cir. 1983) 702 F.2d 1288

common fund doctrine does not apply to contractual medical lien holders in personal injury matters

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

declaratory relief action to determine prior attorney's right to fees is not subject to anti-SLAPP motion because suit does not arise from a protected activity

Drell v. Cohen (2014) 232 Cal.App.4th 24 [181 Cal.Rptr.3d 191]

duty to pay medical lien with client's consent

Rule 4-210(A), Rules of Professional Conduct

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

equitable lien for fees

Winslow v. Harold G. Ferguson Corp. (1944) 25 Cal.2d 274, 277 [153 P.2d 714]

County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

equitable lien theory does not apply to contractual lienholders in personal injury matters

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

no lien in absence of contract

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

physician's

CAL 1988-101

LA 368 (1977), LA 357 (1976)

prior attorney's lien

CAL 2008-175

priority of attorney liens

Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

Cappa v. K & F Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

-attorney's lien is subordinate to an adverse party's right to offset judgments

Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]

-attorney's lien superior to claims of other creditors against a bankruptcy distribution

Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]

-attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

-in relation to medical lien in contingency fee case

Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

security for fees

Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170, CAL 1981-62

settlement check issued only to client, but delivered to attorney who has a lien

OC 99-002

Loan modification services

collecting pre-performance fees in violation of the law

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

"Lodestar" multiplier method of fee calculation

Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]

Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

Khazan v. Braynin (2012) 206 Cal.App.4th 796 [142 Cal.Rptr.3d 118]

Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]

Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]

Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]

Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

abuse of discretion where quality of representation was used to reduce

Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

FEES

class action cases

Wininger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method

City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]

probate matters

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred

EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

trial court did not abuse its' discretion in reducing the attorney fees award when it determined that many of the hours were duplicative

Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]

trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate

Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]

Malpractice action

Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074

Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]

Mandatory arbitration

Witkin, California Procedure 2d, Supp., Attorneys, section 106(A)ff.

Med-pay

Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672

Mediation

agreement containing attorney fee provision was inadmissible, judicial estoppels provides no exception to mediation confidentiality

Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]

defendant-sellers in real estate case are not required to seek mediation prior to recovery of attorney fees

Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]

no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

Leamon v. Krajewicz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]

party refusing request to mediate due to incomplete discovery responses cannot recover attorney fees under contract provision conditioning recovery of attorney's fees upon acceptance of mediation

Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]

party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees

Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

Medical malpractice

attorney not automatically entitled to the maximum contingency percentages under Business and Professions Code section 6146, which establishes caps on the recovery, not guarantees of the attorney's fees

Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

calculation under Business and Professions Code section 6146 when attorney has multiple clients

Yates v. Law Offices of Samuel Shore (1991) 229 Cal.App.3d 583 [280 Cal.Rptr. 316]

contract contingency fee limits in Business and Professions Code section 6146 are constitutional and to be followed even when clients agree to a higher fee contract

Shultz v. Harney (1994) 27 Cal.App.4th 1611

Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920 [211 Cal.Rptr. 77]

Shepard v. Browne, Greene, et al. (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]

Hathaway v. Baldwin Park (1986) 168 Cal.App.3d 1247

federal tort claims act preempts California Business and Professions Code section 6146 fee limitation

Jackson v. United States (9th Cir. 1989) 881 F.2d 707

medical-legal consulting services entitlement to a contingent fee may be restricted by MICRA limitations

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

MICRA not applicable to medical procedure performed without patient's consent by doctor acting as agent of law enforcement

Ellis v. City of San Diego (9th Cir. 1999) 176 F.3d 1183

Membership fees

Business and Professions Code section 6140 et seq.

Minimum fee schedules

Goldfarb v. Virginia State Bar (1975) 421 U.S. 773 [95 S.Ct. 2004]

Trout v. Carleson (1974) 37 Cal.App.3d 337 [112 Cal.Rptr. 282]

no longer in effect

SD 1973-7

Minors' compromise

Probate Code sections 3500 et seq., 3600 et seq.

Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]

Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

Sisco v. Cosgrove, Michelizzi, Schwabacher, Ward & Bianchi (1996) 51 Cal.App.4th 1302 [59 Cal.Rptr.2d 647]

Law Offices Of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]

Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]

Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]

court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case

Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177

trial court erred in awarding only 10% recovery for attorney's fees in a complex aviation case where it failed to look at other factors such as one attorney had 47 years of experience in aviation accidents and both attorneys had many years of experience as pilots

Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]

trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

Must be licensed at time services performed to recover

Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

- Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
 failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership
Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]
Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]
 out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- Mutuality of remedies
Smith v. Krueger (1983) 150 Cal.App.3d 752, 757 [198 Cal.Rptr. 174]
- No attorney's fees as obligated under contract that was not assumed
Wilson's Heating and Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
- No award of attorney's fees when government takes no affirmative legal action
League of Women Voters of California v. F.C.C. (N.D. Cal. 1983) 568 F.Supp. 295, 301
- No recovery of attorney's fees if a violation of Rules of Professional Conduct occurs
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
 denial of forfeiture motion on grounds that alleged ethical violations are irrelevant to the value of attorney's services to client
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
 serious ethical violation required, forfeiture never automatic
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
- No recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajewicz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
- No recovery of attorney's fees where attorney voluntarily withdraws without cause
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
- Nominal fee
 printed upon professional card
 LA 131 (1940)
- None charged
 charitable, educational, and religious organizations
 SD 1974-19
 for referrals from health plan
 LA(l) 1931-3
 for will
 -leaving money for cause
 LA 314 (1970), LA 196 (1952)
 -to bank's customers
 SD 1974-21 ½
 -to insurance broker's clients
 SD 1976-6
 labor union members
 LA 151 (1944)
 when client can pay
 SD 1983-6
- Non-payment of
 by client
 -attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
 -lawyer declines to perform further services
 SD 1973-3, LA 32 (1925)
- Non-statutory award of attorney's fees
 reasonable lodestar/risk factor
Beatty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268
- Note and deed of trust to secure requires compliance with rule 5-101 (current [rule](#) 3-300)
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
- Note without deed of trust may not require compliance with [rule](#) 3-300
 SF 1997-1
- Out-of-state attorney's
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 LA(l) 1969-3
 out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- Paid by others
[Rule](#) 1.8.6
 -litigation funding
[CAL](#) 2020-204
[Rule](#) 3-310(F), Rules of Professional Conduct
 accessory of client in felony
 LA(l) 1964-1
 by corporation to minority shareholder's attorney
Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
 by fee guarantor
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
 by former employer
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
 by government
 -defending duties of legal services lawyer
[CAL](#) 1981-64
 by individual homeowners of a condominium association
 -payment of fees does not determine ownership of the attorney-client privilege
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
 by insurer of client
 -counsel is acting on the insurer's behalf and representing the insurer's own rights and interest as well as those of its insured
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

FEES

- Cumis counsel
 - insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
 - Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
 - insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred by on behalf of an insured client
 - National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
 - LA 439 (1986)
- by non-lawyer immigration service providers
 - People v. Salcido (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- by parent of client
 - Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
- by trust beneficiaries
 - payment of fees does not determine ownership of the attorney-client privilege
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- disclosure of identity
 - United States v. Blackman (1995) 72 F.3d 1418
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
- fee financing plan
 - CAL 2002-159, OC 93-002
- head of criminal organization
 - to represent subordinate
 - CAL 1975-35
- litigation funding
 - CAL 2020-204
- not privileged information
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
 - United States v. Hirsch (9th Cir. 1986) 803 F.2d 493
- third party agrees to indemnify client's legal fees but not entitled to confidences or secrets
 - LA 471 (1992), LA 456 (1990)
- Paid with funds belonging to receivership
 - PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Paid with funds illegally gained
 - funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
 - People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
- Partnership agreement to divide fee upon partner leaving firm held unconscionable
 - former firm entitled to quantum meruit
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- Partnership dissolution
 - CAL 2020-201, CAL 1985-86
 - division of post-dissolution profits from unfinished partnership business
 - *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Party must substantially prevail and government must have acted in bad faith to get attorney's fees
 - Guam Contractors Association v. U.S. Dept. of Labor (N.D. Cal. 1983) 570 F.Supp. 163, 170
- Periodic payments
 - client recovery is annuity, attorney is entitled to percentage of periodic payments
 - Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- Permissive intervention by client's former attorney concerning attorneys' fees
 - Venegas v. Skaggs (9th Cir. 1989) 867 F.2d 527
- Physician's
 - client's duty with respect to
 - LA 368 (1977), LA 357 (1976)
- Post-judgment
 - fee awarded where one party petitioned to enforce judgment, even if settlement agreement did not provide for post-judgment fees
 - Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
 - fees going to post-judgment collection costs not covered under terms of fees provision in pre-judgment contract
 - Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
 - judgment creditor authorized to recover attorney fees incurred in enforcing underlying judgment against sureties
 - Rosen v. Legacy Quest (2014) 225 Cal.App.4th 375 [170 Cal.Rptr.3d 1]
 - judgment creditor entitled to attorney's fees incurred in the defense of an a separate action on the enforcement of the judgment
 - Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
 - judgment creditor entitled to recover attorney fees from third-party who helped judgment debtor hide assets and evade enforcement
 - Cardinale v. Miller (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]
 - judgment creditor must request post-judgment attorney fees before the underlying judgment is fully satisfied
 - Carnes v. Zamani (9th Cir. 2007) 488 F.3d 1057
 - limitation on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act
 - Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]
 - limits imposed by Prison Litigation Reform Act did not burden prisoners' fundamental right of access to courts
 - Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990
 - limits imposed by Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
 - Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
 - members of dissolved LLC are liable for attorney fees up to amount distributed upon dissolution for breach of contract by LLC
 - CB Richard Ellis, Inc. v. Terra Nostra Consultants (2014) 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]
 - petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
 - California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
- waiver
 - unenforceable where statutory language specifically does not permit waiver of right to fees, notwithstanding an agreement to the contrary
 - Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
- Prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
 - Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
- Prevailing parties
 - Code of Civil Procedure section 1038
 - CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
 - Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
 - Lucero v. Municipal Court (1993) 15 Cal.App.4th 784 [19 Cal.Rptr.2d 143]

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

-limited to cases where the parties do not have an agreement as to award of fees

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

administrative hearings

Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]

Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686 [30 Cal.Rptr.2d 922]

-award of attorney fees under Welfare and Institutions Code section 10962 does not include fees incurred in administrative hearing

K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]

-party may receive attorney's fees incurred in an administrative hearing

Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]

agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable

Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

amended party must be given opportunity to respond and contest personal liability before judgment is entered against him

Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]

American with Disabilities Act

-defined

--plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned

Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122

anti-SLAPP motion

-arising out of malicious prosecution action

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

-burden of proving fees were covered by award following successful motion to strike

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

-defendants who fail to file an anti-SLAPP motion before the plaintiff's voluntary dismissal of all causes of actions against them cannot recover fees or costs

S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]

-does not preclude anti-SLAPP defendant from recovering appellate attorney fees upon prevailing on appeal

Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

-fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant

Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

-fees awarded to plaintiff where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

-mandatory award may be based on attorney's declarations instead of time records

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

-no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants

Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]

-prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney

Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]

Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]

-prevailing defendant-attorneys on an anti-SLAPP motion to strike are not entitled to attorney fees because they represented themselves

Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]

Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

-will revision considered protected activity for anti-SLAPP motion purposes

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

-withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

apportionment not required if successful and unsuccessful claims are interrelated

Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]

arbitration cases

-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

-arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration

Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

-arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

FEES

- arbitrator's determination of, not subject to appellate review
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
 - Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
- attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
 - Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
 - Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
 - plaintiffs cannot be required to pay arbitral expense and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute
 - D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- prevailing party in action to forestall arbitration
 - Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
- attorney fee awarded to party who obtained court order incorporating settlement agreement which includes the requested remedy
 - Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
- award of fees proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute
 - Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]
- bankruptcy matter
 - In re Starky (9th Cir. BAP 2014) 522 B.R. 220
 - In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
- civil rights cases
 - Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]
- class actions
 - absent class members not liable for employer's attorney's fees in overtime dispute
 - Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
 - attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
 - Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
 - attorney's fees for securities class action suits should be based on individual case risk
 - In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 - attorney's fees should be adequate to promote consumer class action
 - Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
 - fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
 - Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
 - trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees
 - Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
- contract clear that party must attempt mediation before commencing litigation to recover attorney fees
 - Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
- costs not awarded under F.R. Civ. Proc. 54 where underlying claim was dismissed for lack of subject matter jurisdiction
 - Miles v. State of California (9th Cir. 2003) 320 F.3d 986
- costs of suit that are routine and non-routine
 - Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
- defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning
 - Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
- defendant must show that original suit frivolous to recover
 - Fogerty v. Fantasy (1994) 114 S.Ct. 1023
- defendants entitled to attorney's fees even though plaintiffs dismissed appeal
 - Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
- defendants not entitled to award of attorney fees where case brought under anti-hate crime statute
 - D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- definition of prevailing party under Civil Code § 1780 et seq.
 - Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
- definition of prevailing party under Civil Rights 1983
 - Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020
- definition of prevailing party under Code of Civil Procedure § 1021.5
 - Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]
 - Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- definition of prevailing party under Code of Civil Procedure § 1032 et seq.
 - deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
 - Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]
 - Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
 - Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 - Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
- denied where litigant is unable to materially alter the legal relationship of the parties by judgment or by consent decree
 - Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
- entitled to attorney's fees even without formal judgment
 - Rutherford v. Pitchess (9th Cir. 1983) 713 F.2d 1416
 - ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
- entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
 - Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
- ERISA matter
 - either party may recover, not just prevailing party; claimant must show some degree of success on the merits
 - Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]

-under 29 U.S.C. section 1132(a)(3)
Castillo v. Metropolitan Life Insurance Co. (9th Cir. 2020) 970 F.3d 1224

family law
 -court ordered attorney's fees and costs
 Family Code section 272

FEHA matter
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]
Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]
 -court denied plaintiff attorney fees even though plaintiff suffered adverse employment decision in which discrimination was a motivating factor
Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]
 -prevailing defendant under this statute can only recover fees upon a showing that plaintiff's action was frivolous, unreasonable, or without foundation
Lopez v. Routt (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]

fees awarded under CCP § 1021.5-rationale for award
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 fees granted for action that served to vindicate an important right
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
 general rule that pro se litigants, attorneys or not, cannot recover statutory attorney's fees
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
 homeowner association dispute over election of board of directors
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]

jurisdiction of court
 -trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]

legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]

may seek attorney's fees notwithstanding an invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
 need not be named in contract to be entitled to fees
Plemon v. Nelson (1983) 148 Cal.App.3d 720 [190 Cal.Rptr. 196]
 no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]

no prevailing party status
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
Escobar v. Bowen (9th Cir. 1988) 857 F.2d 644
Harris v. Rojas (2021) 66 Cal.App.5th 817 [281 Cal.Rptr.3d 452]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]

Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Bankes v. Lucas (1992) 9 Cal.App.4th 365
 -de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
 -defendant who successfully completed diversion program in exchange for dismissal of charges not entitled to attorney fees
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
 -no prelitigation attempt to settle
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 -plaintiff failed to meet the statutory requirements of a successful party where remand of the litigation to the administrative agency to reconsider a perceived procedural defect did not result in change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
 -plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
 -prevailing party must be determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
 -voluntary dismissal
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
 --defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
 --no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
 -voluntary dismissal of suit against defendant did not necessarily establish defendant's entitlement to attorney's fees as prevailing party
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
 -voluntary dismissal of suit after defendant withdrew disputed rule
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
 partially prevailing plaintiff in civil rights action awarded fees where successful claim is isolated from unrelated or unsuccessful claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
 party prevails if he was able to achieve most or all of his litigation objectives
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

FEES

Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
prevailing buyers of real property denied attorney fees as offset against purchase price
Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
prevailing party as defined by statute versus one defined by contract
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
prevailing party in preliminary injunction entitled to attorney fees
Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092
prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
proper to award attorney fees to defendant attorney even though he was representing himself
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
recovery under purchase and sale agreements
The 3250 Wilshire Blvd. Building v. W.R. Grace and Co. (1993) 990 F.2d 487
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
settlement agreement
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
-parties to settlement agreement can validly specify a prevailing party
Khavarian Enterprises Inc. v. Comline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]
-which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
SLAPP action
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
-conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
-law firm may not recover attorney fees after winning anti-SLAPP motion, even though it used 'contract attorney' to work on that motion
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]

-partially successful motion constitutes prevailing party unless no practical benefit from bringing a motion
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
-prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
-withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
trial court abused its discretion by applying an inapposite decision to deny attorney fees without prior notice to the plaintiff
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
trial court must adequately explain the basis for the attorney fees award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
under 29 U.S.C. § 621 et seq.
-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
under 35 U.S.C. § 285
Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]
under 42 U.S.C. §§ 1983, 1988
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
under California Education Code § 44944(f)
-application of lodestar methodology in determining reasonable attorney's fees
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
under Civil Asset Forfeiture Reform Act
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
under Civil Code section 798.85
Canyon View Ltd. v. Lakeview Loan Servicing, LLC (2019) 42 Cal.App.5th 1096 [256 Cal.Rptr.3d 233]
Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]

under Civil Code section 1354

Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]

under Civil Code section 1717

In re Penrod (9th Cir. 2015) 802 F.3d 1084

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)

Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]

David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]

Kandy Kiss of California, Inc. v. Tex-Ellent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]

Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]

Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]

SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]

PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]

Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]

Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]

ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]

Thompson v. Miller (2003) 112 Cal.App.4th 327 [4 Cal.Rptr.3d 905]

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]

Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]

Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]

Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]

Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]

Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]

Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]

Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92

-absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation

Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]

-arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration

Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

-attorney fees may be awarded to more than one prevailing party in a breach of contract dispute

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

-attorney fees may not be awarded to a prevailing attorney acting in pro se

Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]

-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

-attorney's fees denied because prevailing party's tort action was not an action to enforce the contract

Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]

-attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

-California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)

ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]

-decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

-denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status

Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]

-denied where action was voluntarily dismissed

Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043

Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]

-does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial

David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

-limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees

In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

FEES

- no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
 - Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
- party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
 - Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- party that scored procedural victory not deemed to be prevailing party
 - In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
- plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
 - Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
- plaintiffs are not entitled to recover attorney fees because attorneys who represent themselves in litigation cannot recover attorney fees based on such representation
 - Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]
- prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
 - Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
- prevailing party law firm not entitled to attorney fees when represented by their own of counsel
 - Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]
- reduction of fees by 90% where court found litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
 - EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
 - CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
- under Civil Code section 3496
 - City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
- under Civil Rights 1983
 - Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020
 - criteria for award of fees
 - Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020
- under Civil Code section 5975
 - Champir, LLC v. Fairbanks Ranch Association (2021) 66 Cal.App.5th 583 [281 Cal.Rptr.3d 286]
 - Coley v. Eskaton (2020) 51 Cal.App.5th 943 [264 Cal.Rptr.3d 740]
- under civil rights statutes
 - Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
 - Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
 - Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
 - Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
 - in civil rights case, district court abused discretion in reducing attorney fee award
 - Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
- under Clean Water Act
 - Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
- fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
 - Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012
- under Code of Civil Procedure section 340.1
 - John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
- under Code of Civil Procedure section 405.38
 - in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal
 - Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
 - in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
 - Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
- under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
 - Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
- under Code of Civil Procedure section 916 et seq
 - Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
- under Code of Civil Procedure section 1021.5
 - Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
 - Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
 - La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
 - People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
 - San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
 - Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
 - Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
 - Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
 - Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
 - Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
 - Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
 - McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 - Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
 - Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
 - Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
 - Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]

- apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
- must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
- suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703] under Code of Civil Procedure section 1032
deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
- under Code of Civil Procedure section 1033.5
 -memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
 -plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
- under Code of Civil Procedure section 1038, no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 -no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- under Code of Civil Procedure section 1094.5
No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
- under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
- under Endangered Species Act
 -catalyst theory applied
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
- under Equal Access to Justice Act
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 -standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
- under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay the other spouse's attorney fee directly to attorney
In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
- under Family Code section 2030
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
- under Government Code section 800
 -finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
- under Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- under Health Care Decisions Law
Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]
- under Individuals with Disabilities Education Act
Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087
- under Labor Code § 98.2
Nishiki v. Danko Meredith, APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
 -former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
 -"more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- under Labor Code § 218.5
Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
 -fees denied when prevailing party fails to request in initial complaint
Shames v. Utility Consumers' Action Network (2017) 13 Cal.App.5th 29 [219 Cal.Rptr.3d 846]
 -Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
 -prevailing party in nonpayment of wages action could not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
- under Labor Code § 1194
Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
 -manager who prevailed on employee's unpaid minimum and overtime claims on grounds he was not employee's employer was not entitled to recover attorney fees from employee even manager and employee were employed by same employer
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
- under Lanham Act
SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179
- under Penal Code § 182(a), fees imposed on conviction for 'conspiracy' to commit crime constituted punishment pursuant to Legislature's intent
People v. Ruiz (2018) 4 Cal.5th 1100 [232 Cal.Rptr.3d 714]
- under Penal Code § 1202.4(f)(3), trial court has authority to order a criminal defendant to pay restitution, including actual and reasonable attorney's fees directly to the victim
People v. Kelly (2020) 59 Cal.App.5th 1172 [274 Cal.Rptr.3d 158]

FEES

- People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
- People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- victim's comparative negligence may reduce amount of restitution for economic losses
- People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
- under Rees-Levering Auto Sales Financing Act
- Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
- under Song-Beverly Consumer Warranty Act
- Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
- Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]
- Patel v. Mercedes-Benz USA (2019) 43 Cal.App.5th 1007 [256 Cal.Rptr.3d 603]
- Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
- Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
- Wohlgemuth v. Caterpillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]
- Dominguez v. American Suzuki Motor Corporation (2008) 160 Cal.App.4th 53 [72 Cal.Rptr.3d 354]
- Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
- under Uniform Foreign Money Judgments Recognition Act
- Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
- under Vehicle Leasing Act
- Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]
- under Welfare and Institutions Code section 10962
- K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
- Workers' Compensation
- Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
- non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney
- 99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
- successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act
- Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066
- Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044
- under Labor Code § 4607
- Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
- Prior attorney's claim for fees
- Baca v. State Bar (1990) 52 Cal.3d 294 [276 Cal.Rptr. 169]
- Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- no violation found when successor attorney fails to reserve funds in trust to satisfy the prior attorney
- In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Private Attorney General Doctrine
- Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]
- Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
- Attorney General may appeal attorney fees in a settlement under Proposition 65
- Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- attorney's fees can only be recovered against opposing parties
- McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
- Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
- calculation for lodestar or touchstone fees
- amount and items allowable – factors
- In re Washington Public Power Supply Systems Securities Litigation (1994) 19 F.3d 1291
- Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
- Press v. Lucky Stores, Inc. (1983) 34 Cal.3d 311, 317-318 [193 Cal.Rptr. 900, 667 P.2d 704]
- Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
- LA 515 (2005)
- based on time spent and reasonable hourly compensation
- San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 754-756 [202 Cal.Rptr. 423]
- cannot be based on contingent fee – must be based on time spent on base
- Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1313-1314
- contingency fee agreement cannot justify lowering an otherwise reasonable lodestar fee
- Quesada v. Thomason (9th Cir. 1988) 850 F.2d 537
- discovery may be allowed by the trial court
- Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
- fee award subsumes novelty, experience, complexity, and results obtained
- Hunt v. County of Los Angeles (1988) 203 Cal.App.3d 87 [249 Cal.Rptr. 660]
- fees awarded under CCP § 1021.5 – rationale for award
- Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
- Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
- Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- limited success against defendants may not warrant reduction of lodestar
- Corder v. Gates (9th Cir. 1991) 947 F.2d 374
- multiplier to lodestar ensures counsel's acceptance of civil rights contingency cases
- Bernardi v. Yeutter (9th Cir. 1991) 942 F.2d 562
- multiplier to lodestar no necessary to attack lawyers to meritorious contingency fee cases
- Gomez v. Gates (1992) 804 F.Supp. 69
- objective
- Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]
- over billing by attorney
- Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300
- state obligation to reimburse county
- County of Fresno v. Lehman (1991) 229 Cal.App.3d 340 [280 Cal.Rptr. 310]
- trial court must make findings to show lodestar calculation applied in welfare benefits litigation
- Burkholder v. Kizer (1991) 235 Cal.App.3d 297

- trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
 - Rebney v. Wells Fargo Bank, N.A. (1991) 232 Cal.App.3d 1344
- under Civil Code section 1717
 - Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92
- causal connection between lawsuit and relief obtained required
 - Westside Community for Independent Living, Inc. v. Obledo (1983) 33 Cal.3d 348 [188 Cal.Rptr. 873, 657 P.2d 365]
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
 - Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
- criteria for awarding
 - Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
 - Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
 - People ex rel. Becerra v Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
 - Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]
 - Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
 - Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
 - County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
 - Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
 - Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
 - Leiserson v. City of San Diego (1988) 202 Cal.App.3d 725 [249 Cal.Rptr. 28]
- denied on the grounds that in pro per party's petition for fees was untimely
 - Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
- denied when no important right or interest was vindicated by the plaintiff's action
 - Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
 - Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
 - King v. Lewis (1990) 219 Cal.App.3d 552 [268 Cal.Rptr. 277]
 - Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193
- lawsuit to compel an agency to give a detailed explanation of its decision did not qualify as either a significant benefit or enforcement of an important right affecting the public interest
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement
 - People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- discretion of trial court
 - Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1311
- enforcement effort alone did not justify fee award
 - Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
- entitled to fees because action resulted in enforcement of an important right affecting the public interest
 - Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
- fee award improper where de minimus public benefit
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
 - Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 7]
- fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
 - Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
- fees granted for action that served to vindicate an important right
 - factors considered under CCP § 1021.5
 - Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
 - Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
 - Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
 - Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
 - Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
 - La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
 - People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
 - Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
 - Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
 - Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
 - Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
 - McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 - Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
 - Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
 - Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
 - In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
 - Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
 - Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
 - County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
 - Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
 - Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
 - Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
 - Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]

FEES

State of California v. County of Santa Clara (1983) 142 Cal.App.3d 608, 614-616 [191 Cal.Rptr. 204]
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
 --attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 --award of fees improper when plaintiff has personal interest or individual stake in the matter
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
 --must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
 -fee awarded under CCP § 1021.5 – rationale for award
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d. 882]
Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
People v. Investco Management & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
Satrap v. Pacific Gas & Electric (1996) 42 Cal.App.4th 72 [49 Cal.Rptr.2d 348]
Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686
Urbaniak v. Newton (1993) 19 Cal.App.4th 1837 [24 Cal.Rptr.2d 333]
Christward Ministry v. County of San Diego (1993) 13 Cal.App.4th 31
Zambrano v. Oakland Unified School District (1991) 229 Cal.App.3d 802 [280 Cal.Rptr. 454]
Bartling v. Glendale Adventist Medical Center (1986) 184 Cal.App.3d 97, 102-103 [228 Cal.Rptr. 847]
 --award of fees improper when plaintiff has personal interest or individual stake in the matter
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]

Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
 --non-pecuniary aesthetic interest are sufficient to block an award of attorney's fees otherwise appropriate under section 1021.5
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
 --requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
 -fees and costs awarded for sheriff's distribution of anti-Bird material
California Common Cause v. Duffy (1987) 200 Cal.App.3d 730 [246 Cal.Rptr. 285]
 -indirect benefit not sufficient
Smith v. County of Fresno (1990) 219 Cal.App.3d 532 [268 Cal.Rptr. 351]
 -limited to successful litigants utilizing judicial process
Crawford v. Board of Education of the City of Los Angeles (1988) 200 Cal.App.3d 1397 [246 Cal.Rptr. 806]
 -on remand, trial court to reevaluate fee award in light of party's success on appeal
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601
 includes fees for appeal
Schmid v. Lovette (1984) 154 Cal.App.3d 466, 480 [201 Cal.Rptr. 424]
 must be reconsidered on remand of case
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601-602, mod. 150 Cal.App.3d 1141c
 no award of attorney's fees under Code of Civil Procedure section 1021.5 where pecuniary interest of public entity outweighed burden of litigation
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
 prison inmate's case, successfully litigated
Daniels v. McKinney (1983) 146 Cal.App.3d 42 [193 Cal.Rptr. 842]
 statutory authority
No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]
 under Code of Civil Procedure 1021.5
Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
 -denied in action brought under Government Code section 12974
Dept. of Fair Employment and Housing v. Cathy's Creations, Inc. (2020) 54 Cal.App.5th 404 [269 Cal.Rptr.3d 1]
 -fees awarded under CCP § 1021.5 – rationale for award
Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
 Pro bono
 appointment of counsel for incarcerated, indigent civil defendant
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
 court impressing attorney to represent pro bono an indigent client denies attorney equal protection under Fourteenth Amendment
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 347-349 [222 Cal.Rptr. 854]
 partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

Rosenauro v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
 public service obligation of the bar
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faltz (1992) 9 Cal.App.4th 129
 when attorney knows pro bono client has sufficient funds to pay legal fees
 SD 1983-6

Probate
 Probate Code section 17211(b)
Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
 abuse of discretion in determining
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
 attorney fees are not awarded when matter is resolved or settled without the actual appointment of a conservator
Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]
 attorney fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]
 extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
 extraordinary attorneys' fees for settlement of claim of estate of decedent determined by probate court, not settlement agreement
Estate of Baum (1989) 209 Cal.App.3d 744 [257 Cal.Rptr. 566]
 no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative
In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
 ordinary/extraordinary fees distinguished
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 1 [77 Cal.Rptr.2d 463]
Estate of Hilton (1996) 44 Cal.App.4th 890, 895
 party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
 petition for reimbursement of attorney's fees not subject to 60-day limit
Holloway v. Edwards (1998) 68 Cal.App.4th 94 [80 Cal.Rptr.2d 166]
 probate code permits attorney's fees for out-of-state attorney rendering services for a California estate
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee
Pizarro v. Reynoso (2017) 10 Cal.App.5th 172 [215 Cal.Rptr.3d 701]
Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]

reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
 sanctions for filing frivolous appeal on denial of extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
 trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

Probate fee, statutory scale
 Probate Code section 10800
Estate of Hilton v. Conrad N. Hilton (1996) 44 Cal.App.4th 890 [52 Cal.Rptr.2d 491]
 Probate Code section 10810
 out-of-state attorney entitled to statutory and extraordinary fees as deemed reasonable by the court
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 Probate Code section 10811
 -discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 -extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Promissory note or deed of trust
 attorney take as security for fees
 CAL 1981-62
 LA 492, SF 1997-1
 enforcement of a promissory note in federal court
Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

Prosecutorial misconduct
 denial of attorney's fees where government's litigation position, although standard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

Public defenders
 reimbursable cost of public defender's service is actual cost to county, not reasonable attorneys' fees
People v. Cruz (1989) 209 Cal.App.3d 560 [257 Cal.Rptr. 417]

Public interest case
Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
 attorney's fees paid by losing party in Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
 -advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
 --exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]

FEES

- party may receive attorney's fees incurred in an administrative hearing
 - Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
- exception to award of attorney's fees
 - denial of fees to shareholder who brought shareholder class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - where the public entity is the state itself & acts through its Attorney General whose public responsibility is to serve the interests of the state at large
 - People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- fee shifting
 - Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
 - Serrano v. Priest (1977) 20 Cal.3d 25 [141 Cal.Rptr. 315, 569 P.2d 1303]
 - Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
 - no fee shifting in a class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
 - Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
 - trial court ruled that because County Committee did not violate the California Voting Rights Act, it was not liable for attorney fees and costs
 - Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
- fees award to consumer group for its participation and work before a public utilities commission on rate stabilization
 - Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- fees denied where remand to an agency of the litigation under the California Endangered Species Act to reconsider a perceived procedural defect did not result in change in the agency's decision
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- under Proposition 103, section 1861.10
 - State Farm General Insurance Company v. Lara (2021) 71 Cal.App.5th 197 [286 Cal.Rptr.3d 124]
- Quantum meruit
 - attorney's lien not payable in circumvention of the Bankruptcy Code
 - In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 - award upheld and not prejudicial even though trial court erred in voiding the contingent fee contract
 - Franklin v. Appel (1992) 8 Cal.App.4th 875
 - discharged attorney attempts to enforce contingent fee contract made with substituted counsel
 - Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
 - discharged attorney entitled to reasonable value of services
 - Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
 - Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
- In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- CAL 2009-177
- division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
 - Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
 - Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- attorney precluded from recovering from client
 - Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- legal services rendered to executor in individual capacity
 - Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
- newspaper did not bring an action against the city to compel disclosure under the Public Records Act and, therefore, not entitled to fees
 - National Conference of Black Mayors v. Chico Community Publishing, Inc. (2018) 25 Cal.App.5th 570 [236 Cal.Rptr.3d 1]
- no obligation for successor attorney to reserve funds in trust to satisfy the prior attorney's lien
 - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
 - In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- partnership entitled to
 - for unfinished cases taken by departing partner
 - Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice
 - Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
- prior counsel not required to endorse a settlement check that is jointly payable to attorney pending resolution of dispute. Attorney has affirmative duty to seek arbitration or judicial determination of the amount attorney is entitled to receive without delay
 - CAL 2009-177
- proper basis for calculating quantum meruit value of client referral is how much of a benefit the previous attorney conferred on successor attorney that the latter unjustly retained
 - Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP (9th Cir. 2011) 664 F.3d 282
- substituted-out attorney may recover for full performance under employment contract
 - Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149 [1 Cal.Rptr.2d 636]
- succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
 - SF 1989-1

succeeding attorney's duty to honor withdrawing attorney's lien

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]

successor attorney's obligation to notify prior attorney of the existence of a settlement

CAL 2008-175

under Code of Civil Procedure 1021.5

Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d. 882]

under contingent fee contract, discharged attorney limited to quantum meruit recovery

Spire v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

voluntary withdrawal without cause forfeits recovery

Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

where services have been rendered under a contract which is unenforceable as against public policy

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

where services have been rendered under a contract which is unenforceable because it was not in writing

Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]

Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]

-not signed by client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

Real estate transactions

partner in a law firm may represent seller in a real estate transaction and accept a commission in lieu of legal fees so long as no one in the firm who does not hold a real estate broker's license performs any act for which a license is required (the Real Estate Law, Bus. & Prof. Code §§ 10000-10580)

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

payment of a real estate commission in lieu of hourly legal fee is not per se illegal

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

Reasonable number of hours times reasonable fee (community standards) for civil rights cases

White v. City of Richmond (9th Cir. 1983) 713 F.2d 458

Reasonable only

despite contract when contract is invalid

Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]

entitled if discharged

In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679

fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

Reasonableness of

59 A.L.R.3d 152; 58 A.L.R.3d 235; 58 A.L.R.3d 201;

57 A.L.R.3d 584; 57 A.L.R.3d 550; 57 A.L.R.3d 475

People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

approach factors considered

In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935

Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152

Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879

Shannon v. North Counties Trust Ins. Co. (1969) 270 Cal.App.2d 686, 689 [76 Cal.Rptr. 7]

Cline v. Zappettini (1955) 131 Cal.App.2d 723, 728 [281 P.2d 35]

Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 483 [60 P. 873]

-whether contingent fee contract is unconscionable must be determined on situation as it appeared to parties at time it was entered into

Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688-689 [149 P.2d 404]

bankruptcy

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-attorney employed by a trustee is entitled to compensation for legal services

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

-creditor has burden of proving reasonableness of attorney fee claim

In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227

-trustee fees not proper for duties that are not practice of law

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

class action

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

Class plaintiffs v. Jaffe & Schlesinger, P.A. (9th Cir. 1994) 19 F.3d 1306

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

Jutkowitz v. Bourns, Inc. (1981) 118 Cal.App.3d 102, 108 [173 Cal.Rptr. 248]

Werchull v. United California Bank (1978) 85 Cal.App.3d 981, 1005 [149 Cal.Rptr. 829]

-determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-unnamed member of putative class who defeats class certification

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

contingent

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

-because contract gambles on result, it may ask for greater compensation than would otherwise be reasonable

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Rader v. Thrasher (1962) 57 Cal.2d 244, 253 [18 Cal.Rptr. 736, 368 P.2d 360]

FEES

- Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
- contract presumptively invalid where attorney did not explain and client did not understand contract
 - Denton v. Smith (1951) 101 Cal.App.2d 841, 844 [226 P.2d 723]
 - court construes ambiguous contract language to provide for reasonable compensation
 - Jackson v. Campbell (1932) 215 Cal. 103, 106 [9 P.2d 845]
 - court may consider "open question" of reasonableness of contingent fee charged – factors considered
 - Blattman v. Gadd (1931) 112 Cal.App. 76, 92-93 [296 P. 681]
 - evidence on reasonableness inadmissible where only dispute concerns whether agreement even exists
 - Ellis v. Woodburn (1891) 89 Cal. 129, 133 [26 P. 963]
 - evidence supports find that fee agreement was fair and equitable – factors considered
 - Hendricks v. Sefton (1960) 180 Cal.App.2d 526, 532 [4 Cal.Rptr. 218]
 - Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 - reasonableness judged by situation as it appeared to parties at time contract was entered
 - Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
 - Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
- corporations
- Fed Mart Corp. v. Pell Enterprises, Inc. (1980) 111 Cal.App.3d 215, 224 [168 Cal.Rptr. 525]
- court may consider settlement negotiations in deciding a reasonable attorney fee award
- Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925
- court may rely on its own familiarity with legal market and customary rates in determining reasonableness of fees
- Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925
- dissolution proceedings
- attorney's fees not matter of right but rests in discretion of trial court – standard of review by appellate court
 - Hicks v. Hicks (1967) 249 Cal.App.2d 964, 969 [58 Cal.Rptr. 63]
 - award of attorney's fees made at inception of divorce proceedings
 - Collins v. Welsh (1934) 2 Cal.App.2d 103, 109-110 [37 P.2d 505]
 - award of excessive fee
 - Howard v. Howard (1956) 141 Cal.App.2d 233, 244 [296 P.2d 592]
 - lodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement
 - Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
 - burden of and standard for establishing abuse of discretion
 - Crevolin v. Crevolin (1963) 217 Cal.App.2d 565, 572 [31 Cal.Rptr. 622]
 - circumstances affecting award – court may consider financial conditions of parties
 - Pope v. Pope (1951) 107 Cal.App.2d 537, 539-540 [237 P.2d 312]
 - court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
 - In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
- court may determine fee from its own experience – no testimony necessary
 - Lipka v. Lipka (1963) 60 Cal.2d 472, 479-480 [35 Cal.Rptr. 71]
 - discretion and experience to determine fees vested in trial court
 - Thiesen v. Keough (1931) 115 Cal.App. 353, 362 [1 P.2d 1015]
 - Busch v. Busch (1929) 99 Cal.App. 198, 201 [278 P. 456]
 - factors considered by trial court
 - Dietrich v. Dietrich (1953) 41 Cal.2d 497, 506 [261 P.2d 269]
 - In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]
 - family law court fee awards must be reasonable and based on factual showings
 - Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
 - In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
 - inadequate fee award shows abuse of discretion
 - Hurst v. Hurst (1964) 227 Cal.App.2d 859, 871-872 [39 Cal.Rptr. 162]
 - modification of court order allowing attorney's fee – circumstances affecting right to and amount of allowance
 - Warner v. Warner (1950) 34 Cal.2d 838, 841-842 [215 P.2d 20]
 - modification of custody award – determination of reasonable attorney's fees
 - Straub v. Straub (1963) 213 Cal.App.2d 792, 799-800 [29 Cal.Rptr. 183]
 - no abuse of discretion – factors considered by appeals court on review
 - In re Marriage of Aylesworth (1980) 106 Cal.App.3d 869, 879-880 [165 Cal.Rptr. 389]
 - reasonable fees – factors considered by trial court
 - Anthony v. Anthony (1968) 156 Cal.App.2d 157-158 [66 Cal.Rptr. 420]
 - reasonableness is a question of fact in discretion of trial court
 - Jones v. Jones (1955) 135 Cal.App.2d 52, 64 [286 P.2d 908]
 - reasonableness of attorney's fee – discretion of trial court – factors considered – standard of review
 - *In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 113-114 [113 Cal.Rptr. 58]
 - reasonableness of attorney's fees – evidence – review by appellate court
 - In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
 - In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 297-304 [149 Cal.Rptr. 918]
 - Smith v. Smith (1969) 1 Cal.App.3d 952, 958 [82 Cal.Rptr. 282]
 - test for determining reasonable attorney's fees
 - Palmquist v. Palmquist (1963) 212 Cal.App.2d 322, 338-339 [27 Cal.Rptr. 744]
- eminent domain proceedings
- may include factors other than hourly rates charged by top law firms
 - City of Oakland v. The Oakland Raiders (1988) 203 Cal.App.3d 78 [249 Cal.Rptr. 606]
 - scope of appellate review
 - State of California v. Westover Co. (1956) 140 Cal.App.2d 447, 450 [295 P.2d 96]
 - trial judge has discretion to set reasonable fee – factors considered – appellate standard of review
 - Mountain View Union High School District v. Ormonde (1961) 195 Cal.App.2d 89, 96 [15 Cal.Rptr. 461]
 - County of Riverside v. Brown (1939) 30 Cal.App.2d 747, 749-750 [87 P.2d 60]

People v. Thompson (1935) 5 Cal.App.2d 668, 670-672 [43 P.2d 606]
 *Los Angeles v. Los Angeles-Inyo Farms Co. (1933) 134 Cal.App. 268, 274-275 [25 P.2d 224]
 -under Code Civ. Proc. § 1255, trial courts, experience allows it to set reasonable value of attorney's services
California Interstate Telephone Co. v. Prescott (1964) 228 Cal.App.2d 408, 411 [39 Cal.Rptr. 472]

fee stipulation
 -limited by reasonableness requirement
In re 268 Limited (9th Cir. BAP 1988) 85 B.R. 101

filiation proceeding
Berry v. Chaplin (1946) 74 Cal.App.2d 669, 678 [169 P.2d 453]

injunctions
Moore v. Maryland Casualty Co. (1929) 100 Cal.App. 658, 666 [280 P. 1008]

level of success
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097

malicious prosecution
Peebler v. Olds (1945) 71 Cal.App.2d 382, 389 [162 P.2d 953]
Mills v. Friedman (1931) 119 Cal.App. 74, 81 [5 P.2d 901]

monitoring state officials' compliance with settlement
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446

mortgage foreclosure proceedings
 -amount of fee within discretion of trial court – factors considered
Craw v. Craig (1914) 168 Cal. 351, 352 [143 P. 604]
Patten v. Pepper Hotel Co. (1908) 153 Cal. 460, 471-472 [96 P. 296]
 -fee award not inadequate – factors considered in determining reasonable fee
Nevin v. Salk (1975) 45 Cal.App.3d 331, 343-344 [119 Cal.Rptr. 370]
 -no evidence of value of services necessary for trial court to fix reasonable fee
Woodward v. Brown (1897) 119 Cal. 283, 309 [51 P.2d 542]
 -where fee issue properly put before jury, jury may fix fee without independent testimony as to reasonableness
Liebenguth v. Priester (1944) 64 Cal.App.2d 343, 345 [148 P.2d 893]

offer opinion about reasonableness of other attorney's fee
 LA 311 (1969)

partition proceeding
Watson v. Sutro (1894) 103 Cal. 169, 171 [37 P. 201]

pro bono [See Appointment of attorney by court, pro bono. Duties of attorney, pro bono.]

probate proceedings
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 LA 68 (1932), LA 66 (1931)
 -court has discretion knowledge and experience to set reasonable fee without hearing evidence
Estate of Straus (1904) 144 Cal. 553, 557 [77 P. 1122]
 -court has power to set fees independent of expert testimony
Estate of Duffill (1922) 188 Cal. 536, 552-554 [206 P. 42]
 -evidence considered by jury in fixing reasonable fee
Mitchell v. Towne (1939) 31 Cal.App.2d 259, 265-267 [87 P.2d 908]
 -evidence on reasonable value of services offered by witness attorneys
Freese v. Pennie (1895) 110 Cal. 467, 468-470 [42 P. 978]

-fees of attorneys for executors, administrators and guardians fixed by court – court has discretionary power to set fee
Pennie v. Roach (1892) 94 Cal. 515, 518-519 [29 P. 956, 30 P. 106]
 -opinions of professional witnesses not binding on court
Estate of Dorland (1883) 63 Cal. 218, 282
 -reasonable fee primarily question of fact for trial court expert testimony unnecessary – appellate standard of review
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
Estate of Schnell (1947) 82 Cal.App.2d 170, 175-176 [185 P.2d 854]
 -superior court has discretion to determine fee – standard of review by higher court
Estate of Adams (1901) 131 Cal. 415, 418-419 [63 P. 838]

public interest litigation
 -Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
 -awarding fees under “substantial benefit rule” – factors considered in setting reasonable fees
 *Mandel v. Lackner (1979) 92 Cal.App.3d 747, 756-757 [155 Cal.Rptr. 269]
Coalition for L.A. County Planning etc. Interest v. Board of Supervisors (1977) 76 Cal.App.3d 241, 251 [142 Cal.Rptr. 766]
 -discretion of trial court to set fees
Excelsior etc. School Dist. v. Lautrup (1969) 269 Cal.App.2d 434, 447 [74 Cal.Rptr. 835]
 -trial court has unquestioned power to appraise value of services
Independent Iron Works, Inc. v. County of Tulare (1962) 207 Cal.App.2d 164, 167 [24 Cal.Rptr.361]
 -trial judge in best position to determine value of services – appellate standard of review – factors considered
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Serrano v. Priest (1977) 20 Cal.3d 25, 48-49 [141 Cal.Rptr. 315, 569 P.2d 1303]
Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
 reduction of fees by 90% where court determined that prevailing litigant had unnecessarily prolonged the litigation and that the majority of counsel's time was not reasonably incurred
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

securities fraud action
 -fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 -trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 to respective parties
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 560 [206 Cal.Rptr. 641]

FEES

- trial judge in best position to determine value of services
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trusts
Crocker v. Crocker First National Bank of San Francisco (1943) 60 Cal.App.2d 725, 730 [141 P.2d 482]
-inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
- under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
- under Civil Code 3186, "reasonable cost of any litigation thereunder" excludes attorney fees
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
- unrelated claims, unsuccessful
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
- welfare proceedings
Horn v. Swoap (1974) 41 Cal.App.3d 375, 384 [116 Cal.Rptr. 113]
- whole amount of the recovery
SD 1975-4
- Reduced to match award
Chromalloy American Corp. v. Fischmann (9th Cir. 1983) 716 F.2d 683
- Reduction of 90% of attorney's fees is not intended to punish a party's litigation conduct; rather, it is to reflect fees that were not reasonably expended
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- Referee's
Code of Civil Procedure section 1023
- Referral fees [See Division of fees.]
Rules of Professional Conduct 2-200
- Refund of fee advanced
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
SD 2019-3
attorney who undertakes representation of conflicting interests without consent must refund fees received after conflict arose
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
- flat fee advanced
SD 2019-3
- if unearned, except true retainer fee
United States v. Veon (1982) 549 F.Supp. 274, 283
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Represent in settlement when fee owed by client comes out of settlement
SD 1975-4
- Represent self and co-counsel re contingent fee assigned to third party
SD 1972-1
- Request for attorney's fees under Code of Civ. Proc. § 4370 standing to appeal denial of appeal
In re Marriage of Tushinsky (1988) 203 Cal.App.3d 136, mod. 203 Cal.App.3d 895e
- Retainer
In re Montgomery Drilling Co. (Bankr. Ct. E.D. Cal. 1990) 121 B.R. 32, 37
In re C & P Auto Transport, Inc. (Bankr. Ct. E.D. Cal. 1988) 94 Bankr. Rptr. 682, 687
Matthew v. State Bar (1989) 49 Cal.3d 784, 787-788
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn. 4
Knight v. Russ (1888) 77 Cal. 410, 412 [19 P. 698]
- T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1, 7 [56 Cal.Rptr.2d 41]
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 757
earned portion to be removed from trust account
SF 1973-14
paid by insurance broker to provide free wills to clients
SD 1976-6
"true" retainer is paid to secure an attorney's availability over a given time period and is not billed against as services are performed
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- Retroactive application of city ordinance providing for recovery of attorney's fees found invalid
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
- RICO
funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
- Sanctions [See Sanctions.]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 829
Cornerstone Realty Advisors, LLC v. Summit Healthcare (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]
criteria for recovery of fees and costs in opposing motion for sanctions
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
frivolous appeal challenging trial court's denial of an extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
- for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney's fees may not be awarded as a sanction under CCP § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
-award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- frivolous action
-action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
improper when awarded as full compensation of all attorney fees for violation of a Rule of Court
Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
information in report was protected by confidentiality statute and attorney's disclosure was intentional, malicious, reckless, and not in the best interest of the child
In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]

no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

Security for

LA 492 (1998), LA 407 (1982), LA 398 (1982), LA(l) 1975-8, LA(l) 1972-2

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

client's property falsely reported as stolen

LA 329 (1972)

confession of judgment

Hulland v. State Bar (1972) 8 Cal.3d 440, 450

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

debtor's counsel's prepetition security retainer are funds that generally remain the client's property until applied to the attorney's charges for services actually rendered

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

financing fees by attorney recommending client take out mortgage loan on client's real property

CAL 2002-159

in general

SF 1997-1

insure collection of, inimical to client

Kallen v. Delug (1984) 157 Cal.App.3d 940, 951

lien as

CAL 1981-62

note secured by deed of trust

-family law attorney's real property lien expunged

In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]

-may be invalid if the encumbrance is on community property and the act of the client/spouse constitutes a prohibited unilateral transfer under Civil Code section 5127

Droeger v. Friedman, Sloan & Ross (1991) 54 Cal.3d 26 [283 Cal.Rptr. 584]

-requires compliance with rule 3-300

Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

LA 492 (1998)

priority of attorney's liens

Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

promissory note

Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]

CAL 1981-62, SF 1997-1

security agreements

-fee provision in security agreement did not serve as ground for awarding fees and costs to over-secured creditor following its successful defense of adversary preference proceeding in bankruptcy matter

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

trial court's award of attorney's fees against plaintiff's counsel for violation of an in limine order was neither within the court's inherent powers nor was authorized by statute

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

trust deed

LA(l) 1975-8, LA(l) 1972-2, SD 1976-8

unsecured promissory note does not give attorney a present interest in client's property to trigger rule 3-300

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Settlement

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement

Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]

condition settlement on plaintiff's attorney waiving fees

Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

CAL 2009-176

LA 445 (1987)

employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims

Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

lump sum settlement that includes attorney's fees may hinder plaintiff's ability to retain counsel

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right

Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]

parties to settlement agreement can validly specify a prevailing party

Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]

prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement

County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

structured settlement, use of

CAL 1987-94

trial court erred by modifying existing settlement agreement by reducing award of attorney fees and costs without parties mutual consent

Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]

trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

SLAPP action

Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Lunada Biomedical v. Nunez (2014) 230 Cal.App.4th 459 [178 Cal.Rptr.3d 784]

Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]

Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]

Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]

FEES

- Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
burden of proving fees were covered by award following successful motion to strike
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
defendants who fail to file an anti-SLAPP motion before plaintiff's voluntary dismissal of all causes of actions against them may not recover attorney fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
fees denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
to prevailing party
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
under Code of Civil Procedure 425.16
Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
-does not authorize an award of attorney fees against plaintiff's counsel
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
-plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute
Stenehjem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]
-pro bono fee arrangement did not preclude award of fees
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Splitting [See Division of fees.]
attorney conducting real estate business
SD 1969-2
with franchisor
LA 423 (1983)
Sports service contracts
Business and Professions Code section 6106.7
Standards applicable to attorney's fees
Church of Scientology of California v. United States Postal Service (9th Cir. 1983) 700 F.2d 486
Statutory attorney's fees to prevailing party
Corporations Code section 317
-outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]
client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

Equal Access Act

Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152

Hoopa Valley Tribe v. Watt (N.D. Cal. 1983) 569 F.Supp. 943

hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

SLAPP action

Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]

Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]

Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

-anti-SLAPP defendant may recover appellate attorney fees upon prevailing on appeal

Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

-attorney fees incurred in enforcement of anti-SLAPP judgment recoverable

York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]

-conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical

Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

-mandatory award may be based on attorney's declarations instead of time records

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

-partially successful motion constitutes prevailing party unless no practical benefit from bringing motion

Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]

Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]

-trial court has authority to require plaintiff to compensate the defendant for the undue burden of defending against the non-meritorious claim when it dismisses plaintiff's action on grounds court lacked jurisdiction

Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]

-withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

under Civil Code section 3426

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

under Code of Civil Procedure section 405.38

-in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal

Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]

-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

under Song Beverly Act

Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]

Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]

Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]

Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]

under Vehicle Leasing Act

Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]

Statutory limit

Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

Statutory limits for litigation of prison lawsuits

limitations for services performed before and after effective date of Prison Litigation Reform Act

Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990

limitations on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act

Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]

FEES

- Prison Reform Litigation Act does not apply to fees incurred by prisoner who successfully defended verdict on appeal
Woods v. Carey (9th Cir. 2013) 722 F.3d 1177
- Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
- Statutory prohibition
award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- Stipulated attorneys' fees
Workers' Compensation matter
Price v. Workers' Compensation Appeals Board (1992) 10 Cal.App.4th 959 [12 Cal.Rptr.2d 831]
- Stocks pledged to secure fees improperly sold
Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]
- Stock promise to attorney is unenforceable because of a violation of [rule 3-300](#)
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
- Stop Notice Laws
public entity is not entitled to attorney's fees under stop notice laws
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
- Substantial benefit doctrine
award of challenging beneficiary's attorney and expert fees and costs from assets of trust did not violate non-participating beneficiary's due process and evidence supported action substantially benefitted all beneficiaries
Smith v. Szeyller (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]
- Substituted counsel's
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
entitlement to recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
unpaid [\[See Fee, attempt to collect, discharge.\]](#)
LA 183 (1951)
SD 1972-17
-lien on client's settlement does not create any automatic rights to disputed fees
LA 438
-refuse substitution until paid
LA(l) 1966-10
- Suit to recover
LA 362 (1976), LA 212 (1953)
claim in bankruptcy proceeding
In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462
LA 452 (1988)
court appointed attorney representing indigent clients is statutory not contractual
-may not sue for more
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693
disclosure of confidential information
LA 498 (1999)
judgment debtor was entitled to notice of judgment creditor's post judgment fee application
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
- United States District Court has ancillary jurisdiction over fee disputes arising from litigation pending before the district court
Curry v. Del Priore (9th Cir. 1991) 941 F.2d 730
unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
withdraw before suing for fees
LA 476 (1994) LA 407 (1982), LA 362 (1976)
- Trial court improperly withheld past due SSI benefits for payment of attorney's fees
Bowen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
- Trial court's discretion to grant under Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
- Common Cause v. Stirling (1983) 147 Cal.App.3d 518
court has discretion to deny fees if defendant can show the existence of special circumstances that would render such an award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
- Tribal law may require tribal remedy exhaustion in contract disputes
Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
- Trustee
entitled to reimbursement for attorney's fees only if litigation is necessary to preserve the trust
Terry v. Conlan (2005) 131 Cal.App.4th 1445 [33 Cal.Rptr.3d 603]
reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]
- Unconscionable
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
LA 505 (2000)
contingent fee percentage calculation in view of de minimis time and labor
LA 458
court may refuse to enforce unconscionable contingent fee
Seltzer v. Robinson (1962) 57 Cal.2d 213, 218
discipline imposed for unconscionable fee
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
"double billing"
[CAL](#) 1996-147
exorbitant and disproportionate
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
exorbitant and unconscionable fee charged
Recht v. State Bar (1933) 218 Cal. 352, 353
extraordinary complex litigation required a high level of legal skills to obtain a favorable result, was not
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
fee charged in excess of reasonable value of services does not of itself warrant discipline
Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402

- fee financing plan
OC 93-002
- forty-five percent of the total judgment plus court awarded fees exceeded the limits of [rule 4-200](#)
[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
- gross overcharge by attorney may warrant discipline
[Bushman v. State Bar](#) (1974) 11 Cal.3d 558, 562-564 [113 Cal.Rptr. 904]
[Ramirez v. Sturdevant](#) (1994) 21 Cal.App.4th 904
- hybrid, hourly and contingent
OC 99-001, SF 1999-1
- informed consent of client not obtained
[In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- law firm's costs are irrelevant to claim of unconscionable attorney fees charged to client
[Shaffer v. Superior Court](#) (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
LA 518 (2006)
- loan modification services
[In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
[In the Matter of Swazi Elkanzi Taylor](#) (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- minors' compromise
-court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case
[Robidoux v. Rosengren](#) (9th Cir. 2011) 638 F.3d 1177
- offset recovery used as basis for contingent fee calculation
LA 458
- "over-billing"
-preparation of false and misleading billing statements involves moral turpitude
[In the Matter of Berg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
OC 99-001
- partnership agreement
-allocation of fees for unfinished cases taken by departing partner
[Anderson, McPharlin & Connors v. Yee](#) (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
[Champion v. Superior Court](#) (1988) 201 Cal.App.3d 777
-contract term providing that if attorney leaves firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable
[Moncharsh v. Heily & Blase](#) (1992) 3 Cal.4th 1
- patent prosecution
LA 507 (2001)
- procedural and substantive element
[Cotchett, Pitre & McCarthy v. Universal Paragon Corp.](#) (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- unauthorized and unnecessary research
[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- unconscionable fee found to violate [rule 4-200](#), Rules of Professional Conduct
[Warner v. State Bar](#) (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
[In the Matter of Van Sickle](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
[In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
*[Matter of Harney](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
[CAL](#) 1994-135, OC 93-002, SF 1999-1
- whether contingent fee charged is unconscionable determined at time contract entered into
[Youngblood v. Higgins](#) (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
- [Swanson v. Hempstead](#) (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
- wholly disproportionate as to shock the conscience
[In the Matter of Wells](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- Under Code of Civil Procedure section 1021
trust beneficiaries must generally pay their own attorney's fees incurred challenging a trustee's conduct, even if they succeed
[Smith v. Szeviller](#) (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]
under the substantial benefit exception, trial court may award attorney fees to challenging beneficiary where the action substantially benefited all beneficiaries
[Smith v. Szeviller](#) (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]
- Under Code of Civil Procedure section 1021.5
[Doe v. Westmont College](#) (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
court must examine the necessity and financial burden of private enforcement
[Doe v. Westmont College](#) (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
- Under Penal Code section 987.8
criminal court may order defendant to reimburse attorney's fees if ability to pay
[People v. Rodriguez](#) (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
defendant did not receive the required notice so his failure to object to the court's reimbursement order did not forfeit the claim that he cannot pay the fees assessed under section 987.8
[People v. Rodriguez](#) (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
- Under Welfare and Institutions Code section 730.6(a)
juvenile court's discretion to determine if actual and reasonable attorney fees and costs expended in collecting restitution even if some portion of these were spent in recovering general damages where economic damages are recoverable
[In re Imran Q.](#) (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
- Undue influence, presumption of
[Sayble v. Feinman](#) (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to
LA 496 (1998)
- Uniform Foreign Money Judgments Recognition Act
enforcement of foreign judgment
[Java Oil Ltd. v. Sullivan](#) (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
foreign order to pay attorney fees unenforceable where constitutes support
[In re Marriage of Lyustiger](#) (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
- Uniform Trade Secrets Acts (CC § 3426 et seq.)
[Aerotek v. Johnson Group Staffing Co.](#) (2020) 54 Cal.App.5th 670 [269 Cal.Rptr.3d 147]
denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
[Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc.](#) (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
prevailing defendant may recover attorney fees if the plaintiff pursued an action with subjective bad faith, regardless of whether there was some evidence supporting plaintiff's contentions
[Sasco v. Rosendin Electric, Inc.](#) (2012) 207 Cal.App.4th 837 [143 Cal.Rptr.3d 828]
- United States civil rights actions
42 U.S.C. § 1983 actions

FEES

- Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Holland v. Roeser (9th Cir. 1994) 37 F.3d 501
-calculation of fee award must be explained
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Patton v. County of Kings (9th Cir. 1988) 857 F.2d 1379
-"degree of success" versus "proportionality" approaches in determining award of attorney's fees
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
-party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
-plaintiff unsuccessful at a stage of litigation necessary to an ultimate victory is entitled to attorney's fees even for the unsuccessful stage
Cabrales v. County of Los Angeles (1991) 496 U.S.924 [110 S.Ct. 2615]
-prevailing party's statutory right to seek attorney's fees is a substantive cause of action which shall not be assigned contractually
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
42 U.S.C. § 1988 actions
-calculation must be explained
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Wilcox v. City of Reno (9th Cir. 1994) 42 F.3d 550
Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300
People ex rel. Becerra v. Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
-computation of fees
Texas State Teachers Assn. v. Garland Indep. School Dist. (1989) 489 U.S. 1005 [109 S.Ct. 1486]
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
-denial of fees based on special circumstances under the traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-determining prevailing party status
Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
-Eleventh Amendment permits attorneys' fees enhancement to compensate for payment delay
Missouri v. Jenkins (1989) 491 U.S. 274 [109 S.Ct. 2463]
-federal official may be liable
Merritt v. Mackey (9th Cir. 1991) 932 F.2d 1317
-fee award denied when precedent did not clearly signal that questionable claim should not have been brought
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
-fees awards in civil rights case reviewed for abuse of discretion
Hensley v. Eckerhart (1983) 461 U.S. 424, 437
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Rock Creek Limited Partnership v. State Water Resources Control (9th Cir. 1992) 972 F.2d 274
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Hardin v. White Mountain Apache Tribe (9th Cir. 1985) 779 F.2d 476, 480
-fees not precluded by failure to achieve remedy sought when constitutional violations remedied
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
-hospital's wrongful life-sustaining efforts not "state action" for § 1988 fees
McMahon v. Lopez (1988) 199 Cal.App.3d 829 [245 Cal.Rptr. 172]
-nominal award of one dollar
Romberg v. Nichols (9th Cir. 1992) 953 F.2d 1152; amended at 970 F.2d 512
-partial attorney fees awarded
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
--application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
-party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
-plaintiff obtained some relief on merits of claim
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
-plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
-plaintiff's environmental challenge to nuclear plant operations are entitled to unenhanced attorney's fees
Earth Island Institute v. Southern California Edison (1993) 838 F.Supp. 458
Guinn v. Dotson (1994) 23 Cal.App.4th 262
-Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
-reduction of "fees-on-fees" is warranted for counsel's time spent on unsuccessful "merits fees" request
Thompson v. Gomez (9th Cir. 1995) 45 F.3d 1365
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
-successful challenge to application of city ordinance
Segundo v. Rancho Mirage City (9th Cir. 1989) 873 F.2d 1277
-superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]

Unlawful detainer action

Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9]
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
Harrington v. Department of Real Estate (1989) 214 Cal.App.3d 394
Simpson v. Smith (1989) 214 Cal.App.3d Supp.7

Unpaid [See Attorney's lien.]

attachment motion

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]

attempt to collect unreasonable fee, issue of entitlement to award of fees and costs

Schneider v. Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276

attorney fees awarded under contract to law firm seeking to collect unpaid legal bills

Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]

bankruptcy action

-attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

default against client without consulting

LA 174 (1950)

delaying client's case until fees paid

Business and Professions Code section 6128(b)
 LA 356 (1976), LA 261 (1959)

finance charge added to

CAL 1980-53, LA 374 (1978), SD 1983-1

foreclose note for

LA(l) 1975-8

future services conditional on payment of fees due

LA 360 (1976)

hold client's papers

LA 330 (1972), LA(l) 1970-6
 SD 1997-1, SD 1984-3. SD 1977-3, SF 1973-12
 Board Policy Statement (Sept. 1971) III.A.2., supra

levy on client's spouse's property

LA(l) 1971-17

lien asserted [See File.]

LA 47 (1927), LA(l) 1970-1, SD 1997-1, SD 1984-3, SD 1977-3

notification to opposing counsel

SD 1969-3

paid with check not covered with funds

LA(l) 1947-3

refuse to continue or begin case

Business and Professions Code section 6128
 LA 360 (1976), LA 356 (1976), LA 261 (1959), LA(l) 1967-9
 SD 1978-7, SD 1973-3

service charge added to

LA 370 (1978), LA(l) 1972-4
 SF 1970-1

substituted counsel's

LA 521 (2007), LA 183 (1951), LA 50 (1927)
 SD 1972-17

-attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

suit for, requires attorney to withdraw

LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

threaten "dire consequences" and "increased costs" if not paid

LA(l) 1966-12

threaten to "take up with authorities"

LA(l) 1947-3

unconscionable

Priester v. Citizens National Trust & Savings Bank of Los Angeles (1955) 131 Cal.App.2d 314 [280 P.2d 835]

use confidences of client to collect

LA 452, LA 159 (1945), LA(l) 1961-3

use of criminal process to collect

Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]

withdraw

LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA 211 (1953), LA(l)1936-1

-before suing client for fees

LA 407 (1982), LA 362 (1976), LA 212 (1953)

withdrawal of client trust account funds to pay disputed represents executor for fee

LA 382 (1979)

Untimely filing of motion for fees

Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298

Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel

may not be applicable to defendant's motion to withdraw plea containing the waiver

People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]

White collar crime

under Penal Code § 186.11

-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

Withdrawal by attorney

attorney entitled to quantum meruit

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]

-not available if attorney abandoned case

Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

Withdrawal of client trust account funds to pay disputed fee

LA 438 (1985)

Withdrawal of unrelated client monies to pay off debt of client

SD 1976-5

Workers' Compensation

burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)

Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041

claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement

Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906

Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]

successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act

Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066

Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044

under Labor Code § 4607

Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]

FICTITIOUS NAMES

Written fee agreement required

Business and Professions Code section 6147-6149

FICTITIOUS NAMES [See Advertising, fictitious names.
Business activity, name for. Partnership, name.]

FIFTH AMENDMENT

Business and Professions Code section 6068(i)

District court granted IRS's petition to enforce summons on tax documents based on "foregone conclusion" exception to Fifth Amendment

U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 7104 F.3d 1197
Juvenile court proceedings

referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process

In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]

Public agency attorney may be compelled, under threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

FILE [See Document.]

Rules 2-111(A) and 8-101(B)(4), Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Class Action

former member of a class who opted out of the class has no right to the papers and property
LA 481 (1995)

Client

claims of multiple clients

CAL 1999-153

-multiple clients each demand the original

LA 493 (1998)

court approval required

-court consent before release of address or telephone number of a victim or witness

Penal Code 1054.2

-court consent before release of copies of child pornography

Penal Code 1054.10

delivery to succeeding attorney

SD 1970-3

-consent of client

LA 112 (1937)

disposition of

-death of client

LA 491 (1997)

-partnership dissolves

CAL 2020-201, CAL 1985-86, LA 405 (1982), LA(I) 1979-1

documents within an attorney's legal file belong to the client

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

following attorney to new firm

LA 405 (1982)

hold in fee dispute

LA 330 (1972), LA(I) 1970-6

SD 1997-1, SD 1984-3, SD 1977-3

SF 1973-12

lien

-against client file

--permissible if created by contract

Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]

-against non-payment of attorney's fees

--void

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

CAL 1994-134

SD 1997-1, SD 1984-3, SD 1977-3

-charging against funds not in attorney's possession, enforcement

Siciliano v. Fireman's Fund (1976) 62 Cal.App.3d 745 [133 Cal.Rptr. 376]

make available on withdrawal

SD 1997-1, SF 1996-1, SF 1990-1

SD 1984-3, SD 1977-3

-criminal matters court approval required for release of copies of child pornography

Penal Code 1054.10

-criminal matters court approval required for release of victim or witness information

Penal Code 1054.2

-mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client

LA 509 (2002)

release to, after discharge

Bernstein v. State Bar (1990) 50 Cal.3d 221

Rosenthal v. State Bar (1987) 43 Cal.3d 612 [238 Cal.Rptr. 394]

Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

CAL 2007-174, CAL 1994-134

SD 2001-1

-exception: Penal Code 1054.2 requires court consent before release of address or telephone number of a victim or witness

Penal Code 1054.2

-exception: Penal Code 1054.10 requires court consent before release of copies of child pornography

Penal Code 1054.10

return to

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

LA 405 (1982), LA 362 (1976), LA 253 (1958), LA 112 (1937), LA 103 (1937), LA(I) 1962-2

SD 1997-1, SD 1984-3, SD 1977-3

SF 1984-1, SF 1975-4

right to

-inspect and copy while in possession of attorney

LA 103 (1936)

SD 1997-1, SD 1984-3, SF 1973-12

- materials in
 - LA 197 (1952), LA 103 (1937)
 - SD 1997-1, SD 1984-3, SD 1977-3
 - SF 1979-3, SF 1975-4
- substituted counsel's duty with respect to [\[See right to\]](#)
 - LA(l) 1964-5, LA(l) 1959-4
 - SD 1970-3
- willful failure to return client files
 - [Bernstein v. State Bar](#) (1990) 50 Cal.3d 221 [786 P.2d 352]
 - [In the Matter of Robins](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
- Condition delivery of deposition transcript on former client's payment of reporter's fees
 - LA 425 (1984)
- Cost of making copies
 - SD 2001-1, SD 1977-3
 - SF 1984-1
- Crime-fraud exception to attorney-client privilege does not apply to work product
 - [BP Alaska Exploration, Inc. v. Superior Court](#) (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
- Denied access to
 - tolling of habeas petition deadline when prisoner did not have access to file
 - [Lott v. Mueller](#) (9th Cir. 2002) 304 F.3d 918
- Duty to deliver client's to succeeding attorney
 - consent of client
 - LA 112 (1937)
- Electronic file
 - [CAL](#) 2007-174
- Failure to deliver file to client's new attorney
 - [King v. State Bar](#) (1990) 52 Cal.3d 307 [801 P.2d 419]
 - [Friedman v. State Bar](#) (1990) 50 Cal.3d 235 [786 P.2d 359]
 - [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - [In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - [In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
 - [In the Matter of Myrdall](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363
 - [In the Matter of Lane](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
 - [In the Matter of Kopinski](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 716
 - [In the Matter of Hanson](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 703
- Failure to protect clients' records and files
 - [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Fiduciary duty to keep adequate non-financial client files and records
 - [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Fixed by statute
 - agreement with client to handle legal matter for less than amount
 - probate matter
 - LA 102 (1936)
- Lien
 - against non-payment of attorney's fees
 - void
 - [CAL](#) 1994-134
- Reasonableness of
 - probate proceedings
 - agreement with client to handle for less than fee fixed by statute
 - LA 102 (1936)
- Retention
 - criminal files
 - LA 420 (1983)
- deceased client
 - duty to notify legal representatives or legatees
 - Probate Code section 700 et seq.
 - [CAL](#) 2001-157, LA 491 (1997), LA 475 (1993), SF 1996-1
- Substitution form
 - client's refusal to sign
 - [In the Matter of Aquiluz](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
- Unilateral determination of
 - by attorney
 - [Greenbaum v. State Bar](#) (1976) 15 Cal.3d 893, 899
 - [Silver v. State Bar](#) (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]
 - [Crooks v. State Bar](#) (1970) 3 Cal.3d 346, 358
 - [Trafton v. Youngblood](#) (1968) 69 Cal.2d 17, 26
 - [Most v. State Bar](#) (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
- Work product
 - [Upjohn v. United States](#) (1981) 449 U.S. 383 [101 S.Ct. 677]
 - [Lasky, Haas, Cohler & Munter v. Superior Court](#) (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]
 - belongs to client whether or not the attorney has been paid
 - [Weiss v. Marcus](#) (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 - client's right to
 - [Eddy v. Fields](#) (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
 - [MGM, Inc. v. Superior Court](#) (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]
 - [Rumac, Inc. v. Bottomley](#) (1983) 143 Cal.App.3d 810, 812 In. 3 [192 Cal.Rptr. 104]
 - SD 2004-1 SD 1997-1
 - SF 1990-1
 - crime-fraud exception to attorney-client privilege does not apply to work product
 - [BP Alaska Exploration, Inc. v. Superior Court](#) (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
 - general (qualified) versus attorney's impressions, conclusions, opinions, or legal research or theories (absolute)
 - [BP Alaska Exploration, Inc. v. Superior Court](#) (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
 - law firm's right
 - law firm is the holder of work product privilege and need not seek consent from associate attorney before disclosure
 - [Ellis v. Superior Court \(Nelson\)](#) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]
- privilege
 - Code of Civil Procedure section 2018
 - [Coito v. Superior Court](#) (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
 - [Eddy v. Fields](#) (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
 - [In re Tabatha G.](#) (1996) 45 Cal.App.4th 1159 [53 Cal.Rptr.2d 93]
 - [MGM, Inc. v. Superior Court](#) (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]
 - SD 1997-1, SD 1984-3, SD 1977-3
 - SF 1984-1
 - demonstrated need for access can compel production and overcome privilege
 - [Kizer v. Sulnick](#) (1988) 202 Cal.App.3d 431 [248 Cal.Rptr. 712]
 - does not extend to disclosure of identity of a non-testifying expert
 - [Curtis v. Superior Court](#) (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
 - unwritten opinion work product is entitled to the protection of the absolute work product privilege
 - [Fireman's Fund Insurance Co. v. Superior Court](#) (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

FINANCIAL ARRANGEMENT WITH NONLAWYER

-work product rule distinguished from attorney client privilege

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065

Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486

McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703

FINANCIAL ARRANGEMENT WITH NONLAWYER [See Division of fees, With lay entity]

[Rule](#) 1-320, Rules of Professional Conduct

Attorney renders legal services to clients of financial planning company
LA 510 (2003)

Compensation paid to lawyer by doctor for referring a client to a doctor to provide medical services
LA 443 (1988)

Marketing program
SD 2019-2

FINANCIAL HELP TO CLIENT [See Advancement of funds.]

FINANCING

Credit card
SD 1983-1

FINDER'S FEE [See Commission.]

FIRST AMENDMENT

Blogging by attorney
[CAL](#) 2016-196

Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment

Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Protections

44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]

Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]

In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]

Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]

Bates v. State Bar of Arizona (1977) 433 U.S. 350

Virginia Bd. of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]

Canatella v. California (9th Cir. 2002) 304 F.3d 843

Belli v. State Bar (1974) 10 Cal. 824, 833 [112 Cal.Rptr. 527, 519 P.2d 575]

Healthsmart Pacific v. Kabatek (2017) 7 Cal.App.5th 416 [212 Cal.Rptr.3d 589]

Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]

Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775

public employees

-scope of protection accorded to speech by public employees

Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168

Speech rights of lawyers limited in certain respects

[CAL](#) 2003-162

denial of permission for government attorney to represent client in private action did not violate constitutionally protected speech or constitute improper prior restraint

Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920

State Supreme Court's rules governing bar admissions does not violate First Amendment right

Mothershed v. Justice of the Supreme Court (9th Cir. 2005) 410 F.3d 602

FORECLOSURE [See Real estate transaction.]

[Rule](#) 4-300, Rules of Professional Conduct

Represent

plaintiff/buy property involved
LA 283 (1963)

FOREIGN ATTORNEY [See Advertising. Division of fees. Letterhead. Partnership, interstate. Practice of law.]

Association with

Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]

LA 233 (1956), LA 202 (1952), LA 189 (1952), LA(I) 1969-3

Compensation

LA(I) 1969-3

Employment

LA 189 (1952), LA 166 (1947), LA(I) 1969-3

Declaration of fault by foreign attorney entitled client to relief under CCP § 473

Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]

Listed in law list

LA 249 (1958)

"Of counsel"

LA(I) 1967-8

Office, share with

LA 99 (1936)

Out-of-state Attorney Arbitration Counsel Program

Rule 9.43, California Rules of Court

Partnership with [See Partnership, interstate.]

LA 230 (1955)

SF 1974-1

Practice by

LA 218 (1953), LA 156 (1945)

before agencies

LA 332 (1973)

before federal agencies and courts

LA 233 (1956), LA 168 (1948), LA 156 (1945)

Referral of legal business by

LA(I) 1959-3

FORWARDING FEE [See Division of fees.]

FRIVOLOUS APPEAL

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

People v. Dependable Insurance Co. (1988) 204 Cal.App.3d 871 [251 Cal.Rptr. 527]

FUGITIVE

Disclose fugitive client's whereabouts

LA(I) 1931-2

Harboring a fugitive

In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

GAMBLING

Abstention from all gambling as a probation condition

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Attendance at Gamblers Anonymous meetings not warranted as a probation condition

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

By judge

LA(I) 1976-6, LA(I) 1958-4

GARNISHMENT

Counsel discloses that he holds funds of client

LA(I) 1954-4

GENERAL COUNSEL [See Corporation, counsel for.]

GIFT [See Attorney-client relationship. Charitable donation of fees/time. Division of fees. Fees.]

Rules 2-108(B) & 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

SD 1977-2
 Inducing client to offer of free use of client's vacation property
[CAL](#) 2011-180
 State agency's mere payment of annual dues for professional employees does not constitute illegal gift of public funds
 86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)
 Testamentary gift to attorney who prepared will
 LA 462

GOOD WILL [See Practice, sale of.]
GOVERNMENTAL AGENCIES [See Attorneys for governmental agencies. Conflict of interest, disqualification.]
GRATUITOUS SERVICE [See Fee, none charged.]
GRIEVANCE COMMITTEE [See State Bar association.]
GROUP LEGAL SERVICES [See Advertising, group legal services.]
 Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-600, Rules of Professional Conduct (operative as of May 27, 1989)
[United Mine Workers v. Illinois State Bar Assn.](#) (1967) 389 U.S. 217 [88 S.Ct. 353]
[Brotherhood of Railroad Trainmen v. Virginia](#) (1964) 377 U.S. 1 [84 S.Ct. 1113]
[NAACP v. Button](#) (1963) 371 U.S. 415 [83 S.Ct. 328]
[Hildebrand v. State Bar](#) (1950) 36 Cal.2d 504 [225 Cal.Rptr. 508]
 SD 1974-20
 Established by
 credit union
 SD 1974-7
 employer
 LA(l) 1978-2
 labor union
 LA 320 (1970)
 SD 1973-7
 lending institution for depositors
 LA(l) 1979-3
 non-qualified corporation
 LA(l) 1974-1
 organization
 SD 1976-1
 senior citizens association
 SD 1976-11
 Fees under
 LA(l) 1979-3, LA(l) 1978-2, LA(l) 1971-9
 SD 1976-4, SD 1976-1, SD 1973-7
 Group representation
[Brotsky v. State Bar](#) (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]
 Name for
 LA 320 (1970)
 Policyholders of corporation formed to provide insurance to cover cost of legal service
 LA(l) 1972-10
 Publicity for
 LA(l) 1979-3, LA(l) 1971-9
 SD 1975-6, SF 1975-3

GUARDIAN [See Trustee.]
[CAL](#) 1988-96
 Attorney for former guardian represents against as counsel for wife of deceased ward
 LA(l) 1961-5

GUARDIAN AD LITEM
 Appointment to represent a minor client does not make the attorney the minor's guardian ad litem
 LA 504 (2000)
 authority to disclose confidential information about a minor client to the minor's guardian ad litem
 LA 504 (2000)
 Attorney appointed for minor serves as guardian ad litem and is holder of psychotherapist-patient privilege
[In re Cole C.](#) (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
 Attorney for, duty to obtain court approval for actions
[Torres v. Friedman](#) (1985) 169 Cal.App.3d 880, 887-888 [215 Cal.Rptr. 604]

Authority to seek appointment of a guardian ad litem for a minor client who cannot make an informed decision
 LA 504 (2000)
 Duties of attorney
 SD 2017-2
 Guardians held partially responsible in malpractice action when they failed to actively pursue claims and to ensure that attorney take appropriate actions
[Brandon G. v. Gray](#) (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

HABEAS PETITION

Relief
 counsel's failure to notify client of denial of habeas petition constitutes abandonment warranting relief
[Foley v. Biter](#) (9th Cir. 2015) 793 F.3d 998
 Tolling
 death row inmate entitled to assistance from conflict-free counsel in federal habeas petition to argue equitable tolling
[Christeson v. Roper](#) (2015) 574 U.S. 373 [135 S.Ct. 891]
 tolling of habeas petition deadline when prisoner did not have access to file
[Lott v. Mueller](#) (9th Cir. 2002) 304 F.3d 918

HOUSE COUNSEL [See Corporation, counsel for.]**HOW TO USE THIS INDEX** [See Index, page i.]**IN PROPRIA PERSONA**

[Merco Const. Eng. v. Municipal Court](#) (1978) 21 Cal.3d 724
 LA 502 (1999), LA 432 (1984)
 Attorney fees may not be awarded under 42 U.S.C section 1988 to a pro se litigant
[Kay v. Ehrler](#) (1991) 499 U.S. 432 [111 S.Ct. 1435]
[Elwood v. Drescher](#) (9th Cir. 2006) 456 F.3d 943
 prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
[Witte v. Kaufman](#) (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
 Attorney may recover only costs after successful discovery motion
[Kravitz v. Superior Court \(Milner\)](#) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
[Argaman v. Ratan](#) (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
 Attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
[Gilbert v. Master Washer & Stamping Co., Inc.](#) (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
 Attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
[Musaelian v. Adams](#) (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 Attorney's fees may not be awarded under Civil Code section 1717 to a prevailing attorney acting in pro se
[Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr.](#) (9th Cir. 2001) 250 F.3d 1234
[Bankruptcy of Job](#) (9th Cir. 1996) 198 B.R. 768
[Trobe v. Katz](#) (1995) 11 Cal.4th 274 [45 Cal.Rptr.2d 241]
[Gorman v. Tassajara Development Corp.](#) (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
[Taheri Law Group v. Evans](#) (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
[Kravitz v. Superior Court \(Milner\)](#) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
[Gilbert v. Master Washer & Stamping Co., Inc.](#) (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
[In re Marriage of Adams](#) (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
 attorney who acted pro se in contract action may recover reasonable attorney's fees for legal services of assisting counsel
[Mix v. Tumanjan Development Corp.](#) (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

INACTIVE LAWYER

- attorney's representation by associates of his firm precluded recovery of attorney fees after winning case against former client
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
- law firm may not recover attorney fees after winning anti-SLAPP motion, even though it used 'contract attorney' to work on that motion
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
- plaintiffs are not entitled to recover attorney fees because attorneys who represent themselves in litigation cannot recover attorney fees based on such representation
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]
- trial court must determine if an attorney-client relationship existed between co-plaintiffs before awarding attorney fees to pro se attorney in contempt proceedings
Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
- Attorney's fees may be awarded under Civil Code section 1717 to attorneys who represented each other in recovering fee disputed by client the attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- attorney litigating in propria persona cannot be said to incur compensation for his time and lost business opportunities
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
- Capital defendant who chooses to be represented by counsel is generally not entitled to present his case personally or to act as co-counsel at trial
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
- Child custody cases
in pro per parent entitled to hearing on post-divorce child custody fee request where trial court must first consider parties' relative circumstances
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
- Client and advisor attorney share handling of case
Johnson, York, O'Connor & Caudill v. Bd. of Cty. Comm. for City of Fremont (1994) 868 F.Supp. 1226
Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
Brookner v. Superior Court (1998) 64 Cal.App.4th 1390
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
LA 502 (1999), LA 483 (1995)
- Client as co-counsel
People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
- Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]
- Defendant represented by counsel may not have a constitutional right to act as a co-counsel
People v. Pena (1992) 7 Cal.App.4th 1294 [9 Cal.Rptr.2d 550]
- Deputy public defender cannot serve as "stand-by counsel" under Government code section 27706 in the event defendant cannot continue with self-representation
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]
- Ineffective assistance of counsel claim based on failure of court to appoint an advisory counsel
People v. Wolden (1991) 227 Cal.App.3d 529 [278 Cal.Rptr. 205]
- Knowing and intelligent waiver of right to counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
United States v. Erskine (9th Cir. 2004) 355 F.3d 1161
- Limited representation of in pro per litigants
Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
LA 502 (1999), LA 483 (1995)
- Limited scope of representation
collaborative family law, negotiation and facilitation of settlement
OC 2011-01
- Non-attorney allowed to represent himself as sole trustee, sole settlor and beneficiary in litigation involving trust property
Aulisio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]
- Non-attorney in pro per litigant may assert statutory work product privilege
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
- Refusal to appoint counsel for pro se prisoner/plaintiff not an abuse of discretion
Terrell v. Brewer (9th Cir. 1991) 935 F.2d 1015
- Relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
- Right to self-representation
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049
People v. Dent (2003) 30 Cal.4th 213 [132 Cal.Rptr.2d 52]
allowing criminal defendant to self-representation improper when defendant forced to choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- Sixth Amendment right
-not applicable
--to parole revocations proceedings
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
--to certain probation revocation proceedings
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
- Standby counsel appointed
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
- Trial court may grant motion for self-representation without warning defendant of the risks of proceeding in pro per
People v. Grayson (1992) 8 Cal.App.4th 168
- Trial court may refuse to allow disruptive capital murder defendant to represent himself
People v. Welch (1999) 20 Cal.4th 701 [85 Cal.Rptr.2d 203]
- Unauthorized practice of law
pro se litigant may not represent another
Simon v. Hartford Life, Inc. (9th Cir. 2008) 546 F.3d 661
- Waiver of right to counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
United States v. Erskine (9th Cir. 2004) 355 F.3d 1161
- INACTIVE LAWYER** [See Advertising, return to practice.]
Business and Professions Code sections 6003(b), 6005-6007, 6126
Bound by State Bar Act in California
LA(l) 1962-4
Federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871
Practice by
LA 98 (1938)

"Resuming" practice if not previously admitted in state
LA 161 (1946)

INCAPACITATED LAWYER [See Competence.
Business and Professions Code section 6190 et seq.
CAL 2021-206

INDIGENT PERSONS [See Fee, indigent. Legal aid.
Withdrawal.]
CAL 1981-64

Appointment of pro bono attorney for paternity action
Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586
[192 Cal.Rptr. 49]

Appointment of pro bono counsel
Bradshaw v. U.S. District Court for Southern District of
California (9th Cir. 1984) 742 F.2d 515

Award of attorney's fees against
court should consider indigent losing party's financial
condition before awarding reasonable attorney's fees to
prevailing party
People v. Rodriguez (2019) 34 Cal.App.5th 641 [246
Cal.Rptr.3d 392]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94
Cal.Rptr.3d 299]

Congressional restriction on funding of organizations that
represent indigent clients in loss of welfare benefits suits
violates First Amendment
Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121
S.Ct. 1043]

Criminal defendant has statutory right to assistance of counsel
Arnelle v. City and County of San Francisco (1983) 141
Cal.App.3d 693 [190 Cal.Rptr. 490]
in civil action
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216
Cal.Rptr. 425]

Data about indigency of disclosed
LA 358 (1976)

Disclosure of information to authorities concerned with legal aid
Code of Civil Procedure sections 285.2, 285.3, 285.4
LA 358 (1976)

Federal courts may require members of its Indigent Defense
Panel also be licensed members of the State Bar of California
Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Federal law may not compel attorneys to represent poor
Mallard v. District Court (1989) 490 U.S. 296 [109 S.Ct.
1814]

In fact not indigent
contract for private employment
LA(I) 1972-14, SD 1969-9

Juvenile delinquency proceedings
indigent juvenile delinquent has right to appointed counsel on
a first appeal
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d
178]

Not entitled to appointment of counsel in civil action to abate
public nuisance
Iraheta v. Superior Court (1999) 70 Cal.App.4th 1500 [83
Cal.Rptr.2d 471]

Not entitled to public defender representation in appeal
Erwin v. Appellate Department (1983) 146 Cal.App.3d 715
[194 Cal.Rptr. 328]

Presumption of indigency is rebuttable not conclusive for
purposes of appellate counsel appointment
Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12
Cal.Rptr.2d 55]

Professional responsibility to represent where county cannot pay
in civil cases
Waltz v. Zumwalt (1985) 167 Cal.App.3d 835 [213 Cal.Rptr.
529]

Separate counsel required for indigent criminal defendants
People v. Mrozko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]

Test of indigency for purpose of funding ancillary defense
services under Penal Code section 987.9
Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149
[112 Cal.Rptr.2d 506]

**INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL
CASES** [See Prosecutorial misconduct.]
California Constitution Art. I, § 15
Rule 6-101, Rules of Professional Conduct (operative until
May 26, 1989)
Rule 3-110, Rules of Professional Conduct (operative as of
May 27, 1989)
United States Constitution, Amendment VI
United States v. Schaflander (9th Cir. 1984) 743 F.2d 714
People v. O'Connell (1984) 152 Cal.App.3d 548 [199 Cal.Rptr.
542]

ABA Guidelines for capital defense counsel
Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Abandonment
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d
908]

Absence of Defense counsel at pretrial status conference
U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228

Admonishment of defense counsel for expressing personal
belief in client's innocence
People v. Tyler (1991) 231 Cal.App.3d 1692 [283 Cal.Rptr.
268]

Advising client not to talk to probation officer for pre-sentence
report is not ineffective assistance of counsel
U.S. v. Benlian (9th Cir. 1995) 63 F.3d 824

Advising client not to testify
People v. Andrade (2000) 79 Cal.App.4th 651 [94
Cal.Rptr.2d 314]

Advising client to cooperate with police
People v. Murphy (1982) 127 Cal.App.3d 743, 749 [179
Cal.Rptr. 732]
People v. Wong (1973) 35 Cal.App.3d 812, 823 [111
Cal.Rptr. 314]

Advising client to limited waiver of attorney-client privilege
considered proper if defendant would not otherwise testify
Aguilar v. Alexander (9th Cir. 1997) 125 F.3d 815

Advising client to plead guilty
In re Watson (1972) 6 Cal.3d 831, 839 [100 Cal.Rptr. 720,
494 P.2d 1264]
In re Hawley (1967) 67 Cal.2d 824 [63 Cal.Rptr. 83, 433 P.2d
919]
People v. Rainey (1954) 125 Cal.App.2d 739 [271 P.2d 144]
People v. Avilez (1948) 86 Cal.App.2d 289 [194 P.2d 829]

Advising client to reject plea bargain
Lafler v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
In re Alvernaz (1992) 2 Cal.4th 924 [8 Cal.Rptr.2d 713]

Advisory counsel
standard of adequate representation
People v. Doane (1988) 200 Cal.App.3d 852 [246
Cal.Rptr. 366]

Antiterrorism and Effective Death Penalty Act of 1996
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Cannedy v. Adams (9th Cir. 2013) 706 F.3d 1148
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911

Appeal
abandonment by appellate counsel for good cause was
substantial delay in filing of habeas petition
In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
appellate counsel should not be placed in the untenable
position of urging his own incompetency at the trial level
United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078
People v. Bailey (1992) 9 Cal.App.4th 1252 [12
Cal.Rptr.2d 339]
-issue may be raised on habeas corpus
Leavitt v. Arave (9th Cir. 2004) 383 F.3d 809
appellate court has the obligation to ensure adequate
representation of counsel even to the extent of removing
retained counsel
People v. Freeman (2013) 220 Cal.App.4th 607 [163
Cal.Rptr.3d 222]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- appellate court ordinarily will not consider defenses, arguments or objections not presented to the lower court
People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]
- attorney's professional misconduct was extraordinary circumstance that prevented petitioner from timely filing petition, as required for equitable tolling
Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
- California's use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
- certificate of probable cause required for appeal from conviction after entry of plea
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]
- client entitled to habeas relief when trial attorney's conflict of interest results in failure of attorney to file direct appeal
Manning v. Foster (9th Cir. (Idaho) 2000) 224 F.3d 1129
- counsel fails to raise multiple punishments issue
In re Granville (1991) 234 Cal.App.3d 155
- counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
- despite appeal waivers, counsel's performance was deficient by disregarding defendant's express request for an appeal
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
- failure to raise any arguable issues in appellate brief leaves defendant constructively without counsel
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- trial court's failure to make further inquiry when defendant expressed dissatisfaction with trial counsel found harmless
People v. Mack (1995) 38 Cal.App.4th 1484 [45 Cal.Rptr.2d 1484]
- waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel
U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956
- may not be applicable to defendant's motion to withdraw plea containing the waiver
People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
- Appearance by defendant in propria persona
People v. Longwith (1981) 125 Cal.App.3d 400
People v. Harris (1977) 65 Cal.App.3d 978 [135 Cal.Rptr. 668]
- Appointed counsel's inactive status does not deny effective assistance of counsel
People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
- Appointment of trial counsel to represent defendant on appeal
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]
- standard of adequate representation by advisory counsel
People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
- As grounds for reversal
People v. Pangelina (1984) 153 Cal.App.3d 1, 9-10 [199 Cal.Rptr. 916]
- Attorney as material witness
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
- Attorney disciplinary proceedings
does not presumptively mean that the attorney is incapable of providing effective assistance
Young v. Runnels (9th Cir. 2006) 435 F.3d 1038
- Authority of counsel to exclusively control judicial proceedings
People v. Sims (1984) 158 Cal.App.3d 469, 482-483 [205 Cal.Rptr. 31]
- Authority of court to order second defense counsel
Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318 [204 Cal.Rptr. 165]
- Based on divided loyalty does not require showing of prejudice as a result of defense counsel's actual conflict
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
- Based on duty of loyalty
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
- Basis for a motion for new trial, may be asserted as
People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]
- Bizarre closing argument prejudicial to defendant and co-defendant
People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]
- Breached duty of trust in egregious long term acts of deception intended to prevent defendant from discovering defalcations
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
- Burden on client defendant to prove
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
United States v. Juliano (9th Cir. 2021) 12 F.4th 937
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]
People v. Young (1984) 159 Cal.App.3d 138, 155 [205 Cal.Rptr. 402]
People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]
People v. Zikorus (1983) 150 Cal.App.3d 324 [197 Cal.Rptr. 509]
- proof required
People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
- showing of prejudice required where defendant was not denied assistance of counsel at a critical stage of criminal proceedings
People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]
- Certificate of probable cause required for appeal from conviction after entry of plea
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]
- Claim of ineffective assistance for counsel's failure to timely present plea offer cannot be considered as a mitigating factor in sentencing
U.S. v. Dibe (9th Cir. 2015) 776 F.3d 665
- Claim of ineffective assistance is more appropriate in habeas corpus proceeding
counsel not given opportunity to explain failure to renew suppression of evidence
People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr.2d 196]
- Client right to effective counsel
People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]
People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a
right dependent on constitutional right to counsel
Miller v. Keeney (9th Cir. 1989) 882 F.2d 1428
Sixth Amendment right violated where attorney pursued defenses that did not comport with defendant's insistence that he did not commit the alleged criminal act
People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]
- Client's claim lacks merit
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
In re Cudjio (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
claim not guilty by reason of insanity lacked credible evidentiary support
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
client cannot show that attorney's representation fell below objective standard of reasonableness
United States v. Freeny (9th Cir. 1988) 841 F.2d 1000
People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]
client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim
People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]
"confessions and avoidance" tactic used by counsel does not constitute ineffective assistance of counsel
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
- Closing argument did not demonstrate prejudice
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
district attorney did not misstate intent element of charged offense in closing so defense attorney's failure to object could not constitute ineffective assistance of counsel
People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]
Closing argument not given at penalty phase was tactical, application of *Strickland* standard was not objectively unreasonable
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
- Closing argument unfocused and undercut own client's case
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
- Competence
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Shaw (1984) 35 Cal.3d 535 [198 Cal.Rptr. 788]
generally demanded of attorneys
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
tactical error results in incompetence
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
- Conceding cause of death
competent attorney would not have conceded the cause of death, where there were "tantalizing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
Conceding that his client was guilty of felony murder charge
People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
- Conflict of interest
United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078
People v. Hardy (1992) 2 Cal.4th 86, 135
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
Levenson v. Superior Court (1983) 34 Cal.3d 530, 538
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
- active representation of conflicting interests deprives defendant of effective assistance of counsel
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
appellate counsel should not be placed in the untenable position of urging his own incompetency at the trial level
United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078
People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]
attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the co-defendant
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
complete breakdown in communication with defendant
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
defendant deprived of effective assistance of counsel at preliminary hearing when his own attorney is being prosecuted by the same entity following his arrest by same officer
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]
defense attorney's "intimate" relationship with client found not to be a conflict
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
defense counsel and district attorney personal relationship
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
defense counsel good friend of defendant's roommate who was also a suspect
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel left public defender's office and went to DA's office during case
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
defense counsel's actual conflict of interest was not adverse for ineffective assistance
U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891
defense counsel's prior attorney-client relationship with a co-defendant who is a witness for the prosecution may be a conflict of interest
Bonin v. Vasquez (1992) 794 F.Supp. 957
defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
denial of Sixth Amendment claim not unreasonable where defendant claimed irreconcilable conflict based on petitioner's dismissed lawsuit against the public defender's office and appointed pre-trial counsel
Foote v. Del Papa (9th Cir. (Nev.) 2007) 492 F.3d 1026
ineffective assistance based on attorney performance in unrelated case before the same judge
People v. Perez (2018) 4 Cal.5th 421 [229 Cal.Rptr.3d 303]
limited conflict does not taint defense counsel's entire representation of defendant
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest
- Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
not found where alleged racial epithets were not used to describe appellant and did not affect representation
- Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness
- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
potential irreconcilable conflict between attorney and client requires inquiry
- Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
public defender's prior representation of witness created conflict because of the inability of counsel to use the prior to impeach the witness, although, the conflict was not prejudicial, as counsel was able to impeach the witness with other convictions
- People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner
- U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
- People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
- waiver
- Maxwell v. Superior Court (1982) 30 Cal.3d 606, 612 [180 Cal.Rptr. 177, 639 P.2d 248]
- People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
- People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
- Alcocer v. Superior Court (1988) 206 Cal.App.3d 951 [254 Cal.Rptr. 72]
- In re Darr (1983) 143 Cal.App.3d 500, 509 [191 Cal.Rptr. 882]
- court has latitude to remove counsel where potential conflict exists, over objection by defendant
- People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
- may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
- no valid waiver found
- Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
- People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
- People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
- no waiver found
- People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
- Conflict of interest not found
- Foote v. Del Papa (9th Cir. (Nevada) 2007) 492 F.3d 1026
- *Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
- People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
- defendant's exclusion from in camera hearing related to defense counsel's potential conflict of interest constituted a structural error mandating a finding of prejudice
- *Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
- Constitutional requirement of competence
- Olson v. Superior Court (1984) 157 Cal.App.3d 780, 790 [204 Cal.Rptr. 217]
- Control of proceedings
- People v. Cretsinger (1984) 160 Cal.App.3d 938, 947 [207 Cal.Rptr. 40]
- Counsel's deficient performance prejudiced defendant
- People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
- Court's failure to inquire into potential conflicts, requires defendant to establish that conflict adversely affected counsel's performance
- Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
- *Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
- Cross examination by defense counsel
- order prohibiting counsel from sharing information in a sealed witness' declaration with his client did not hamper counsel's ability to impeach the witness
- People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]
- prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness
- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
- reinforcing prosecutors evidence
- People v. Mastin (1981) 115 Cal.App.3d 978, 987 [171 Cal.Rptr. 780]
- Cumulative effect of errors results in prejudice
- Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
- Decision to not identify third party's DNA to the jury prejudiced defendant and constituted ineffective assistance of counsel
- People v. Smothers (2021) 66 Cal.App.5th 829 [281 Cal.Rptr.3d 409]
- Decision to place defendant on the stand
- Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
- Decision to present testimony of court-appointed psychiatrist
- People v. Haskett (1982) 30 Cal.3d 841, 864 [180 Cal.Rptr. 640, 640 P.2d 776]
- Defendant counsel failed to read opponent's trial memorandum which contained the opening statement
- Stewart v. C.I.R. (9th Cir. 1983) 714 F.2d 977
- Defendant entitled to counsel free of conflicts
- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
- McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
- Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
- U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
- In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
- *People v. Miramontes (1984) 161 Cal.App.3d 1108
- Defendant not entitled to any specific appointed attorney
- People v. Barr (1984) 159 Cal.App.3d 1129, 1146-1147 [206 Cal.Rptr. 331]
- Defendant's agreement with counsel's tactical decision precludes ineffective assistance of counsel claim
- Ames v. Endell (9th Cir. 1988) 856 F.2d 1441
- Defendant's claim that attorney lacked professional experience did not constitute basis for granting new trial motion
- People v. Hoyt (2020) 8 Cal.5th 892 [257 Cal.Rptr.3d 784]
- Defendant's refusal to present a case in mitigation
- People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]
- People v. Howard (1992) 1 Cal.4th 1132 [5 Cal.Rptr.2d 713]
- Defendant's right in criminal case to assistance of counsel
- California Constitution, Art. I, § 15
- Defense attorney's illness with Alzheimer's disease during criminal trial does not make counsel ineffective per se
- Dows v. Wood (9th Cir. 2000) 211 F.3d 480
- Defense attorney's mistaken theory of liability no basis for reversal
- United States v. Cruz-Mendoza (9th Cir. 1998) 147 F.3d 1069
- Defense attorney's performance was ineffective when attorney failed to adequately investigate, develop, and present mitigating evidence to the jury at the penalty phase of defendant's capital punishment trial
- Washington v. Ryan (9th Cir. 2019) 922 F.3d 419
- In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Delay, defendant not prejudiced where counsel required time to adequately prepare
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

Denial of effective assistance of counsel
People v. Barr (1984) 159 Cal.App.3d 1129, 1156-1158 [206 Cal.Rptr. 331]

Dependency proceedings
 ineffective assistance of counsel claim requires showing of likelihood of more favorable ruling
In re Dawn L. (1988) 201 Cal.App.3d 35 [246 Cal.Rptr. 766]

Disbarred or suspended attorney before trial began
 status of attorney at time of trial was not dispositive of ineffective assistance of counsel
U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054

Dishonesty
 habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952

Disqualification
 *People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]

Drug addiction is not per se ineffective assistance of counsel
Bonin v. Vasquez (1992) 794 F.Supp. 957

Duty to consult with client about whether to appeal
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216

Duty to pursue meritorious defenses
People v. Monzingo (1983) 34 Cal.3d 926 [196 Cal.Rptr. 212]
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

Effect of tactical decision
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
People v. Trotter (1984) 160 Cal.App.3d 1217, 1224-1226 [207 Cal.Rptr. 165]

Entry of plea bargain
In re Artis (1982) 127 Cal.App.3d 699 [179 Cal.Rptr. 811]

Erroneous advice
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167

Evidentiary hearing
 not required where claims were grounded in speculation, no mitigating evidence
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006

Ex parte communication between defendant attorney and sentencing court
People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]

Excessive caseload and/or limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Failure by public defender to introduce newly-discovered evidence
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Failure of appellate defense attorney to file intelligible and supporting briefs has unreasonably interfered with and disrupted the orderly process of the appeal
People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]

Failure of counsel to point out to court that defendant had not been warned that prior conviction would constitute a strike where court presumed the defendant had been warned
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]

Failure of court to substitute appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

People v. Rhines (1982) 131 Cal.App.3d 498 [182 Cal.Rptr. 478]
People v. Missin (1982) 128 Cal.App.3d 1015 [180 Cal.Rptr. 750]

Failure of defense counsel to assert objection to an erroneous prior enhancement constituted forfeiture of right to appeal and ineffective assistance of counsel
People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]

Failure of defense counsel to disclose he was being prosecuted by same district attorney and was arrested by same police officer
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

Failure on appeal to raise failure of trial counsel to request certain jury instruction
 *People v. Scobie (1973) 36 Cal.App.3d 97 [111 Cal.Rptr. 600]

Failure to act as an advocate at the probation and sentence hearing
People v. Koziel (1982) 133 Cal.App.3d 507, 534 [184 Cal.Rptr. 208]
People v. Cropper (1979) 89 Cal.App.3d 716 [152 Cal.Rptr. 555]

Failure to act on behalf of client at trial after defendant expressed desire to represent himself
 *People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]

Failure to adequately consult with client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
 *People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]

Failure to adequately investigate
Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835
Thompson v. Calderon (C.D. Cal. 1997) 120 F.3d 1045
In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- People v. Spring (1984) 153 Cal.App.3d 1199, 1208 [200 Cal.Rptr. 849]
attorney declined trial court's offer of continuance to allow for investigation of new evidence
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
cause of death, "tantalizing indications" that autopsy specimens had been contaminated raised serious questions, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
childhood abuse
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
childhood mitigation
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
Bonin v. Vasquez (1992) 794 F.Supp. 957
confession
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
People v. Sanders (1990) 221 Cal.App.3d 350 [271 Cal.Rptr. 534]
crime scene
Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
defendant's physical condition
Caro v. Calderon (9th Cir. 1999) 165 F.3d 1223
delay, not deficient under professional standards
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
diminished capacity defense
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]
People v. Deere (1991) 53 Cal.3d 705 [808 P.2d 1181]
In re Sixto (1989) 48 Cal.3d 1247 [259 Cal.Rptr. 491]
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
due to excessive caseload and/or limited resources
-one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
evidence of organic brain damage, head trauma, borderline mental retardation from transcript of previous trial and CYA records
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
inattention, not reasoned strategic judgment
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
interview surviving witness
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
investigator not obtained
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
jailhouse informants
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
In re Jackson (1992) 4 Cal.4th 1107
mental impairment
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
mental condition
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
mental defenses and drug abuse
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
mitigating evidence
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
-carefully tailored to preserve exclusion of damaging evidence
Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]
pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
possibility of a defense based on mental incapacity
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Lambright v. Stewart (9th Cir. (Ariz.) 2001) 241 F.3d 1201
Hendricks v. Calderon (9th Cir. 1995) 64 F.3d 1340
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
In re Hwamei (1974) 37 Cal.App.3d 554 [112 Cal.Rptr. 464]
possible exculpatory circumstantial evidence
Jones v. Wood (9th Cir. (Wash.) 2000) 207 F.3d 557
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
potential alibi defense
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
potential exculpatory evidence
Cannedy v. Adams (9th Cir. 2013) 706 F.3d 1148
potential exculpatory evidence, medical evidence of alleged victim
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
reasonable professional judgment does not require interviewing all living relatives and therapists who treated defendant's parents
Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]
reward, whether witnesses knew that they would receive
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
serological evidence potentially exculpatory as to the penalty phase, although not to the conviction as there was other evidence placing the defendant at the crime scene
Duncan v. Ornoski (9th Cir. 2008) 528 F.3d 1222
social history
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
strategy only, not ineffective assistance
Bearslee v. Woodford (9th Cir. 2004) 358 F.3d 560
Failure to adequately investigate or prepare for penalty phase
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
Failure to adequately prepare for criminal trial
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
Failure to adequately research relevant law
*People v. McDowell (1968) 69 Cal.2d 737 [71 Cal.Rptr. 1]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to advise client in immigration matters

Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

Failure to advise client that making false statements on rental property application did not support conviction for making falsified financial statement

People v. Maquire (1998) 67 Cal.App.4th 1022 [79 Cal.Rptr.2d 573]

Failure to advise client to deny prior convictions

In re Yurko (1974) 10 Cal.3d 857, 866 [112 Cal.Rptr. 513]

Failure to advise of consequences of guilty plea, record does not provide evidence of whether attorney was ineffective or not

U.S. v. Jeronimo (9th Cir. 2005) 398 F.3d 1149, 1155

Failure to advise or inform client whether to accept plea bargain

Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]

Failure to advise plea offer was an incorrect calculation of sentence enhancements

Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238

Failure to advise that conviction rendered deportation virtually certain as opposed to advising of the potential for deportation constitutes ineffective assistance of counsel

U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]

Failure to advise/misadvise regarding immigration consequences of guilty plea

Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]
U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]
People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]
People v. Aguilar (2014) 227 Cal.App.4th 60 [173 Cal.Rptr.3d 473]
People v. Chien (2008) 159 Cal.App.4th 1283 [72 Cal.Rptr.3d 448]
People v. Bautista (2004) 115 Cal.App.4th 229 [8 Cal.Rptr.3d 862]

a person whose conviction is already final may not benefit from a new rule of criminal procedure on collateral review
Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151

because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction

People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

not shown when client signed a form with boilerplate language about immigration consequences of guilty plea

People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]

Failure to anticipate that criminal offenses would be grouped together for sentencing and then failure to advise client to withdraw his plea agreement resulted in deficient performance

U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204

Failure to appeal

In re Anthony J. (2004) 117 Cal.App.4th 718 [11 Cal.Rptr.3d 865]

Failure to appear at pretrial status conference

U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228

Failure to argue all arguable issues

Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]

In re Spears (1984) 157 Cal.App.3d 1203, 1210-1211 [204 Cal.Rptr. 333]

Failure to argue for dismissal of additional charges

People v. Santos (1990) 222 Cal.App.3d 723 [271 Cal.Rptr. 811]

Failure to argue mitigating circumstances

Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373

Failure to argue potentially meritorious defense

People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]

Failure to ascertain the truth of an allegation of a prior felony conviction

People v. Shells (1971) 4 Cal.3d 626 [94 Cal.Rptr. 275]

Failure to assert client's right

People v. (2017) 7 Cal.App.5th 1261 [212 Cal.Rptr.3d 895]
People v. Amerson (1984) 151 Cal.App.3d 165 [198 Cal.Rptr. 678]

Failure to assert diminished capacity defense

People v. Pensinger (1991) 52 Cal.3d 1210 [805 P.2d 899]

Failure to assert prosecutorial misconduct claim (which court deemed meritless)

Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093

Failure to assist client in providing substantial assistance to the government

U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111

Failure to assure presence of a defense witness at trial

People v. Demerson (1970) 4 Cal.App.3d 263 [84 Cal.Rptr. 202]

Failure to attack composition of jury

*People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]

Failure to brief best argument for appeal

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Failure to bring motion

People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]

Failure to call addictionologist during penalty phase was not deficient

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

Failure to call certain witnesses

Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]

U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974

Cox v. Ayers (9th Cir. 2010) 613 F.3d 883

Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834

Allen v. Woodford (9th Cir. 2005) 395 F.3d 979

Luna v. Cambra (9th Cir. 2002) 306 F.3d 954

Lord v. Wood (9th Cir. 1999) 184 F.3d 1083

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Mayfield (1993) 5 Cal.4th 142
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 583 [179 Cal.Rptr. 674]
defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138
expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
Failure to call self-defense witnesses
Wilson v. Henry (9th Cir. 1999) 185 F.3d 986
Failure to call the defendant to testify
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
Failure to challenge improper ruling of court
People v. Davis (1984) 160 Cal.App.3d 970 [207 Cal.Rptr. 18]
Failure to challenge suggestive lineup identifications on appeal
In re Smith (1970) 3 Cal.3d 192 [90 Cal.Rptr. 1]
Failure to challenge witness' invocation of Fifth Amendment
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
Failure to claim privilege in camera to admission of critical evidence
People v. Dorsey (1975) 46 Cal.App.3d 706, 718 [120 Cal.Rptr. 508]
Failure to communicate plea bargain accurately
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
Failure to communicate with client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
court restricted defendant from conferring, consulting or communicating with counsel
People v. Hernandez (2009) 178 Cal.App.4th 1510 [101 Cal.Rptr.3d 414]
Failure to communicate with client between arraignment and sentencing
People v. Goldman (1966) 245 Cal.App.2d 376 [53 Cal.Rptr. 810]
Failure to communicate with non-English speaking clients
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
Failure to consult and present experts in firearms evidence, serology and pathology, no prejudice shown therefore no need to decide whether counsel acted unreasonably
Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222
Failure to consult blood evidence expert within wide range of reasonable professional assistance
Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]
Failure to consult client about whether to appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
despite appeal waivers, counsel's performance was deficient by disregarding defendant's express request for an appeal
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
Failure to consult fingerprint expert
Schell v. Witek (1999) 181 F.3d 1094
Failure to consult time of death expert regarding time of victim's death
In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
Failure to contact alleged alibi witness
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
In re Cudjio (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Branch (1969) 70 Cal.2d 200 [74 Cal.Rptr. 238]
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
People v. Lawrence (1980) 111 Cal.App.3d 630 [169 Cal.Rptr. 245]
In re Clarence B. (1974) 37 Cal.App.3d 676, 681 [112 Cal.Rptr. 474]
People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Byers (1970) 10 Cal.App.3d 410, 417 [88 Cal.Rptr. 886]
People v. Ricks (1958) 161 Cal.App.2d 674 [327 P.2d 209]
Failure to correct courts mistaken belief that defendant had been warned that prior conviction would constitute a strike
People v. Thimmis (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
Failure to deny defendant's guilt during closing argument to the jury
People v. Wade (1987) 43 Cal.3d 366, 375-378 [233 Cal.Rptr. 48]
People v. Jackson (1980) 28 Cal.3d 264, 292 [168 Cal.Rptr. 603, 618 P.2d 149]
Failure to develop relationship of trust with petitioner and his family
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
Failure to disclose parole consequences of a guilty plea
Doganieri v. United States (9th Cir. 1990) 914 F.2d 165
Failure to disclose various pre-sentence reports to expert neurologist
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
Failure to elicit through cross-examination, that the witnesses knew they would receive a reward
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
Failure to enter pleas of not guilty by reason of insanity
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
In re Kubler (1975) 53 Cal.App.3d 799 [126 Cal.Rptr. 25]
withdrawal of insanity claim at NGI phase that had almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
Failure to examine court file on defendants prior conviction
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Failure to examine probation file before revocation hearing
People v. Gayton (2006) 137 Cal.App.4th 96 [40 Cal.Rptr.3d 40]
Failure to exercise peremptory challenges
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
Failure to expressly state a claim
People v. Whitt (1984) 36 Cal.3d 724, 739-740 [205 Cal.Rptr. 810]
Failure to file a brief in compliance with applicable procedures
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921
Failure to file a notice of appeal after client requests to do so, even if client signed appeal waiver
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
Failure to file an opening brief
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
Failure to file timely notice of appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
due to abandonment by counsel
Brooks v. Yates (9th Cir. 2016) 818 F.3d 532
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
no presumed prejudice
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
Failure to file written statement required by Penal Code section 1237.5
People v. Ivester (1991) 235 Cal.App.3d 328
Failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel
Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- Failure to give timely notice of motion to suppress evidence
People v. Lewis (1977) 71 Cal.App.3d 817, 821 [139 Cal.Rptr. 673]
- Failure to have semen sample taken from victim subjected to genetic typing
People v. Wilson (1982) 128 Cal.App.3d 132 [179 Cal.Rptr. 898]
- Failure to impeach witness
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
 with expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Failure to inform client of the possible defenses available
People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
 trial counsel's failure to inform defendant of the defense of consent was not ineffective assistance of counsel
People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]
- Failure to inform defendant that prior felony convictions that were admitted could be used to impeach him if he testified
People v. Hill (1976) 64 Cal.App.3d 16, 30 [134 Cal.Rptr. 443]
- Failure to interview eyewitnesses
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
People v. Bess (1984) 153 Cal.App.3d 1053 [200 Cal.Rptr. 773]
 surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Failure to introduce evidence, defendant's statement to investigators
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
- Failure to introduce evidence which did not result in undermining of confidence in the outcome
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
- Failure to introduce exculpatory evidence
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Jones v. Wood (9th Cir. (Wash.) 2000) 207 F.3d 557
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 by interviewing and calling surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Failure to investigate purported childhood sexual abuse
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
- Failure to investigate/research
Jones v. Shinn (9th Cir. 2019) 943 F.3d 1211
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
 attorney was ineffective when he failed to seek psychological testing for a minor
Weeden v. Johnson (9th Cir. 2017) 854 F.3d 1063
 client's competence to accept plea bargain while under the influence of prescribed pain killers
United States v. Howard (9th Cir. 2004) 381 F.3d 873
 immigration consequences of guilty plea
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]
- Failure to make a closing argument
People v. Espinoza (1979) 99 Cal.App.3d 44 [159 Cal.Rptr. 803]
- Failure to make all objections possible to prosecutor's questioning of witnesses
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]
- Failure to make an opening statement
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]
- Failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
- Failure to make motions
People v. Saldana (1984) 157 Cal.App.3d 443, 459, 462-463 [204 Cal.Rptr. 465]
- Failure to move for a change of venue
People v. Green (1980) 27 Cal.3d 1, 44 [164 Cal.Rptr. 1, 609 P.2d 468]
- Failure to move for a continuance
People v. Adams (1974) 43 Cal.App.3d 697, 705 [117 Cal.Rptr. 905]
- Failure to move for a dismissal of charges untimely raised in a superceding indictment
U.S. v. Palomba (9th Cir. 1994) 31 F.3d 1456
- Failure to move for a mistrial following revelation of jurors' premature discussion of case
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
People v. Steger (1976) 16 Cal.3d 539, 551 [128 Cal.Rptr. 161]
- Failure to move for a severance
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
People v. Reeder (1978) 82 Cal.App.3d 543, 556 [147 Cal.Rptr. 275]
People v. Campbell (1976) 63 Cal.App.3d 599, 613 [133 Cal.Rptr. 815]
People v. Simms (1970) 10 Cal.App.3d 299, 313 [89 Cal.Rptr. 1]
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]
- Failure to move for acquittal during trial
 no error when motion was obviously a losing motion
U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054
- Failure to move for substitution
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- Failure to move for the identity of an informant to be disclosed
People v. Cooper (1979) 94 Cal.App.3d 672, 681 [156 Cal.Rptr. 646]
- Failure to move that victim be ordered to submit to psychiatric examination
People v. Belasco (1981) 125 Cal.App.3d 974 [178 Cal.Rptr. 461]
- Failure to move to dismiss case based on precharging delay
People v. Booth (2016) 3 Cal.App.5th 1284 [209 Cal.Rptr.3d 1]
- Failure to move to disqualify judge
People v. Beaumaster (1971) 17 Cal.App.3d 996, 1009 [95 Cal.Rptr. 360]
- Failure to move to suppress evidence - Counsel not given opportunity to explain failure to renew suppression of evidence
Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165
Toomey v. Bunnell (9th Cir. 1990) 898 F.2d 741
People v. Martinez (1975) 14 Cal.3d 533 [121 Cal.Rptr. 611]
People v. Jenkins (1975) 13 Cal.3d 749, 753 [119 Cal.Rptr. 705]
People v. Ibarra (1963) 60 Cal.2d 460 [34 Cal.Rptr. 863]
People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr. 196]
People v. Turner (1992) 7 Cal.App.4th 913

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- People v. Berry (1990) 224 Cal.App.3d 162 [273 Cal.Rptr. 509]
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
People v. Shope (1982) 128 Cal.App.3d 816 [180 Cal.Rptr. 567]
People v. Shelburne (1980) 104 Cal.App.3d 737, 743 [163 Cal.Rptr. 767]
People v. Willis (1980) 104 Cal.App.3d 433, 439 [163 Cal.Rptr. 718]
*People v. Piper (1980) 103 Cal.App.3d 102, 106 [162 Cal.Rptr. 833]
People v. Perry (1979) 100 Cal.App.3d 251, 264 [161 Cal.Rptr. 108]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
People v. Constancio (1974) 42 Cal.App.3d 533, 539 [116 Cal.Rptr. 910]
In re Golia (1971) 16 Cal.App.3d 775, 779 [94 Cal.Rptr. 323]
*People v. Hoffmann (1970) 7 Cal.App.3d 39 [86 Cal.Rptr. 435]
- Failure to move to suppress witness in-court identification of defendant
People v. Harpool (1984) 155 Cal.App.3d 877, 885 [202 Cal.Rptr. 467]
- Failure to move to withdraw guilty plea
United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573
- Failure to move to withdraw guilty pleas when court failed to treat offense as misdemeanor as part of a plea bargain
People v. Ham (1975) 44 Cal.App.3d 288, 292 [188 Cal.Rptr. 591]
- Failure to move to withdraw where defender was provided inadequate investigative services by county
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
- Failure to object and request an admonition on each occasion that hearsay evidence was offered which was admissible only against a co-defendant
People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]
- Failure to object to a structural error, not a frivolous claim
United States v. Withers (9th Cir. 2010) 638 F.3d 1055
- Failure to object to admission of confession
Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175
- Failure to object to admission of evidence
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
People v. Jackson (1980) 28 Cal.3d 264, 291 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Gordon (1982) 136 Cal.App.3d 519 [186 Cal.Rptr. 373]
People v. Frausto (1982) 135 Cal.App.3d 129 [185 Cal.Rptr. 314]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]
In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]
People v. Sundlee (1977) 70 Cal.App.3d 477 [138 Cal.Rptr. 834]
People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]
People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]
- Failure to object to admission of evidence of other crimes allegedly committed by defendant
People v. Lanphear (1980) 26 Cal.3d 814 [163 Cal.Rptr. 601, 608 P.2d 689]
- People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
People v. Stiltner (1982) 132 Cal.App.3d 216, 225 [183 Cal.Rptr. 790]
- Failure to object to admission of identification made as result of an allegedly suggestive lineup
In re Banks (1971) 4 Cal.3d 337 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Mixon (1982) 129 Cal.App.3d 118 [180 Cal.Rptr. 772]
People v. Flores (1981) 115 Cal.App.3d 67, 80 [171 Cal.Rptr. 365]
- Failure to object to admission of incriminating statements made by defendant
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
In re Wilson (1992) 3 Cal.4th 945 [13 Cal.Rptr.2d 269]
People v. Green (1982) 134 Cal.App.3d 587 [184 Cal.Rptr. 652]
People v. Borba (1980) 110 Cal.App.3d 989 [168 Cal.Rptr. 305]
People v. Jones (1979) 96 Cal.App.3d 820 [158 Cal.Rptr. 415]
to cellmate
People v. Whitt (1984) 36 Cal.3d 724 [205 Cal.Rptr. 810]
- Failure to object to admission of *Miranda* waiver and subsequent statement
People v. Thomas (1974) 43 Cal.App.3d 862, 868 [118 Cal.Rptr. 226]
defendant's attorney was ineffective for failing to file suppression motion on *Miranda* grounds while defendant was in custody and interrogated by police
Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]
People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]
- Failure to object to admission of prior convictions
People v. Taylor (1990) 52 Cal.3d 719 [801 P.2d 1142]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
- Failure to object to filing of amended information
People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]
People v. Peyton (2009) 176 Cal.App.4th 642 [98 Cal.Rptr.3d 243]
- Failure to object to improper impeachment of defendant by prosecutor
People v. Duran (1982) 132 Cal.App.3d 156 [183 Cal.Rptr. 99]
- Failure to object to introduction into evidence of arguably suggestive pretrial identifications of defendant
People v. Nation (1980) 26 Cal.3d 169 [161 Cal.Rptr. 299, 604 P.2d 1051]
People v. Smith (1982) 134 Cal.App.3d 574 [184 Cal.Rptr. 765]
- Failure to object to jury instructions did not violate due process
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138
- Failure to object to jury instructions given
People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]
- Failure to object to motion to amend the information
People v. Robinson (2004) 122 Cal.App.4th 275 [18 Cal.Rptr.3d 744]
- Failure to object to prejudicial judicial conduct
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
People v. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to object to prosecutor as witness and prosecutor's statements
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

Failure to object to prosecutor's closing argument commenting on defendant's decision not to testify
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]

Failure to object to prosecutor's misconduct defendant must establish trial attorney's performance was both deficient and prejudicial
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

Failure to object to prosecutor's prejudicial remarks during closing argument
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390

Failure to object to prosecutor's questions to defendant
People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

Failure to object to prosecutor's reference to inculpatory testimony
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440

Failure to object to prosecutorial misconduct defendant must establish trial attorney's performance was both deficient and prejudicial
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]

Failure to object to relevancy of drug use
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190

Failure to object to service of juror not ineffective assistance of counsel
Kimes v. United States (9th Cir. 1991) 939 F.2d 776

Failure to object to testimony of witness, who identified defendant as killer in recording but changed story at trial, results in effective assistance
Griffin v. Harrington (9th Cir. 2013) 727 F.3d 940

Failure to object to the shackling of defendant during the trial
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]

Failure to object to witness defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138

Failure to obtain blood test
People v. Ackerman (1991) 230 Cal.App.3d 1 [280 Cal.Rptr. 887]

Failure to obtain certificate of probable cause for appeal of conviction after guilty plea may result in dismissal
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

Failure to obtain complete transcript of motion to suppress for purposes of appeal
People v. Barton (1978) 21 Cal.3d 513 [146 Cal.Rptr. 727, 579 P.2d 1043]

Failure to obtain DNA test in rape case did not constitute ineffective assistance of counsel
People v. Bravo (1993) 18 Cal.App.4th 1493

Failure to obtain investigator
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

Failure to participate in trial proceedings
People v. Shelly (1984) 156 Cal.App.3d 521 [202 Cal.Rptr. 874]

Failure to perform with reasonable competence
People v. Parsons (1984) 156 Cal.App.3d 1165, 1172-1173 [203 Cal.Rptr. 412]

Failure to persuade a defendant to plead guilty by insanity
People v. Geddes (1991) 1 Cal.App.4th 448

Failure to prepare
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Failure to prepare adequately for change of venue motion
In re Miller (1973) 33 Cal.App.3d 1005

Failure to prepare mental health expert at penalty phase
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

Failure to prepare witnesses
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834

Failure to present and explain to jury the significance of all mitigating evidence
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

Failure to present any mitigating evidence during death penalty phase of trial
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Wallace v. Stewart (9th Cir. 1999) 184 F.3d 1112
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
Mak v. Blodgett (9th Cir. 1992) 970 F.2d 614
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
In re Visciotti (1996) 14 Cal.4th 325 [58 Cal.Rptr.2d 801]
In re Marquez (1992) 1 Cal.4th 584
People v. Jackson (1980) 28 Cal.3d 264, 293 [168 Cal.Rptr. 603]
People v. Durham (1969) 70 Cal.2d 171, 192 [74 Cal.Rptr. 262, 449 P.2d 198]
In re Jackson (1992) 4 Cal.App.4th 1107
People v. Diaz (1992) 2 Cal.App.4th 1275
 chronic substance abuse
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
 did not constitute basis for granting new trial motion
People v. Hoyt (2020) 8 Cal.5th 892 [257 Cal.Rptr.3d 784]

evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]

evidence that is potentially cumulative, not necessary
Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]
 halfhearted mitigation only
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]

no ineffective assistance of counsel when defendant makes informed, voluntary, and intelligent decision to forgo presenting mitigating evidence after defense counsel's extensive background examination pointing to mitigating facts
People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]

Failure to present at jury trial defendant's own theories that the effect of tax laws did not render ineffective assistance of counsel
United States v. Cochrane (1993) 985 F.2d 1027

Failure to present battered woman syndrome defense
In re Walker (2007) 147 Cal.App.4th 533 [54 Cal.Rptr.3d 411]
People v. Romero (1992) 15 Cal.App.4th 1519 [13 Cal.Rptr.2d 332]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- Failure to present diminished capacity defense
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
People v. Haskett (1982) 30 Cal.3d 841, 852 [180 Cal.Rptr. 640, 640 P.2d 776]
*People v. Ramos (1982) 30 Cal.3d 553, 584-85 [180 Cal.Rptr. 266, 639 P.2d 908]
People v. Jackson (1980) 28 Cal.3d 264, 289 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Cook (1982) 135 Cal.App.3d 785, 795 [185 Cal.Rptr. 576]
People v. Stiltner (1982) 132 Cal.App.3d 216, 223 [183 Cal.Rptr. 790]
People v. Moringlove (1982) 127 Cal.App.3d 811, 821 [179 Cal.Rptr. 726]
- Failure to present evidence of childhood abuse
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
- Failure to present evidence of mental instability
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
White v. Ryan (9th Cir. 2018) 895 F.3d 641
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
United States v. Howard (9th Cir. 2004) 381 F.3d 873
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Lambright v. Stewart (9th Cir. (Ariz.) 2001) 241 F.3d 1201
Hendricks v. Vasquez (9th Cir. 1992) 974 F.2d 1099
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
defendant not prejudiced by attorney's failure to present a mental state defense where proffered evidence does not undermine confidence in the jury's findings of guilt
Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095
failure to prevent client's guilty plea before client understood whether the case was defensible rendered potential mental state defense meaningless
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
prejudicial
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
- Failure to present evidence of pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
- Failure to present evidence of time and date of alibi
Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
- Failure to present evidence on ability to form intent necessary for first-degree murder
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
- Failure to present evidence when there is no demonstration of any substantial or credible evidence is not ineffective assistance
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
- Failure to present exculpatory expert testimony on blood evidence
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
- Failure to present exculpatory statement
People v. Foster (1992) 6 Cal.App.4th 1 [7 Cal.Rptr.2d 748]
- Failure to present psychiatric testimony at guilt phase did not prejudice defendant at penalty phase
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
- Failure to present psychiatric testimony at penalty phases of capital cases did not constitute ineffective assistance of counsel
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Bonin v. Calderon (9th Cir. 1996) 77 F.3d 1155
*Bonin v. Calderon (9th Cir. 1995) 59 F.3d 815
- Failure to present psychiatric testimony at penalty phase of capital case was ineffective assistance of counsel
White v. Ryan (9th Cir. 2018) 895 F.3d 641
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
- Failure to press for specific finding on what evidence was to be suppressed
People v. Ellers (1980) 108 Cal.App.3d 943, 951 [166 Cal.Rptr. 888]
- Failure to prevent defendant from testifying
People v. Stiltner (1982) 132 Cal.App.3d 216, 227 [183 Cal.Rptr. 790]
- Failure to promptly bring a discovery motion to compel production of crucial defense witnesses
In re Schiering (1979) 92 Cal.App.3d 429 [154 Cal.Rptr. 847]
- Failure to protect marital privilege
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
- Failure to raise an ineffective assistance of counsel claim on direct appeal does not bar the claim from being brought in a later appropriate proceeding under Section 2255
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
United States v. Withers (9th Cir. 2010) 638 F.3d 1055
- Failure to raise contentions of arguable merit on appeal
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Lang (1974) 11 Cal.3d 134 [113 Cal.Rptr. 9]
In re Walker (1974) 10 Cal.3d 764, 782 [112 Cal.Rptr. 177]
- Failure to raise crucial defense
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
People v. Frierson (1979) 25 Cal.3d 142, 157 [158 Cal.Rptr. 281]
People v. Stanworth (1974) 11 Cal.3d 588, 607 [114 Cal.Rptr. 250]
In re Downs (1970) 3 Cal.3d 694 [91 Cal.Rptr. 612]
*People v. McDowell (1968) 69 Cal.2d 737 [73 Cal.Rptr. 1]
People v. Pinsky (1979) 95 Cal.App.3d 194 [157 Cal.Rptr. 13]
People v. Farley (1979) 90 Cal.App.3d 851, 864 [153 Cal.Rptr. 695]
In re Grissom (1978) 85 Cal.App.3d 840, 846 [150 Cal.Rptr. 96]
People v. Corona (1978) 80 Cal.App.3d 684 [145 Cal.Rptr. 894]
People v. Rodriguez (1977) 73 Cal.App.3d 1023 [141 Cal.Rptr. 118]
In re Miller (1973) 33 Cal.App.3d 1005 [109 Cal.Rptr. 648]
*People v. Welborn (1967) 257 Cal.App.2d 513 [65 Cal.Rptr. 8]
People v. Pineda (1967) 253 Cal.App.2d 443, 465 [62 Cal.Rptr. 144]
People v. Amado (1959) 167 Cal.App.2d 345 [334 P.2d 254]
autopsy specimen contamination was a possibility, further testing could have proven if it has occurred
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 126
- Failure to raise defense of double jeopardy
People v. Belcher (1974) 11 Cal.3d 91, 101 [113 Cal.Rptr. 1]
People v. Medina (1980) 107 Cal.App.3d 364, 370 [165 Cal.Rptr. 622]
- Failure to raise every defense
People v. Tirado (1984) 151 Cal.App.3d 341, 354-356 [198 Cal.Rptr. 682]
not required where almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
- Failure to raise potentially meritorious defense
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Brubaker v. Dickson (1962) 310 F.2d 30
People v. Collie (1981) 30 Cal.3d 43, 49-58 [177 Cal.Rptr. 458, 634 P.2d 534]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- People v. Pope (1979) 23 Cal.3d 412 [152 Cal.Rptr. 732]
People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]
People v. Rosales (1984) 153 Cal.App.3d 353, 361-362 [200 Cal.Rptr. 310]
People v. Ceballos (1980) 107 Cal.App.3d 23, 27 [165 Cal.Rptr. 430]
People v. Zimmerman (1980) 102 Cal.App.3d 647 [161 Cal.Rptr. 669]
People v. Avalos (1979) 98 Cal.App.3d 701, 712 [159 Cal.Rptr. 736]
People v. Chapman (1975) 47 Cal.App.3d 597, 608 [121 Cal.Rptr. 315]
People v. Langley (1974) 41 Cal.App.3d 339, 348 [116 Cal.Rptr. 80]
People v. Cortez (1970) 13 Cal.App.3d 317, 327 [91 Cal.Rptr. 660]
People v. Saidi-Tabatabai (1970) 7 Cal.App.3d 981, 987 [86 Cal.Rptr. 866]
People v. Glover (1967) 257 Cal.App.2d 502, 507 [65 Cal.Rptr. 219]
 not found
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
- Failure to raise statute of limitations argument on appeal
People v. Rose (1972) 28 Cal.App.3d 415 [104 Cal.Rptr. 702]
- Failure to request a crucial jury instruction
People v. Camden (1976) 16 Cal.3d 808 [129 Cal.Rptr. 438]
- Failure to request jury instructions as to lesser offenses
People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]
- Failure to require prosecution to elect
People v. Dunnahoo (1984) 152 Cal.App.3d 548 [199 Cal.Rptr. 542]
- Failure to research the law
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
People v. Rosales (1984) 153 Cal.App.3d 353, 361 [200 Cal.Rptr. 310]
- Failure to retain domestic violence expert to explain his girlfriend's effect on him
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
- Failure to seek evidence
People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]
- Failure to seek severance
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]
- Failure to stipulate intent not at issue
People v. Rios (1992) 7 Cal.App.4th 507
- Failure to stipulate to prior felony convictions
People v. Kent (1981) 125 Cal.App.3d 207 [178 Cal.Rptr. 28]
- Failure to submit jury instructions on lesser included offenses
People v. Finney (1980) 110 Cal.App.3d 705, 711 [168 Cal.Rptr. 80]
- Failure to subpoena a critical witness
People v. Williams (1980) 102 Cal.App.2d 1018, 1030 [162 Cal.Rptr. 748]
 no ineffective assistance of counsel where public defender reasonably relies on professional courtesy between his office and prosecution's office regarding subpoenas
People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]
- Failure to urge acceptance of favorable plea bargain
Perez v. Rosario (9th Cir. 2006) 459 F.3d 943
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
- Failure to use reasonable diligence
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
- Alberton v. State Bar (1984) 37 Cal.3d 1, 13-14 [206 Cal.Rptr. 373]
Schultz v. Harney (1994) 27 Cal.App.4th 1611, 1627
- Fee agreement
 lump sum payment of fees and costs does not create inherent conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
- Filing of "no issue brief"
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
 filing of no issue appellate brief so that court may determine whether appeal is frivolous may also be applied to minor in juvenile delinquency proceedings
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
- Fourth Amendment
Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165
 counsel not ineffective when tactical choice made to forego
U.S. v. \$30,400 in U.S. Currency & Jeremiah Haskins (1993) 2 F.3d 328
- Habeas relief sought based upon tainted prior state conviction which was used to enhance sentence
Evenstad v. United States (9th Cir. 1992) 978 F.2d 1154
- Habitual disregard for needs of clients
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
- In propria persona
 advisory counsel
People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
- Inability of counsel to forthrightly admit deficient legal assistance or to withdraw when not provided with adequate support services. A principled public defender may lose her/his job
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
- Inactive attorney
People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
In re Johnson (1992) 1 Cal.App.4th 689
People v. Hinkley (1987) 193 Cal.App.3d 383 [238 Cal.Rptr. 272]
 absent showing of prejudice, inactive status does not result in ineffective assistance of counsel
People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Insufficient declaration for appointment of second counsel under Keenan motion, no abuse of discretion found for denial of motion
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
- Jury instruction
Lankford v. Arave (9th Cir. (Idaho) 2006) 468 F.3d 578
- Juvenile dependency proceeding father accused of sexual abuse is entitled to effective assistance of counsel
In re Emilyle A. (1992) 9 Cal.App.4th 1695
- Lack of commitment
People v. Davis (1978) 85 Cal.App.3d 916, 929 [149 Cal.Rptr. 777]
- Lack of competence
 inadequately advised client regarding possibility of deportation
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
- Lack of confidence by defendant in attorney's abilities
People v. Booker (1977) 69 Cal.App.3d 654, 668 [138 Cal.Rptr. 347]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Lack of diligence in preparation

- Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
People v. Jackson (1980) 28 Cal.3d 264, 288 [168 Cal.Rptr. 603]
In re Williams (1969) 1 Cal.3d 168 [81 Cal.Rptr. 784]
People v. Mayfield (1993) 5 Cal.App.4th 142
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 403 [119 Cal.Rptr. 378]
*People v. Hoffman (1970) 7 Cal.App.3d 39
due to excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Lack of experience in capital cases

- Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

Lack of zealous defense

- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
People v. Strickland (1974) 11 Cal.3d 946 [114 Cal.Rptr. 632, 523 P.2d 672]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

due to excessive caseload and limited resources

- People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

prior representation of government witness impaired defense counsel's duty to fully cross examine witness

- Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

Leading client to open door to wife's damaging testimony

- Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Legal invalidity defined

- People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

Licensed attorneys who are not active members of the State Bar of California

effect on underlying matter

- *People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]

Loyalty to client

- People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Mitigation strategy was factually unsupported and portrayed client inaccurately and unflatteringly

- Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Motion

evidence hearing not required in motion to vacate sentence because of ineffective assistance of counsel

- Shah v. United States (9th Cir. 1989) 878 F.2d 1156

No ineffective assistance of counsel where both trial attorney and court explained consequences of plea and defendant plea as agreed

- People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]

No right to counsel in habeas proceedings and hence no right to effective assistance of counsel

- Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]

"No-merit brief" by appellate attorney does not violate constitutional right to effective assistance of counsel

- Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

"No-merit brief" by appellate attorney may violate constitutional right to effective assistance of counsel

- *Davis v. Kramer (9th Cir. 1999) 167 F.3d 494

Not found

- Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

- McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

- United States v. Juliano (9th Cir. 2021) 12 F.4th 937

- Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

- Cox v. Ayers (9th Cir. 2010) 613 F.3d 883

- Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

- United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

- Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

- In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]

- People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]

- People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]

- People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]

- People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

additional mitigating evidence would probably not have resulted in a different outcome, defendant's crimes, and priors were brutal, and other mitigating evidence of his organic brain dysfunction had failed to persuade jury to reach a different verdict, California Supreme Court decision was not unreasonable

- Samayoa v. Ayers (9th Cir. 2011) 649 F.3d 919

at guilt phase

- Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

at probation revocation hearing

- United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661

defendant not prejudiced by attorney's failure to object to prosecutor's asking attorney to explain certain evidence

- Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

defendant not prejudiced by attorney's failure to present a mental state defense where proffered evidence does not undermine confidence in the jury's findings of guilt

- Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095

defendant was not denied effective assistance of counsel because his counsel's decision to admit in opening statement to some of defendant's criminal wrongdoing

- United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

failure to advise client of collateral penalty (deportation)

- U.S. v. Fry (9th Cir. (Nevada) 2003) 322 F.3d 1198

failure to argue and urge minimum sentence

- People v. Jacobs (2013) 220 Cal.App.4th 67 [162 Cal.Rptr.3d 739]

failure to call expert on unreliability of eyewitness testimony

- Howard v. Clark (9th Cir. 2010) 608 F.3d 563

failure to call self-defense witnesses

- Wilson v. Henry (9th Cir. 1999) 185 F.3d 986

failure to conduct direct exam of witnesses because of perjury concern

- People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr. 219]

failure to consult blood evidence expert

- Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]

failure to establish that trial counsel failed to consult an expert or that such an expert would have been able to provide favorable testimony

- McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

- People v. Datt (2010) 185 Cal.App.4th 942 [111 Cal.Rptr.3d 132]

failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel

- Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

failure to impeach witness

- Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

- Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

failure to investigate and present diminished capacity defense not ineffective assistance of counsel

- In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]

failure to investigate and present evidence of defendant's childhood abuse

- Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

failure to investigate and present mitigating evidence of mental disorders

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to investigate jailhouse informants

Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190

failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal

People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

failure to object during opening and closing arguments

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

failure to object not necessary where prosecutor's statements were not found to be prosecutorial misconduct

People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]

failure to object to admonishment in jury's presence

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

failure to object to peremptory challenges by prosecutor

Carrera v. Ayers (9th Cir. 2012) 699 F.3d 1104

failure to object to prosecutor's closing argument commenting on defendant's decision not to testify

People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]

failure to obtain and review defendant's education and incarceration records

Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

failure to present case differently

United States v. Olson (9th Cir. 1991) 925 F.3d 1170

failure to present cumulative mitigating evidence was strategic

Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895

failure to present evidence of mental illness at sentencing where medical history involved mix of both mitigating and incriminating factors

Daire v. Lattimore (9th Cir. 2015) 780 F.3d 1215

failure to present expert opinion testimony undermining prosecution's theory when it adds nothing to evidence already before jury

Ainsworth v. Calderon (9th Cir. 1998) 138 F.3d 77

People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]

failure to raise issue of letter suppressed by prosecution regarding possible immunity for witness

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

failure to raise weak issues

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

U.S. v. Baker (9th Cir. 2001) 256 F.3d 855

In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]

failure to request competency hearing

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to seek a psychological evaluation of defendant

Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

failure to show prejudice in light of staggering aggravating evidence

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to take positions contrary to law

In re Richardson (2011) 196 Cal.App.4th 647 [126 Cal.Rptr.3d 720]

failure to win suppression motion based on police interception of cordless telephone transmissions not ineffective assistance of counsel

People v. Chavez (1996) 44 Cal.App.4th 1144 [52 Cal.Rptr.2d 347]

humanizing evidence cumulative and more would have made little difference, and may have triggered admission of extremely damaging evidence

Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]

result of penalty phase would have been no different where petitioner failed to show causal connection between family environment and murder

In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]

tactical decision to volunteer defendant's multiple prior convictions during direct examination

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

tactical decision to waive marital privilege

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

tactically justified concessions made during penalty phase, reasonable to establish credibility of defense counsel

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

when defendant makes informed, voluntary, and intelligent decision to forgo presenting mitigating evidence after defense counsel's extensive background examination pointing to mitigating facts

People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]

where ample evidence of crime existed

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

where attorney fails to anticipate changes in the law

United States v. Juliano (9th Cir. 2021) 12 F.4th 937

where counsel advised against plea and where Marsden motions were waived by defendant's plea of no contest

People v. Lovings (2004) 118 Cal.App.4th 1305 [13 Cal.Rptr.3d 710]

where counsel failed to object to the prosecutor's use of peremptory challenges

Carrera v. Ayers (9th Cir. 2012) 699 F.3d 1104

where defendant avers that counsel did not urge acceptance of plea offer based on prosecutor's mistaken belief regarding prior strike

Perez v. Rosario (9th Cir. 2006) 459 F.3d 943

where defense counsel conceded that his client was guilty of felony murder charge

People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]

withdrawal of insanity claim at NGI phase that had almost no chance of success

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

"Nothing to lose" standard

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Offering proof of client incompetence to stand trial over client objection

People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]

*People v. Bolden (1979) 99 Cal.App.3d 375

Penalty paid by counsel, appeal is moot

Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]

Permitting defendant to testify at preliminary hearing

People v. White (1981) 118 Cal.App.3d 767, 772

Plea bargain entered into by coercion

In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]

"Plea bargain" not coercive unless counsel was aware of coercion

In re Ibarra (1983) 34 Cal.3d 277

Plea bargain, immigration consequences not explained to client

U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980

People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction

People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Post indictment grand jury subpoena of target's counsel does not result in ineffective assistance of counsel

United States v. Perry (9th Cir. 1988) 857 F.2d 1346

Prejudice by defendant's counsel for alleged deficiencies is not necessary if counsel's performance is not deficient

LaGrand v. Stewart (9th Cir. 1998) 133 F.3d 1253

Presentation of "irrelevant" testimony

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

Psychiatrist used by defense counsel an exercise of appropriate professional judgment

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

Public defender present at sentencing unfamiliar with defendant and facts of case

People v. Vattelli (1971) 15 Cal.App.3d 54, 61

Public defenders immune from suit

Federal Civil Procedure section 1983

Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558

exception to immunity

-failure of deputy public defender to properly investigate information leading to defendant's innocence is not immunized under Government Code § 820.2

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Public defender's office representing defendant had previously represented a witness in the case

People v. Anderson (1976) 59 Cal.App.3d 831, 843

Reduction of conviction makes allegation moot

People v. Spring (1984) 153 Cal.App.3d 1199, 1208

Refusal to allow defendant to testify

*People v. Strawder (1973) 34 Cal.App.3d 370, 381 [108 Cal.Rptr. 901]

Remedy is to reoffer a plea agreement

Laffer v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

Representation by different deputy public defenders at various stages of prosecution

People v. Martinez (1956) 145 Cal.App.2d 361, 366 [302 P.2d 643]

Request for new counsel

request not required to come through current counsel – defendant may properly request

People v. Winbush (1988) 205 Cal.App.3d 987 [252 Cal.Rptr 722]

Requirements for establishing the ineffectiveness assistance of counsel

U.S. v. Gonzalez-Lopez (2006) 548 U.S. 140 [126 S.Ct. 2557]

Perry v. Leeke (1989) 488 U.S. 272 [109 S.Ct. 594]

Delaware v. Van Arsdell (1986) 475 U.S. 673 [106 S.Ct. 1431]

U.S. v. Cronin (1984) 466 U.S. 648 [104 S.Ct. 2039]

Geders v. U.S. (1976) 425 U.S. 80 [96 S.Ct. 1330]

Reversal

People v. Jerome (1984) 160 Cal.App.3d 1087, 1095-1096 [207 Cal.Rptr. 199]

Right of every criminal defendant

adequacy of appointed counsel

People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]

People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]

People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

defendant denied effective assistance of counsel at preliminary hearing when his attorney failed to disclose that he himself was being prosecuted by same district attorney and was arrested by same police officer

Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

denial of defendant's motion for substitution of counsel without first conducting proper inquiry is abuse of discretion to effective assistance of counsel

People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

involuntary waiver of right to counsel where defendant forced to choose between right to speedy trial and right to competent representation

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

Sixth Amendment requires effective assistance of counsel at critical stages of a criminal proceeding, including advice regarding plea offers

Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]

Laffer v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

timely request to substitute retained counsel for court appointed counsel

People v. Stevens (1984) 156 Cal.App.3d 1119, 1129 [203 Cal.Rptr. 505]

to discharge retained counsel

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

to effective assistance of counsel

White v. Ryan (9th Cir. 2018) 895 F.3d 641

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]

People v. Shelley (1984) 156 Cal.App.3d 521, 527-528 [202 Cal.Rptr. 874]

-court had no sua sponte duty to ensure that defendant would be represented by qualified, effective counsel after defendant was made aware that chosen counsel did not meet standards for appointed counsel and court's offer to defendant to consult with independent counsel was declined

People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

-criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

Right to assistance of counsel implicated during period of client's incompetency

Rohan ex rel. Gates v. Woodford (9th Cir. 2003) 334 F.3d 803

Right to counsel

court's refusal to appoint indigent defendant's chosen attorney at re-sentencing did not violate due process

Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006

criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

defendant deprived entirely of legal counsel, denied right to attorney acting in the role of an advocate

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

does not attach at arrest or at an extradition hearing

Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175

during interrogation

People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

new counsel – standard

People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]

People v. Marsden (1970) 2 Cal.3d 118, 123 [84 Cal.Rptr. 156]

People v. Lucero (2017) 18 Cal.App.5th 532 [226 Cal.Rptr.3d 660]

People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]

People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]

to effective assistance of counsel

-waiver of right to counsel not effective if defendant must choose between right to speedy trial and right to competent representation

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

trial court was not required to appoint new counsel on remand on ineffective assistance grounds, absent request from defendant

People v. Lucero (2017) 18 Cal.App.5th 532 [226 Cal.Rptr.3d 660]

waiver of right

McCormick v. Adams (9th Cir. 2010) 621 F.3d 970

U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

Role of defense attorney

People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a

Sentencing, not a factor in

U.S. v. Dibe (9th Cir. 2015) 776 F.3d 665

Single counsel representing co-defendants with conflicting interests

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

Gendron v. State Bar (1983) 35 Cal.3d 409 [197 Cal.Rptr. 590]

People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]

*People v. Hathcock (1973) 8 Cal.3d 599, 612 [105 Cal.Rptr. 540, 504 P.2d 457]

People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]

In re Noday (1981) 125 Cal.App.3d 507 [178 Cal.Rptr. 653]

People v. Angulo (1978) 85 Cal.App.3d 514 [148 Cal.Rptr. 517]

People v. Locklar (1978) 84 Cal.App.3d 224 [148 Cal.Rptr. 322]

People v. Karlin (1964) 231 Cal.App.2d 227 [41 Cal.Rptr. 786]

LA 471

Sixth Amendment may require substitution

Schell v. Witek (1999) 181 F.3d 1094

People v. Stankewitz (1990) 51 Cal.3d 72 [793 P.2d 23]

Sixth Amendment rights not violated where co-defendant raised conflict of interest based on a mere theoretical division of loyalty

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

Standard of proof in malpractice cases

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]

Standard of review of ineffective assistance of counsel

Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]

Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]

Lafier v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]

Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]

Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]

Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]

Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]

Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]

Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]

Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

Strickland v. Washington (1984) 466 U.S. 668, 687-693

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

United States v. Juliano (9th Cir. 2021) 12 F.4th 937

White v. Ryan (9th Cir. 2018) 895 F.3d 641

Ellis v. Harrison (9th Cir. 2018) 891 F.3d 1160

U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891

Andrews v. Davis (9th Cir. 2015) 798 F.3d 759

U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151

Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106

Griffin v. Harrington (9th Cir. 2013) 727 F.3d 940

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

Cannedy v. Adams (9th Cir. 2013) 706 F.3d 1148

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

Carrera v. Ayers (9th Cir. 2012) 699 F.3d 1104

Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138

U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204

Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095

Samayoa v. Ayers (9th Cir. 2011) 649 F.3d 919

United States v. Withers (9th Cir. 2010) 638 F.3d 1055

U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980

Rossum v. Patrick (9th Cir. 2010) 622 F.3d 126

Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030

Cox v. Ayers (9th Cir. 2010) 613 F.3d 883

Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651

Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100

Richter v. Hickman (9th Cir. 2009) 578 F.3d 944

U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228

Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834

Duncan v. Ornoski (9th Cir. 2008) 528 F.3d 1222

Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742

Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222

Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006

Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006

Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Lankford v. Arave (9th Cir. (Idaho) 2006) 468 F.3d 578

Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190

Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982

Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099

Perez v. Rosario (9th Cir. 2006) 459 F.3d 943

Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

Young v. Runnels (9th Cir. 2006) 435 F.3d 1038

Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623

Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159

Allen v. Woodford (9th Cir. 2005) 395 F.3d 979

United States v. Howard (9th Cir. 2004) 381 F.3d 873

Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706

Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045

U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818

Sanders v. Ryder (9th Cir. (Wash.) 2003) 342 F.3d 991

U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054

Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165

U.S. v. Fry (9th Cir. (Nevada) 2003) 322 F.3d 1198

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
Lambright v. Stewart (9th Cir. (Ariz.) 2001) 241 F.3d 1201
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
People v. Pope (1979) 23 Cal.3d 412, 425-426 [152 Cal.Rptr. 732]
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]
People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]
People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]
People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
People v. Jacobs (2013) 220 Cal.App.4th 67 [162 Cal.Rptr.3d 739]
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
In re Richardson (2011) 196 Cal.App.4th 647 [126 Cal.Rptr.3d 720]
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
People v. Datt (2010) 185 Cal.App.4th 942 [111 Cal.Rptr.3d 132]
People v. Reynolds (2010) 181 Cal.App.4th 1402 [105 Cal.Rptr.3d 560]
People v. Peyton (2009) 176 Cal.App.4th 642 [98 Cal.Rptr.3d 243]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
In re Anthony J. (2004) 117 Cal.App.4th 718 [11 Cal.Rptr.3d 865]
People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]
People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr.2d 196]
People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
Antiterrorism and Effective Death Penalty Act (AEDPA), before enactment
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
parental rights
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
relief can only be obtained by establishing that the trial court's order prohibiting counsel from sharing information in a sealed witness' declaration affected the reliability of the trial process
People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]
showing of prejudice not necessary for reversal
People v. Hernandez (2009) 178 Cal.App.4th 1510 [101 Cal.Rptr.3d 414]
Stipulation by counsel as to chemical composition of contraband found in possession of defendant
People v. McCoy (1974) 40 Cal.App.3d 854, 859 [115 Cal.Rptr. 559]
Submission of case on grand jury proceedings transcript
People v. Phillips (1973) 31 Cal.App.3d 483, 486 [107 Cal.Rptr. 386]
Submission of case on preliminary hearing transcript
People v. Horner (1970) 9 Cal.App.3d 23, 29 [87 Cal.Rptr. 917]
People v. Honore (1969) 2 Cal.App.3d 295, 302 [82 Cal.Rptr. 639]
People v. Lucas (1969) 1 Cal.App.3d 637 [81 Cal.Rptr. 840]
Summation by defense counsel includes concession to jury that no reasonable doubt existed on factual issues in dispute
United States v. Swanson (9th Cir. 1991) 943 F.2d 1070
Suspension for non-payment of dues not enough to disqualify
People v. Garcia (1983) 147 Cal.App.3d 409 [195 Cal.Rptr. 138]
Tactical decision
Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct. 551]
Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]
Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
People v. Wade (1986) 43 Cal.3d 366 [233 Cal.Rptr. 732]
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim
People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]
defense attorney made a strategic decision to address prosecutor's comments directly in closing arguments instead of objecting
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
ineffective assistance found where tactical decision was made without adequate investigation
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
not opposing dismissal of petition for unconditional release where no changed circumstances
People v. Reynolds (2010) 181 Cal.App.4th 1402 [105 Cal.Rptr.3d 560]
presentation by defense counsel of prior robbery
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
to waive marital privilege
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

INEFFECTIVE ASSISTANCE OF COUNSEL IN NON-CRIMINAL CASES

Test: beyond reasonable doubt that no prejudice resulted

U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576

objective standard of reasonableness

United States v. Freeny (9th Cir. 1988) 841 F.2d 1000

Test for entitlement to a hearing on a conflict of interest Sixth

Amendment claim by habeas petitioner

Ellis v. Harrison (9th Cir. 2018) 891 F.3d 1160

U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818

Testimony damaging to defendant elicited on cross-examination by defense counsel

People v. Reeves (1980) 105 Cal.App.3d 444 [164 Cal.Rptr. 426]

Three strikes cases

*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]

SD 1995-1

Trial attorney's failure to advise defendant of his right to appeal

Lozada v. Deeds (9th Cir. 1992) 964 F.2d 956

Trial conducted by certified law student

People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]

Trial counsel

deficient in representing defendant at plea stage

People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]

strategy

Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895

People v. Cretsinger (1984) 160 Cal.App.3d 938, 946 [207 Cal.Rptr. 40]

In re Noay (1981) 125 Cal.App.3d 507 [178 Cal.Rptr. 653]

Trial court denial of motion to substitute, denies right of effective assistance of counsel

Schell v. Witek (1999) 181 F.3d 1094

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

People v. Turner (1992) 7 Cal.App.4th 1214

People v. Yackee (1984) 161 Cal.App.3d 843, 848 [208 Cal.Rptr. 44]

Trial court denial of motion to withdraw

court has discretion

People v. Turner (1992) 7 Cal.App.4th 913

People v. Brown (1988) 203 Cal.App.3d 1335

Trial record inadequate to show illegality of search

People v. Tello (1997) 15 Cal.App.4th 264 [62 Cal.Rptr.2d 437]

Unauthorized practice of law

People v. Johnson (1990) 224 Cal.App.3d 52

Under 28 U.S.C. 2254

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Use of word "crazy" to characterize defendant not ineffective assistance because reference was followed by reasoned argument and was reasonable strategy

People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]

Volunteering defendant's multiple prior convictions during direct examination as a tactical decision found not to be ineffective assistance of counsel

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

Waiver of attorney-client privilege

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]

Waiver of marital privilege

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel

U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956

plea agreement which contains waiver of right to appeal found unenforceable

Washington v. Lampert (9th Cir. (Or.) 2005) 422 F.3d 864

Waiving trial by jury

People v. Armenta (1972) 22 Cal.App.3d 823, 827 [99 Cal.Rptr. 736]

Warning defendant before jury of possibility of impeachment with prior felonies

People v. Stiltner (1982) 132 Cal.App.3d 216, 226 [183 Cal.Rptr. 790]

When defendant acts as co-counsel

People v. Spencer (1984) 153 Cal.App.3d 931, 935-940

Withdrawal of guilty plea

In re Artis (1982) 127 Cal.App.3d 699

on basis on ineffective assistance of counsel

People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]

Withdrawal of plea bargain—no coercion found

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

trial counsel's failure to inform defendant of the defense of consent was not ineffective assistance of counsel

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

Withdrawal of insanity claim at NGI phase that had almost no chance of success

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Withdrawal of nolo contendere plea

People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

People v. Maguire (1998) 67 Cal.App.4th 1022 [79 Cal.Rptr.2d 573]

People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]

Withdrawal of skilled co-counsel prejudices criminal defendant

People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]

Writ filed in Superior Court for factual determination of issues

People v. Munoz (1984) 157 Cal.App.3d 999 [204 Cal.Rptr. 271]

INEFFECTIVE ASSISTANCE OF COUNSEL IN NON-CRIMINAL CASES

Family law cases

may not claim ineffective assistance during dissolution proceeding

In re the Marriage of Campi (2013) 212 Cal.App.4th 1565 [152 Cal.Rptr.3d 179]

Immigration cases

abuse of discretion

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

attorney's IAC was exceptional circumstance, where attorney's secretary gave client wrong appearance date, BIA abused discretion in denying petitioner's motion to reopen

Lo v. Ashcroft (9th Cir. 2003) 341 F.3d 934

attorneys' inadequate assistance denied petitioner the opportunity to present his case at all

Ray v. Gonzales (9th Cir. 2006) 439 F.3d 582

client coerced into accepting volunteer departure under threat of counsel's withdrawal

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

counsel filed ultimately worthless motions, before the wrong court, and without filing fee

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

counsel's unreasonable failure to investigate and present the factual and legal basis on asylum claim would itself amount to ineffective assistance of counsel; violation of Fifth Amendment right to due process

Lin v. Ashcroft (9th Cir. 2004) 377 F.3d 1014

denial of due process only if the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

INTEREST

- Torres-Chavez v. Holder (9th Cir. 2009) 567 F.3d 1096
Granados-Osequera v. Gonzales (9th Cir. 2008) 546 F.3d 1011
Morales v. Mukasey (9th Cir. 2008) 514 F.3d 893
Ray v. Gonzales (9th Cir. 2006) 439 F.3d 582
Yeghiazaryan v. Gonzales (9th Cir. 2005) 431 F.3d 678
Maravilla v. Ashcroft (9th Cir. 2004) 381 F.3d 855
Reyes v. Ashcroft (9th Cir. 2004) 358 F.3d 592
Lozada v. I.N.S. (9th Cir. 1988) 857 F.2d 10
equitable tolling of filing deadline
Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
Singh v. Holder (9th Cir. 2011) 658 F.3d 879
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
exemption from statute of limitations period
-not found
Tamang v. Holder (9th Cir. 2010) 598 F.3d 1083
failure to adequately advise clients in immigration matters
Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
failure to comply with Lozada requirement to provide proof of complaint filed with appropriate disciplinary authorities
Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128
failure to file a brief, resulting in dismissal of appeal
Singh v. Gonzales (9th Cir. 2005) 416 F.3d 1006
failure to file a petition for review or a motion to reopen
Granados-Osequera v. Gonzales (9th Cir. 2008) 546 F.3d 1011
failure to file timely notice of appeal
Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033
Siong v. Immigration and Naturalization Service (9th Cir. 2004) 376 F.3d 1030
failure to file timely petition for review of Board of Immigration
Dearinger v. Reno (9th Cir. 2000) 232 F.3d 1042
failure to introduce sufficient evidence of petitioner's physical presence in the US and unusual hardship.
Morales v. Mukasey (9th Cir. 2008) 514 F.3d 893
lawyer's error results in alien being denied his right to appeal is "presumption of prejudice"
Salazar-Gonzalez v. Lynch (9th Cir. 2016) 798 F.3d 917
lawyer's incorrect analysis of new rules was not ineffective assistance of counsel
Lara-Torres v. Ashcroft, Lara-Torres v. Gonzalez (9th Cir. 2004) 383 F.3d 968
no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel
Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014
no plausible grounds for relief shown, no valid claim of due process ineffective assistance of counsel
Serrano v. Gonzales (9th Cir. 2006) 469 F.3d 1317
People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
petitioner must first exhaust administrative remedies, petition to reopen required before hearing on IAC
Singh v. Napolitano (9th Cir. 2010) 649 F.3d 899
petitioner not entitled to relief where counsel had failed to file a "notice of appearance" and was therefore not considered petitioner's counsel, even though counsel was retained and had filed a brief on petitioner's behalf
Singh v. Immigration and Naturalization Service (2003) 315 F.3d 1186
prejudice to client
Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033
Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128
Singh v. Holder (9th Cir. 2011) 658 F.3d 879
prima facie case that counsel's performance was flawed but prejudice to client not shown
Iturribarria v. I.N.S. (9th Cir. 2003) 321 F.3d 889
repeated mistakes, compounded by inability to recognize the import of errors are the epitome of ineffective assistance
Singh v. Holder (9th Cir. 2011) 658 F.3d 879
to show prejudice in ineffective assistance of counsel, the petitioner only needs to show plausible grounds for relief and need not substantially support his claim in his motion to reopen
Flores v. Barr (9th Cir. 2019) 930 F.3d 1082
No plausible grounds for relief shown, no valid claim of due process ineffective assistance of counsel
Serrano v. Gonzales (9th Cir. 2006) 469 F.3d 1317
People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
Parental rights
failure to file timely appeal
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
failure to take steps to establish
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
parent may raise ineffective assistance of counsel claim by habeas corpus petition to contest parental rights termination
In re Carrie M. (2000) 90 Cal.App.4th 530 [108 Cal.Rptr.2d 856]
parent may raise ineffective assistance of counsel claim by Welfare and Institutions Code § 388 petition
In re Jackson W. (2010) 184 Cal.App.4th 247 [108 Cal.Rptr.3d 509]
Standard of review
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
Yeghiazaryan v. Gonzales (9th Cir. 2005) 431 F.3d 678
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
INTEREST [See Client trust account, interest bearing accounts. Fee, charging interest, financing.]
Expense of interest on short term loans is not ordinary and necessary business expense
Margolis v. U.S. (N.D. Cal. 1983) 570 F.Supp. 170, 175
On client's funds
Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406]
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
LA(I) 1961-7
SF 1970-3
On partnership assets
Jewel v. Boxer (1984) 156 Cal.App.3d 171, 181 [203 Cal.Rptr. 13]
On unpaid fees
California Constitution Art. 15
Usury § 1, par. 2
CAL 1980-53, SD 1983-1
Prejudgment interest rate is set by state in which court sits
Shakey's Inc. v. Covalt (9th Cir. 1983) 704 F.2d 426
Turner v. Japan Lines, Ltd. (9th Cir. 1983) 702 F.2d 752, 757
INTERFERENCE WITH PROSPECTIVE ADVANTAGE [See Practice of law.]
INVOLUNTARY ENROLLMENT AS AN INACTIVE MEMBER OF THE STATE BAR
Business and Professions Code section 6007
JUDGE [See Court. Letterhead. Political activity. Public office.]
California Code of Judicial Conduct
Canon 3D(2) imposes on judges mandatory reporting requirements to the State Bar regarding lawyer misconduct
Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]

- California Constitution Article VI, section 18(a)
Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451 [110 Cal.Rptr. 713, 516 P.2d 1]
In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]
 *Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
- Abuse of discretion
 found in trial court's rejection of plea bargain in the absence of any stated justification
People v. Loya (2016) 1 Cal.App.5th 932 [205 Cal.Rptr.3d 231]
 found when court removed the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
 resentencing alone will not be full redress for the constitutional injury; defendant entitled to be returned to pre-plea stage and proceed under the correctly calculated sentencing range
Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238
- Administrative Law Judge
 law firm retained by school district personnel commission cannot substitute for ALJ
Absmeier v. Simi Valley Unified School District (2011) 196 Cal.App.4th 311 [126 Cal.Rptr.3d 237]
 -party cannot be compelled to accept a decision upon the facts a judge who did not hear the evidence in the case
Absmeier v. Simi Valley Unified School District (2011) 196 Cal.App.4th 311 [126 Cal.Rptr.3d 237]
- Admonishment
 comments at sentencing reflected a biased and insensitive view about sexual assault
Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22
 dismissal where substantial evidence of wrongful conduct
Fisher v. State Personnel Board (2018) 25 Cal.App.5th 1 [235 Cal.Rptr.3d 382]
 undignified and discourteous remarks to family law litigants
In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999
- Appeal premature until remedies exhausted for complaints of judicial misconduct
In re Charge of Judicial Misconduct (9th Cir. Judicial Council 1983) 700 F.2d 1391
- As witness
Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
- Attorney as temporary judge, referee, or court-appointed arbitrator
Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)
- Attorney fees, setting unreasonable amounts
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 48-51 [207 Cal.Rptr. 171]
- Authority
 disqualify law firm
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 900-902 [175 Cal.Rptr. 575]
 limits on
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 55-59 [207 Cal.Rptr. 171]
 -under CCP § 664.6, the court's authority is to either approve or disapprove a settlement agreement but not to modify its' terms
Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
 to impose sanctions by referee in juvenile proceedings
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
- Bias, appearance of, and prejudice of
 Code of Civil Procedure section 170
Rothstein v. Superior Court (2016) 3 Cal.App.5th 424 [207 Cal.Rptr.3d 616]
Bates v. Rubio's Restaurants Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
Rosco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
 announced bias or prejudice
Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct. 1899]
Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158
Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075
Pratt v. Pratt (1903) 141 Cal. 247, 250-251
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
Hall v. Harker (1999) 69 Cal.App.4th 836
People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]
In re Henry C. (1984) 161 Cal.App.3d 646, 654 [207 Cal.Rptr. 751]
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
People v. Deutschman (1972) 23 Cal.App.3d 559, 566 [100 Cal.Rptr. 330]
 -judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]
 -judicial disqualification under due process clause requires a probability of actual bias that is too high to be constitutionally tolerable
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]
 comments at sentencing reflected a biased and insensitive view about sexual assault
Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22
 comments to family law litigants reflected bias or prejudice
In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999
 effect on rulings
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
 no bias nor lack of impartiality when court commissioner agrees to officiate litigant's counsel's wedding
Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]
 not found, where judge did not feel threatened by defendant
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
 not found, where the record fails to demonstrate bias
Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]
- Board of directors
 permits use of name
 -as member
 LA 116 (1937)
 -as officer
 LA 116 (1937)
 serving as member of
 LA 116 (1937)

JUDGE

Bribes

judge accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Censure

causes for

-conduct prejudicial to the administration of justice that brings the judicial office into disrepute

Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]

In re Norman W. Gordon (1996) 13 Cal.4th 472 [53 Cal.Rptr.2d 788]

In re Rasmussen (1987) 43 Cal.3d 536 [236 Cal.Rptr. 152]

In re Stevens (1981) 28 Cal.3d 873 [172 Cal.Rptr. 676, 625 P.2d 219]

In re Glickfield (1971) 3 Cal.3d 891 [92 Cal.Rptr.278, 479 P.2d 638]

In re Chargin (1970) 2 Cal.3d 617 [87 Cal.Rptr. 709, 471 P.2d 29]

-failure to perform duties within the meaning of Cal. Constitution, Art. VI, section 18

Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]

Fitch v. Commission on Judicial Performance (1995) 9 Cal.4th 552 [37 Cal.Rptr.2d 581]

In re Jensen (1978) 24 Cal.3d 72 [152 Cal.Rptr. 503, 593 P.2d 200]

-former judge is barred from receiving an assignment, appointment, or reference of work from any California court

Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

-injurious conduct

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512 [116 Cal.Rptr. 260, 526 P.2d 268]

-participation in negotiations for employment as dispute resolution neutral

Rosco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]

-publicly commenting on pending cases

Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]

Soliz v. Williams (1999) 74 Cal.App.4th 577 [88 Cal.Rptr.2d 184]

-willful misconduct in office

In the Matter Concerning Judge Scott Steiner (2014) 2014 DJDAR 12197

In the Matter Concerning Judge Cory Woodward (2014) 2014 DJDAR 12203

Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]

Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]

Adams v. Commission on Judicial Performance (1994) 8 Cal.4th 630 [34 Cal.Rptr.2d 641; 882 P.2d 358]

Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr. 100]

In re Chavez (1973) 9 Cal.3d 846 [109 Cal.Rptr. 79, 512 P.2d 303]

In re Sanchez (1973) 9 Cal.3d 844 [109 Cal.Rptr. 78, 512 P.2d 302]

Commission on Judicial Performance (formerly Commission on Judicial Qualifications)

confidentiality of proceedings

Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]

disclosure of the votes of individual commission members on issues of judicial discipline following formal proceeding

The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258

judge is publicly admonished for treating attorneys in sarcastic and belittling manner while presiding over civil cases

Public Admonishment of Judge Ronald M. Sohigian (2014) 2014 DJDAR 5984

jurisdiction [See Scope of authority.]

-location of hearings

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]

membership

-propriety of lay persons on commission

McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp.1, 11-12 [138 Cal.Rptr. 459, 564 P.2d 1]

moral turpitude

Adams v. Commission on Judicial Performance (1994) 8 Cal.4th 630 [34 Cal.Rptr.2d 641]

procedure

-discovery

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520 [116 Cal.Rptr. 260, 526 P.2d 268]

-notice, effect of procedural defect

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 519-520 [116 Cal.Rptr. 260, 526 P.2d 268]

purpose is protection of the public, enforcement of rigorous standards of judicial conduct, and the maintenance of public confidence in the integrity of the judicial system

Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

qualified to act as judge pro tempore

-may do so only on stipulation of all parties

Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]

requirement under Proposition 190 to disclose the votes of individual commission members in disciplinary proceeding against a judge

The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258

review of findings/recommendations by Supreme Court

-power to make independent findings of fact/impose sanctions

Fitch v. Commission on Judicial Performance (1995) 9 Cal.4th 552 [37 Cal.Rptr.2d 581]

Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 782-784 [119 Cal.Rptr. 841, 532 P.2d 1209]

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 521-531 [116 Cal.Rptr. 260, 526 P.2d 268]

Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270 [110 Cal.Rptr. 201, 515 P.2d 1]

Stevens v. Commission on Judicial Qualifications (1964) 61 Cal.2d 886 [39 Cal.Rptr. 397, 393 P.2d 709]

scope of authority

Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]

Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]

Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275-276 [110 Cal.Rptr. 201, 515 P.2d 1]

Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

-power to compel testimony
McComb v. Superior Court (1977) 68 Cal.App.3d 89 [137 Cal.Rptr. 233]

Communication with judicial officers
 about court clerk
 SF 1973-2
 about pending matter
 LA(l) 1979-2
 -judge engaged in improper ex parte conversations
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 -judge had discussions and resolved son's case in nonpublic areas of the courthouse and outside the normal process, the judge created an appearance of impropriety which undermines public confidence in the impartiality of the judiciary
Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
 -not within the compass of the term "judicial officer"
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

another judge regarding the case
People v. Hernandez (1984) 160 Cal.App.3d 725, 738-740, 744-751 [206 Cal.Rptr. 843]
 -impermissible even if attorney is not counsel
 LA(l) 1979-2
 -permissible when no case is pending
People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]

by attorney
 -ex parte
 Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
Snyder v. State Bar (1976) 18 Cal.3d 286, 288-294 [133 Cal.Rptr. 864, 555 P.2d 1104]
Heavey v. State Bar (1976) 17 Cal.3d 553, 555-560 [131 Cal.Rptr. 406, 551 P.2d 1238]
Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
 LA 387 (1980), SD 2013-2

by prosecutor
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

ex parte discussion with
Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
 -judge engaged in improper ex parte conversations
Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 -listserv
 LA 514 (2005)
 -rehabilitation consultant
 CAL 1985-85

filing briefs
 -without knowledge of opposing counsel
 LA 56 (1928)

hearing officer/administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
 CAL 1984-82
 judge is disqualified for speaking to previous judge who was disqualified
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
 publication of article regarding pending case
 LA 451 (1988), LA 343 (1974)
 socializing outside the work environment
 OC 94-001
 upon merits of a contested issue over which he presides in absence of opposing counsel
 Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
In re Winnetka V. (1980) 28 Cal.3d 587, 592-593 and n.5 [169 Cal.Rptr. 713, 620 P.2d 163]
Snyder v. State Bar (1976) 18 Cal.3d 286, 288-294 [133 Cal.Rptr. 864, 555 P.2d 1104]
Heavey v. State Bar (1976) 17 Cal.3d 553, 555-560 [131 Cal.Rptr. 406, 551 P.2d 1238]
In re Darrell P. (1981) 121 Cal.App.3d 916 [175 Cal.Rptr. 682]
In re Jonathan S. (1979) 88 Cal.App.3d 468, 470-472 [151 Cal.Rptr. 810]
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 SD 2013-2
 -contested issue construed
People v. Laue (1982) 130 Cal.App.3d 1055, 1058-1062 [182 Cal.Rptr. 99]
 while case is pending judge engaged in improper ex parte conversations
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 CAL 1984-78

with jury
People v. Garcia (1984) 160 Cal.App.3d 82, 88-89 [206 Cal.Rptr. 468]
 -district court's failure to notify defense counsel about jury note and to give counsel opportunity to be heard before court responds violates rule requiring defendant's presence at every trial stage
U.S. v. Martinez (9th Cir. 2017) 850 F.3d 1097

Compelled retirement [See Retirement and Retirement benefits.]

Conduct
 prejudicial conduct insufficient to support recommendation of sanctions
People v. Rigney (1961) 55 Cal.2d 236 [10 Cal.Rptr. 625, 359 P.2d 23]
People v. Black (1957) 150 Cal.App.2d 494 [310 P.2d 472]
People v. Lancellotti (1957) 147 Cal.App.2d 723 [305 P.2d 926]
 *People v. Huff (1955) 134 Cal.App.2d 182 [285 P.2d 17]
People v. Deacon (1953) 117 Cal.App.2d 206 [255 P.2d 98]
Etzel v. Rosenbloom (1948) 83 Cal.App.2d 758 [189 P.2d 848]
People v. Williams (1942) 55 Cal.App.2d 696 [131 P.2d 851]
 *People v. Montgomery (1941) 47 Cal.App.2d 1 [117 P.2d 437]

JUDGE

- Contempt, power to punish for contempt
Code of Civil Procedure section 178
- Court proceedings
radio broadcast of
LA 88 (1935)
- Defendant's right to have trial completed does not outweigh judge's duty to disqualify himself
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1249
- Discipline
judge is publicly admonished for treating attorneys in sarcastic and belittling manner while presiding over civil cases
Public Admonishment of Judge Ronald M. Sohigian (2014) 2014 DJDAR 5984
- limitations on, grounds for
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 47-48 [207 Cal.Rptr. 171]
- Discipline and removal of judges [See 53 A.L.R.3d 882, ff. (suspension and removal) 44 Texas L.Rev. 1117, ff. Frankel, Jack E., "Judicial Discipline and Removal" 68 A.L.R.3d 248 (1973) (grounds for disqualification)]
confidentiality of proceedings
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 59-62 [207 Cal.Rptr. 171]
- Discretion
unreasonable application of clearly established federal law
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Discretion, abuse
court abused its discretion by refusing to follow an opinion certified for publication, especially one that spoke to the conditions or practices occurring in that particular courtroom
Jonathon M. v. Superior Court (2006) 141 Cal.App.4th 1093 [46 Cal.Rptr.3d 798]
- denial of pre-sentencing motion to withdraw plea was abuse under "fair and just reason" standard
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
- failure to hold evidentiary hearing
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
- failure to hold hearing on *Marsden* motion
People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]
- judge's abrupt ending of trial before completion resulted in denial of due process
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]
- Discretion, acts within
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
- Discretion, class action
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
- Disqualification
California Code of Judicial Conduct, Canon 3.C.
Code of Civil Procedure section 170
First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]
Tri Counties Bank v. Superior Court (2008) 167 Cal.App.4th 1332 [84 Cal.Rptr.3d 835]
- denial of peremptory challenge deemed abuse of discretion where challenge was filed well within the specified 10-day period under section 170.6
Jonathon M. v. Superior Court (2006) 141 Cal.App.4th 1093 [46 Cal.Rptr.3d 798]
- denied when judge failed to disclose ownership interest in various insurance industry companies which were not involved in case
Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]
- disqualification not mandated where a judge has officiated a litigant's counsel's wedding
Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]
- does not apply to administrative law judges
County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]
- granting of motion in excess of 60 days after peremptory challenge to trial judge became effective immediately was a nullity
Davcon Inc. v. Robers & Morgan et al. (2003) 110 Cal.App.4th 1355 [2 Cal.Rptr.3d 782]
- judge is disqualified for speaking to previous judge who was disqualified
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
- only transfer of the later-filed case to another judge required because the judge had already resolved a disputed factual issue in the earlier case (family law)
Rothstein v. Superior Court (2016) 3 Cal.App.5th 424 [207 Cal.Rptr.3d 616]
- peremptory challenge filed timely where proceeding is new and where previous case was closed
Manuel C. v. Superior Court (2010) 181 Cal.App.4th 382 [104 Cal.Rptr.3d 787]
- peremptory challenge takes effect instantaneously and irrevocably & later events do not cause a rescission of the challenge
Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
Davcon Inc. v. Robers & Morgan et al. (2003) 110 Cal.App.4th 1355 [2 Cal.Rptr.3d 782]
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
School District of Okaloosa County v. Superior Court (1997) 58 Cal.App.4th 1126 [68 Cal.Rptr.2d 612]
Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
Sunkyong Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]
People v. Whitfield (1986) 183 Cal.App.3d 299 [228 Cal.Rptr. 82]
In re Christian J. (1984) 155 Cal.App.3d 276 [202 Cal.Rptr. 54]
Penthouse International Ltd. v. Superior Court (1982) 137 Cal.App.3d 975 [187 Cal.Rptr. 535]
- threat to reduce spousal support by 50% if wife appealed ruling
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- time period to file a peremptory challenge upon remand begins to run on the date a party or attorney has been notified of the assignment and does not begin on the date of issuance of the remittitur by appellate court
Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th 1463 [136 Cal.Rptr.3d 544]
- timeliness of motion
Entente Decision, Inc. v. Superior Court (2013) 214 Cal.App.4th 385 [154 Cal.Rptr.3d 216]
Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th 1463 [136 Cal.Rptr.3d 544]
Tri Counties Bank v. Superior Court (2008) 167 Cal.App.4th 1332 [84 Cal.Rptr.3d 835]
- administrative law judge
Fisher v. State Personnel Board (2018) 25 Cal.App.5th 1 [235 Cal.Rptr.3d 382]
County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]

advice to another commissioner after disqualification
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 52-55 [207 Cal.Rptr. 171]

appellate tribunal
 -acting upon
 Code of Civil Procedure section 170a
 -superior court
 Code of Civil Procedure section 170.7

attorney as judge presides over a criminal defendant who had previously supplied him with illegal drugs
In re Scott (1991) 52 Cal.3d 968

based on race
People v. Superior Court (1992) 8 Cal.App.4th 873 [10 Cal.Rptr.2d 873]

bias or prejudice
Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158
Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
Kaiser Foundation Hospitals, Inc. v. Superior Court of Los Angeles (1993) 19 Cal.4th 513
Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]
Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]
First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]
Davis v. Superior Court (1984) 158 Cal.App.3d 197 [204 Cal.Rptr. 398]
Garcia v. Superior Court (1984) 156 Cal.App.3d 670, 684-685 [203 Cal.Rptr. 290]
 -not required on due process grounds where mere appearance of bias; probability of actual bias required
People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]
 -plaintiff's remarks regarding his social contacts with presiding judge are not necessarily determinative of judge's bias
Jorgensen v. Cassidy (9th Cir. 2003) 320 F.3d 906
 -showing of actual bias is not required for judicial disqualification under the due process clause, neither is the mere appearance of bias sufficient
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]
 -trial judge's adverse legal rulings and denial of a request for a continuance do not reflect personal bias
Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]

by criminal defendant
People v. Sheppard (1983) 143 Cal.App.3d 907 [192 Cal.Rptr. 427]

disqualification of temporary judge based on violation of Canon 6D(5)(a), failure to disclose known relationships with parties or lawyers
Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]

disqualified presiding judge loses jurisdiction over the matter and all subsequent orders and judgments are void
Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158
Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]
In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]
In re Jenkins (1999) 70 Cal.App.4th 1162 [83 Cal.Rptr.2d 232]

duties to call own witnesses but may not shift balance
People v. Handcock (1983) 145 Cal.App.3d Supp. 25 [193 Cal.Rptr. 397]

effect on rulings
Bates v. Rubio's Restaurants, Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]
Roscco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
North Beverly Park Homeowners Association v. Bisno (2007) 147 Cal.App.4th 762 [54 Cal.Rptr.3d 644]

failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]

frivolous motions to disqualify
Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]

gambling by
 LA(l) 1976-6, LA(l) 1958-4

grounds for
 California Code of Judicial Conduct, Canon 3.C
 Code of Civil Procedure section 170
Entente Decision, Inc. v. Superior Court (2013) 214 Cal.App.4th 385 [154 Cal.Rptr.3d 216]
Roscco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
 -multiple similar parties limited to one peremptory challenge per side
Orion Communications, Inc., et al. v. Superior Court (2014) 226 Cal.App.4th 152 [171 Cal.Rptr.3d 596]
 -when local superior court rules conflict with the Code of Civil Procedure, local rule is void
Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th 1463 [136 Cal.Rptr.3d 544]
 Code of Civil Procedure section 170.6
First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]
Nq v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]
Overton v. Superior Court (1994) 22 Cal.App.4th 112 [27 Cal.Rptr.2d 274]

-administrative law judge
County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]

-degree of affinity between husband and wife
 Code of Civil Procedure section 170.1

-prejudice as
 --procedure for establishing
 Code of Civil Procedure section 170.6

judge who rules in contested pretrial proceedings may not participate in appellate review in same case
Housing Authority of County of Monterey v. Jones (2005) 130 Cal.App.4th 1029 [30 Cal.Rptr.3d 676]

jurisdiction to proceed on subsequent "actions" once a proper challenge is made
Sunkyoung Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]

master calendar judge is married to counsel involved in a case; previously represented police officers; or was formerly a police officer may be subject to disqualification
 75 Ops. Cal. Atty. Gen. 58 (3/25/92; No. 91-1112)

party may not exercise preemptory challenge because it failed to show it was opposed to another party who had previously used challenge under Code of Civil Procedure section 170.6
Orion Communications, Inc., et al. v. Superior Court (2014) 226 Cal.App.4th 152 [171 Cal.Rptr.3d 596]

JUDGE

- preliminary hearing judge not automatically disqualified from conducting criminal trial for same defendant
People v. DeJesus (1995) 38 Cal.App.4th 1 [44 Cal.Rptr.2d 796]
- prior representation of defendant
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
- statement of disqualification must be filed at earliest practical opportunity
Eckert v. Superior Court (Tebo) (1999) 69 Cal.App.4th 262 [81 Cal.Rptr.2d 467]
- vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Disruptive and offensive conduct in courtroom of a judge who had recused himself from an attorney's case
Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]
- Duty
obligation of judge by his oath to maintain the respect due to the court and to protect the integrity of the judiciary from groundless, insulting, contemptuous, scandalous, or impertinent attacks
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
- Election campaign
contributions to
-by attorney
--no duty to advise adversary
LA 387 (1980)
-judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]
- fund raising for
SF 1974-6
- lawyer-candidate
-opposing incumbent
--may question incumbent's qualifications
LA 304 (1968)
- Error in jury instructions and sentencing
not found
U.S. v. Scott (9th Cir. 2011) 642 F.3d 791
reversible
People v. Chagolla (1983) 144 Cal.App.3d 422 [193 Cal.Rptr. 711]
- Evaluation by local bar association
Botos v. Los Angeles County Bar Assn. (1984) 151 Cal.App.3d 1083, 1088-1090 [199 Cal.Rptr. 236]
- Ex parte discussion with
In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]
Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
- about matter on appeal
CAL 1984-78
- administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
CAL 1984-82
- deliberating jurors
People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]
- judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- listserv
LA 514 (2005)
- trial judge and defense counsel
Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
- trial judge by prosecutor
McKenzie v. Risley (9th Cir. 1990) 915 F.2d 1396
- Failure of judge to allow case to reach completion resulted in denial of due process.
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]
- Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
- Failure to hold Marsden hearing
People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]
People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]
- court made no inquiry at all
People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]
- Failure to perform duties [See Censure, causes for, this section.]
- Frivolous allegations against, attorney disciplined for
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
- Fair and true report of judicial proceedings is privileged and therefore not actionable
Grillo v. Smith (1983) 144 Cal.App.3d 868 [193 Cal.Rptr. 414]
- Gambling
LA(l) 1976-6, LA(l) 1958-4
- Gifts and favors from litigants and counsel
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Impartiality, protection of
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
CAL 1984-78
- Improper action
comments at sentencing reflected a biased and insensitive view about sexual assault
Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22
undignified and discourteous remarks to family law litigants
In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999
- Injudicious conduct [See Censure, causes for, this section.]
Spruance v. Commission on Judicial Qualification (1973) 13 Cal.3d 778 [119 Cal.Rptr. 841, 532 P.2d 1209]
- Judge as prior prosecutor, same case
Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct. 1899]
- "Judge" defined
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr. 705]
CAL 1984-82
- Judicial officer defined
local bar association's arbitration panel is not a judicial officer
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- Juvenile court proceedings
referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process
In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]

- Law lectures; delivery of
LA 129 (1940)
- Liability
absolute immunity applies to defamatory statements made by judge during settlement conference, but not to statements made during newspaper interview
Soliz v. Williams (1999) 74 Cal.App.4th 577 [88 Cal.Rptr.2d 184]
absolute immunity from for acts done in performance of official duties
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117
immunity extended to state agencies that act in judicial capacity
Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117
- Listserv
communication with judicial officers
LA 514 (2005)
- May rehear a pretrial issue when magistrate's order is clearly erroneous and contrary to law
Rockwell International, Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325
- Misconduct
alteration of court records
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
appearance of embroilment and lack of impartiality
-judge's attempt to influence another judicial officer on arrest warrant of family litigant before judge was misconduct reflecting
In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR14999
bias and interference with defense announced bias and prejudice
People v. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]
communication with real party in interest without notice to opposing party
Roberts v. Committee on Judicial Performance (1983) 33 Cal.3d 739 [190 Cal.Rptr.910]
district court improperly participated in defendant's plea discussions by prematurely committing itself to a sentence of specific severity
U.S. v. Kyle (9th Cir. 2013) 734 F.3d 956
district court's failure to notify defense counsel about jury note and to give counsel opportunity to be heard before court responds violates rule requiring defendatn's presence at every trial stage
U.S. v. Martinez (9th Cir. 2017) 850 F.3d 1097
impugning defense counsel
People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]
judge had discussions and resolved son's case in nonpublic areas of the courthouse and outside the normal process, the judge created an appearance of impropriety which undermines public confidence in the impartiality of the judiciary
Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18
judge is disqualified for speaking to previous judge who was disqualified
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
judge's earnings from public employment as a teacher at a community college which were not reported as income did not violate the Political Reform Act
Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]
- prejudicial and wilful misconduct which seriously undermines the integrity of the judiciary
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
trial judge entering jury room and engaging in unreported, ex parte communications with the jury concerning issues of law relevant to the case was improper
People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]
trial judge's misconduct which deprives plaintiff of fair trial warrants judgment reversal
Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
Must be final decision authority when magistrates are used for arbitration
Pacemaker Diag. Clinic v. Instromedix, Inc. (9th Cir. 1983) 712 F.2d 1305
Name and designation as judge
in journal of fraternal order
-judge contribute to publication cost
LA 100 (1936)
Name of, used
in legal directory
SF 1973-11
Non-judicial activity
business activity
LA(I) 1959-7
Perjury
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Prejudicial conduct [See Removal, causes for. Censure, causes for. Conduct, prejudicial conduct insufficient to support recommendation of sanctions.]
extraction of attorney fees from bail deposits
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 41-42 [207 Cal.Rptr. 171]
judge's abrupt ending of trial without allowing party to present case in chief was denial of due process
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]
judge's discussions with court clerk and presiding judge about son's case through channels not available to the public, even if not done in bad faith, created an appearance of impropriety undermining public confidence in the impartiality and integrity of the judiciary
Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18
ordering appearances of defendants for fee collection purposes
Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 37-38, 43-46 [207 Cal.Rptr. 171]
prejudicial jury instructions, standard of miscarriage of justice
People v. Taylor (1984) 156 Cal.App.3d 552, 556-557 [203 Cal.Rptr. 40]
- Presiding judge
authority to rule on opinion of another judge
Micro/Vest Corp. v. Superior Court (1984) 150 Cal.App.3d 1085 [198 Cal.Rptr. 404]
Pro tempore qualifications
Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]
Yetenkian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
Promotion of corporation by
shares offered for sale to public
LA 53 (1927)

JUDGE

- Public confidence diminished
comments at sentencing reflected a biased and insensitive view about sexual assault
Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22
- Quasi-judicial function of parole officials gives immunity relative to function prompting action
Anderson v. Boyd (9th Cir. 1983) 714 F.2d 906
- Radio broadcast of court proceedings
LA 88 (1935)
- Recall
superior court judges are not state officers therefore petition for recall does not have to be reviewed and certified for circulation by Secretary of State
Persky v. Bushey (2018) 21 Cal.App.5th 810 [230 Cal.Rptr.3d 658]
- Recusal
based on alleged violation of defendant's due process rights
Williams v. Pennsylvania (2016) ___ U.S. ___ [136 S.Ct. 1899]
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]
California Supreme Court held that judge's refusal to recuse himself was not required because only the most "extreme facts" would require judicial disqualification on due process grounds
People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]
commissioner's bias against attorney
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
contempt proceedings involving attorney
-criminal
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
effect on rulings prior to judge's recusal
Bates v. Rubio's Restaurants Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]
failure of judge to disclose participation in substantial negotiations for employment as dispute resolution neutral
Rossco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]
general notice of change in calendar judge mailed by superior court's public information office was insufficient to deny petitioner's peremptory challenge
Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
judge as prior prosecutor, same case
Williams v. Pennsylvania (2016) ___ U.S. ___ [136 S.Ct. 1899]
judge not disqualified for failure to disclose ownership interest in various insurance industry companies which were not involved in case
Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]
judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process
Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]
- judge who rules in contested pretrial proceedings may not participate in appellate review in same case
Housing Authority of County of Monterey v. Jones (2005) 130 Cal.App.4th 1029 [30 Cal.Rptr.3d 676]
- legal grounds – impartiality
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
United States v. Arnpriester (9th Cir. 1994) 37 F.3d 466
Denardo v. Municipality of Anchorage (9th Cir. 1992) 974 F.2d 1200
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1247-1248
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
-denied when judge officiates litigant's counsel's wedding but has no personal or social relationship with counsel
Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]
- not required on due process grounds where mere appearance of bias; probability of actual bias required
People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]
- precludes any further action in the case by the judge
Geldermann, Inc. v. Bruner (1991) 229 Cal.App.3d 662 [280 Cal.Rptr. 264]
- recusal required to prevent an impermissible risk of actual bias when judge had earlier significant, personal involvement as a prosecutor in a critical decision regarding the defendant's case
Williams v. Pennsylvania (2016) ___ U.S. ___ [136 S.Ct. 1899]
required if judge should have known of circumstances requiring disqualification, even absent actual knowledge
Liljeberg v. Health Services Acquisition Corporation (1988) 486 U.S. 847 [108 S.Ct. 2194]
Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]
- threats against judge as basis for recusal
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
- Reinstatement
California Government Code section 75060.6
after voluntary retirement due to disability
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
review of findings as to fitness to hold judicial office
Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
- Removal
California Constitution Article VI, section 18(c)
burden of proof
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
causes for
-"conduct prejudicial to the administration of justice that brings the judicial office into disrepute"
Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 631-632, 643, 645 [175 Cal.Rptr. 420, 630 P.2d 954]
Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 796, 797 [119 Cal.Rptr. 841, 532 P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
-ex parte communication with parties
Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]
-persistent failure or inability to perform judicial duties
Kennick v. Commission on Judicial Performance (1990) 50 Cal.3d 297 [787 P.2d 591]

- willful misconduct in office
 - Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 625, 630-631, 637, 645, 648, 650, 651 [175 Cal.Rptr. 420, 630 P.2d 954]
 - Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
 - Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 795-799 [119 Cal.Rptr. 841, 532 P.2d 1209]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
- discovery [See Commission on Judicial Performance, procedure - discovery.]
- jury trial
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
- effect on rulings
 - North Beverly Park Homeowners Association v. Bisno (2007) 147 Cal.App.4th 762 [54 Cal.Rptr.3d 644]
- nature of proceedings
 - non-criminal
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
 - not constituting civil action
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
- persistent and pervasive conduct prejudicial to the administration of justice
 - Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr 100]
 - Gonzalez v. Commission on Judicial Performance (1983) 33 Cal.3d 359 [188 Cal.Rptr. 880, 657 P.2d 372]
- procedure [See Commission on Judicial Performance, procedure.]
- retirement for disability
 - In re Roick (1978) 24 Cal.3d 74 [154 Cal.Rptr. 413, 592 P.2d 1165]
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, [138 Cal.Rptr. 459, 564 P.2d 1]
 - Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
- special proceedings
 - alternative to impeachment
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
- standard of proof required
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10-11 [138 Cal.Rptr. 459, 564 P.2d 1]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
- Supreme Court Justice
 - California Constitution Article VI, section 18(e)
 - selection of special tribunal
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 7-8 [138 Cal.Rptr. 459, 564 P.2d 1]
- Represent/practice before
 - LA(l) 1954-1
- Resignation from judicial office; effect upon proceedings for disbarment
 - California Constitution Article VI, section 18
 - In re Craig (1938) 12 Cal.2d 93 [82 P.2d 442]
- Retirement [See Removal, retirement for disability.]
 - benefits
 - Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451, 458 [110 Cal.Rptr. 713, 516 P.2d 1]
 - as valuable property right
 - Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818, 825-826 [141 Cal.Rptr. 75]
 - effect of criminal charges/conviction
 - Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 453 [110 Cal.Rptr. 713, 516 P.2d 1]
 - interest on, withheld pending litigation as to entitlement
 - *Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
 - judges may hold public office or engage in public employment after they resign or retire, even if time remains in judicial term for which they were selected
 - Gilbert v. Chiang (2014) 227 Cal.App.4th 537 [173 Cal.Rptr.3d 864]
 - pension rights [See Retirement, benefits.]
 - "salary" construed
 - Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 456 [110 Cal.Rptr. 713, 516 P.2d 1]
 - subsequent representation of one of the parties
 - Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
 - Right to hire private counsel when county counsel has conflict of interest
 - Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]
 - Sanctions [See Removal. Censure. Automatic disqualification.]
 - contempt of court [See Contempt.]
 - dismissal of criminal complaint based on intentional eavesdropping by law enforcement was not an appropriate remedy
 - People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
 - improper when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
 - Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
 - mitigating factors
 - Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678, 706-708 [122 Cal.Rptr. 778, 537 P.2d 898]
 - Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 800-803 [119 Cal.Rptr. 841, 532 P.2d 1209]
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 539-540 [116 Cal.Rptr. 260, 526 P.2d 268]
 - money sanction for violation of lawful court order
 - not applicable to advocacy of counsel
 - Civil Code section 177.5
 - remanding sanctions did not imply the appearance of impropriety
 - Yagman v. Republic Insurance (1993) 987 F.2d 1027
- State Bar Court
 - conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme court found the evidence of misconduct overwhelming
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 - in attorney criminal conviction matter, State Bar Court judge not authorized to require evidence beyond that which parties have presented
 - In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888

JUDICIAL SALE

State Supreme Court authority to appoint judges of the State Bar Court not impaired by permissible appointment mechanisms specified by the legislature

Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]

State Bar of California
jurisdiction

-over judges regarding disbarment proceedings

Christopher v. State Bar (1945) 26 Cal.2d 663, 666-668 [161 P.2d 1] Cf. dissenting opinion of Carter. J.

Statutory test for disqualification is whether reasonable person with knowledge of all facts would conclude that judge's impartiality might reasonably be questioned

United States v. Nelson (9th Cir. 1983) 718 F.2d 315

Supreme Court Justice [See Removal.]

Suspension

pending appeal from criminal conviction

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

pending criminal prosecution

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

Trial conduct

district court improperly participated in defendant's plea discussions by prematurely committing itself to a sentence of specific severity

U.S. v. Kyle (9th Cir. 2013) 734 F.3d 956

judge is publicly admonished for treating attorneys in sarcastic and belittling manner while presiding over civil cases

Public Admonishment of Judge Ronald M. Sohigian (2014) 2014 DJDAR 5984

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]

judge's abrupt ending of trial without allowing party to present case in chief was denial of due process

In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]

may not exclude a party to an action

People ex rel. Curtis v. Peters (1983) 143 Cal.App.3d 597 [192 Cal.Rptr. 70]

Use of judge's name

for promotion of corporation

LA 53 (1927)

Willful misconduct in office [See Judge, Censure, causes for. Judge, removal, causes for.]

Witness

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553

no absolute ban

People v. Fatone (1985) 165 Cal.App.3d 1164, 1183-1184 [211 Cal.Rptr. 288]

Writ of habeas corpus

allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel

In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]

defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law

*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

judge granted without adequate information to help a friend

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

JUDICIAL SALE

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

JURISDICTION, ADVISE CLIENT TO LEAVE

Rules 7-101 and 7-107, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 3-210 and 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

JURORS, COMMUNICATION WITH OR INVESTIGATION OF

Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]

Noland v. State Bar (1965) 63 Cal.2d 298, [46 Cal.Rptr. 305, 405 P.2d 129]

Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

[CAL](#) 1988-100

After trial

[CAL](#) 1987-95, [CAL](#) 1976-39

Court-imposed, post-trial restrictions pursuant to trial court's inherent authority

Townsel v. Superior Court (1999) 20 Cal.4th 1084 [86 Cal.Rptr.2d 602]

Ex parte communications between trial judge and a deliberating jury are prohibited

People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]

Jurors have absolute right to refuse to discuss deliberations or verdict with defense counsel

Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

Mock jury research

SD 2010-1

"Venire" defined

SD 2010-1

LABOR UNION

Emblem of on law firm letterhead

[CAL](#) 1971-24

Lawyer, government employee

as member of

LA 337 (1973)

Lay employee shows membership in after signature

[CAL](#) 1971-24

LAW CORPORATIONS [See Professional corporations.]

Business and Professions Code sections 6125, 6126, 6127, 6160 et seq.

Attorney held liable for law corporation's debts as alter ego where corporation was being used by attorney to escape personal liability

Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]

Bound by applicable statutes, rules, and regulations to the same extent therein as a member of the State Bar

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

Bound by rules prohibiting aiding the unauthorized practice of law by resigned attorneys

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

Failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership

Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]

Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]

Former shareholder's name

LA 530 (2018)

Inapplicable to duly certified professional corporation

Business and Professions Code section 6127.5

Business and Professions Code sections 6160-6172

application for

Business and Professions Code section 6161

LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA

defined
 Business and Professions Code section 6160

director
 -shareholder must be licensed
 --income while disqualified person
 Business and Professions Code section 6165
 --must be licensed person
 Business and Professions Code section 6165

Investigation
 by State Bar
 Business and Professions Code section 6168

Name of
 Business and Professions Code section 6164

Nonprofit corporation
 not required to register with State Bar of California as a law corporation
 Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221
 State Bar of California
 -nonprofit corporation not required to register as a law corporation
 Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221

Report to State Bar
 amendments to articles of incorporation
 Business and Professions Code section 6162
 annual report
 Business and Professions Code section 6163
 changes in directors, officers, employees performing professional services/share ownership
 Business and Professions Code section 6162
 Rules, The State Bar of California Law Corporation [A copy of the full text of these rules may be obtained by contacting the Law Corporation Department of the Office of Certification at the State Bar's 180 Howard location in San Francisco.]
 authority to promulgate
 Business and Professions Code section 6171

Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client
 City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
 Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

State Bar of California
 action of reviewable by Supreme Court
 Business and Professions Code section 6170
 disciplinary power and authority
 -nothing in this article affects or impairs
 Business and Professions Code section 6172
 investigation
 Business and Professions Code section 6168
 notice to show cause
 Business and Professions Code section 6169
 -hearing on
 Business and Professions Code section 6169(b)(c)
 -hearing prior to suspension not required
 Business and Professions Code Section 6169(d)

Supreme Court of California
 disciplinary power and authority
 -nothing in this article affects or impairs
 Business and Professions Code section 6172
 review of action by State Bar
 Business and Professions Code section 6170

LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA

Text is located in:
 Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 417), and in
 West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 738
 Text available through State Bar's home page:
<http://www.calbar.ca.gov>

Text may be obtained from:
 Law Corporations Department
 State Bar of California
 180 Howard Street, San Francisco, California 94105
 Telephone: (888) 800-3400

Nonprofit corporation
 not required to register with State Bar of California as a law corporation
 Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221

LAW FIRM [See Corporation, professional. Partnership, advertising. Practice of law].

LAW OFFICE [See Advertising, law office. Practice of law.]
 Announcement of formation of practice
 mention that lawyer is legislator
 LA 111 (1937)

Branch office
 LA(l) 1973-2

Business operated from
 accounting
 LA 351 (1976), LA 225 (1955)
 book publishing
 LA 446 (1987)
 notary public
 LA 214 (1953)
 real estate
 LA 340 (1973), LA(l) 1970-2
 sale of partnership interests
 LA 199 (1952)
 school that teaches how to obtain government loans
 LA(l) 1976-5
 stenography
 LA 214 (1953)

By partnership
 LA 325 (1972)

Dummy
 LA 198 (1952)

Relocation of
 announcement of
 LA 104 (1936)

Share with
 accountant
 LA(l) 1968-1
 bail company
 SD 1974-23
 business
 LA 199 (1952)
 foreign attorney
 LA 99 (1936)
 insurance business
 LA 215 (1953)
 investigator
 LA(l) 1963-8, SD 1974-23
 land developer
 LA(l) 1968-1
 real estate business
 LA (l) 1970-2
 reception room
 -investigator
 SD 1974-23
 suspended lawyer
 LA (l) 1937-1

LAW STUDENT [See Admission to the Bar. Lay employee. Lay person. Practical training of law students.]
 Presentation by to state agency
 SD 1973-9

LAWYER [See Admission to the bar.]
 Business and Professions Code section 6060 et seq.
 Circulation of list of lawyers who do not extend normal courtesies
 LA 364 (1976)

Definition
 Evidence Code section 950
[Rule 1-100\(B\)\(3\)](#), Rules of Professional Conduct

LAWYER REFERRAL SERVICE

Duties

Business and Professions Code section 6068
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330
-superior court research attorneys are exempt from mandatory continuing education
Obbard v. State Bar of California (2020) 48 Cal.App.5th 345 [262 Cal.Rptr.3d 16]

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Misconduct of reported

SF 1977-1

LAWYER REFERRAL SERVICE [See Group legal services.

Referral of legal business.]

Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Emmons, et. al. v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]

Definition of "referral"

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Duty to advise referred persons that counsel will divide fee with service

SD 1973-12

Failure to comply with minimum standards for a lawyer referral service

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

Financing of

LA(I) 1965-7, SD 1973-12

General guidelines

SD 1977-5

Immunity from liability for referrals

if authorized by the State Bar of California and in conformance with minimum standards for a lawyer referral service in California

Civil Code section 43.95

Income of organization

from operation of lawyer referral service in conformance with the minimum standards of a lawyer referral service
-excluded

Revenue and Taxation Code section 23734d

Minimum standards for a lawyer referral service [The full text is reprinted at part IA., appendix A of this Compendium.]

Civil Code section 43.95

Revenue and Taxation Code section 23734d

Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Participation in

LA(I) 1960-3

referrals to directors

SD 1977-5

unregistered networking group

SD 2021-1

Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

Uncertified lawyer referral activity

SD 2019-2

LAWYER'S ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA

For confidential assistance with stress, anxiety, depression, substance abuse, contact:

Lawyer Assistance Program
(877) LAP-4HELP / (877) 527-4435

LAP@calbar.ca.gov

For information about program, contact:

State Bar of California
(415) 538-2000 / (213) 765-1000

LAY EMPLOYEE [See Contingent fee. Division of fees. Fees.

Foreign attorney. Lay person. Witness.]

Accountant

SD 1974-17

Card, professional [See Advertising.]

Certified law student

People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]

SD 1974-5

Client trust account

Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]

Compensation of

division of fees

LA 222 (1954), LA 190 (1952)

percentage of income

LA(I) 1972-25

Confidential information disclosed, when employed by several law firms

CAL 1979-50

Executor for opposing party's estate

LA 341 (1973)

Expert

handwriting

LA 46 (1927)

Fee for services

LA(I) 1973-7, LA(I) 1968-4

Holding out as attorney

Business and Professions Code section 6126

Investigator

LA 172 (1950), LA(I) 1956-2

Particular acts by

administrative agency practice

LA 143 (1943)

collections

SD 1978-4

correspondence

CAL 1971-24

LA(I) 1971-6

SD 1978-4

settlement

LA(I) 1972-19

Responsibility for acts of

Crane v. State Bar (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670]

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

LA(I) 1976-1

Shows labor union membership after signature

CAL 1971-24

Signing on client trust account

CAL 1988-97

Uses card showing relationship to lawyer

LA 346 (1975), LA 172 (1950), LA(I) 1956-2

SD 1974-5

LAY INTERMEDIARIES [See Division of fees. Referral of legal business. Solicitation of business.]

Association

act for members of

LA(I) 1947-8

trade, advise members of
 LA 155 (1945)

Communicate with opposing party through
Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374]
 LA 315 (1970)

Consulting firm, advise customers of
 LA 194 (1952)

Corporation
 represent customers of
 LA 262 (1959)

Family counseling corporation, represent clients of
 LA 270 (1962)

Interpreters in court
People v. Shaw (1984) 35 Cal.3d 535 [198 Cal.Rptr. 72]

Labor union, represent members of
 LA 151 (1944)

LAY PERSON [See Contingent fee. Law student. Lay employee.
 Patent attorney. Practice of law. Unauthorized practice of law.]

Bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))
 BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

IRS agents not entitled to absolute immunity
 sanction of person when taking action provoking lawsuit
Bothke v. Fluor Engineers and Constructors, Inc. (9th Cir. 1983) 713 F.2d 1405

Listed on law office door
 LA(l) 1956-6

Partnership with
 Rule 3-103, Rules of Professional Conduct
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 LA(l) 1966-18
 accountant
 LA(l) 1959-5, SD 1974-17

Self-representation
 trustees representing themselves where the matter is between trustees and trust beneficiaries in the context of probate proceeding is not an unauthorized practice of law
Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260 Cal.Rptr.3d 844]

LECTURE [See Advertising. Publication.]
 CAL 1972-29, CAL 1967-12

LEGAL AID [See Indigent persons.]
Ferreira v. Swoap (1976) 62 Cal.App.3d 875 [133 Cal.Rptr. 449]

Agency
 advertising or solicitation by
 SD 1974-9
 advertising, referrals, referral panel, definition of fee generating case
 SD 1976-7
 control over activities of
 -by lawyer employees of
 SD 1974-9, SF 1976-1
 disclosure of data about clients of
 LA 378 (1978), LA 358 (1976)
 disposition of unclaimed clients' funds by
 CAL 1975-36
 fund raising by
 SD 1974-9
 propriety of being employed by
 LA(l) 1965-1

Divorce
 advise client how to obtain in pro per divorce
 SD 1972-6

Fees

award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2

Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]

Legal Services Corporation has exclusive jurisdiction over compliance with 45 C.F.R. § 1642.2 by recipient legal aid foundations

Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]

Funding

award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2

Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]

Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment

Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]

lack of funding makes withdrawal and effective representation impossible or unreasonably difficult

CAL 1981-64

Lay person, participation in

Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
 SD 1983-4

Legal aid lawyer

withdrawal by
 SF 1973-5

Legal services corporation including non-attorney shareholders

LA 444 (1987)

Program organized by non-profit corporation

LA(l) 1972-24

Public defender

offers to represent indigent before arraignment

LA(l) 1954-2

Representation of client who possess assets

SD 1983-6

LEGAL DIRECTORY [See Advertising, directory of lawyers.

Solicitation of business, inclusion in list of approved practitioners.]

Certified law lists

SF 1975-3

Judicial office, former noted in

SF 1973-11

Listing

SD 1968-1

of interstate partnership

SF 1974-5

Out-of-state attorney listed in

LA 249 (1958)

LEGAL SERVICES [See Legal aid.]

United Mine Workers v. Illinois State Bar Assn. (1967) 389 U.S.

217 [88 S.Ct. 353]

Brotherhood of Railroad Trainmen v. Virginia (1964) 377 U.S. 1

[84 S.Ct. 1113]

NAACP v. Button (1963) 371 U.S. 415 [83 S.Ct. 328]

Brotsky v. State Bar (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]

Hildebrand v. State Bar (1950) 36 Cal.2d 504 [225 P.2d 508]

Attorney renders legal services to clients of financial planning company

LA 510 (2003)

Lack of funding makes effective representation unreasonably difficult or impossible, withdrawal

CAL 1981-64

Legal services corporation including non-attorney shareholders

LA 444 (1987)

Partnership with non-lawyer living trust marketers

CAL 1997-148

LEGAL SPECIALIZATION

Referral fees

Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]
unregistered networking group
SD 2021-1

LEGAL SPECIALIZATION [See Advertising. Practice of law. Specialization.]

Advertising

notice to apprise profession of specialized service
LA 110 (1937)

Appellate briefs

LA 258 (1959)

Bankruptcy

LA 258 (1959)

California Board of Legal Specialization

Rules Governing the State Bar of California Program for Certifying Legal Specialists

Text of rules and regulations is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 433), and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 751

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

Legal Specialization Department
State Bar of California
180 Howard Street, San Francisco, California 94105
Telephone: (415) 538-2120

Certified specialist

authority over
LA(I) 1974-4

Consultative practice

LA 258 (1959)

Corporate litigation

LA(I) 1948-1

Division of community property

LA(I) 1948-1

Divorce

LA 179 (1951)

Drafting

LA 209 (1953)

Holding out as specialist [see Advertising]

[Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)

[Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)

Peel v. Attorney Regulatory & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]

Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]

International law

LA 230 (1955)

Lawyer referral service

Business and Professions Code section 6155

-referral occurs when an entity engages in the act of directing or sending a potential client to an attorney for purposes of Business and Professions Code section 6155

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Rule 2-102, Rules of Professional Conduct

State Bar Minimum Standards for a Lawyer Referral Service, section 5.2

Legal accounting

LA(I) 1948-1

Legal research

LA 209 (1953)

Medical jurisprudence

LA(I) 1961-1

Part-time services

LA 258 (1959)

Patents

LA 232 (1956), LA 44 (1927)

Private international law

LA(I) 1970-4

Receiverships

LA(I) 1948-1

Reorganizations

LA(I) 1948-1

Selective Service Act

LA 180 (1951)

Taxation

LA 168 (1948)

Workers' compensation

LA(I) 1959-2

LETTERHEAD

Accountant's lawyer shown on
LA 164 (1947)

Dead lawyer's name on

[CAL](#) 1986-90, LA(I) 1962-5

Former judge

judicial office shown on

SF 1973-11

Holding out as specialist [see Advertising]

[Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)

[Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)

Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]

Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]

Inactive lawyer on

Business and Professions Code section 6132

LA 310 (1969)

Lay person on

LA(I) 1964-4

Lay person's law degree noted on

LA 39 (1927)

Name of lawyer who is not associated with office on

SD 1969-4

Of client, counsel shown on

LA 289 (1965), LA 185 (1951), LA 173 (1950), LA 164 (1947), LA 43 (1927), LA(I) 1965-17, LA(I) 1965-15, SD 1972-16

"Of counsel" on

[Rule](#) 1-400, std. 8, Rules of Professional Conduct

[CAL](#) 1993-129, [CAL](#) 1986-88

LA 516 (2006), LA 421 (1983), LA 306 (1968), LA(I) 1967-8

Of office sharers [See Law office.]

[CAL](#) 1971-27

Of organization, lawyer-officer of identified on

LA 286 (1965), LA 256 (1959)

Out-of-state attorney or firm on

LA 332 (1973), LA 202 (1952), LA 189 (1952), LA(I) 1967-8, LA(I) 1965-9, LA(I) 1959-3

Out-of-state attorney's

LA(I) 1960-1

Partnership

foreign lawyer or firm on

LA 332 (1973), LA 249 (1958), LA 230 (1955), LA(I) 1965-9, SF 1974-1

former member shown on

-inactive partner

LA 310 (1969)

interstate

LA 230 (1955)

non-existent partnerships

LA(I) 1959-3

Professional corporation

SD 1978-4

Public office of former judge shown on

SF 1973-11

Public official's reference to private practice

LA 260 (1959)

- Qualifications on
- academic degrees
 - SD 1974-10
 - accounting
 - LA 224 (1955)
 - membership
 - bar association
 - LA 153 (1945)
 - in other professions
 - LA 349 (1975), LA(l) 1961-1
 - specialties
 - LA 230 (1955), LA 168 (1948), LA(l) 1961-1
- Union emblem on
[CAL](#) 1971-24
- Use of
- educational activity
 - SD 1974-21
 - political activity
 - LA 250 (1958)
- Used by
- client for collections
 - [CAL](#) 1982-68
 - LA(l) 1968-3
 - collection supervisor
 - SD 1978-4
- LIEN** [See Attorney's lien. Fees, collection of.]
Absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)
[Loeb v. Record](#) (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
Attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
[People v. Green](#) (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
Attorney's lien is created and takes effect at the time fee contract is executed
[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Attorney's lien not payable in circumvention of the Bankruptcy Code
[In re Monument Auto Detail, Inc.](#) (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
Client settlement
failure of subsequent counsel to honor
-liability for interference with prospective economic advantage
[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
[Levin v. Gulf Insurance Group](#) (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]
[Pearlmutter v. Alexander](#) (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
Common fund doctrine does not apply to contractual medical lienholders in personal injury matters
[City and County of San Francisco v. Sweet](#) (1995) 12 Cal.4th 105, 110, 115-117
[Farmers Insurance Exchange et al. v. Smith](#) (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
[Lovett v. Carrasco](#) (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]
County's right to recover lien for medical expenses from injured debtor's settlement
[Tapia v. Pohlman](#) (1998) 68 Cal.App.4th 1126 [81 Cal.Rptr.2d 1]
- Hospital's right to assert a lien on patient's lawsuit recovery once Medi-Cal payments accepted
[Brooks v. St. Mary Hospital](#) (1997) 57 Cal.App.4th 241 [66 Cal.Rptr.2d 820]
Insurance company pays fee to insured's attorney to protect insurer's lien on insured's settlement
LA 352 (1976)
Judgment creditor denied recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights
[Slates v. Gorabi](#) (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
Notice
[Great-West Life & Annuity Ins. Co. v. Knudson](#) (2002) 534 U.S. 204 [122 S.Ct. 708]
[County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co.](#) (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]
[Carroll v. Interstate Brands Corp.](#) (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]
[Farmers Insurance Exchange, et al. v. Smith](#) (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
[Farmers Insurance Exchange v. Zerlin](#) (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]
[Kaiser Foundation Health Plan Inc. v. Aguiluz](#) (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]
[Hansen v. Haywood](#) (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]
[In the Matter of Moriarty](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
[In the Matter of Feldsott](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
[CAL](#) 2009-177, [CAL](#) 2008-175
attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so
[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
Physician
[CAL](#) 1988-101, [CAL](#) 1991-28(l)
LA 478 (1994), LA 368 (1977), LA 357 (1976)
Priority of
[Gilman v. Dalby](#) (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]
[Waltrip v. Kimberlin](#) (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]
[Pangborn Plumbing Corp. v. Carruthers & Skiffington](#) (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]
[Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP](#) (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]
[Epstein v. Abrams](#) (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]
[Cappa v. F & K Rock & Sand, Inc.](#) (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]
attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11
[People v. Green](#) (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
attorney's lien is subordinate to an adverse party's right to offset judgments
[Pou Chen Corporation v. MTS Products](#) (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]
attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment
[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
between contractual medical lien and an attorney lien for fees and costs of litigation in a contingency fee case
[Gilman v. Dalby](#) (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

LIMITING LIABILITY TO CLIENT

child support obligations have priority over attorney's fees on funds from liquidated assets deposited in attorney's client trust account in anticipation of legal services

Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]

equitable lien for fees

County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

exceptions to priority of attorney's lien

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

-judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

judgment creditor's lien did not cover commercial tort claims

Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

Third party

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

CAL 2008-175

attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

duty of attorney

U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]

Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Farmers Insurance Exchange v. Zerlin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]

Kaiser Foundation Health Plan, Inc. v. Aquiluz (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]

Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]

Miller v. Rau (1963) 216 Cal.App.2d 68 [30 Cal.Rptr. 612]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404

-no duty to lender, where client owed no funds to the lender

In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]

exceptions to priority of attorney's lien

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

White collar crime

under Penal Code § 186.11

-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

LIMITING LIABILITY TO CLIENT

Business and Professions Code section 6090.5

Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)

Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 2012-185, CAL 2009-178, CAL 1992-127, CAL 1989-116 LA 502 (1999), LA 489 (1997)

Attorney may not seek written or oral agreement that client will not file, nor seek a representation from the client that they have not filed, nor intend to file, a State Bar complaint

LITIGATION

Anti-SLAPP cases

Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590

Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]

Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]

Lunada Biomedical v. Nunez (2014) 230 Cal.App.4th 459 [178 Cal.Rptr.3d 784]

S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]

allegations of conspiring in or aiding and abetting tenant harassment insufficient where the only acts attorney was shown to have committed were giving advice to client and writing a letter to opposing counsel which are unquestionably protected activities

Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

declaratory relief action to determine prior attorney's right to fees is not subject to anti-SLAPP motion because suit does not arise from a protected activity

Drell v. Cohen (2014) 232 Cal.App.4th 24 [181 Cal.Rptr.3d 191]

defendant's general counsel's statement to press accusing plaintiff's attorney of wrongdoing is protected under the fair and true reporting privilege

Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

denial of anti-SLAPP motion appealable and proper where insurer's complaint did not arise from counsel's litigation-related conduct, but rather from his post-settlement conduct

Travelers Casualty Insurance Co. of America v. Hirsch (9th Cir. 2016) 831 F.3d 1179

denied for failure to show probability of success in underlying matter

Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]

filing of unredacted credit report is protected activity

G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

law firm, acting as agents for a school district, is protected when petitioning on behalf of the citizenry by seeking to take private land for public use

Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638

letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was protected activity, even though employer had not yet filed a lawsuit

Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]

- letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege
Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]
- motion granted on the basis that there was no evidence that attorneys harbored malice in pursuing the underlying action
Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]
- plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute
Stenehjem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]
- settlement negotiations are acts in furtherance of person's right to petition under the statute
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
- underlying policy
Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
- Frivolous actions under CCP § 128.7
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- toxic tort action against manufacturer had sufficient evidentiary support for case to survive a nonsuit
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
- Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]
- Litigation privilege
 Civil Code section 47(b)
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]
S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]
Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 -did not bar plaintiff's claims because defendant engaged in a course of tortious conduct depriving plaintiff of attorney fees
Mancini & Associates v. Schwetz (2019) 39 Cal.App.5th 656 [252 Cal.Rptr.3d 315]
 -exceptions to the litigation privilege
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
 -litigation privilege should not be extended to litigating in the press
GetFuqu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]
Rusheen v. Cohen (2006) 37 Cal.4th 1048 [39 Cal.Rptr.3d 516]
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
Silberg v. Anderson (1990) 50 Cal.3d 205, 211-216
- Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
Rohde v. Wolf (2007) 154 Cal.App.4th 28 [64 Cal.Rptr.3d 348]
Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
Aronson v. Kinsella (1997) 58 Cal.App.4th 254 [68 Cal.Rptr.2d 305]
Shartzer v. Israels (1997) 55 Cal.App.4th 1290
Edwards v. Centex Real Estate Corp. (1997) 53 Cal.App.4th 15 [61 Cal.Rptr.2d 518]
Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
Lafer v. Levinson (1995) 34 Cal.App.4th 117 [40 Cal.Rptr.2d 233]
- communications mentioning "pursuing remedies" did not fall within the litigation privilege on the grounds that the overall tone of such communications was one of persuasion and cooperation and were not sent in anticipation of litigation
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
- covers communications, torts other than malicious prosecution, and interference with contract
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
- demand letter
Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]
- dismissal of defamation action against law firm justified
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
- filing of unredacted credit report is protected activity
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- litigation privilege applied to allegedly defamatory statements about husband that wife made in a declaration filed in a marital dissolution proceeding, regardless of the truth or falsity of those statements
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
- litigation privilege cannot be used to defend against claims of legal malpractice and breach of fiduciary duty arising from the filing of an application by an attorney, since the filing was not carried out in anticipation of litigation nor was it intended to instigate an official investigation into wrongdoing
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
- litigation privilege is inapplicable in an action by a former client against an attorney for breach of professional duties
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
- litigation privilege may apply to various types of truth-seeking proceedings, including administrative, legislative and other official proceedings, and may extend to communications made prior thereto or afterwards
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
- malicious prosecution is the only tort claim that falls outside the litigation privilege
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
- principal purpose underlying the litigation privilege
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]

LOAN

- Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
protected activities under anti-SLAPP statute are not coextensive with the range of statements protected by the litigation privilege
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]
settlement negotiations
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
underlying policy
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
Litigation privilege does not protect attorney's alleged fraudulent statements about insurance coverage
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
Litigation privilege versus strategic lawsuits against public participation (SLAPP) action
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
Public official's authority with respect to initiating LA(l) 1974-3
Specially appearing attorney undertakes a limited association with the litigant's attorney of record, forms an attorney-client relationship with the litigant, and owes the litigant a duty of care
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- LOAN** [See Conflict of Interest, Adverse Interest.]
Rule 4-210, Rule of Professional Conduct (operative as of May 27, 1989)
Security for
assignment in client's interest in estate
LA 228 (1955)
- MAIL** [See Advertising, Solicitation.]
- MALICIOUS PROSECUTION** [See Abuse of process.]
Administrative proceeding
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
Advice of counsel, bar to
Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063
Against attorney
Lucero v. Stewart (9th Cir. 1989) 892 F.2d 52
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]
Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Hall v. Harker (1999) 69 Cal.App.4th 836
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
Tool Research & Engineering Corp. v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
associated ("standby") counsel may be held liable for malicious prosecution of a case that lacks probable cause
Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
sanction
-against defendant attorney improper
--dissolve protective order limiting use of financial information to lawsuit
Richards v. Superior Court (1978) 86 Cal.App.3d 265 [150 Cal.Rptr. 77]
unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit
Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
Against disciplinary complainant not permissible as public policy
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
Anti-SLAPP
malicious prosecution action subject to Anti-SLAPP statutes
Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]
Reyes v. Kruger (2020) 55 Cal.App.5th 58 [269 Cal.Rptr.3d 549]
Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]
Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]
S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]
Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]
Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]
Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]
motion granted on the basis that there was no evidence that attorneys harbored malice in pursuing the underlying action
Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]
scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]
Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]
Associate attorney may also be held liable for malicious prosecution following a principal attorney's instructions is not a valid defense
Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Attorney may be held liable for continued prosecution of a case that lacks probable cause

Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]

By attorney

against former client

-dismissal of cross-complaint or counter claim by client in action to recover attorneys' fees

Minasian v. Sappe (1978) 80 Cal.App.3d 823 [145 Cal.Rptr. 829]

-effect of voluntary dismissal of underlying case

Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]

filing complaint for punitive damages

-where prohibited by statute

Umansky v. Urquhart (1978) 84 Cal.App.3d 368 [148 Cal.Rptr. 547]

Younger v. Solomon (1974) 38 Cal.App.3d 289 [113 Cal.Rptr. 113]

unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit

Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]

By law firm

law firm liable for malicious prosecution based on acts of principal

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Gerard v. Ross (1988) 204 Cal.App.3d 968 [251 Cal.Rptr. 604]

Continuance of action by firm

grounds for partner's liability

Lujan v. Gordon (1977) 70 Cal.App.3d 260 [138 Cal.Rptr. 654]

Distinguished from abuse of process

Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc. (1986) 42 Cal.3d 1157 [232 Cal.Rptr. 567]

S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]

JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]

Elements of

Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863 [254 Cal.Rptr. 336]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]

County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]

Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]

Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]

Citi-Wide Preferred Couriers, Inc. v. Golden Eagle Insurance Corp. (2003) 114 Cal.App.4th 906 [8 Cal.Rptr.3d 199]

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]

Bixler v. Goudling (1996) 45 Cal.App.4th 1179 [53 Cal.Rptr.2d 246]

Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461 [242 Cal.Rptr. 562]

Pond v. Insurance Co. of North America (1984) 151 Cal.App.3d 280, 288-289 [198 Cal.Rptr. 517]

inferring malice from lack of probable cause

Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461

Fees

court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous

Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299

Inadequate investigation of medical malpractice claim by attorney

dismissal of medical malpractice claim for failure to prosecute gave rise to

Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]

mere reliance on client's description

Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]

In-depth investigation by attorney negates malicious prosecution for defamation action

Walsh v. Bronson (1988) 200 Cal.App.3d 259 [245 Cal.Rptr. 888]

Judgment reversed

Hall v. Harker (1999) 69 Cal.App.4th 836

Premature where cross-complaint pending in underlying action

Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]

Probable cause element

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]

Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]

Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]

attorney evaluating whether to file a case may generally rely on information provided by the attorney's client

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

client provided information

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

each claim advanced must be supported by

Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]

pleading on "on information and belief" not a shield from liability

Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]

test is whether reasonable attorney would have thought the claim objectively tenable

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

MALPRACTICE

Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

Puryear v. Golden Bear Insurance Co. (1998) 66 Cal.App.4th 1188 [78 Cal.Rptr.2d 507]

Public entities are barred from bringing malicious prosecution suits but may recover costs defending against frivolous suits under CCP § 1038

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

Requires favorable termination reflecting the merits of the underlying action

JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]

Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]

Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 484 [197 Cal.Rptr. 768]

dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination

Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]

may occur at appellate level

Ray, as Receiver v. First Federal Bank of California (1998) 61 Cal.App.4th 315 [71 Cal.Rptr.2d 436]

not shown where cross-complaint pending in underlying action

Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]

Sanctions

Winick v. County of Sanitation District No. 2 of Los Angeles County (1986) 185 Cal.App.3d 1170, 1176 [230 Cal.Rptr. 289]

dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination element

Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]

issues resolved on routine sanction motion not entitled to collateral estoppel preclusive effect in later action for malicious prosecution

Wright v. Ripley (1998) 65 Cal.App.4th 1189 [77 Cal.Rptr.2d 334]

Statute of limitations

actions against attorneys, under CCP 340.6

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

-governs malicious prosecution claims against attorneys who perform professional services in the underlying litigation

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

MALPRACTICE [See Neglect. Professional liability.]

Action against public entity under California Tort Claims Act (Government Code section 900 et seq.)

failure to file late claim within one year after accrual of cause of action

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Action brought by criminal defendant against former counsel for billing improprieties is not necessarily a claim of legal malpractice

Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

Acts constituting

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]

Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]

Barner v. Leeds (1998) 62 Cal.App.4th 1240 [73 Cal.Rptr.2d 296]

Kurinj v. Hanna and Morton (1997) 55 Cal.App.4th 853 [64 Cal.Rptr.2d 324]

*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

Tchorbadjian v. Western Home Insurance Co. (1995) 39 Cal.App.4th 1211 [46 Cal.Rptr.2d 370]

Thompson v. Halvonik (1995) 36 Cal.App.4th 657 [43 Cal.Rptr.2d 142]

Thomas v. Lusk, Jr. (1994) 27 Cal.App.4th 1709 [34 Cal.Rptr.2d 265]

Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 1]

Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]

Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]

Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]

Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]

- breach of a professional duty, which causes only nominal damages, speculative harm, or the threat of future harm that is not yet realized, does not serve to create a cause of action for professional negligence
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
- client must prove causation in transcational matters
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
- to third parties
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Schick v. Bach, et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
- Acts of privately retained counsel and publicly appointed counsel should be measured by the same standard of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
- Agreement to limit professional liability
CAL 2009-178, LA 489 (1997)
- Anti-SLAPP
 actions based on breach of duties owed to clients are not SLAPP suits
Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]
- definitional focus of this statute is not the form of the plaintiff's cause of action; rather, it is the defendant's activity that gives rise to his or her asserted liability and whether that activity constitutes protected speech or petitioning
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
- litigation tactics protected under Anti-SLAPP statute
Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
- malpractice claims involve breach of duty by neglecting to do an act or doing an act, not the right of petition; therefore, malpractice claim may not be struck under the anti-SLAPP statute
Chodos v. Cole (2012) 210 Cal.App.4th 692 [148 Cal.Rptr.3d 451]
- statute not applicable to malpractice claim based on attorney's breach of loyalty
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
Loanvest v. Utrecht (2015) 235 Cal.App.4th 496 [1858 Cal.Rptr.3d 385]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Kolar v. Donahue, McIntosh & Hammerton (2006) 145 Cal.App.4th 1532 [52 Cal.Rptr.3d 712]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
- statute not applicable to malpractice claim based on attorney's breach of professional duties in a non-litigation setting
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
- Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
CAL 1989-116
 LA 489 (1997)
- arbitrator's decision to dismiss legal malpractice case due to plaintiff's inability to pay should have allowed case to proceed in federal court
Tillman v. Tillman, Rheingoldm Valet, Rheingold, Shkolnik & McCartney (9th Cir. 2016) 825 F.3d 1069
- no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Mt. Holyoke Homes, L.P. v. Jeffer Mangels Butler & Mitchell, LLP (2013) 219 Cal.App.4th 1299 [162 Cal.Rptr.3d 597]
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
- Assignability
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
- bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
- exception to the California rule barring the assignment for the cause of action for legal malpractice
White Mountains Reinsurance Company of America v. Borton Petri, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]
- shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- Attorney self-interest does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
- Attorney sued by former client for legal malpractice may not cross-complain against plaintiff's present attorney for indemnity or contribution
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
Austin v. Superior Court (1999) 72 Cal.App.4th 1126 [85 Cal.Rptr.2d 644]
- Attorney sued by former corporate client for malpractice is not entitled to receive costs of defense pursuant to Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
- Breach of fiduciary duty, failure to advise of conflict, failure to advise that an investment was inappropriate for client or refer to independent advisor, obtaining undisclosed profit from transaction
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
- Burden of proof
Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
- attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

MALPRACTICE

- client must prove causation in transactional matters
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
- error on trial court for failing to instruct jury on issue of severability in legal malpractice case
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
- plaintiff failed to prove that any judgment she might have obtained in her “case within a case” would have been collectible
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
- plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
- By partner
associate’s duty to disclose to client
LA 383 (1979)
- Calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- “Case within a case” methodology must be used when legal malpractice involves negligence in the prosecution or defense of a legal claim
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]
- Class action
standard of care to class action members
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- Co-counsel may not sue another for breach of fiduciary duty on theory that latter’s malpractice in handling their mutual client’s case reduced or eliminated the fees the former expected to realize from the case
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
- Collateral estoppel, effect of
client is prohibited from relitigating previously decided issues even if second suit raises different causes of action
Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]
- collateral estoppel doctrine bars plaintiff from relitigating the issue of whether her juvenile dependency attorneys caused the termination of her parental rights because causation is an essential element of a malpractice claim
Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]
- respondent’s action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
- “Comparative fault” where client’s own conduct contributed to her own harm
Yale v. Bowne, II (2017) 9 Cal.App.5th 649 [215 Cal.Rptr.3d 266]
- Criminal defendant must prove actual innocence in action for
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
- individual convicted of a criminal offense must obtain reversal of his or her conviction, or other exoneration by postconviction relief
Khodayari v. Mashburn (2011) 200 Cal.App.4th 1184 [132 Cal.Rptr.3d 903]
- legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence
Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]
- Dismissal of action may be a proper sanction where plaintiff allowed the entire file to be destroyed
Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]
- Duty of attorney
to client, not potential beneficiary
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
- Duty to advise client of prior attorney’s malpractice
no duty found
LA 390 (1981)
- Elements of
Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]
- criminal matter
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
- debt collection matter
Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]
- patent matter
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
- Emotional distress damages may not be recovered as a result of negligent legal malpractice
Camenisch v. Superior Court (1996) 44 Cal.App.4th 1689 [52 Cal.Rptr.2d 450]
- Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
Merenda v. Superior Court (1992) 3 Cal.App.4th 1
- Equitable defense
unclean hands
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]

- liquidating bankruptcy trustee's claims against company's lawyer relating to his alleged role in company's fraud barred by doctrine of in pari delicto
Uecker v. Zentil (2016) 244 Cal.App.4th 789 [198 Cal.Rptr.3d 620]
- Estate planning
liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304
- Exception to the California rule barring the assignment for the cause of action for legal malpractice
White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]
- Filing action not sufficient to preserve client's right to trial de novo after award of fees in mandatory fee arbitration
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041 [266 Cal.Rptr. 298]
- Firm liable for acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
- Firm not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
- Insufficient remedy
Community Dental Services v. Tani (2002) 282 F.3d 1164
- Insurance
attorney's deadline to report malpractice claim to insurance carrier quitably tolled
Root v. American Equity Specialty Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]
- firm's insurance doesn't cover attorney's alleged malpractice occurring outside conduct of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
- insurance carrier cannot bring malpractice action against attorney it did not retain to defend insured
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
- insurance company has right to bring malpractice action against the counsel it hired to defend its insured
Unigard Ins. Group v. O'Flaherty & Belqum (1997) 38 Cal.App.4th 1229
- insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
- owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm
Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]
- Jurisdiction of California federal court over Florida matter
Sher v. Johnson (9th Cir. 1990) 911 F.2d 1357
- Jurisdiction of California state court over malpractice case involving substantial question of federal law
Landmark Screens LLC v. Morgan, Lewis & Bockluis LLP (2010) 183 Cal.App.4th 238 [107 Cal.Rptr.3d 373]
- Jurisdiction of state court
state court subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
- Labor Code section 2802
attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
- Legal malpractice carrier does not cover attorney's alleged malpractice occurring outside of firm's business
Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]
- Legal malpractice carrier has no duty to defend malicious prosecution action arising from conspiracy suit by attorney acting on own behalf
Johnson v. First State Insurance Co. (1994) 27 Cal.App.4th 1079 [33 Cal.Rptr.2d 163]
- Legal malpractice carrier's liability for multiple claims which are not characterized as arising from a "single act"
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Company (1991) 233 Cal.App.3d 1184
- Legal malpractice defendant not entitled to discover terms of plaintiff's settlement with regards to mitigating damages with insurer
Norton v. Superior Court (1994) 24 Cal.App.4th 1750 [30 Cal.Rptr.2d 217]
- Legal negligence
plaintiff must prove "but for" alleged malpractice, the resulting contract would have been more favorable
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
- Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]
- plaintiff must prove "but for" alleged negligence, he would have obtained a more favorable result
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
- Limited Liability Partnership
owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm
Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]
- Malpractice actions tolled while attorney continues to represent client
Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
- Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
- Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
- Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
- Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
- Baright v. Willis (1984) 151 Cal.App.3d 303, 308 [198 Cal.Rptr. 510]
- Malpractice by itself does not prove violation of [rule 3-110\(A\)](#) of Rules of Professional Conduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Mediation
communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation
Wimsatt v. Superior Court (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]
- malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation
Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]
- Medical certification
Code of Civil Procedure sections 365, 411.30
- Medical or health care provider
Business and Professions Code sections 6146, 6147
Code of Civil Procedure section 364
Paxton v. Chapman General Hospital (1986) 186 Cal.App.3d 110 [230 Cal.Rptr. 355]

MALPRACTICE

- communication with physician of opposing party
SD 1983-9
- no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- represent
 - against former physician client
LA(l) 1965-5
 - statute of limitations tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one year statute
Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]
Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
- Meritless claims
 - no obligation to allege or advise a client on an unmeritorious claim
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
- Multiple errors by attorney do not support multiple claims against attorney when only single injury results
Bay Cities Paving & Grading v. Lawyers Mutual Insurance Co. (1993) 5 Cal.4th 854 [21 Cal.Rptr.2d 691]
- No action against attorney who is resigned as attorney of record prior to commission of alleged malpractice
Stuart v. Superior Court (1992) 14 Cal.App.4th 124 [18 Cal.Rptr.2d 142]
- No duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
- No triable issue of fact as to second attorney's assumption of responsibility for pending lawsuit during retained counselor's illness
Daniels v. DeSimone (1993) 13 Cal.App.4th 600 [16 Cal.Rptr.2d 615]
- Omission
McCann v. Welden (1984) 153 Cal.App.3d 814 [200 Cal.Rptr. 703]
 - by one member of law firm imputed to others when more than one attorney works on case
Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]
- Outside counsel
 - outside contractor attorney may be held liable to government agency for acts of self-dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
 - outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs of malpractice action brought by the corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- Outside union counsel immune under Labor Management Relations Act
Breda v. Scott (1993) 1 F.3d 908
- Probate cases
 - out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice
Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]
 - successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate
Stine v. Dell'Oso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]
- Professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
- Proximate cause
 - not shown when attorney's allegedly wrongful conduct is not a substantial factor
Kumaraperu v. Feldsted (2015) 237 Cal.App.4th 60 [187 Cal.Rptr.3d 583]
- Public defender not immune from legal malpractice under statute granting discretionary immunity to public employees
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
- Public defenders not independent contractors for purpose of a government tort claim
Briggs v. Lawrence (1991) 230 Cal.App.3d 605
- Public policy concerns barred first law firm from asserting indemnity claim against Cumis counsel with which it had concurrently represented company
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
- Public policy concerns do not bar concurrent counsel from seeking indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
- Punitive damages
 - in underlying lawsuit
Ferguson v. Lief, Cabraser, Heimann & Bernstein (2003) 30 Cal.4th 1037 [135 Cal.Rptr.2d 46]
Expansion Pointe Properties Limited Partnership v. Procopio (2007) 152 Cal.App.4th 42 [61 Cal.Rptr.3d 166]
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953
Jackson v. Johnson (1992) 5 Cal.App.4th 1350
- Right to jury trial
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
- Scope of expert testimony
Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Settlement
Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]
 - breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
 - client needs to show "significant difference" between what the settlement was and what could have been awarded at trial in order to prove damages
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
 - owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm
Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]
 - settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178
- Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]
- Signature of plaintiff's attorney omitted on complaint may not warrant dismissal of action with prejudice
Vaccaro v. Kaiman (1998) 63 Cal.App.4th 761 [73 Cal.Rptr.2d 829]

Special appearances

specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Spoilation of evidence

Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

Standard of care to class action members

counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure

Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]

Standing to sue

absent a direct attorney-client relationship, plaintiff & alleged beneficiary of a testamentary instrument may have no standing to bring malpractice against attorney-defendant

Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024

legal malpractice claim brought by individual members dismissed because attorney was court appointed to represent the unsecured creditors' committee not the individual members

Schultze v. Chandler (9th Cir. 2014) 765 F.3d 945

probate cases

-out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice

Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]

-successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate

Stine v. Dell'Ossso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]

respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action

Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]

successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borrisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

Statute of limitations

actions against attorneys, under CCP 340.6

Sharon v. Porter (2019) 41 Cal.App.5th 1 [253 Cal.Rptr.3d 840]

Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

-client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

-dismissal reversed to determine whether client's action against attorney arose from the performance of legal services

Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]

-time barred where it was filed more than a year after attorney filed motion to withdraw but within one year of court's granting such motion

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

application of where attorney performs both legal and non-legal services

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

barred legal malpractice claim brought more than one year after client retained other attorney to represent him in the same matter

Bennett v. McCall (1993) 19 Cal.App.4th 122

burden of proof

-for purposes of one-year-from-discovery limitation on commencing legal malpractice action, defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

California Tort Claims Act (Government Code section 900 et seq.)

-failure to file late claim with public entity within one year after accrual of cause of action

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

claims against former law firm not tolled based on continuous representation where client requested that its files be immediately delivered to replacement counsel, thereby consenting to firm's express withdrawal

GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

claims against attorney not tolled where attorney fails to act in a manner required for there to be a continuing attorney-client relationship

Shaoning City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

claims against former law firm not tolled when client continues to be represented in the same matter by the attorney who left the firm

Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]

claims against former law firm tolled when client not continually represented in the same matter

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

doctrine of "equitable tolling" applies to legal malpractice limitation period

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [247 Cal.Rptr. 296]

does not begin to run until client suffers actual harm

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]

Adams v. Paul (1995) 11 Cal.4th 583 [46 Cal.Rptr.2d 594]

Itt Small Business Finance Corp. v. Niles (1994) 9 Cal.4th 245 [36 Cal.Rptr.2d 552]

MALPRACTICE

- Laird v. Blacker (1994) 2 Cal.4th 606
- Shaoxing City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
- Shifren v. Spiro (2012) 206 Cal.App.4th 481 [141 Cal.Rptr.3d 764]
- Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
- Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
- Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
- Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
- Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
- Caballero v. Gibson, Dunn & Crutcher (1997) 54 Cal.App.4th 1457 [63 Cal.Rptr.2d 594]
- *Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
- Gailing v. Rose, Klein & Marias (1996) 43 Cal.App.4th 1570 [51 Cal.Rptr.2d 381]
- Fantazia v. County of Stanislaus (1996) 41 Cal.App.4th 1444 [49 Cal.Rptr.2d 177]
- *Pompilio v. Kosmo, Cho & Brown (1995) 39 Cal.App.4th 409 [46 Cal.Rptr.2d 409]
- Marshall v. Gibson, Dunn & Crutcher (1995) 37 Cal.App.4th 1397 [44 Cal.Rptr.2d 339]
- Levin v. Graham & James (1995) 37 Cal.App.4th 798 [44 Cal.Rptr.2d 69]
- Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 327]
- Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]
- Radovich v. Locke-Paddon (1995) 35 Cal.App.4th 946 [41 Cal.Rptr.2d 573]
- *McElroy v. Biddison (1995) 32 Cal.App.4th 1164 [38 Cal.Rptr.2d 804]
- Itt Small Business Finance Corp. v. Niles (1993) 19 Cal.App.4th 752
- Finlayson v. Sanbrook (1992) 10 Cal.App.4th 1436 [13 Cal.Rptr.2d 406]
- Laird v. Blacker (1991) 229 Cal.App.3d 159 [279 Cal.Rptr. 700]
- Johnson v. Haberman & Kasoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
- Robinson v. McGinn (1987) 195 Cal.App.3d
- criminal conviction constitutes appreciable harm or "actual injury"
- Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
- failure to file complaint
- Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
- firm's representation terminated when firm emailed client that it "must withdraw" as client's attorney, that its "attorney-client relationship with client is terminated forthwith," and that it "no longer represents client with regard to any matters."
- GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]
- legal negligence action
- began to run when client was first forced to take legal action to rectify prior attorney's error
- Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
- Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 896]
- Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]
- Adams v. Paul (1994) 26 Cal.App.4th 861 [31 Cal.Rptr.2d 846]
- loss of considerable settlement value constitutes actual injury
- Shaoxing City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
- loss or diminution of a right or remedy constitutes actual injury
- Shaoxing City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
- relation-back doctrine
- Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
- tolling of statute
- Code of Civil Procedure § 340.6
- Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]
- Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
- Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
- Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]
- Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]
- Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
- Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
- Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]
- Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]
- Shifren v. Spiro (2012) 206 Cal.App.4th 481 [141 Cal.Rptr.3d 764]
- Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
- Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
- Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
- Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
- Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
- Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
- Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
- Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
- Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
- Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
- *Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
- Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
- actual injury
- Callahan v. Gibson, Dunn & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]
- sustained at the time when client discovered the facts supporting her malpractice claim; client's legal malpractice lawsuit was filed more than one year after section 340.6's statute of limitation had commenced and was time-barred
- Sharon v. Porter (2019) 41 Cal.App.5th 1 [253 Cal.Rptr.3d 840]

- against former law firm
 - Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
- continuous representation tolling provision in Code of Civil Procedure section 340.6 tolls legal malpractice claims brought by successor trustees against attorneys who represented the predecessor trustee
 - Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]
- definition of "continuous representation" for purposes of
 - Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
 - Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
 - Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
 - Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
 - Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
 - Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
 - Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
- "equitable tolling" under CCP § 355 not applicable to CCP § 340.6 where plaintiff failed to file a timely action
 - Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
- not tolled by third-party litigation or attorney's later role as consultant
 - Foxborough v. Van Atta (1994) 26 Cal.App.4th 217 [31 Cal.Rptr.2d 525]
- "outside" statute of limitations for medical malpractice action not tolled by 90-day period for notice of intent to sue
 - Rewald v. San Pedro Peninsula Hospital (1994) 27 Cal.App.4th 480 [32 Cal.Rptr.2d 411]
- statute of limitations for legal malpractice action tolled while attorney still represents client on related matters, even if client knows of attorney's negligence
 - Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
 - Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
 - Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
- statute of limitations for malpractice claims against former firm not tolled when client continues to be represented in the same matter by the attorney who left the firm
 - Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
- tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission
 - Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
 - Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
 - Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
 - O'Neill v. Tichy (1993) 19 Cal.App.4th 114
- tolled if criminal malpractice claim is filed within one-year or four-year limitations period to plaintiff to timely pursue post-conviction remedies
 - Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
- tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one-year statute
 - Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
 - Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]
- unconditionally tolled while attorney represents client
 - Kulesa v. Castleberry (1996) 47 Cal.App.4th 103 [54 Cal.Rptr.2d 669]
- while attorney-defendant was absent from California
 - Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
- under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
 - Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
 - Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Successor trustee "stands in the shoes" of predecessor trustee and thus may assert legal malpractice claims against predecessor's attorney
 - Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]
- Third-party non-clients, liability to
 - Waggoner v. Snow, Becker, Kroll, Klaris and Kraus (1993) 991 F.2d 1501
 - Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
 - Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
 - Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
 - B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
 - Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
- attorney for corporation owes no duty of care to shareholders
 - Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- intended beneficiaries of a testamentary instrument
 - Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
- Transactional matters
 - client must prove causation
 - Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
 - Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
 - Trial court error can negotiate elements of legal malpractice claim
 - Kasem v. Dion-Kindem (2014) 230 Cal.App.4th 1395 [179 Cal.Rptr.3d 711]
 - Trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client
 - Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
 - Where attorney successfully defends a client and later represents plaintiff in malpractice action against plaintiff's attorney in the same matter
 - CAL 1993-133
- MILITARY PERSONNEL** [See Attorneys of governmental agencies.]
 - Deserter, whereabouts disclosed
 - LA(l) 1956-1
- MISAPPROPRIATION** [See Clients' trust account.]
- MISCONDUCT** [See Candor. Contempt of court. Corporations. Professional liability. Trial Conduct.]
 - Abandonment of client
 - In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 - in order to represent adverse interest
 - Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
 - Abdication of trust account responsibilities
 - In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

MISCONDUCT

Active steps to prejudice client's rights

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards, except as otherwise provided by statute

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Advocating overthrow of government by force, violence or other unconstitutional means

Business and Professions Code section 6106.1

Alcoholism

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Anti-SLAPP motion

does not cover acts of unjust enrichment, breach of California Civil Code section 2860(d) and concealment, because they are not acts in furtherance of attorney's right to petition or free speech

Travelers Casualty Insurance Co. of America v. Hirsch (9th Cir. 2016) 831 F.3d 1179

Appearance on own behalf as plaintiff

by disbarred or suspended attorney

-when action assigned subsequent to disbarment or suspension order

Business and Professions Code § 6130

Appearing without authority for client

Business and Professions Code section 6104

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr.267]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

"appearing" defined for purposes of Business and Professions code § 6104

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Assault with a firearm warrants suspension but because of extensive mitigation does not involve moral turpitude

*In the Matter of Burns (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406

Assault on client (premeditated) does not equal moral turpitude

In re Larkin (1989) 48 Cal.3d 236 [256 Cal.Rptr. 90]

Attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Attempting to prevent discovery

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

Attorney neglect

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

imputed to client

Luna v. Kernan (9th Cir. 2015) 784 F.3d 640

Eiston v. Turlock (1983) 148 Cal.App.3d 23 [195 Cal.Rptr. 618]

not necessarily binding on client

State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]

Attorney refused to dismiss defendants when he knew they were not involved—violation of Business and Professions Code section 6068(c)

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Breach of fiduciary duty

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

to non-client joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Bribe(s)

judge accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

payment to attorney for

United States v. Villalobos (9th Cir. 2014) 567 Fed.Appx. 541

Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]

Werner v. State Bar (1944) 24 Cal.2d 611 [150 P.2d 892]

Business transaction, improper

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Carrying a concealed weapon

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

Chose in action

purchase by attorney with intent to bring suit thereon

Business and Professions Code section 6129

Client reliance on attorney

County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]

Collateral order doctrine defined

Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136

Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]

Collusion

consent to, with intent to deceive court or party

-misdemeanor

Business and Professions Code section 6128(a)

Comments in court

Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]

Commingle

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Conspiracy

alleged by client against attorney and others

Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

conspiracy to commit offenses against the United States

In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

identity theft

In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

liability for tortious acts committed in concert with clients

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Hung v. Wang (1992) 8 Cal.App.4th 908

Wolfrich v. United Services Automobile Association (1983) 149 Cal.App.3d 1206

-attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal

Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]

waiver of procedural defense

Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

“Contumacious” motion for substitution
United States v. Lee (9th Cir. 1983) 720 F.2d 1049

Conviction, felony or misdemeanor, moral turpitude
 Business and Professions Code section 6101
 dismissal or acquittal of criminal charges does not bar
 disciplinary proceedings covering the same facts
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State
 Bar Ct. Rptr. 157

is basis for discipline, not a conviction
In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848,
 659 P.2d 1137]

Corruption
 whether or not in course of relations as attorney
 Business and Professions Code section 6106
 -while attorney served on jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal.
 State Bar Ct. Rptr. 141

Counsel’s basis for reversal of judgment in judicial proceeding
 report by clerk to State Bar
 Business and Professions Code section 6086.7

Court
 appearing in court while intoxicated
Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr.
 803]

dishonesty to
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State
 Bar Ct. Rptr. 141
In the Matter of Regan (Review Dept. 2005) 4 Cal. State
 Bar Ct. Rptr. 844
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal.
 State Bar Ct. Rptr. 179

duty not to mislead
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
In the Matter of Chestnut (Review Dept. 2000) 4 Cal.
 State Bar Ct. Rptr. 166

improper contact with juror
In re Possino (1984) 37 Cal.3d 163, 170 [207 Cal.Rptr.
 543, 689 P.2d 115]

Court order
 violation
 Business and Professions Code section 6103
In re Ringgold (2006) 142 Cal.App.4th 1001 [48
 Cal.Rptr.3d 507]
In the Matter of Rubin (Review Dept. 2021) 5 Cal.
 State Bar Ct. Rptr. 797

Criminal conviction
 summary disbarment for attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d
 409, 17 P.3d 764]

summary disbarment for forgery
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d
 402, 17 P.3d 758]

Deceit
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar
 Ct. Rptr. 141
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 126
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 112
 consent to, with intent to deceive court or party
 -misdemeanor
 Business and Professions Code section 6128(a)

Decorum in courtroom
People v. Rainey (1964) 224 Cal.App.2d 93, 94-98 [36
 Cal.Rptr. 291]

Deception and concealment amounting to moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 195

making misrepresentation to judge while attorney served on
 a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State
 Bar Ct. Rptr. 141

Default judgment
 failure to take action to set aside
Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr.
 161, 396 P.2d 577]
Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31
 Cal.Rptr. 329, 382 P.2d 396]
Cheleden v. State Bar (1942) 20 Cal.2d 133 [124 P.2d 1]

improperly obtaining
Grove v. State Bar (1965) 63 Cal.2d 312, 314 [46
 Cal.Rptr. 513, 405 P.2d 553]

permitting without client’s authority
Monroe v. State Bar (1961) 55 Cal.2d 145, 150 [10
 Cal.Rptr. 257, 356 P.2d 529]

Defense in criminal action aiding, promoting, or advising where
 partner is district attorney or public prosecutor
 Business and Professions Code section 6131(a)

Delay
 client’s suit
 -with view to attorney’s gain
 --misdemeanor
 Business and Professions Code section 6128(b)

“Dirty tricks” disrupting political campaign in acts unrelated to
 attorney’s practice of law
Segretti v. State Bar (1976) 15 Cal.3d 878 [126 Cal.Rptr.
 793]

Disbarred attorney
 appearing as plaintiff on own behalf where action assigned
 to attorney subsequent to disbarment order
 Business and Professions Code section 6130
 disbarment by state court is entitled to high respect but it is
 not conclusively binding on federal court, and disbarment
 by federal court does not automatically flow from
 disbarment by state court
Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]
 judge disbarred in California after disbarment in Michigan
In the Matter of Jenkins (Review Dept. 2000) 4 Cal.
 State Bar Ct. Rptr. 157

Dishonesty
 borrowing money without intent to repay it
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 231

judge systemically and routinely sold his office and his public
 trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State
 Bar Ct. Rptr. 157

to adverse party’s lawyer
Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 269
CAL 2015-194

to client
Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257
 Cal.Rptr. 696]
Rossman v. State Bar (1985) 39 Cal.3d 539 [216
 Cal.Rptr. 919, 703 P.2d 390]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 315
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State
 Bar Ct. Rptr. 195

to court
In the Matter of Field (Review Dept. 2010) 5 Cal. State
 Bar Ct. Rptr. 171
In the Matter of Regan (Review Dept. 2005) 4 Cal. State
 Bar Ct. Rptr. 844

MISCONDUCT

- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- filing false documents under penalty of perjury
- Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- making misrepresentation to judge while attorney served on a jury
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- whether or not in course of relations as attorney
- Business and Professions Code section 6106
- Disregard for obligations to the legal profession and to clients
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- District attorney
- advises, takes part in, or receives valuable consideration in criminal defense
- where prosecuted action
- Business and Professions Code section 6131(b)
- Driving under influence of alcohol, conviction for
- In re Carr (1988) 46 Cal.3d 1089
- In the Matter of Herich (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820
- In the Matter of Respondent I (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 260
- In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
- In the Matter of Anderson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39
- significant professional discipline may be imposed for multiple misdemeanor convictions of driving under the influence
- In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402
- Drunkenness in public
- In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
- Duties of attorney, violation of
- Business and Professions Code sections 6068, 6103
- Duty to report violation of Rules of Professional Conduct and/or related statutes
- SD 1992-2, LA 440 (1986)
- Evidence of debt
- purchase by attorney with intent to bring suit thereon
- Business and Professions Code section 6129
- Ex parte communication with judge
- judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
- Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Extortion
- attorney attempts to receive money from opposing party in return for client's favorable testimony in criminal investigation is extortion
- United States v. Villalobos (9th Cir. 2014) 567 Fed.Appx. 541
- Failure to appear in a probation violation proceeding
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Failure to communicate with client
- Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
- Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]
- Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]
- Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
- Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]
- Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]
- Ballard v. State Bar (1983) 35 Cal.3d 274 [197 Cal.Rptr. 556]
- Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
- In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
- Failure to comply with the conditions of reproof and no response to Notice of Disciplinary Charges violation of rule 1-110
- In the Matter of Carver (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348
- Failure to cooperate in disciplinary investigation
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Failure to cooperate with first appointed attorney
- Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236
- Failure to fulfill statutory duties as a juror
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- Failure to keep the State Bar advised of current address
- In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Failure to maintain respect due to courts
- Hogan v. State Bar (1951) 36 Cal.2d 807, 808 [228 P.2d 554]
- Bigler-Engler v. Breg, Inc. (2017) 7 Cal.App.5th 276 [213 Cal.Rptr.3d 82]
- Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
- Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
- People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Failure to preserve confidences and secrets
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to properly prevent direct contact with represented parties by correspondence of employees
- Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
- Failure to redact opposing party's personal information
- G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- Failure to release client funds
- Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

- Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to return client file
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Failure to return unearned fees
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071 [782 P.2d 680]
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Twohy v. State Bar (1989) 48 Cal.3d 502
Ballard v. State Bar (1983) 35 Cal.3d 274
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
- loan modification services
 -failure to make full refund to clients
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- Failure to supervise non-attorney employee
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to withdraw where required
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- False or fraudulent insurance claim
 preparation of writing to be used in support of
 Business and Professions Code section 6106.5(b)
 presentation of
 Business and Professions Code section 6106.5(a)
- False or fraudulent statements in banking transactions
In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765
- False statement to a police officer
Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 789, 789 P.2d 922]
- False testimony by attorney before a grand jury
 perjury
Montag v. State Bar (1982) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]
- Fee split with non-lawyer
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Felony involving moral turpitude
 Business and Professions Code section 6101
- Forgery
 no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- settlement documents
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- summary disbarment
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
- sureties
 -forging names of
Utz v. State Bar (1942) 21 Cal.2d 100, 102 [130 P.2d 377]
- Frivolous appeal
Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- solely for delay
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Frivolous filing in bankruptcy matter
Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886
- Gifts and favors from litigants and counsel
 judge improperly accepted
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Grand theft
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
In re Doe (1978) 20 Cal.3d 550 [143 Cal.Rptr. 253]
- Gross carelessness and negligence constitutes a violation of an attorney's oath
Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]
 appearing for party without authority
 Business and Professions Code section 6104
- Holding out as specialist
Rule 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
- Ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Illegal drug transactions
In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]
 attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1
- Inadequate supervision of associate by attorney
 duty to supervise
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

MISCONDUCT

Incompetent representation

appellant's briefs generally lacked cogent legal argument, legal authority, and proper citations, and sufficient evidence supported the judgment and order of dismissal based on joint misconduct by attorney and client

United Grand Corp. v. Malibu Hillbillies, LLC (2019) 36 Cal.App.5th 142 [248 Cal.Rptr.3d 294]

basis for reversal of judgment in judicial proceeding

--report by clerk to State Bar

Business and Professions Code section 6086.7

Intimidation of witness

In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]

Issuing checks with insufficient funds in account

Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]

Alkow v. State Bar (1952) 38 Cal.2d 257 [92 Cal.Rptr. 278]

In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

CAL 2005-169

overdraft protection

CAL 2005-169

Knowledge of Rules of Professional Conduct is not an element of offense of misconduct

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]

Lending name to non-attorney to be used as attorney

Business and Professions Code section 6105

Loan modification services

In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437

collecting pre-performance fees in violation of the law

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

Medical marijuana

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

CAL 2020-202, LA 527, SF 2015-1

Minors involved in illicit conduct as a result of attorney's activities

In re Duggan (1976) 17 Cal.3d 416 [130 Cal.Rptr. 715]

In re Plotner (1971) 5 Cal.3d 714 [97 Cal.Rptr. 193]

In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552

Misappropriation of client funds

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Misappropriation of law partnership funds

Kaplan v. State Bar (1991) 52 Cal.3d 1067 [804 P.2d 720]

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Misappropriation of non-client funds

In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728

Misdemeanor

advertising or holding out as entitled to practice law following disbarment or during suspension

Business and Professions Code section 6126

collusion or consent to collusion with intent to deceive court or party

Business and Professions Code section 6128(a)

deceit or intent to deceive any court or party

Business and Professions Code section 6128(a)

defense in criminal action

-advising, aiding, or promoting when partner is district attorney or public prosecutor

Business and Professions Code section 6131(a)

delay of client's suit for attorney's own gain

Business and Professions Code section 6128(b)

failure to obtain court approval before release of copies of child pornography

Penal Code 1054.10

failure to obtain court approval before release of victim or witness information

Penal Code 1054.2

for district attorney or public prosecutor to advise, take part in or receive valuable consideration in criminal defense

-where prosecuted action

Business and Professions Code section 6131(b)

purchase or interest in evidence of debt or thing in action, with intent to bring suit thereon

Business and Professions Code section 6129

receive funds for which attorney not laid out or become answerable for

Business and Professions Code section 6128(c)

Misdemeanor child endangerment conviction

In the Matter of Jensen (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283

Misdemeanor involving moral turpitude

Business and Professions Code section 6101

Misrepresentation

concealing terms of an insurance policy during settlement negotiation

Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]

of counsel

-basis for reversal of judgment in judicial proceeding

--report by clerk to State Bar

Business and Professions Code section 6086.7

settlement negotiations

CAL 2015-194

to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

Misrepresentation by suppressing exculpatory evidence

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

Misrepresentation made to other side regarding insurance coverage

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

Moral turpitude [See Moral Turpitude.]

act involving

-whether or not in course of relations as attorney

Business and Professions Code section 6106

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

--misrepresentation to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

- criminal conduct not committed in the practice of law or against a client
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
- dishonesty
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- felony involving
 Business and Professions Code sections 6101, 6106
Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
- honest and reasonable belief, though mistaken, precludes a finding of moral turpitude
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- misdemeanor involving
 Business and Professions Code sections 6101, 6106
- serious sexual offenses
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
- Negligent legal representation by itself does not prove misconduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Noerr-Pennington immunity defined
Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136
- Oath of attorney, violation of
 Business and Professions Code sections 6067, 6103
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Obstruction of justice
 attorney has right to argue ethical obligations establish a bona fide legal representation defense
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084
- Offensive and contemptuous conduct by attorney in court
Bigler-Engler v. Breg, Inc. (2017) 7 Cal.App.5th 276 [213 Cal.Rptr.3d 82]
Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Offensive personality
 Business and Professions Code section 6068(f)
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Outside contractor attorney may be held liable to government agency for acts of self-dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
- Partnership
 with non-lawyer
 LA 510 (2003)
- prohibited if partnership activities constitute practice of law
 Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-310, Rules of Professional Conduct (operative as of May 27, 1989)
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Pattern of misconduct
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- Perjury
 judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Prejudicial intimations may not amount to the advancement of prejudicial facts
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Prejudicial statements during closing argument
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
Jackson v. Park (2021) 66 Cal.App.5th 1196 [281 Cal.Rptr.3d 634]
Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]
- Presentation of false or fraudulent insurance claims
 Business and Professions Code section 6106.5(a)
- Prior to admission to the State Bar
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483
In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
- Pro bono client, ignoring
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Pro hac vice attorney
 attorney disciplined for misrepresentation on pro hac vice application regarding residency
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]
 attorney not entitled to fees for work done prior to admission pro hac vice
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
 attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
 censure for failure to follow local court rules
United States v. Summet (9th Cir. 1988) 862 F.2d 784
 court cannot sanction pro hac vice attorney for bad faith misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 court may, in its discretion, revoke status of pro hac vice attorney for bad faith misconduct; it cannot impose monetary sanctions unless authorized by statute
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
- residency requirement
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]

MISCONDUCT

Public employees

attorney employee investigated for misconduct can be compelled, under threat of job discipline, to answer questions regarding his job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

Public prosecutor

advises, takes part in or receives valuable consideration in criminal defense

-where acted as prosecutor in matter

Business and Professions Code section 6131(b)

Purchase, with intent to bring suit

chose in action

Business and Professions Code section 6129

evidence of debt

Business and Professions Code section 6129

Receipt of funds

on account for which not laid out or become answerable for

-misconduct

Business and Professions Code section 6128(c)

Reckless misstatements of fact and law coupled with an improper purpose

Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

Recording a conversation (Penal Code section 632)

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

applicability to city attorney while prosecuting misdemeanor cases (Penal Code section 633)

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

telephone

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

CAL 1966-5, LA 272 (1962), LA 182 (1951)

Repeated violations of Rules of Professional Conduct

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]

Report of immigration status

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

Retaliation

employee may proceed with retaliation action against employer's attorney for discriminating against an employee filing a complaint under the Fair Labor Standard Act (FLSA)

Arias v. Raimondo (9th Cir. 2017) 860 F.3d 1185

Reversal of judgment

based upon counsel's

-mandatory report by clerk to State Bar

Business and Professions Code section 6086.7

Sanctions

Code of Civil Procedure section 128.5

Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]

Settling a case without authority

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Suspended attorney

appearing as plaintiff on own behalf where action assigned to attorney subsequent to order of suspension

Business and Professions Code section 6130

Terminating sanctions imposed for repeated violation of the court's order

Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

Threat to report immigration status

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

Unauthorized access to opposing party's data

LA 531 (2019)

Unauthorized representation

Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]

Violating five separate court orders warranted suspension

In the Matter of Collins (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 551

Violence against spouse and others

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67

Willful failure of suspended attorney to comply with California Rule of Court 9.20

Lydon v. State Bar (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]

In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783

In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646

Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287

In the Matter of Rose (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192

In the Matter of Snyder (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593

In the Matter of Friedman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527

In the Matter of Rodriguez (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480

In the Matter of Grueneicha (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439

does not require bad faith or knowledge of provision violated

Powers v. State Bar (1988) 44 Cal.3d 337 [748 P.2d 324]

Hamilton v. State Bar (1979) 23 Cal.3d 868 [153 Cal.Rptr. 602]

non-compliance with rule 9.20(c), Rules of Court

In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738

Willful failure to file tax return

absent finding of moral turpitude

In re Morales (1983) 35 Cal.3d 1

In re Rohan (1978) 21 Cal.3d 195 [145 Cal.Rptr. 855, 578 P.2d 102]

In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942

+In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 246

In re Michael Brown (1995) 12 Cal.4th 205

concealing personal funds improperly maintained in a client trust account

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Willful failure to perform and communicate

Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]

Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]

Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]

Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]

Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]

Kent v. State Bar (1987) 43 Cal.3d 729 [239 Cal.Rptr. 77]

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]
Smith v. State Bar (1985) 38 Cal.3d 525, 537-538 [213 Cal.Rptr. 236]
Trousil v. State Bar (1985) 38 Cal.3d 337, 340-341 [211 Cal.Rptr. 525]
Smith v. State Bar (1984) 37 Cal.3d 17 [206 Cal.Rptr. 545]
Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
 Willful violation of court order
Nilsson v. Louisiana Hydrolec (9th Cir. 1988) 854 F.2d 1538
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 Willful violation of oath and duties as attorney
 failure to notify client of change of address, telephone number
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
 practicing law while suspended
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
 tendering checks without sufficient funds
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
 Willful violation of oath and duties of attorney in court of law
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 Willful violation of Rules of Professional Conduct
 established by showing attorney acted or omitted to act purposefully
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
 Writ of habeas corpus
 judge granted without adequate information to help a friend
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

MODEL CODE OF PROFESSIONAL RESPONSIBILITY [See American Bar Association Model Code of Professional Responsibility.]

MORAL TURPITUDE

Business and Professions Code section 6106

Abandonment of clients' interest

Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Walker v. State Bar (1989) 49 Cal.3d 1107 [783 P.2d 184]
Phillips v. State Bar (1989) 49 Cal.3d 944 [782 P.2d 587]
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Baker v. State Bar (1989) 49 Cal.3d 804 [781 P.2d 1344]
Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]

Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Hunnicuttt v. State Bar (1988) 44 Cal.3d 362 [748 P.2d 1161]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Stuart v. State Bar (1985) 40 Cal.3d 838, 842-843 [221 Cal.Rptr. 557]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 162-163 [154 Cal.Rptr. 752, 593 P.2d 613]
Hansen v. State Bar (1978) 23 Cal.3d 68, 70 [151 Cal.Rptr. 343, 587 P.2d 1156]
Wells v. State Bar (1978) 20 Cal.3d 708, 714 [144 Cal.Rptr. 133, 575 P.2d 285]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 refusal of defense counsel to pursue client's desire to withdraw guilty plea not abandonment when done for ethical reasons
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
 Abortion, procuring
In re Plotner (1971) 5 Cal.3d 714, 726-727 [97 Cal.Rptr. 193, 488 P.2d 385]
 Acceptance of employment adverse to a former client
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]
 Accepting a bribe
In re Bar Association of San Francisco (1921) 185 Cal. 621, 636 [dismissal] [198 P.7]
 Accepting fees during suspension
In the Matter of Gonzalez (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632
 Accepting fees without performing work [See Fees.]
Alkow v. State Bar (1971) 3 Cal.3d 924, 934-935 [92 Cal.Rptr. 278]
 Advancing untrue facts prejudicial to opposing party
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 Adverse interests
Lee v. State Bar (1970) 2 Cal.3d 927, 941 [88 Cal.Rptr. 361]
 acquisition of
Marlowe v. State Bar (1965) 63 Cal.2d 304, 308-309 [46 Cal.Rptr. 3226, 405 P.2d 150]
 Advertising [See Advertising and Solicitation of Business.]
 Alcoholism
In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
In the Matter of Herich (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820
 Allowing non-attorney to sign up clients
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 Alteration of evidence presented in a criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 541, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
 Alteration of name of grantee on deed
Hinds v. State Bar (1941) 19 Cal.2d 87, 89-93 [119 P.2d 134]
 Altering will so as to be admitted to probate
Bar Association of San Francisco v. DeVall (1922) 59 Cal.App. 230 [210 P. 279]
 Assignment of chose in action for legal malpractice
Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]
 Attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
 Attempt to extort money
Barton v. State Bar (1935) 2 Cal.2d 294
 Attempt to receive stolen property
In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]
 Attorney's attempt to kill former client equals moral turpitude
In re Mostman (1989) 47 Cal.3d 725 [254 Cal.Rptr. 286]

MORAL TURPITUDE

- Attorney's name, allowing lay employee to use
McGregor v. State Bar (1944) 24 Cal.2d 283, 288-289 [148 P.2d 865]
- Bar examination
taking Bar examination for another
In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
- Borrowing money without intent to repay it
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Breach of fiduciary duty
Fall v. State Bar (1944) 25 Cal.2d 149, 159 [153 P.2d 1]
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
OC 2011-02
- Bribery
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 106]
In re Hanley (1975) 13 Cal.3d 445, 451 [119 Cal.Rptr. 5, 530 P.2d 1381]
Toll v. State Bar (1974) 12 Cal.3d 824, 826-830 [117 Cal.Rptr. 427, 528 P.2d 35]
Skelly v. State Bar (1973) 9 Cal.3d 502 [dismissal] [108 Cal.Rptr. 6, 509 P.2d 950]
Werner v. State Bar (1944) 24 Cal.2d 611, 616-618 [150 P.2d 892]
judge accepted
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Burglary
In re Hurwitz (1976) 17 Cal.3d 562, 567-568 [131 Cal.Rptr. 402, 551 P.2d 1234]
- Charging and accepting exorbitant fee
Goldstone v. State Bar (1931) 214 Cal. 490, 496-497 [6 P.2d 513]
- Checks issued with insufficient funds in client trust account
Read v. State Bar (1991) 53 Cal.3d 394, modified at 53 Cal.3d 1009
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
CAL 2005-169
overdraft protection
CAL 2005-169
- Commingling funds
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 79 [141 Cal.Rptr. 169, 569 P.2d 763]
Bernstein v. State Bar (1972) 6 Cal.3d 909, 916-917 [101 Cal.Rptr. 369]
Clark v. State Bar (1952) 39 Cal.2d 161, 166, 168 [246 P.2d 1]
Pearlin v. State Bar (1941) 18 Cal.2d 682 [117 P.2d 341]
Bar Association of San Francisco v. Cantrell (1920) 49 Cal.App. 468, 471-472 [193 P. 598]
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- Concealing material information
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Concealment of material facts from client
Barreiro v. State Bar (1970) 2 Cal.3d 912 [88 Cal.Rptr. 192]
Clancy v. State Bar (1969) 71 Cal.2d 140, 148 [77 Cal.Rptr. 657, 454 P.2d 329]
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- Confidential settlement disclosed
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- Conspiracy to defraud United States
In re Crooks (1990) 51 Cal.3d 1090 [800 P.2d 898]
In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
- Conspiracy to obstruct justice
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
- Contributory negligence of client
Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]
- Conversion of client trust account funds
Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
- Converting estate funds
Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr. 803]
- Conviction
conspiracy to distribute cocaine
In re Meacham (1988) 47 Cal.3d 510 [253 Cal.Rptr. 572]
conspiracy to structure currency transactions to evade federal currency reporting requirements
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
crimes inherently involving moral turpitude versus those where an element of the crime is moral turpitude
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
crimes involving moral turpitude
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
In re Aquino (1989) 49 Cal.3d 1122 [783 P.2d 192]
In re Rivas (1989) 49 Cal.3d 794 [781 P.2d 946]
In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
In re Young (1989) 49 Cal.3d 257
In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
In re Meacham (1988) 47 Cal.3d 510 [253 Cal.Rptr. 572]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
In re Nadrich (1988) 44 Cal.3d 271 [243 Cal.Rptr. 218, 747 P.2d 1146]
In re Bloom (1987) 44 Cal.3d 128 [241 Cal.Rptr.726]
In re Chira (1986) 42 Cal.3d 904 [727 P.2d 753]
In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 106]
In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]
In re Strick (1983) 34 Cal.3d 891 [238 Cal.Rptr 397]
In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
In re Arnoff (1978) 22 Cal.3d 740, 743 [150 Cal.Rptr. 479, 586 P.2d 960]
In re Hurwitz (1976) 17 Cal.3d 562 [131 Cal.Rptr. 402, 551 P.2d 1234]
In re Duggan (1976) 17 Cal.3d 416 [130 Cal.Rptr. 715, 551 P.2d 19]
In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713
In the Matter of Wenzel (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 380
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942

- In the Matter of Segal (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
- In the Matter of Distefano (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 668
- In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
- In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552
- In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
- felony convictions
- Business and Professions Code section 6102(c)
- In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
- In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]
- crimes not per se involving moral turpitude
- In re Strick (1987) 43 Cal.3d 644 [238 Cal.Rptr. 397]
- In the Matter of Caplin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 768
- In the Matter of Jensen (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283
- In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
- In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61
- driving under influence of alcohol, conviction for
- In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
- In re Carr (1988) 46 Cal.3d 1089
- In the Matter of Herich (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820
- In the Matter of Respondent I (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 260
- In the Matter of Anderson (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208
- In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108
- In the Matter of Anderson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39
- dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- felony vehicular manslaughter while driving under the influence of prescription drugs
- In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536
- for failure to pay federal marijuana transfer tax
- In re Higbie (1972) 6 Cal.3d 562, 572-573 [99 Cal.Rptr. 865]
- need not be in California
- People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
- Court
- duty not to mislead
- In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Credit card abuse
- In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
- Criminal proceedings
- Best v. State Bar (1962) 57 Cal.2d 633, 638 [21 Cal.Rptr. 589, 371 P.2d 325]
- Deceit to State Bar
- Borré v. State Bar (1991) 52 Cal.3d 1047
- Chang v. State Bar (1989) 49 Cal.3d 114
- Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- In the Matter of Mitchell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332
- Deception, acts of
- Business and Professions Code section 6106
- Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
- In re Aquino (1989) 49 Cal.3d 1122
- Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
- Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- Baker v. State Bar (1989) 49 Cal.3d 804
- Chang v. State Bar (1989) 49 Cal.3d 114
- Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
- Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
- Segretti v. State Bar (1976) 15 Cal.3d 878, 888 [126 Cal.Rptr. 793]
- In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
- In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
- In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
- In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
- In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Lilly (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185
- In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- Foote v. State Bar (1951) 37 Cal.2d 127, 129 [230 P.2d 617]
- Allen v. State Bar (1951) 36 Cal.2d 683, 685-686
- Hallinan v. State Bar (1948) 33 Cal.2d 246
- CAL 2015-194, CAL 1982-68, SD 2011-2
- concealed payments to non-attorney
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- intentional deception in over-zealous efforts to effect a legal strategy
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- no distinction among concealment, half-truth, and false statement of facts
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- signing under penalty of perjury pleadings containing omissions and outright misstatements of fact and law
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- Defamation
- Hogan v. State Bar (1951) 36 Cal.2d 807, 808
- Defenses, good faith
- Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
- Defined
- In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
- Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]

MORAL TURPITUDE

- In re Mostman (1989) 47 Cal.3d 725 [254 Cal.Rptr. 286]
Gendron v. State Bar (1983) 35 Cal.3d 409
Kitsis v. State Bar (1979) 23 Cal.3d 857, 865-866 [153 Cal.Rptr. 836, 592 P.2d 323]
In re Cadwell (1975) 15 Cal.3d 762, 771, fn. 4 [125 Cal.Rptr. 889, 543 P.2d 257]
In re Fahey (1973) 8 Cal.3d 842, 849 [106 Cal.Rptr. 313, 505 P.2d 1369]
In re Higbie (1972) 6 Cal.3d 562 [99 Cal.Rptr. 865]
Marlowe v. State Bar (1965) 63 Cal.2d 304, 308 [46 Cal.Rptr. 326, 405 P.2d 150]
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
Arden v. State Bar (1959) 52 Cal.2d 310, 321 [341 P.2d 6]
Call v. State Bar (1955) 45 Cal.2d 104, 109-110 [287 P.2d 761]
Jacobs v. State Bar (1933) 219 Cal. 59, 64 [25 P.2d 401]
Henry H. v. Board of Pension Comrs. (1983) 149 Cal.App.3d 965, 976
In re Kling (1919) 44 Cal.App. 267 [186 P. 152]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363
In the Matter of Rech (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 310
In the Matter of Anderson (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 208
In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
may be exhibited by habitual disregard by an attorney of clients' interests combined with failure to communicate with such clients
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Defrauding client; defrauding third parties to advance a client's interest
Allen v. State Bar (1977) 20 Cal.3d 172, 174, 177-179
Defrauding insurance company
In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
Deliberate (willful) violation of attorney's oath and duties
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Kitsis v. State Bar (1979) 23 Cal.3d 857, 866 [153 Cal.Rptr. 836, 592 P.2d 323]
Dishonesty
In re Rivas (1989) 49 Cal.3d 794
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-121, 123 [202 Cal.Rptr. 349]
In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
CAL 2015-194
failure to disclose death of client during settlement negotiations
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
prohibited by Business and Professions Code section 6106 whether or not committed while acting as an attorney
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Lilly (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 185
Dishonesty and other untruthful conduct in course of State Bar investigation
Friedman v. State Bar (1990) 50 Cal.3d 235
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
Disobedience of client's instructions
Lally v. Kuster (1918) 177 Cal. 783 [171 P. 961]
Disobedience of court order
Spevak v. Kline (1967) 385 U.S. 511 [87 S.Ct. 625, 17 L.Ed.2d 574]
Cohen v. Hurley (1961) 366 U.S. 117 [81 S.Ct. 954, 6 L.Ed.2d 156]
Weber v. State Bar (1988) 47 Cal.3d 492
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
In re Sadicoff (1929) 208 Cal. 555 [282 P. 952]
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
even where order void
Maltaman v. State Bar (1987) 43 Cal.3d 924
Distinguished from breach of oath and duties under Business and Professions Code section 6103
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
Documents
destruction of
Lady v. State Bar (1946) 28 Cal.2d 497, 501-504 [170 P.2d 460]
omission of material facts
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]
*Sullivan v. State Bar (1946) 28 Cal.2d 488, 496 [170 P.2d 888]
Drawing usurious documents
Bryant v. State Bar (1942) 21 Cal.2d 285 [131 P.2d 523]
Drug possession
In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]

- In re Cohen (1974) 11 Cal.3d 416, 421-22 [113 Cal.Rptr. 485, 521 P.2d 477]
- In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552
- cocaine trafficking in large quantities prior to bar admission
- In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
- conspiracy to distribute marijuana
- In re Kreamer (1975) 14 Cal.3d 524 [121 Cal.Rptr. 600, 535 P.2d 728]
- conviction of felony narcotics offenses while a judge
- In re Scott (1991) 52 Cal.3d 968
- distribution of amphetamines
- In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
- possession of heroin and cocaine with intent to distribute
- In re Leardo (1991) 53 Cal.3d 1
- possession of LSD prior to ingestion may be a possession conviction
- People v. Palaschak (1995) 9 Cal.4th 1236 [40 Cal.Rptr.2d 722]
- DUI crimes do not involve moral turpitude but moral turpitude defined as "a deficiency in any character trait necessary for the practice of law" is applied
- In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402
- Duty of confidentiality v. duty of candor to the court
- SD 2011-1
- Duty owed in favor of third persons
- children of client in dissolution
- Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
- Embezzlement
- In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
- Bradpiece v. State Bar (1974) 10 Cal.3d 742, 745 [111 Cal.Rptr. 905, 518 P.2d 337]
- Encouraging action for corrupt motive
- In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- Extortion
- Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]
- Arden v. State Bar (1959) 52 Cal.2d 310, 320-321 [341 P.2d 6]
- Libarian v. State Bar (1952) 38 Cal.2d 328, 329-330 [239 P.2d 865]
- Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 573 [160 P.2d 9]
- threatening phone calls
- In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- Failure to disclose to client interest held in real property sold to same client
- Gallagher v. State Bar (1981) 28 Cal.3d 832, 836
- False documents, filing [See Trial Conduct.]
- Weir v. State Bar (1979) 23 Cal.3d 564
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- False intimations regarding promiscuous sexual conduct do not establish moral turpitude
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- False or fraudulent statements in banking transactions
- In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765
- False pleadings
- Penaat v. State Bar (1944) 25 Cal.2d 26, 30 [152 P.2d 442]
- False statements, filing
- Weber v. State Bar (1988) 47 Cal.3d 492
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Phillips v. State Bar (1975) 14 Cal.3d 492, 500 [121 Cal.Rptr. 605, 535 P.2d 733]
- Sturr v. State Bar (1959) 52 Cal.2d 125, 133 [338 P.2d 897]
- Pickering v. State Bar (1944) 24 Cal.2d 141, 142-144 [148 P.2d 1]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- filing false election documents
- In re Rivas (1989) 49 Cal.3d 794
- Falsely maligning judge
- Matter of Humphrey (1917) 174 Cal. 290 [163 P. 60]
- In re Graves (1923) 64 Cal.App. 176 [221 P. 411]
- Fees
- acceptable during suspension
- In the Matter of Gonzalez (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632
- unconscionable
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- Fiduciary duties, breach of
- T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Baranowski v. State Bar (1979) 24 Cal.3d 153, 162 [154 Cal.Rptr. 752, 593 P.2d 613]
- Benson v. State Bar (1975) 13 Cal.3d 581, 588-590 [119 Cal.Rptr. 297, 531 P.2d 1081]
- Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]
- In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
- In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- OC 2011-02
- improper solicitation of loan
- Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
- moral turpitude not found
- In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
- safeguard client funds
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- Filing and execution of self-signed judgments
- Woodard v. State Bar (1940) 16 Cal.2d 755 [108 P.2d 407]
- filing false election documents
- In re Rivas (1989) 49 Cal.3d 794
- Firearm exhibited in a threatening fashion
- In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713
- In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
- Forgery
- In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
- Porter v. State Bar (1990) 52 Cal.3d 518
- Aronin v. State Bar (1990) 52 Cal.3d 276
- Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
- Weir v. State Bar (1979) 23 Cal.3d 564, 576
- Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 79 [141 Cal.Rptr. 169, 569 P.2d 763]
- Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]
- +In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
- In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
- In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679

MORAL TURPITUDE

- no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Fraud [See Fraud.]
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
Monroe v. State Bar (1961) 55 Cal.2d 145 [10 Cal.Rptr. 257, 358 P.2d 529]
Choate v. State Bar (1953) 41 Cal.2d 399 [260 P.2d 609]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
Wood v. State Bar (1938) 11 Cal.2d 139 [78 P.2d 429]
Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]
Aydelotte v. State Bar (1930) 209 Cal. 737, 740 [290 P. 41]
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
accepted fees for legal services but failed to perform such services or return the fees
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873]
advising the conveyance of property for the purpose of defrauding the creditor of his client
Townsend v. State Bar (1948) 32 Cal.2d 592 [197 P.2d 326]
arranging sham marriages
In re Aquino (1989) 49 Cal.3d 1122
attorney delayed informing client on receipt of payment of judgment, then misappropriated such funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825]
attorney failed to reveal extent of his pre-existing indebtedness and financial distress to client
Benson v. State Bar (1975) 13 Cal.3d 581 [119 Cal.Rptr. 297]
attorney induced a woman to purchase royalty interest that he should have known had only speculative value
In re Langford (1966) 64 Cal.2d 489 [50 Cal.Rptr. 661, 413 P.2d 437]
business dealings whereby the attorney benefits are closely scrutinized
Marlowe v. State Bar (1965) 63 Cal.2d 304 [46 Cal.Rptr.326, 405 P.2d 150]
characterizations of "moral turpitude, dishonesty, or corruption" must be made with intent to mislead
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]
civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
committed forgery, misappropriated funds, and numerous acts of deceit and other dishonest conduct
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301]
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
concealing adverse and material facts when he obtained the money from his client
Clancy v. State Bar (1969) 71 Cal.2d 140 [77 Cal.Rptr. 657, 454 P.2d 329]
deceiving clients as to the status of their cases, and issuing insufficiently funded checks
Alkow v. State Bar (1971) 3 Cal.3d 924 [92 Cal.Rptr. 278]
defrauded a client and misappropriated her funds
Allen v. State Bar (1977) 20 Cal.3d 172 [141 Cal.Rptr. 808]
deleting language in a statement obtained from the beneficiary of a trust deed on real property
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]
endorsing the draft and fabricating a "loan agreement" intending to deceive the bank
McKinney v. State Bar (1964) 62 Cal.2d 194, 196 [41 Cal.Rptr. 665, 397 P.2d 425]
fees requested where non incurred and no supervision of non-attorneys
LA 522 (2009)
filing false involuntary bankruptcy petitions
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
insurance fraud
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
invoices and binders of memoranda were created after the fact in an attempt to justify respondent's fees
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
judge intentionally misstated his address for improper financial benefit
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
knowingly tried to take advantage of a relationship of personal trust and confidence
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467]
loan from client obtained under false pretenses
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
misappropriated money received for posting of cash bond and funds delivered for use in settlement negotiations
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73 [141 Cal.Rptr. 169]
misappropriated payment of a judgment that he had won for his clients
Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
misrepresentations made to opposing counsel and the court
CAL 2015-194, LA 482 (1995)
misrepresentation and concealment of adverse and material facts
Krieger v. State Bar (1954) 43 Cal.2d 604, 610 [275 P.2d 459]
misrepresented the status of the contest proceeding and kept clients ignorant of his unauthorized dismissal
Foote v. State Bar (1951) 37 Cal.2d 127 [230 P.2d 617]
obtained a loan from the estate without securing approval of the probate court
Laney v. State Bar (1936) 7 Cal.2d 419, 422 [60 P.2d 845]
petitioner's greater offense was his fraudulent and contrived misrepresentations to the State Bar
Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273]
practiced fraud and deceit on clients and a judge, and engaged in fraud on creditors
In re Wright (1973) 10 Cal.3d 374 [515 P.2d 292]
repeated practices of forgery, fraud, and deceit with clients and the Immigration and Naturalization Service
Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921]
repeatedly misrepresented facts to clients and made statements about their lawsuits which he knew were false
Stephens v. State Bar (1942) 19 Cal.2d 580, 583 [122 P.2d 549]
use of false medical reports in personal injury claims
In re Arnoff (1978) 22 Cal.3d 740, 744 [150 Cal.Rptr. 479, 586 P.2d 960]
using a fictitious name for purpose to defraud and obtain property by false pretense
In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

- Furnishing marijuana/controlled substance to minor
In re Fudge (1989) 49 Cal.3d 643
- Gifts and favors from litigants and counsel
 judge improperly accepted
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Grand theft
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392]
In re Vaughn (1985) 38 Cal.3d 614
In re Cannon (1983) 33 Cal.3d 417 [189 Cal.Rptr. 49, 657 P.2d 827]
Ambrose v. State Bar (1982) 31 Cal.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]
In re Cadwell (1975) 15 Cal.3d 762, 772 [125 Cal.Rptr. 889, 543 P.2d 257]
In re Honoroff (1975) 15 Cal.3d 755, 760 [126 Cal.Rptr. 229, 545 P.2d 597]
In re Urias (1966) 65 Cal.2d 258, 262 [53 Cal.Rptr. 881, 418 P.2d 849]
In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679
- Gross carelessness and negligence [See Professional liability.]
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 475 [169 Cal.Rptr. 581, 619 P.2d 1005]
Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368]
Trusty v. State Bar (1940) 16 Cal.2d 550 [107 P.2d 10]
Waterman v. State Bar (1936) 8 Cal.2d 17 [63 P.2d 1135]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- Gross negligence [See Professional liability.]
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
Schullman v. State Bar (1976) 16 Cal.3d 631, 633 [128 Cal.Rptr. 671, 547 P.2d 447]
Spindell v. State Bar (1975) 13 Cal.3d 253, 262 [118 Cal.Rptr. 480, 530 P.2d 168]
*Schullman v. State Bar (1973) 10 Cal.3d 526, 528 [111 Cal.Rptr. 161, 516 P.2d 865]
Rock v. State Bar (1962) 57 Cal.2d 639, 642 [21 Cal.Rptr. 572, 371 P.2d 308]
Sullivan v. State Bar (1955) 45 Cal.2d 112, 114 [287 P.2d 778]
Gelberg v. State Bar (1938) 11 Cal.2d 141 [78 P.2d 430]
Marsh v. State Bar (1934) 2 Cal.2d 75 [39 P.2d 403]
In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- breach of fiduciary duty
 -failure to disburse settlement funds
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]
 -failure to give proper accounting
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
 -misappropriation
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- overdrawing client trust account
Lowe v. State Bar (1953) 40 Cal.2d 564, 570 [254 P.2d 506]
- failure to file cause of action
Sanchez v. State Bar (1976) 18 Cal.3d 280, 285 [133 Cal.Rptr. 768, 555 P.2d 889]
Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]
- in dissolution
Waterman v. State Bar (1936) 8 Cal.2d 17, 20 [63 P.2d 133]
Marsh v. State Bar (1930) 210 Cal. 303, 307 [291 P.2d 583]
- in will contest
Call v. State Bar (1955) 45 Cal.2d 104, 109-110 [287 P.2d 761]
- failure to give reasonable attention to clients' matters
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- failure to supervise employees
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]
- associate attorney
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
- bookkeeper
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- office staff
Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- secretary
Sanchez v. State Bar (1976) 18 Cal.3d 280, 282 [133 Cal.Rptr. 768, 555 P.2d 889]
- false verification
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- instigating a conversation with potential adverse party under false pretenses
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- mere ignorance of law is not moral turpitude
Friday v. State Bar (1943) 23 Cal.2d 501 [144 P.2d 564]
- neglect of client matters
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
Doyle v. State Bar (1976) 15 Cal.3d 973, 978 [126 Cal.Rptr. 801, 544 P.2d 937]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
- trust account duties
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- Gross negligence in overseeing client trust account procedures
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- Habitual neglect of client's interests
Walker v. State Bar (1989) 49 Cal.3d 1107
Blair v. State Bar (1989) 49 Cal.3d 762
Pineda v. State Bar (1989) 49 Cal.3d 753
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
Kent v. State Bar (1987) 43 Cal.3d 729 [239 Cal.Rptr. 77]
In re Morales (1983) 35 Cal.3d 1, 9-10

MORAL TURPITUDE

- Marcus v. State Bar (1980) 27 Cal.3d 199, 202 [165 Cal.Rptr. 121, 611 P.2d 462]
Martin v. State Bar (1978) 20 Cal.3d 717, 722 [144 Cal.Rptr. 214, 575 P.2d 757]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- Harassment of client
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Harboring a fugitive
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
- Honest and reasonable belief, though mistaken, precludes a finding of moral turpitude
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Honesty required in the practice of law
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Borré v. State Bar (1991) 52 Cal.3d 1047
Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Hamilton v. State Bar (1979) 23 Cal.3d 868, 876 [153 Cal.Rptr. 602, 591 P.2d 1254]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Identity theft
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
- Ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Income taxes, failure to file return
In re Grimes (1990) 51 Cal.3d 199 [793 P.2d 61]
In re Fahey (1973) 8 Cal.3d 842, 849-854 [106 Cal.Rptr. 313, 505 P.2d 1369]
advocating civil disobedience
[CAL](#) 2003-162
- Inducing client to offer attorney free use of client's vacation rental property
[CAL](#) 2011-180
- Inducing client to withdraw disciplinary complaint
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- Insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
- Instructing client to testify falsely concerning fee arrangement
Medoff v. State Bar (1969) 71 Cal.2d 535 [78 Cal.Rptr. 696]
- Intentional infliction of emotional distress
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Intimidation of witness
soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
- Involuntary manslaughter not per se moral turpitude
In re Strick (1987) 43 Cal.3d 644 [238 Cal.Rptr. 397]
- Involving acts whether or not committed in the course of relations as attorney
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- Justifies disbarment
In re Possino (1984) 37 Cal.3d 163, 168-169 [207 Cal.Rptr. 543, 689 P.2d 115]
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Knowing and false representations to client
Gaffney v. State Bar (1942) 20 Cal.2d 735 [128 P.2d 516]
Propp v. State Bar (1942) 20 Cal.2d 387 125 P.2d 825]
- Lying on lease
Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
- Lying to client regarding case status
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Lying to police officers
In the Matter of Caplin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 768
- Mail fraud
In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561]
In re Schwartz (1982) 31 Cal.3d 395, 399 [182 Cal.Rptr. 640, 644 P.2d 833]
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
In the Matter of Segal (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
- Manslaughter
In re Alkow (1966) 64 Cal.2d 838 [51 Cal.Rptr. 912, 415 P.2d 800]
In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536
- Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
[CAL](#) 2020-202, LA 527, SF 2015-1
- Merits severe punishment
Alberton v. State Bar (1984) 37 Cal.3d 1 [206 Cal.Rptr. 373]
- Misappropriation of check
Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]
- Misappropriation of firm funds during breakup of law firm
Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]
- Misappropriation of funds [[See](#) Client trust account, misappropriation.]
Bates v. State Bar (1990) 51 Cal.3d 1056
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Walker v. State Bar (1989) 49 Cal.3d 1107
Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753
Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Smith v. State Bar (1984) 37 Cal.3d 17, 25
Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d, 360]
Rimel v. State Bar (1983) 34 Cal.3d 128 [192 Cal.Rptr. 866, 665 P.2d 956]
In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]
Ambrose v. State Bar (1982) 31 Cal.3d 184 [187 P.2d 741]
Cain v. State Bar (1979) 25 Cal.3d 956, 961 [160 Cal.Rptr. 362, 603 P.2d 464]
Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273, 586 P.2d 588]
Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]
Athearn v. State Bar (1977) 20 Cal.3d 232, 234 [142 Cal.Rptr. 171, 571 P.2d 628]

- Allen v. State Bar (1977) 20 Cal.3d 172, 174 [141 Cal.Rptr. 808, 570 P.2d 1226]
- Jackson v. State Bar (1975) 15 Cal.3d 372, 374 [124 Cal.Rptr. 185, 540 P.2d 25]
- Wells v. State Bar (1975) 15 Cal.3d 367, 369 [124 Cal.Rptr. 218, 540 P.2d 58]
- Silver v. State Bar (1974) 13 Cal.3d 134, 137 [117 Cal.Rptr. 821, 528 P.2d 1157]
- Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]
- Yokozeki v. State Bar (1974) 11 Cal.3d 436, 441-445 [113 Cal.Rptr. 602, 521 P.2d 858]
- Brody v. State Bar (1974) 11 Cal.3d 347, 350-351 [113 Cal.Rptr. 371, 521 P.2d 107]
- Sevin v. State Bar (1973) 8 Cal.3d 641, 646 [105 Cal.Rptr. 513, 504 P.2d 449]
- Crooks v. State Bar (1970) 3 Cal.3d 346 [90 Cal.Rptr. 600]
- Monroe v. State Bar (1969) 70 Cal.2d 301, 309 [74 Cal.Rptr. 733]
- In re Urias (1966) 65 Cal.2d 258, 262 [53 Cal.Rptr. 881, 418 P.2d 849]
- Dreyfus v. State Bar (1960) 54 Cal.2d 799, 804 [8 Cal.Rptr. 469, 356 P.2d 213]
- Hennessy v. State Bar (1941) 18 Cal.2d 685
- Russill v. State Bar (1941) 18 Cal.2d 321 [115 P.2d 464]
- Prime v. State Bar (1941) 18 Cal.2d 56 [112 P.2d 881]
- Rohe v. State Bar (1941) 17 Cal.2d 445 [110 P.2d 389]
- Flaherty v. State Bar (1940) 16 Cal.2d 483 [106 P.2d 617]
- Stanford v. State Bar (1940) 15 Cal.2d 721 [104 P.2d 635]
- In re Andreani (1939) 14 Cal.2d 736 [97 P.2d 456]
- Irons v. State Bar (1938) 11 Cal.2d 14 [77 P.2d 221]
- Gale v. State Bar (1937) 8 Cal.2d 147 [64 P.2d 145]
- Oster v. State Bar (1935) 2 Cal.2d 625 [43 P.2d 627]
- In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
- In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
- In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
- In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
- In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
- In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- rule of limitations is tolled during the time an attorney acts in a fiduciary relationship, even if it is other than an attorney-client relationship. The five-year period did not commence until the conclusion of the attorney's fiduciary obligation
- In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728
- Misappropriation of non-client funds
- In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728
- Misleading statements in order to induce criminal defendant to sign a confession
- In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- Misleading the court
- U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Bach v. State Bar (1987) 43 Cal.3d 848 [239 Cal.Rptr. 302]
- Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273, 586 P.2d 588]
- Sullins v. State Bar (1975) 15 Cal.3d 609, 618-621 [125 Cal.Rptr. 471, 542 P.2d 631]
- Reznik v. State Bar (1969) 1 Cal.3d 198 [81 Cal.Rptr. 769]
- Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]
- Paonessa v. State Bar (1954) 43 Cal.2d 222, 227 [272 P.2d 510]
- Lowe v. State Bar (1953) 40 Cal.2d 564, 566-567 [254 P.2d 506]
- Griffith v. State Bar (1953) 40 Cal.2d 470, 475 [254 P.2d 22]
- McMahon v. State Bar (1952) 39 Cal.2d 367, 373 [246 P.2d 931]
- Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
- Vickers v. State Bar (1948) 32 Cal.2d 247 [196 P.2d 10]
- Lady v. State Bar (1946) 28 Cal.2d 497, 501-504 [170 P.2d 460]
- In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- creating a false impression by concealment and affirmative misrepresentations to State Bar investigator
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- making misrepresentations to judge while attorney served on a jury
- In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- misrepresentations made out-of-state investigator regarding possible UPL
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- Misleading Workers' Compensation Appeals Board
- In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
- Misrepresentation
- In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
- Misrepresentation on resume
- In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
- In the Matter of Mitchell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332
- Misrepresentation to client
- Harford v. State Bar (1990) 52 Cal.3d 93
- Gold v. State Bar (1989) 49 Cal.3d 908
- Pineda v. State Bar (1989) 49 Cal.3d 753
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
- Prantil v. State Bar (1979) 23 Cal.3d 243 [152 Cal.Rptr. 425, 590 P.2d 1]
- Nizinski v. State Bar (1975) 14 Cal.3d 587, 595 [121 Cal.Rptr. 824, 536 P.2d 72]
- Benson v. State Bar (1975) 13 Cal.3d 581, 588-590
- Glickman v. State Bar (1973) 9 Cal.3d 179, 183-184 [107 Cal.Rptr. 65, 507 P.2d 953]
- Krieger v. State Bar (1954) 43 Cal.2d 604 [275 P.2d 459]

MORAL TURPITUDE

- Alkow v. State Bar (1952) 38 Cal.2d 257, 263-264 [239 P.2d 871]
Foot v. State Bar (1951) 37 Cal.2d 127, 129 [230 P.2d 617]
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
- deceiving client regarding status of case
Lipson v. State Bar (1991) 53 Cal.3d 1010
Conroy v. State Bar (1991) 53 Cal.3d 495
Stevens v. State Bar (1990) 51 Cal.3d 283
Pineda v. State Bar (1989) 49 Cal.3d 753
Carter v. State Bar (1988) 44 Cal.3d 1091
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
- deception and concealment
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- failure to disclose facts in soliciting client loan
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
- false statement of association with other attorneys
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
- Misrepresentation to a CPA who rendered services on a client matter
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
- Misrepresentations to client's new attorney
Bates v. State Bar (1990) 51 Cal.3d 1056
- Misrepresentations to opposing counsel
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- Mistake of law
Butts v. State Bar (1948) 31 Cal.2d 453, 457-458 [189 P.2d 1]
- Misuse of client funds
In re Vaughn (1985) 38 Cal.3d 614, 617 [213 Cal.Rptr. 583]
Griffith v. State Bar (1945) 26 Cal.2d 273, 277 [158 P.2d 1]
- Money laundering scheme
In re Berman (1989) 48 Cal.3d 517 [256 Cal.Rptr. 802]
- Offensive or disrespectful acts [See Trial Conduct.]
In re Sawyer (1959) 360 U.S. 622 [79 S.Ct. 1376]
- Opposing counsel, misleading
Coviello v. State Bar (1955) 45 Cal.2d 57, 65-66 [286 P.2d 357]
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- Overreaching
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- Perjury
In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Practice of deceit
concealed payments to non-attorney
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- Prior criminal acquittal; no bar to discipline
Zitny v. State Bar (1966) 64 Cal.2d 787, 790 fn. 1 [51 Cal.Rptr. 825, 415 P.2d 521]
- Prior to admission to the State Bar
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
- Procuring loans from a former client
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]
- Prosecutorial misconduct
Price v. State Bar (1982) 30 Cal.3d 537, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
Noland v. State Bar (1965) 63 Cal.2d 298, 301-303 [46 Cal.Rptr. 305, 405 P.2d 129]
- Purchase of client property at probate hearing
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15-17 [81 Cal.Rptr. 352, 459 P.2d 904]
- Purpose of standard – protection of public
In re Fahey (1973) 8 Cal.3d 842, 849 [106 Cal.Rptr. 313, 505 P.2d 1369]
- Repeated offenses
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Resner v. State Bar (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]
Libarian v. State Bar (1944) 25 Cal.2d 314, 317 [153 P.2d 739]
- acts of deceit
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
- Retaining client funds as payment on account for fees
Petersen v. State Bar (1943) 21 Cal.2d 866 [136 P.2d 561]
- Sex offenses
attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
attorney's conviction for possession of child pornography
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]
indecent exposure
In re Safran (1976) 18 Cal.3d 134 [133 Cal.Rptr. 9]
lewd act on child under age fourteen
In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608
- Solicitation; use of "runners" and "cappers"
Goldman v. State Bar (1977) 20 Cal.3d 130, 134 [141 Cal.Rptr. 447, 570 P.2d 633]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- Staged accidents
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- Standard for subjecting attorney to discipline
In re Fahey (1973) 8 Cal.3d 842 [106 Cal.Rptr. 313, 505 P.2d 1369]
- Statutory provisions
Phillips v. State Bar (1975) 14 Cal.3d 492, 500 [121 Cal.Rptr. 605, 535 P.2d 733]
- Stealing and conversion
In re Duchow (1988) 44 Cal.3d 268 [243 Cal.Rptr. 85, 747 P.2d 526]
- Stolen property, receiving
In re Plotner (1971) 5 Cal.3d 714 [97 Cal.Rptr. 193, 488 P.2d 385]
- Suppression of evidence
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Threatening phone calls
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

- Trial conduct [See Trial conduct.]
 duty not to mislead the court
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 697
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 filing false affidavit in support of application for admission to bar
Spears v. State Bar (1930) 211 Cal. 183, 187 [294 P.2d 697]
- Unauthorized practice of law
In re Cadwell (1975) 15 Cal.3d 762, 771-772 [125 Cal.Rptr. 889, 543 P.2d 257]
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- Undue influence, obtaining gift from client by
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]
- Using undue influence to secure a loan from client
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472 [169 Cal.Rptr. 581, 619 P.2d 1005]
- Usurious documents
Bryant v. State Bar (1942) 21 Cal.2d 285
- Verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- Violation of confidences and secrets of the client
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- Violation of instructions as trustee
Lyders v. State Bar (1938) 12 Cal.2d 262 [83 P.2d 500]
- Voluntary manslaughter
In re Nevill (1985) 39 Cal.3d 729 [217 Cal.Rptr. 841]
- Willful misconduct
Ballard v. State Bar (1983) 35 Cal.3d 274
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
 -not necessary to show moral turpitude
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]
- Withholding client funds in an attempt to coerce payment of fee
McGrath v. State Bar (1943) 21 Cal.2d 737
 misuse of public funds does not constitute moral turpitude
In re Battin (1980) 28 Cal.3d 231 [168 Cal.Rptr. 477, 617 P.2d 1109]
- Witness
 soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
- Writ of habeas corpus
 judge granted without adequate information to help a friend
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- MULTIPLE REPRESENTATION** [See Conflict of interest.]
NAME [See Business activity, name for. Fictitious name. Law corporations. Partnership, name. Practice, name for.]
 Dead lawyer's, pay for the use of
 LA(l) 1974-15
- NEGLIGENCE** [See Competence. Duties of Attorney. Malpractice. Professional liability. Withdrawal.]
 Abandonment
Brooks v. Yates (9th Cir. 2016) 818 F.3d 532
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Conroy v. State Bar (1991) 53 Cal.3d 495
Bach v. State Bar (1991) 52 Cal.3d 1201
Borré v. State Bar (1991) 52 Cal.3d 1047
Harris v. State Bar (1990) 51 Cal.3d 1082
Hawes v. State Bar (1990) 51 Cal.3d 587
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Wells v. State Bar (1978) 20 Cal.3d 708 [144 Cal.Rptr. 133, 575 P. 285]
Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Dale K. Nees (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 459
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
In the Matter of Kennon (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 287
 virtual abandonment by failing to proceed with client's defense despite court order
Community Dental Services v. Tani (2002) 282 F.3d 1164
- Actual injury
Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]
- Associate assigned to client matters may not be blamed for attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221
- Attorney neglect not necessarily binding on client
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]
State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]
- Declaration by attorney of his own negligence not credible
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
- Delay in handling of client's matter amounts to reckless incompetence
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- Disregard for obligations to the legal profession and to clients
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Elements
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
- Equitable tolling defined
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
- Excusable neglect
Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298
Engleson v. Burlington Northern Railroad Company (9th Cir. 1992) 972 F.2d 1038
United States v. Prairie Pharmacy (9th Cir. 1990) 921 F.2d 211
Bettencourt v. Los Rios Community College (1986) 42 Cal.3d 270, 278 [228 Cal.Rptr. 190, 721 P.2d 7]
Younessi v. Woolf (2016) 244 Cal.App.4th 1137 [198 Cal.Rptr.3d 763]
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
SJP Limited Partnership v. City of Los Angeles (2006) 136 Cal.App.4th 511 [39 Cal.Rptr.3d 55]

NEGLIGENCE

- Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]
under Code of Civil Procedure 473 et seq.
-attorney's explanation that a combination of serious illness and heavy medication rendered him incapable of carrying out his duties as a lawyer is excusable neglect
Minick v. City of Petaluma (2016) 3 Cal.App.5th 15 [207 Cal.Rptr.3d 350]
-in-house counsel who is also corporate officer should not be treated differently in determining responsibility for default judgment taken against corporate client
Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]
-lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
-reliance on opposing counsel's oral agreement to extend time to file motion for attorney fees was excusable negligence
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
-relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
- Extraordinary circumstances
basis for equitable tolling of period required for filing habeas corpus petition
Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
beyond client control that merit relief from default judgment
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
Community Dental Services v. Tani (2002) 282 F.3d 1164
- Failure to advise
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
- Failure to answer
failure of defendant company to answer complaint resulting from faulty advice from its attorney warranted mandatory relief from default judgment
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
- Failure to answer client telephone calls or letters
Bernstein v. State Bar (1990) 50 Cal.3d 221
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to complete services
Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
- Failure to explain why previous motion (now renewed) did not include facts added now
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
Failure to file responsive pleadings thereby causing harm to client
Community Dental Services v. Tani (2002) 282 F.3d 1164
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
Failure to monitor progress of client's case
Shaffer v. Weber (1991) 233 Cal.App.3d 944
Failure to request trial de novo after adverse arbitration award does not entitle plaintiff to relief on the ground of attorney neglect
Brown v. Williams (2000) 78 Cal.App.4th 182 [92 Cal.Rptr.2d 634]
Failure to serve answer
Community Dental Services v. Tani (2002) 282 F.3d 1164
- Gross negligence
failure to prosecute
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
where client receives practically no representation at all
Community Dental Services v. Tani (2002) 282 F.3d 1164
- Habitual disregard of client interests
Bledsoe v. State Bar (1991) 52 Cal.3d 1074 [278 Cal.Rptr. 80]
Middleton v. State Bar (1990) 51 Cal.3d 548
Wells v. State Bar (1978) 20 Cal.3d 708 [144 Cal.Rptr. 135, 575 P.2d 285]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In propria persona
relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
- Inexcusable neglect
dismissal with prejudice for failure to prosecute
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
untimely filing of notice of appeal due to paralegal's misreading of 30-day filing rule is not per se inexcusable neglect
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
- Legal mistake not objectively reasonable for tolling purposes
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
- Misleading client deliberately and depriving client of opportunity to take action to preserve rights
Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
Community Dental Services v. Tani (2002) 282 F.3d 1164
Not found, attorney owed no duty to third party beneficiary/conservator where attorney had been appointed to represent conservatee's interests
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
- Notice of claim by former client timely, relation-back doctrine applied where claim amended complaint alleging negligence pertain to specific acts of negligence contained in the original complaint
Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]
- Of party in litigation
advice to, regarding another attorney's neglect of client
LA 14 (1922)

Office moved without informing client

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Recovery of fees not permitted

Estate of Falco (1987) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Relief to client in civil action because of attorney's neglect applies to in-house counsel

Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]

chargeable to client

Benjamin v. Dalmo Mfg. Co. (1948) 31 Cal.2d 523, 532
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]

Shipley v. Sugita (1996) 50 Cal.App.4th 320 [57 Cal.Rptr.2d 750]

Carroll v. Abbott Laboratories (1982) 122 Cal.App.3d 971 [176 Cal.Rptr. 271]

Buckert v. Briggs (1971) 15 Cal.App.3d 296, 301

client redress – malpractice action

Martin v. Cook (1977) 68 Cal.App.3d 799, 809

Orange Empire Nat. Bank v. Kirby (1968) 259 Cal.App.2d 347, 353

granted where positive misconduct of attorney obliterates attorney-client relationship

Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]

Shipley v. Sugita (1996) 50 Cal.App.4th 320 [57 Cal.Rptr.2d 750]

People v. One Parcel of Land (1991) 235 Cal.App.3d 579

Carroll v. Abbott Laboratories (1982) 122 Cal.App.3d 971 [176 Cal.Rptr. 271]

Buckert v. Briggs (1971) 15 Cal.App.3d 296, 301 [93 Cal.Rptr. 61]

Orange Empire Nat. Bank v. Kirby (1968) 259 Cal.App.2d 347, 353 [66 Cal.Rptr. 240]

Daley v. County of Butte (1964) 227 Cal.App.2d 380, 391 [38 Cal.Rptr. 693]

not chargeable to client

Community Dental Services v. Tani (2002) 282 F.3d 1164

relief not applicable to plaintiff's actions

Billings v. Health Plan of America (1990) 225 Cal.App.3d 250

where evidence that attorney's neglect was cause of default judgment, client entitled to relief

Carmel v. Tavoussi (2009) 175 Cal.App.4th 393 [95 Cal.Rptr.3d 694]

Relief under Rule 60(b)(6) warranted by extraordinary circumstances

Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247

Lai v. State of California (9th Cir. 2010) 610 F.3d 518

Community Dental Services v. Tani (2002) 282 F.3d 1164

Representation of a minor client in a dependency proceeding LA 504 (2000)

Retention of unearned fees and abandonment

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Matthew v. State Bar (1989) 49 Cal.3d 784, 791 [263 Cal.Rptr. 660]

Stuart v. State Bar (1986) 40 Cal.3d 838 [221 Cal.Rptr. 557]

Smith v. State Bar (1985) 38 Cal.3d 525 [213 Cal.Rptr. 236]

Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Special appearances

special appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Verification, false

In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

OATH OF ATTORNEY [See Duties of attorney.]

Business and Professions Code sections 6067, 6068

Violation of

delay in handling legal matter

Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

OF COUNSEL

Rule 1-400, std. 8, Rules of Professional Conduct

Attorney fees may be awarded where a law firm is represented by its of counsel

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

prevailing party law firm not entitled to attorney fees when represented by their own of counsel

Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

Bonus paid to attorney who is not a partner, associate, or shareholder

LA 470 (1992)

Conflict of interest

Atasi Corp. v. Seagate Technology (1988) 847 F.2d 826

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816] SF 1985-1

Defined

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

CAL 1993-129, CAL 1986-88

LA 516 (2006), LA 421 (1983), LA(I) 1973-3

SF 1985-1, SD 1996-1, SD 1974-23

Division of fee with of counsel

LA 516 (2006), LA 470 (1992)

Foreign attorney as

LA 426 (1984)

Law firm as

out-of-state

CAL 1986-88

to another law firm

CAL 1986-88

On letterhead

Rule 1-400, std. 8, Rules of Professional Conduct

CAL 1993-129

LA 516 (2006), LA 421 (1983)

Out-of-state attorney as

LA 306 (1968), LA(I) 1967-8

conflict of interest

LA 392 (1980)

Partnership as

LA 306 (1968), LA(I) 1973-4, LA(I) 1973-3

Prevailing party law firm not entitled to attorney fees when represented by their own of counsel

Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

OFFICIALS, CONTACTS WITH [See Judges, communications with.]

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

OPPOSING COUNSEL [See Settlement.]

Advise

of intent to default

SD 1969-3

of own client's entrapment of opposing counsel's client

LA 315 (1970)

of possible malpractice on part of client's former counsel

LA 326 (1972)

ORDINANCE VIOLATION

Breach of ethics by, not grounds for refusal to recognize as counsel
LA 240 (1957)

Communication with
adverse party represented by counsel
Rule 7-103, Rules of Professional Conduct (operative until May 26, 1989)
[Rule 2-100](#), Rules of Professional Conduct (operative as of May 27, 1989)
general counsel of national corporation when suing subsidiary represented by local counsel
SD 1968-2

Complain about conduct of
LA 339 (1973)

Consent for preparation of referee's report to court
LA 37 (1927)

Dishonesty to
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Joins partnership during litigation
LA(l) 1962-2

Public interest law firm, induce supporters of to withdraw support from
LA 339 (1973)

Refer legal business to
LA(l) 1959-6

ORDINANCE VIOLATION

City council member represents in
LA 273 (1962)
SD 1969-1

Partner of council member represents in
SD 1969-1

ORGANIZATION

Membership in
barter association
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(l) 1965-8
by partnership
LA 324 (1971), SD 1974-11
chamber of commerce
LA 345 (1975), SD 1974-11
real estate board
SD 1973-14
trade association
LA 324 (1971)

OUT-OF-STATE ATTORNEY

[\[See Admission to the Bar. Unauthorized Practice of Law.\]](#)

Appearance as pro hac vice
Rule 9.40, California Rules of Court
[Leis v. Flynt](#) (1979) 439 U.S. 438 [99 S.C. 698, 58 L.Ed.2d 717]
[Winterrowd v. American General Annuity Insurance Co.](#) (9th Cir. 2009) 556 F.3d 815
[U.S. v. Walters](#) (9th Cir. 2002) 309 F.3d 589
[Paciulan v. George](#) (9th Cir. 2000) 229 F.3d 1226
[Daybreak Group, Inc. v. Three Creeks Ranch, LLC](#) (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
attorney admitted to practice before district court prior to new local rule requiring bar membership must now comply with the rule or seek admission through pro hac vice
[Gallo v. U.S. District Court of Arizona](#) (2003) 349 F.3d 1169
attorney disciplined for misrepresentation on pro hac vice application regarding residency
[Attorney Grievance Commission of Maryland v. Joseph](#) (Md. 2011) 422 Md. 670 [31 A.3d 137]
attorneys not entitled to fees for work done prior to admission pro hac vice
[Golba v. Dick's Sporting Goods](#) (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
residency requirement
[Attorney Grievance Commission of Maryland v. Joseph](#) (Md. 2011) 422 Md. 670 [31 A.3d 137]

Ghostwriting
OC 2014-1

Judge disbarred in California after disbarment in Michigan
[In the Matter of Jenkins](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Multijurisdictional Practice (MJP)
Rules of Court 9.40–9.49 govern
remote practice of law
SF 2021-1

Out-of-State Attorney Arbitration Counsel Program
Rule 9.43, California Rules of Court

Partnership
law firm name
-inclusion of out-of-state attorney not admitted in California
LA 295 (1966)

OUT-OF-STATE FIRM

Affiliated with California firm
listed on letterhead
LA 392 (1983)

California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
[Daybreak Group, Inc. v. Three Creeks Ranch, LLC](#) (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]

Of counsel
[CAL](#) 1986-88

PARTNERSHIP

[\[See Advertising. Associate. Corporation, professional. Fees. Practice of law.\]](#)

Corporation Code section 15001 et seq.
[Grossman v. Davis](#) (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]

Absent agreement, Uniform Partnership Act applies
[Heller Ehrman LLP v. Davis Wright Tremaine LLP](#) (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
[Rappaport v. Gelfand](#) (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
[Grossman v. Davis](#) (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 520]
[Jewel v. Boxer](#) (1984) 156 Cal.App.3d 171, 174 [203 Cal.Rptr. 13]

Associate

duty to supervise
[Moore v. State Bar](#) (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161]

"Association" of, with foreign lawyer of firm
LA 233 (1956), LA 202 (1952)

Bad faith dissolution of law firm

[Rosenfeld, Meyer & Susman v. Cohen](#) (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Conflict of interest in formation of

LA(l) 1967-11

Deceased partner

[\[See Practice of law, goodwill.\]](#)

use of name of
[CAL](#) 1986-90, LA 123 (1939)

Defined

[CAL](#) 1971-27

Dissolved

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
[Rappaport v. Gelfand](#) (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
[Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes](#) (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]
[CAL](#) 2020-201, [CAL](#) 2014-190, [CAL](#) 1985-86

agreements after partnership

[Rule 1-500](#), Rules of Professional Conduct
[Howard v. Babcock](#) (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
[Lyon v. Lyon](#) (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
[CAL](#) 1975-34

- allocation of income from unfinished business
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
 *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
 LA 480
 -dissolved law firm had no property interest in the fees or profits associated with unfinished hourly fee matters
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]file
 -attorney leaving law firm may not remove client file prior to written notification from client
 LA 405 (1982)
- goodwill
 -partner not entitled to
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
- handling of practice of
 LA(I) 1979-1
 no breach of partnership agreement where agreement was silent and each partner had knowledge that the other was taking clients separate from the partnership
Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
- Division of, when partnership dissolves
 valuation of buyout price for dissociating partner
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
- Duty to produce records of
Bellis v. United States (1974) 417 U.S. 85 [94 S.Ct. 2179]
- Ethics violation complaint against member made against firm
 SD 1975-10
- Fees
 allocation of
 -in connection with attorney's marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
 -post-dissolution profits from unfinished partnership business
 *Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
 -when departing partner takes unfinished cases
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
- File
 attorney leaving law firm may not remove client file prior to written notification of client
 LA 405 (1982)
- Firm name
 LA 290 (1965)
 out-of-state attorney
 -not admitted in California
 --included in
 LA 295 (1966)
- Interstate
 LA 325 (1972), LA 230 (1955)
- Investment
 SD 1984-1
- Lawyer-physician
 LA 331 (1973)
- Liability
 for acts of former partners
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560
Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]
Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
 for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
 vicarious liability for acts of a partner
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Malpractice by
 associate's duty to disclose to client
 LA 383 (1979)
- Name [See Practice, name for.]
 LA 310 (1969)
 dead lawyer's name in
 LA(I) 1962-5
 dead partner's name in
 LA 265 (1959), LA 248 (1958), LA(I) 1974-15
 -used by sole survivor
 LA 265 (1959)
- former partner
 CAL 1986-90
 LA 530 (2018)
- interstate partnership
 LA 295 (1966), SF 1975-1, SF 1974-5
- Non-existent
 held out as real
 CAL 1971-27
 LA(I) 1959-3
- "Of counsel" [See Of counsel.]
- Opposing counsel joins
 LA(I) 1962-2
- Partner defined
 LA 385 (1980)
- Partner leaves firm
 allocation of fees for unfinished cases taken by departing partner
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
- Partner's malpractice
 duty to disclose to client
 LA 383 (1979)
- Payments to estate of deceased partner or associate
 Rule 3-102(A)(1), Rules of Professional Conduct (operative until May 26, 1989)
 Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
- Practices
 when member is
 -city attorney
 LA 242 (1957), LA(I) 1975-4
 -city council member
 LA(I) 1975-4
 -prosecutor
 LA 377 (1978)

PARTNERSHIP, BUSINESS

Represents

estate

- member-executor/trustee
LA 219 (1954)

in criminal matter

- when associate is
 - prosecutor
Business and Professions Code section 6131
LA 377 (1978)
- when member is
 - city attorney
LA 242 (1957), LA(l) 1975-4
 - city council member
LA(l) 1975-4

own member

- LA(l) 1956-8

when associate

- before joining acted for other side
LA 363 (1976)

when member

- before joining acted for other side
LA 269 (1962), LA 252 (1958), LA 246 (1957)

Retirement agreements

Rules 2-109 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 1-500 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

[CAL](#) 1975-34

Retirement plan

may include lay employees

Rule 3-102(A)(3), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Separation agreements

Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-500, Rules of Professional Conduct (operative as of May 27, 1989)

[CAL](#) 1975-34

With a non-lawyer

Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-310, Rules of Professional Conduct (operative as of May 27, 1989)

[Crawford v. State Bar](#) (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]

[Johnson v. Davidson](#) (1921) 54 Cal.App. 251 [202 P. 159]

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

LA(l) 1966-18

aviation consultants

[CAL](#) 1969-18

certified public accountants

LA(l) 1959-5

SD 1974-17

consumer affairs agency

SD 1983-4

financial management company

LA 372 (1978)

in-debt collections

LA 96 (1936)

independent contractor

[In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

investment company

SD 1984-1

living trust marketers

[CAL](#) 1997-148

management company

LA 488 (1996)

physician

LA 335 (1973)

prohibited, if any activities of partnership constitute practice of law

LA 96 (1936)

real estate

SF 1973-23

rule 3-103 extended to cover corporate business arrangement

LA 372 (1978)

shareholder of incorporated legal services entity

LA 444 (1987)

tax shelter investment promoter

SD 1984-1

With out-of-state attorney

LA 230 (1955), SD 1983-4, SF 1974-1

With out-of-state law firm

LA 392 (1981)

SF 1975-1

PARTNERSHIP, BUSINESS

Consumer affairs agency

SF 1983-4

Drafter of agreement for represents one partner against other re termination agreement prepared by other counsel

LA(l) 1963-9

Financial management company

LA 372 (1978)

With non-lawyer

LA 510 (2003)

PAYMENT OF PERSONAL OR BUSINESS EXPENSES [See

Advancement of funds.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 4-210, Rules of Professional Conduct (operative as of May 27, 1989)

Incurred by or for a client

[Isrin v. Superior Court](#) (1965) 63 Cal.2d 153, 164 [45 Cal.Rptr. 320, 403 P.2d 728]

Plaintiff's counsel in personal injury action may not enter into an agreement to defend and indemnify defendants against an action brought against them by third parties

LA 532 (2019)

PENDING PROCEEDINGS

Book published about

[Haraguchi v. Superior Court](#) (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

LA 369 (1977)

Ethics committee in Los Angeles will not answer inquiries about

LA(l) 1966-9

Movie about

[Hollywood v. Superior Court](#) (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

PENSION PLAN [See Division of fees.]

PERJURY [See Confidences of the client, disclosure, perjury. Trial conduct.]

[CAL](#) 2019-200, [CAL](#) 1983-74, OC 2003-01

PERSONAL INJURY ACTION [See Automobile accident case.]

PHYSICIAN [See Malicious prosecution.]

Client's

duty with respect to fee of

LA 368 (1977), LA 357 (1976)

represent against client over unpaid witness's fee

LA(l) 1931-1

Lawyer duty with respect to medical liens

[Cooper v. State Bar](#) (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

[In the Matter of Respondent H](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

LA 478 (1994), LA 368 (1977), LA 357 (1976)

Lawyer-physician

LA 349 (1975), LA 331 (1973), LA(l) 1961-1

Medical liens, attorney duty with respect to
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
 LA 368 (1977), LA 357 (1976)
 common fund or "equal apportionment" doctrine does not apply to contractual medical lien holders in personal injury matters
City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117
Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]
CAL 1995-49(I)

Medical malpractice
 Business and Professions Code sections 6146, 6147
 Code of Civil Procedure sections 364, 365, 411.30

Opposing party's treating physician
 attorney communicating with
CAL 1975-33, SD 1983-9
 sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]

Partnership with
 LA 335 (1973)

Referral of legal business
 LA(I) 1949-1

Referral of medical business to
 LA 443 (1988)

POLITICAL ACTIVITY [See Letterhead, use for. Public office.]
 City council
 members receiving contributions to their political campaigns from law firms who are representing clients before the council
Woodland Hills Residents Assn., Inc. v. City Council of the City of Los Angeles (1980) 26 Cal.3d 938 [164 Cal.Rptr. 255]

Judicial office
 campaign contributions for
 LA(I) 1972-21
 candidate
 -misrepresentation by
 LA(I) 1974-11
 -no uniform rules regulating conduct of in California
 SF 1974-6
 endorse or solicit endorsements for candidate
 LA(I) 1972-21

Post-sentencing comment by prosecutor
 SD 1974-8

POWER OF ATTORNEY [See Authority of attorney. Withdrawal.]
 Annuity gift from estate's attorney to himself is void as outside his power of attorney
Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]
 Assignment of power of attorney to heir hunter's attorney is against public policy
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 Does not give non-lawyer the authority to appear in court on behalf of another
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

PRACTICAL TRAINING OF LAW STUDENTS
 California Rule of Court 9.42
 Certification of law students
 State Bar Rules Governing the Practical Training of Law Students
 Contact:
 Practical Training of Law Students
 Office of Certification, State Bar of California
 180 Howard Street, San Francisco, California 94105
 Telephone: (415) 538-2117

Text is located in:
 Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
 West's Annotated California Codes, Court Rules, vol. 23, pt 3
 Text available through State Bar's home page:
<http://www.calbar.ca.gov>

Rules Governing the Practical Training of Law Students, The State Bar of California
 Text available through State Bar's home page:
<http://www.calbar.ca.gov>

Text of these rules, contact:
 Practical Training of Law Students
 Office of Certification
 State Bar of California
 180 Howard Street, San Francisco, California 94105
 Telephone: (415) 538-2117

Trial advocacy by a certified law student acting under the active supervision of the deputy public defender, pursuant to the rules promulgated by the State Bar
People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

PRACTICE OF LAW [See Advertising. Foreign attorney. Law corporation. Law office. Legal specialization. Patent law. Professional liability.]
 Adherence to beliefs may prove fitness to practice
Hightower v. State Bar (1983) 34 Cal.3d 150 [193 Cal.Rptr. 153, 666 P.2d 10]
 Admission to the federal bar
 federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871

Affiliation with out-of-state firm
 LA 392 (1983)

Appearance by attorney
 in small claims court
 LA 105 (1936)

Associate attorney is agent of attorney
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Associate changing firms
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
CAL 2020-201, CAL 1985-86
 LA 405 (1982), LA 363 (1976)

Associate discovers malpractice of partner
 LA 383 (1979)

Attorney
 Business and Professions Code section 6180.14
 placement service
 LA 359 (1976)

Barter [See Bid.]

Circulating names of attorneys who fail to extend professional courtesies
 LA 364 (1976)

Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

Clients' business
 promotion by letter
 -by attorney
 --company engaged in bail bonds
 LA 91 (1936)

Constitutional right to practice law free from unreasonable government interference
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

Consultation with an independent attorney regarding the client's case may be permitted
 SD 1996-1

PRACTICE OF LAW

Corporations

terminated employee/attorney has no right of access to offices, files, corporate records, or employment because of ownership share

Voorhies v. Green (1983) 139 Cal.App.3d 989 [189 Cal.Rptr. 132]

Data processing service

use of by law firm

CAL 1971-25

Defined

In re Glad (9th Cir. 1989) 98 B.R. 976

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Farnham v. State Bar (1976) 17 Cal.3d 605

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542

People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)

LA 195

CAL 2020-201, OC 94-002, SD 1983-4, SD 1983-7, SF 2021-1

advisory counsel

-pro se defendants given assistance in courtroom without actual conduct of trial

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

co-counsel attorney may participate in trial with pro se defendant

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

Delegation of professional responsibility

to non-lawyer

-tax specialist

LA 86 (1935)

Donation of legal services [See Fees.]

Dual occupation/profession [See Commission, fees.]

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

CAL 1999-154, CAL 1982-69, CAL 1968-13

LA 477, LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975)

SD 1992-1, SD 1969-2

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

attorney also certified public accountant

Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. Of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]

LA 351 (1975), LA 225 (1955)

attorney also concert promoter

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

attorney also dentist

SF(I) 1973-7

attorney also legal publisher operating out of attorney's office

LA 446 (1987)

attorney also physician

LA 477

attorney as sports agent

CAL 1968-13

city council member and deputy county counsel

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

collection agency and law practice

Business and Professions Code section 6077.5

Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]

LA 124 (1939)

corporation director

OC 2011-02

insurance agency and law practice

SD 1974-18

investment/portfolio manager

CAL 1999-154

management consulting company

-may not form company that acts as attorney's agent in solicitation of business

LA 446 (1987)

motion picture and theatrical agency and law practice

LA 84 (1935)

multidisciplinary practice

LA 510 (2003)

police officer badge and card while practicing law

-adverse interest

--accepting employment in criminal defense case

LA 94 (1936)

real estate and law practice

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

CAL 1982-69

LA 413 (1983), LA 384 (1980), LA 340 (1973)

SD 1992-1, SD 1969-2

-acceptance of legal business referred from real estate business

LA 140 (1942)

standard applied in dual purpose communications

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

Duty to supervise employees

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 95]

Palomo v. State Bar (1984) 36 Cal.3d 785

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

CAL 1988-103, LA 488 (1996), OC 94-002

Employee duties to employer

Labor Code section 2650 et seq.

Fee sharing agreement

between departing partner and firm

-found to violate Rules of Professional Conduct

Champion v. Superior Court (1988) 201 Cal.App.3d 777

Fictitious name, use of

by attorney or law firm

Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77]

CAL 1982-66, LA 9 (1921)

fitness to practice

In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]

In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]

lawyer/firm to practice under company name

LA 26 (1925)

Fiduciary duty owed by partners of a dissolved partnership to each other

due to complete the partnership's unfinished business and to act in the highest good faith

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Franchise legal network

LA 423 (1983)

Goodwill of

[Rule](#) 2-300, Rules of Professional Conduct (operative as of May 27, 1989)
defined

Business and Professions Code section 14100

[Geffen v. Moss](#) (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]

*[In re Marriage of Lopez](#) (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]

[Lyon v. Lyon](#) (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]

[Burton v. Burton](#) (1958) 161 Cal.App.2d 572 [326 P.2d 855]

dissolution of partnership

[Howard v. Babcock](#) (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]

[Fraser v. Bogucki](#) (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]

[Lyon v. Lyon](#) (1966) 246 Cal.App.2d 519, 524 [54 Cal.Rptr. 829]

[CAL](#) 2020-201, [CAL](#) 2014-190, [CAL](#) 1985-86

-due to death of partner

[Little v. Caldwell](#) (1894) 101 Cal. 553, 561 [36 P. 107]

[Heywood v. Sooy](#) (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]

-partner not entitled to compensation for good will

[Fraser v. Bogucki](#) (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]

fill in blanks in forms

SD 1983-7

intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets

[In re Marriage of Iredale and Cates](#) (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]

measurement of goodwill value

[In re Marriage of Iredale and Cates](#) (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]

payments of

-to heirs of deceased partners

[Little v. Caldwell](#) (1894) 101 Cal. 553, 561 [36 P. 107]

[Heywood v. Sooy](#) (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]

[CAL](#) 1975-34

SD 1968-5

use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm

[In re Marriage of Iredale and Cates](#) (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]

valuation of

-in divorce or dissolution proceedings

[In re Marriage of Fonstein](#) (1976) 17 Cal.3d 738 [131 Cal.Rptr. 873]

*[In re Marriage of Aufmuth](#) (1979) 89 Cal.App.3d 446, 463 [152 Cal.Rptr. 668]

*[In re Marriage of Lopez](#) (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]

[Todd v. Todd](#) (1969) 272 Cal.App.2d 786 [78 Cal.Rptr. 131]

--intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets

[In re Marriage of Iredale and Cates](#) (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]

--use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm

[In re Marriage of Iredale and Cates](#) (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]

Holding out as attorney

Business and Professions Code section 6126

Holding out as specialist [[see](#) Advertising]

[Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)

[Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)

[Peel v. Attorney Regulatory and Disciplinary Commission of Illinois](#) (1990) 496 U.S. 91 [110 S.Ct. 2281]

[Wright v. Williams](#) (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]

Inactive attorneys

federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court

[In re North](#) (9th Cir. 2004) 383 F.3d 871

In pro se

capital defendant who chooses to be represented by counsel generally entitled to present his case personally or to act as co-counsel at trial, but may make pro se motions regarding representation and substitution of counsel

[In re Barnett](#) (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]

preservation of constitutional right

[United States v. Condo](#) (9th Cir. 1984) 741 F.2d 238

waiver of right of counsel

[United States v. Gerritsen](#) (9th Cir. 2009) 571 F.3d 1001

In propria persona client and advisor counsel share handling of case

[Johnson, York, O'Connor & Caudill v. Board of County Commissioners of the County of Fremont](#) (1994) 868 F.Supp. 1226

[People v. Bloom](#) (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]

[People v. Bourland](#) (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]

LA 483 (1995), LA 432 (1984), LA 502 (1999)

capital defendant who chooses to be represented by counsel is generally not entitled to present his case personally or to act as co-counsel at trial

[In re Barnett](#) (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]

Interference by government

[Conn v. Gabbert](#) (1999) 526 U.S. 286 [119 S.Ct. 1292]

Interference with business relations and contracts

[Dixon v. State Bar](#) (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]

[GeneThera, Inc. v. Troy and Gould](#) (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]

[Di Loreto v. Shumake](#) (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]

[Rosenfeld, Meyer & Susman v. Cohen](#) (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

elements of

[Davis v. Nadrich](#) (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]

[Limandri v. Judkins](#) (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

no interference where partnership agreement was silent and each partner had knowledge that the other was taking clients separate from the partnership

[Davis v. Nadrich](#) (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]

Interference with prospective business advantage

[Di Loreto v. Shumake](#) (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]

[Rosenfeld, Meyer and Susman v. Cohen](#) (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

elements of

[Limandri v. Judkins](#) (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

of another lawyer

LA 10 (1921)

PRACTICE OF LAW

Interference with prospective economic advantage or contractual relations

Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]

Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]

attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure attorney is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon

Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]

elements of

Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

Investigator

use of by attorney

-where employed by client
LA 67 (1932)

Law firm liable for malicious prosecution based on acts of principal

Gerard v. Ross (1988) 204 Cal.App.3d 968

Law office relocation

announcement of
LA 104 (1936)

Law practice defined

Rule 1-100(B)(1), California Rules of Professional Conduct (operative September 14, 1992)

Business and Professions Code section 6180.14

Lawyer defined

Evidence Code section 950

Rule 1-100(B)(3), California Rules of Professional conduct

Lawyer referral [See Lawyer referral, referral of legal business.]

Lay person may not represent another

Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]

Legal research service

operated by attorneys

-constitutes practice of law

--advertising of
LA 301 (1967)

--incorporation
LA 301 (1967)

Letterhead

use union emblem on

CAL 1971-24

Liability of firm for legal malpractice of partner

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]

Liens [See Liens.]

Lottery ticket

assignment of

-to attorney
LA 115 (1937)

purchase of

-by attorney
LA 115 (1937)

Names [See Fictitious names.]

Non-payment of fee

withdrawal from representation

-notice to client
LA 125 (1940)

-protect client's position in litigation
LA 125 (1940)

Non-resident member performing legal services governed by California law

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Of counsel [See Of counsel.]

Omissions by one member of law firm imputed to others when more than one attorney works on case

Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]

Partner leaves firm and takes clients with him

allocation of fee

-former firm entitled to quantum meruit

Champion v. Superior Court (1988) 201 Cal.App.3d 777

Partnership [See Partnership.]

Physician-lawyer

LA 477

employed by law firm

LA 114 (1937)

Preparation of legal documents

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

CAL 2020-201

Preparation of petition to be presented by client in propria persona in other state improper

LA 218 (1953)

Pro bono

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Professional courtesy

circulating names of attorneys who fail to extend professional courtesies

LA 364 (1976)

Public interest law firm

LA 339

Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

Referral of legal business [See Referral of legal business.]

Sale of

Alpers v. Hunt (1890) 86 Cal. 78, 88-90 [24 P. 846]

Lyon v. Lyon (1966) 246 Cal.App.2d 519, 526 [54 Cal.Rptr. 829]

LA 361 (1976)

good will

Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]

Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]

SD 1968-5

-defined

Business and Professions Code section 14100

-violation

Rules 2-101, 2-104(B) and 2-108, Rules of Professional Conduct

valuation of law practice may require deduction of operating costs

*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518

Sharing office space with

accountant

LA(I) 1968-1

another attorney not a partner

People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]

CAL 1997-150, CAL 1986-90

LA(I) 1981-4

SD 1985-1

-not able to provide independent review as required under Probate Code section 21350

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

- bail bond agency
 - SD 1974-23
- conflict of interest
 - [CAL](#) 1997-150, [CAL](#) 1986-90, [CAL](#) 1979-50
 - LA 216 (1953), LA(l) 1972-15
 - SD 1985-1
- insurance company
 - LA 215 (1953), SD 1972-7
- investigator
 - LA(l) 1963-8, SD 1974-23
- land developer
 - LA(l) 1968-1
- management consulting company
 - LA 446 (1987)
- publishing company
 - LA 446 (1987)
- real estate broker
 - [CAL](#) 1982-69
 - LA 384 (1980), LA 140 (1942)
- separate sole practitioners
 - [CAL](#) 1997-150, [CAL](#) 1986-90, SD 1985-1
- when representing opposing sides
 - SD 1972-15
- with non-lawyers
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Sign
 - location
 - where no office
 - LA 134 (1940)
- Small claims court
 - appearance by attorney in
 - LA 105 (1936), SD 1983-4
- Specialist
 - Holding out as
 - [Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
 - [Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
 - Peel v. Attorney Regulatory & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
 - Wright v. Williams (1975) 47 Cal.App.3d 802
- Statutory service on attorney and employees
 - National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
- Tax specialist
 - employment of
 - to assist in advising client
 - LA 86 (1935)
 - holding out as
 - Business and Professions Code section 6126
- Trade name, use of
 - [Rule](#) 1-400, standards 6, 7, 8, 9, 12, Rules of Professional Conduct
 - by attorney or law firm
 - [CAL](#) 1982-66, LA 9 (1921)
- Valuation of a law practice in a marital dissolution proceeding
 - *In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
- Valuation of a law practice when partnership dissolves
 - Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
- Work product [[See](#) Files and Work Product.]
- PREPAID LEGAL SERVICES** [[See](#) Group legal services.]
- PRIVILEGED COMMUNICATIONS** [[See](#) Confidences of the client, privilege]
- Evidence Code section 950 et seq.
 - communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
 - Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
- communications between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
 - Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- communications between firm attorney and in-house counsel related to dispute with current client may be privileged
 - Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 - [CAL](#) 2019-197
- in camera review of communications to determine privilege
 - Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city
 - City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
- opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- privilege communications between city attorney and commissions cannot be eliminated by public records ordinance
 - St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- Attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
- Attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 - Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
- Billing statements
 - exceptions
 - Clarke v. American National Commerce Bank (9th Cir. 1992) 974 F.2d 127
 - attorney fee totals in legal matters that concluded long ago
 - Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 - confidentiality of invoices for work in pending and active legal matters protected
 - Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 - Public Records Act disclosure
 - Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
- Compelled disclosure
 - court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
 - Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 - disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
 - Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
 - judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination
 - Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]
- Condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
 - Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

PRIVILEGED COMMUNICATIONS

Confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

new trustees succeeds to all the rights, duties and responsibilities of his or her predecessors

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Deceased client

People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]

LA 414

destruction of file

LA 491 (1997)

Defendant's former attorney allowed to testify as to defendant's threats against witnesses

U.S. v. Alexander (9th Cir. (Mont.) 2002) 287 F.3d 811

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Defined

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Electronic communication technologies, utilization of

LA 529 (2017), OC 97-002

Exceptions

corporation waived attorney-client and work product privileges when it shared documents with government

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

defendant did not waive attorney-client and work product privileges when it shared documents with government

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

defendant's former attorney allowed to testify as to defendant's threats to commit act likely to result in death or substantial bodily harm

U.S. v. Alexander (9th Cir. (Mont.) 2002) 287 F.3d 811

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

independent third party digital forensic expert's report do not reflect an attorney's impressions, conclusions, opinions, legal research and theories, thus, not protected from discovery as work product

Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]

no implied exceptions to attorney-client privilege

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation

Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]

Inadvertent disclosure [See Confidences of the Client, Inadvertent disclosure]

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47] SD 1987-3

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege

Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

Litigation privilege

Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]

G.W. v. Intelligitor (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

Litigation privilege does not insulate an attorney from disciplinary proceedings based on his in-court actions

Canatella v. Stovitz (2005) 365 F.Supp.2d 1064

Litigation privilege extends to demand letters under Civil Code section 47(b)

American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]

Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]

inapplicable in an action by a former client against an attorney for breach of professional duties

Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]

may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to the earlier litigation

American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]

Litigation privilege is absolute and extends to alleged misrepresentations by opposing side

Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]

Probate Code section 16060 et seq.

confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

former trustee cannot withhold communications with trust's former counsel on ground of attorney-client privilege to successor trustee

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

predecessor trustee failed to establish that they communicated with counsel in their personal capacity

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

trust may not allow a former trustee to withhold from a successor trustee all communications between that former trustee and the trust's legal counsel

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

Qualified common interest privilege against defamation under Civil Code section 47(c) protects statements made on subject of mutual interest to parties sharing common interest

Hui v. Sturbaum (2014) 222 Cal.App.4th 1109 [166 Cal.Rptr.3d 569]

Reports in public journals of judicial proceedings under Civil Code section 47(d)

Microsoft Corp. v. Yokohama Telcom Corp. (1998) 993 F.Supp. 782

Sharing memoranda authored by corporate in-house counsel with outside law firm for non-legal purpose waived attorney-client privilege

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Sixth Amendment's Confrontation Clause vs. attorney-client privilege

defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

Tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy

Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]

- Under Civil Code section 47
Hui v. Sturbaum (2014) 222 Cal.App.4th 1109 [166 Cal.Rptr.3d 569]
Healy v. Tuscan Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]
- PRO BONO**
Attorney disciplined for failure to communicate and perform for pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Federal courts authority under a specific statute to require an unwilling attorney to represent an indigent party
Mallard v. U.S. Dist. Court for the Southern District of Iowa (1989) 490 U.S. 296 [109 S.Ct. 1814]
Indigent's retention of privately obtained pro bono counsel is improper basis to deny an independent psychiatric examination at public expense
In re Conservatorship of Scharles (1991) 233 Cal.App.3d 1334
Partial pro bono fee arrangement did not preclude award of attorney's fees under C.C.P. § 425.16
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
Pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
Slight mitigating credit for pro bono service which was not great and was remote in time
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
Slight mitigating credit for pro bono work
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- PROBATE** [See Estate. Purchasing property at probate, foreclosure or judicial sale.]
PROFESSIONAL LIABILITY [See Competence. Conflict of interest. Duties of attorney. Malpractice. Neglect. Negligence. Trial conduct.]
Code of Civil Procedure section 187
trial court held attorney liable for law corporation's debts as alter ego where corporation was being used by attorney to escape personal liability
Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]
Hutchinson v. Gertsch (1979) 97 Cal.App.3d 605
Kirtland and Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]
Absolute privilege in the public's interest
Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
Accrual of causes of action and limitation in malpractice action against attorneys
Baright v. Willis (1984) 151 Cal.App.3d 303
Krusesky v. Baugh (1982) 138 Cal.App.3d 562 [188 Cal.Rptr. 57]
Action against attorney for
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Adequacy of motion for summary judgment
Blanch v. Young (1984) 152 Cal.App.3d 1016 [200 Cal.Rptr. 9]
Agency
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
Agreement with client to arbitrate any malpractice claim
CAL 1977-47
- Arbitration of claims for
arbitrator's decision to dismiss legal malpractice case due to plaintiff's inability to pay should have allowed case to proceed in federal court
Tillman v. Tillman, Rheingoldm Valet, Rheingold, Shkolnik & McCartney (9th Cir. 2016) 825 F.3d 1069
client's agreement
-arbitration clause in attorney-client retainer agreement
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
-as condition to employment
Rule 3-400, Rules of Professional Conduct
CAL 1977-47
Assignability of chose in action for legal malpractice
White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]
Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]
exception to the California rule barring the assignment for the cause of action for legal malpractice
White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]
legal malpractice claims sounding in tort or contract not assignable
Jackson v. Rogers & Wells (1989) 210 Cal.App.3d 336 [258 Cal.Rptr. 454]
Attorney's dissemination of information produced by adverse party and covered by protective order does not constitute tort
Westinghouse Electric Corp. v. Newman (1995) 39 Cal.App.4th 370 [46 Cal.Rptr.2d 151]
Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Attorney General
deputy attorney general immune from liability to person wrongfully accused following grand jury investigation
Harmston v. Kirk (1989) 216 Cal.App.3d 1410
Attorney-client relationship
consultation
-prima facie evidence of existence of
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Bankruptcy proceeding
liquidating bankruptcy trustee's claims against company's lawyer relating to his alleged role in company's fraud barred by doctrine of in pari delicto
Uecker v. Zentil (2016) 244 Cal.App.4th 789 [198 Cal.Rptr.3d 620]
standard of care
Enriquez v. Smith (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Breach of fiduciary duty
claims to strike under anti-SLAPP statute
Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]
-anti-SLAPP motion by defendant's attorney proper where plaintiff's complaint comprises communications with future defendant's attorney in preparation of litigation
Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]
requirements to state a cause of action
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

PROFESSIONAL LIABILITY

- Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
Pierce v. Lyman (1991) 1 Cal.App.4th 1093
-claims to strike under anti-SLAPP statute
Hylton v. Frank E. Rogozlenski, Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
violation of rules of professional conduct may be admitted as evidence of fiduciary breach
Mirabito v. Liccardo (1992) 4 Cal.App.4th 41
- Burden of proof
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
client must prove causation in transactional matters
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
plaintiff failed to prove that any judgment she might have obtained in her “case within a case” would have been collectible
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
plaintiff must prove under “minimum contacts test” that the “quality and nature” of the defendant’s activity is such that it is “reasonable” and “fair” to require him to conduct his defense in that state
Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]
Co-counsel not liable for other counsel’s fees due to his own malpractice which reduced or eliminated fees of other counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Co-counsel’s duty to report counsel’s
LA 313 (1969)
Code of Civil Procedure section 340.6
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
Collateral estoppel, effect of
client is prohibited from relitigating previously decided issues even if second suit raises different causes of action
Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]
collateral estoppel doctrine bars plaintiff from relitigating the issue of whether her juvenile dependency attorneys caused the termination of her parental rights because causation is an essential element of a malpractice claim
Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]
- respondent’s action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
Collateral order doctrine defined
AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803
Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136
Comparative fault doctrine
calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
contributory negligence of the person injured in person or property shall not bar recovery but damages awarded shall be diminished in proportion to the amount of negligence attributable to the person
Yale v. Bowne, II (2017) 9 Cal.App.5th 649 [215 Cal.Rptr.3d 266]
Conspiracy to violate legal ethics
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Conspiracy under Civil Code section 1714.10
Stueve v. Berger Kahn (2013) 222 Cal.App.4th 327 [165 Cal.Rptr.3d 877]
Rickle v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
Evans v. Pillsbury, Madison & Sutro (1998) 65 Cal.App.4th 599 [76 Cal.Rptr.2d 679]
attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
claim against opposing counsel for fraud may be viable if the attorney’s act caused harm to the plaintiff
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
suit for conspiracy against opposing counsel may be viable if attorney is found to have acted in furtherance of his private gain
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
Continued representation of clients regarding the specific subject matter in which alleged wrongful act or omission occurred
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]
“Continuity of representation” test
Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
Continuous representation tolls statutes
Von Rott v. Johnson (1983) 148 Cal.App.3d 608 [196 Cal.Rptr. 55]
Contributory negligence of client
Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]
Corporate counsel retained by corporation to defend against litigation was not agent of corporation for purposes of Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Counsel who may benefit from malpractice action informs party who may have such action against her counsel

LA 326 (1972)

Criminal defendant must prove actual innocence in action for

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence

Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]

Damages

*Smith v. Lewis (1975) 13 Cal.3d 349, 361 [118 Cal.Rptr. 621]

Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]

Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]

Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]

Campbell v. Magana (1960) 184 Cal.App.2d 751 [8 Cal.Rptr. 32]

Pete v. Henderson (1954) 124 Cal.App.2d 487 [269 Cal.Rptr. 78]

calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

legal fees spent in an unsuccessful attempt to overturn marital settlement agreement did not represent tort damages, and thus, without evidence of any other recognized tort damages, case could only proceed as a fee dispute

Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]

Defense attorneys are not liable for unauthorized reading of victim's mental health records which they received through the prescribed judicial process

Mansell v. Otto (2003) 108 Cal.App.4th 265 [133 Cal.Rptr.2d 276]

Disclose information in action by client against co-counsel

LA 254 (1958)

Duty of attorney

advise client of other claims related to but outside the scope of the representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

advise client of potential liability from promulgating a false or misleading offering to investors

Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44

advise client of prior attorney's malpractice

-no duty found

LA 390 (1981)

attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

class action members

-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

-counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure

Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]

no duty to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter because the alleged harm lacked foreseeability

First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983

report to the State Bar

Business and Professions Code sections 6068(o)(1), (2), 6086.8

settlement

-cannot prohibit the filing of State Bar complaint

Rule 1-500(B), Rules of Prof. Conduct

Business and Professions Code section 6090.5

CAL 2012-185

-no duty to exonerate clients from fault in public eye

--no liability to counsel

Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]

especially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Duty owed in favor of third persons

Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

Hall v. Superior Court (2003) 108 Cal.App.4th 706 [133 Cal.Rptr.2d 806]

Meighan v. Shore (1995) 34 Cal.App.4th 1025

Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]

adverse party

-no duty allowed

Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A [249 Cal.Rptr. 697]

Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]

Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]

Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]

assumption of fiduciary duty as "escrow holder" for adverse party

Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

-prior counsel

CAL 2009-177

attorney advising client is liable to third party when reasonably foreseeable that advice will be transmitted to and relied upon by third party

Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Home Budget Loan v. Jacoby & Meyers Law Offices (1989) 207 Cal.App.3d 1277 [255 Cal.Rptr 483]

attorney employer

-client of

Donald v. Garry (1971) 19 Cal.App.3d 769 [97 Cal.Rptr. 191]

-disclosure that counsel represented only executor-trustee

Morales v. Field, DeGoff, Huppert & MacGowan (1979) 99 Cal.App.3d 307 [160 Cal.Rptr. 239]

PROFESSIONAL LIABILITY

- liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor
 - Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- attorney's duty of loyalty to client assignee for the benefit of creditors cannot be divided or diluted by a duty owed to the class of creditors
 - Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
- attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
 - Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
- children of client in dissolution
 - Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
- children of criminal client
 - attorney's duty to client does not sustain damages for emotional distress suffered by client's children
 - Holliday v. Jones (1989) 214 Cal.App.3d 465 mod. (1989) 215 Cal.App.3d 102
- escrow agents
 - generally, no duty
 - St. Paul Title Co. v. Meier (1986) 181 Cal.App.3d 948 [226 Cal.Rptr. 538]
- first attorney who was to receive a percentage of fee of second attorney
 - Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]
- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
 - Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- investors in client's securities offering
 - Federal Deposit Insurance Company v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44
- liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
 - Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
- lienholder
 - Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-56 [49 Cal.Rptr. 97, 410 P.2d 617]
 - In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- negligent misrepresentation to non-client
 - Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
 - non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
 - Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- non-client
 - Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
 - Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
 - Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 - Fox v. Pollack (1986) 181 Cal.App. 954 [226 Cal.Rptr. 532]
 - attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
 - Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
- law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
 - Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
- non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client
 - Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- patient of attorney's psychologist client
 - Schick v. Bach et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
- potential creditors of client
 - U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799
 - Johnstone v. State Bar (1986) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
 - Roberts v. Ball, Hunt, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
 - Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]
 - Miller v. Rau (1963) 216 Cal.App.2d 68 [30 Cal.Rptr. 612]
- prospective defendants
 - Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
 - Norton v. Hines (1975) 49 Cal.App.3d 917 [123 Cal.Rptr. 237]
- purchasers of client's property
 - Heliotis v. Schuman (1986) 181 Cal.App.3d 646 [226 Cal.Rptr. 509]
 - on the issue of personal jurisdiction, plaintiff bears burden of proving that the defendant had "minimum contacts" with the forum state that being subjected to its jurisdiction will not offend traditional notions of fair play
 - Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]
- purchasers of client's stock
 - Goodman v. Kennedy (1976) 18 Cal.3d 335 [134 Cal.Rptr. 375, 556 P.2d 737]
 - Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- spouse of client who was to receive portion of proceeds of
 - In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
- standing for bringing action in professional negligence
 - Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
- testamentary beneficiaries
 - Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
 - Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
 - Heyer v. Flaig (1969) 70 Cal.2d 223 [74 Cal.Rptr. 225]
 - Lucas v. Hamm (1961) 56 Cal.2d 583, 588 [15 Cal.Rptr. 821]
 - Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
 - Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
 - Garcia v. Borelli (1982) 129 Cal.App.3d 24 [180 Cal.Rptr. 768]
 - Ventura County Humane Society v. Holloway (1974) 40 Cal.App.3d 897 [115 Cal.Rptr. 464]
 - Hiemstra v. Huston (1970) 12 Cal.App.3d 1043 [91 Cal.Rptr. 269]
- trust beneficiaries
 - Pierce v. Lyman (1991) 1 Cal.App.4th 1093
- Duty owed to insured by attorney retained by insurer
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136, 151 [65 Cal.Rptr. 406]
- Duty owed to insurer by attorney retained by insurer
 - Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]

- insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Duty to refer client to a "specialist"
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]
 no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Effect of violation of the Rules of Professional Conduct
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Elements of cause of action
Harris v. Smith (1984) 157 Cal.App.3d 100, 104-105 [203 Cal.Rptr. 541]
- Emotional distress damages may be recoverable as part of a legal malpractice claim
 LA 489 (1997)
- Error
 in preparing findings in support of judgment in favor of client
Armstrong v. Adams (1929) 102 Cal.App. 677 [283 P. 871]
- Existence of attorney-client relationship
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 39 [154 Cal.Rptr. 22]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
 direct attorney-client relationship must be shown to exist between plaintiff and attorney-defendant when plaintiff alleges to be the intended beneficiary of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
 specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Exonerating personal liability
 Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
 LA 489 (1997)
- Failure to advise client of correct value of marital estate
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
- Failure to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- Failure to advise client of spouse's community property
Gorman v. Gorman (1979) 90 Cal.App.3d 454 [153 Cal.Rptr. 479]
- Failure to advise client to act promptly in retaining other counsel due to statute of limitations
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 41 [154 Cal.Rptr. 22]
- Failure to arrange for service of summons
Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176 [98 Cal.Rptr. 837, 491 P.2d 589]
- Failure to assert interest of wife in retirement benefits of husband in dissolution proceedings
Smith v. Lewis (1975) 13 Cal.3d 349 [118 Cal.Rptr. 621, 530 P.2d 589]
- Failure to clarify terms of settlement agreement with media
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- Failure to consult medical specialist where such consultation was not recommended by other medical specialists
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Co. (1991) 233 Cal.App.3d 1184
Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]
Hage v. Worthington, Park & Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
- Failure to file cross-complaint
Banerian v. O'Malley (1974) 42 Cal.App.3d 604 [116 Cal.Rptr. 919]
- Failure to file late claim against public entity within one year after accrual of cause of action
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Failure to file petition for change in client disability rating
Sprague v. Morgan (1960) 185 Cal.App.2d 519 [8 Cal.Rptr. 347]
- Failure to file petition for discharge in bankruptcy
Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
- Failure to file responsive pleadings
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
- Failure to file timely notice of a motion for a new trial
Tuck v. Thuesen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
- Failure to include husband's assets as community property
Raudebaugh v. Young (1978) 87 Cal.App.3d 364 [150 Cal.Rptr. 848]
- Failure to obtain trial setting preference for aged client
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]
- Failure to offer evidence to court about which attorney had serious doubts
Horo v. Lawton (1960) 787 Cal.App.2d 657 [10 Cal.Rptr. 98]
- Failure to prepare a valid "Clifford Trust"
Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]
- Failure to prepare or cause entry of judgment or verdict
Chavez v. Carter (1967) 256 Cal.App.2d 577 [64 Cal.Rptr. 350]
- Failure to properly draft stipulation, order and judgment in divorce action
McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]
- Failure to raise a defense of anti-deficiency statute
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
- Failure to raise available defenses in a criminal prosecution
Martin v. Hall (1971) 20 Cal.App.3d 414 [97 Cal.Rptr. 730]
- Failure to research law
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865 [208 Cal.Rptr. 1]
- Failure to serve summons and complaint
Troche v. Daley (1990) 217 Cal.App.3d 403
Kane, Kane & Kritzer, Inc. v. Altagen (1980) 107 Cal.App.3d 36 [165 Cal.Rptr. 534]
- First attorney prohibited from cross-complaining for indemnity against the successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
- First attorney cross-complaint for indemnity against former associate/successor attorney based on fraud proper
Williams v. Drexler (1988) 206 Cal.App.3d 373
- Fraudulent scheme
 attorney providing services to client not liable under racketeering law
Baumer v. Pacht (1993) 8 F.3d 1341

PROFESSIONAL LIABILITY

- outside contractor attorney may be held liable to government agency for acts of dealing
 - California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
- Immunity
 - attorney accused of conspiracy with a judge not entitled to federal law immunity
 - Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
 - attorney not entitled to judicial immunity for preparing order for judge
 - Burton v. Infinity Capital Management (9th Cir. 2014) 753 F.3d 954
 - lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
 - Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
 - public entity is not liable for injury resulting from an act or omission from an employee of the public entity
 - County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]
- Indemnification of attorneys who represented same client on same matter
 - Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
- Insurance
 - attorney's deadline to report malpractice claim to insurance carrier quitably tolled
 - Root v. American Equity Specialty Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]
 - law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
 - Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
- Invited error of defendant
 - Kessler v. Gray (1977) 77 Cal.App.3d 284 [143 Cal.Rptr. 496]
- Jurisdiction
 - California court has subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law
 - E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
 - California courts have jurisdiction under "minimum contacts test" if the "quality and nature" of the defendant's activity is such that it is "reasonable" and "fair" to require him to conduct his defense in this state
 - Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]
 - California courts non-disciplinary jurisdiction over non-resident California attorney
 - Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
 - Edmunds v. Superior Court (1994) 24 Cal.App.4th 221
- Legal negligence
 - plaintiff must prove "but for" alleged negligence, he would have obtained a more favorable results
 - Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
 - plaintiff must prove "but for" alleged negligence, the resulting contract would have been more favorable
 - Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
- Liability of court appointed counsel to federal criminal defendant for negligence
 - Fern v. Ackerman (1979) 444 U.S. 193 [62 L.Ed.2d 355; 100 S.Ct. 402]
- Liability of law firm
 - attorney as alter ego of law corporation is liable for debts of corporation where it was used by attorney to escape personal liability
 - Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]
 - for malicious prosecution based on acts of principal
 - Gerard v. Ross (1988) 204 Cal.App.3d 968
 - not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
 - New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
 - vicarious liability for acts of a partner
 - PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Liability of partner for attorney negligence
 - Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194]
 - for acts of other partners after leaving law firm
 - Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934 [155 Cal.Rptr. 393]
 - Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
 - Held v. Arant (1977) 67 Cal.App.3d 748 [134 Cal.Rptr. 422]
- Liability of subsequent tortfeasors
 - Goldfisher v. Superior Court (1982) 133 Cal.App.3d 12 [183 Cal.Rptr. 609]
 - Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
 - Parker v. Morton (1981) 117 Cal.App.3d 751 [173 Cal.Rptr. 197]
 - Rowell v. TransPacific Life Insurance Company (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
 - Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
 - calculation of damages based on comparative fault of prior and successor counsel and of clients
 - Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Limiting liability to client
 - CAL 2009-178
 - agreement to waive a conflict of interest
 - CAL 1989-115
 - assistance to an in propria persona litigant in preparing pleading or negotiating settlement
 - LA 502 (1999)
 - attorney declares bankruptcy
 - judgment may be non-dischargeable
 - In re Keller (9th Cir. 1989) 106 B.R. 639
 - for personal professional liability
 - Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
 - LA 489 (1997)
 - limited liability partnership
 - LA 489 (1997)
- Malpractice
 - acts constituting
 - E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
 - Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
 - Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
 - Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
 - Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
 - Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]

- Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
-breach of a professional duty, which causes only nominal damages, speculative harm, or the threat of future harm that is not yet realized, does not serve to create a cause of action for professional negligence
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from discharge of his duties for employer (Labor Code section 2802)
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
award of attorney's fees
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
-alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
class action
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
duty to advise client of prior attorney's malpractice
LA 390 (1981)
error on trial court for failure to instruct jury on issue of severability in legal malpractice case
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
expert witness's testimony admissible even though the attorney-expert possessed only related experience and not specific expertise
Jeffer, Mangels & Butler v. Glickman (1991) 234 Cal.App.3d 1432
insurance company
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard Ins. Group v. O'Flaherty & Belgium (1995) 38 Cal.App.4th 1229 [45 Cal.Rptr.2d 565]
liability of firm for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation
Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]
no duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
punitive damages in underlying case recoverable as compensatory damages in malpractice suit against negligent law firm
Merenda v. Superior Court (1991) 234 Cal.App.3d 1294
sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
settlement of claims for
-breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
standing to sue
-out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice
Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]
-successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate
Stine v. Dell'Osso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]
statute of limitations does not begin to run until client suffers actual harm
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Johnson v. Haberman & Kasso (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
Robinson v. McGuinn (1987) 195 Cal.App.3d 66
-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
-doctrine of "equitable tolling" applies to legal malpractice limitation period
Afrozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Mere breach of professional duty causing harm not yet realized does not create cause of action for malpractice
UMET Trust v. Santa Monica (1983) 140 Cal.App.3d 864, 874 [189 Cal.Rptr. 922]
Meritless claims
no obligation to allege or advise a client on an unmeritorious claim
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
Necessity for expert testimony
Goebel v. Lauderdale (1989) 214 Cal.App.3d 1502
Lipscomb v. Krause (1978) 87 Cal.App.3d 970 [151 Cal.Rptr. 465]

PROFESSIONAL LIABILITY

- Starr v. Mooslin (1971) 14 Cal.App.3d 988, 994 [92 Cal.Rptr. 583]
- Floro v. Lawton (1960) 187 Cal.App.2d 657, 674 [10 Cal.Rptr. 98]
- Necessity for proof of actual damages
- Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
- Kirtland & Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]
- Negligence
- attorney's breach of duty as escrow holder deemed actionable for negligence
- Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]
- Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
- client damages
- cross-complaint against plaintiff's attorney
- Rowell v. Transpacific Life Insurance Co. (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
- Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
- inadequate investigation of medical malpractice claim
- no cause of action against attorney by physician
- Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
- infliction of emotional distress
- Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]
- negligent misrepresentation to non-client
- Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
- non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
- Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
- specialty appearing attorney owes a duty of care to the litigant
- Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- third-party non-clients
- Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
- No duty to consult medical specialist unless such consultations recommended by other doctors
- Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Noerr-Pennington immunity defined
- Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136
- Obligation of insurance company to represent attorney against malpractice claim
- American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
- Offering incorrect advice to client
- Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
- Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
- Eckert v. Schaal (1967) 251 Cal.App.2d 1 [58 Cal.Rptr. 817]
- Moser v. Western Harness Racing Assn. (1948) 89 Cal.App.2d 1 [200 P.2d 7]
- McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
- Personal
- Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879
- Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney
- Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
- Privilege of judicial proceedings
- *Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879, 883-890 [207 Cal.Rptr. 33]
- Proceedings of State Bar against licensee of the bar
- Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]
- liability for
- Business and Professions Code section 6180.11
- Proximate cause
- Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
- Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Lysick v. Walcom (1968) 258 Cal.App.2d 136, 153 [65 Cal.Rptr. 406]
- Ishmael v. Millington (1966) 241 Cal.App.2d 520, 529 [50 Cal.Rptr. 592]
- Hegel v. Worthington, Park and Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
- Modica v. Crist (1954) 129 Cal.App.2d 144 [276 Cal.Rptr. 614]
- Feldsman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
- Not shown when attorney's allegedly wrongful conduct is not a substantial factor
- Kumaraperu v. Feldsted (2015) 237 Cal.App.4th 60 [187 Cal.Rptr.3d 583]
- not shown where criminal defendant actually guilty of crime for which convicted
- Bradshaw v. Pardee (1978) 78 Cal.3d 567
- Punitive damages
- in underlying lawsuit
- Ferguson v. Lieff, Cabraser, Heimann & Bernstein (2003) 30 Cal.4th 1037 [135 Cal.Rptr.2d 46]
- Expansion Pointe Properties Limited Partnership v. Procopio (2007) 152 Cal.App.4th 42 [61 Cal.Rptr.3d 166]
- Piscitelli v. Friedenberq (2001) 87 Cal.App.4th 953
- Recovery of emotional suffering damages
- Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
- Reliance on one attorney's advice does not preclude malpractice suit later
- Baright v. Willis (1984) 151 Cal.App.3d 303, 313 [198 Cal.Rptr. 510]
- Retaliation
- employee may proceed with retaliation action against employer's attorney for discriminating against an employee filing a complaint under the Fair Labor Standard Act (FLSA)
- Arias v. Raimondo (9th Cir. 2017) 860 F.3d 1185
- Right to jury trial in legal malpractice actions
- Piscitelli v. Friedenberq (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Rule against perpetuities
- Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]
- Rules of Professional Conduct as an ethical standard
- Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
- Mirabito v. Liccardo (1992) 4 Cal.App.4th 41
- David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Scope of expert testimony
- Piscitelli v. Friedenberq (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]
- Settlement
- client needs to show "significant difference" between what the settlement was and what could have been awarded at trial in order to prove damages
- Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]

- settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178
- Special appearances
 specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Standard of care
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Considine Co. Inc. v. Shadle, Hunt & Hagar et al. (1986) 187 Cal.App.3d 760, 765
Wright v. Williams (1975) 47 Cal.App.3d 802, 809, 810 [121 Cal.Rptr. 194]
Ishmael v. Millington (1966) 241 Cal.App.2d 520, 525 [50 Cal.Rptr. 592]
- failure to establish prima facie case
 -no expert testimony
Conley v. Lieber (1979) 97 Cal.App.3d 646 [58 Cal.Rptr. 770]
 --no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- for advice attorney to an in propria persona litigant
 LA 502 (1999)
- for legal specialist
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91
Wright v. Williams (1975) 47 Cal.App.3d 802, 809 [121 Cal.Rptr. 194]
- proof of
 -expert testimony required
Lipscomb v. Krause (1978) 87 Cal.App.3d 970
- Statute of limitations
Davies v. Krasna (1975) 14 Cal.3d 502 [121 Cal.Rptr. 705]
Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176, 190 [98 Cal.Rptr. 837]
Heyer v. Flaig (1969) 70 Cal.2d 233 [74 Cal.Rptr. 225]
Alter v. Michael (1966) 64 Cal.2d 480 [50 Cal.Rptr. 553]
Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Stoll v. Superior Court (1992) 9 Cal.App.4th 1362 [12 Cal.Rptr.2d 1321]
Johnson v. Simonelli (1991) 231 Cal.App.3d 105 [282 Cal.Rptr. 205]
Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]
- Bell v. Hummel & Pappas (1982) 136 Cal.App.3d 1009 [186 Cal.Rptr. 688]
McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]
Horne v. Peckham (1979) 97 Cal.App.3d 404, 416-417 [158 Cal.Rptr. 714]
Tuck v. Thusen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
Chavez v. Carter (1967) 256 Cal.App.2d 577, 580 [64 Cal.Rptr. 350]
Eckert v. Schaal (1967) 251 Cal.App.2d 1, 4 [58 Cal.Rptr. 817]
Bustamante v. Halt (1963) 222 Cal.App.2d 413 [35 Cal.Rptr. 176]
Jensen v. Sprigg (1927) 84 Cal.App. 519
- actions against attorneys, under CCP 340.6
Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]
 -client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"
Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]
 -dismissal reversed to determine whether client's action against attorney arose from the performance of legal services
Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]
- application of where attorney performs both legal and non-legal services
Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
- does not begin to run until client suffers actual harm
Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Robinson v. McGuinn (1987) 195 Cal.App.3d 66
 -doctrine of "equitable tolling" applies to legal malpractice limitation period
Afrozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
- in action against attorney
 Code of Civil Procedure section 340.6
Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]
Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]
Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

PROFESSIONAL SOCIETIES

-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

-duty of attorney to advise client of imminent running of

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

prisoner may be entitled to equitable tolling where there were extraordinary circumstances; attorney who resigns, running "writ mill" may be extraordinary

Porter v. Ollison (9th Cir. 2010) 620 F.3d 952

tolled for bringing legal malpractice action while attorney still represents client on related matters, even if client knows of attorney's negligence

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]

Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

O'Neill v. Tichy (1993) 19 Cal.App.4th 114 [25 Cal.Rptr.2d 162]

tolling of statute

Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]

-notice of claim by former client timely, relation-back doctrine applied where claim amended complaint alleging negligence pertain to specific acts of negligence contained in the original complaint

Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

-under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Successor attorney advising client of action against former attorney
LA 390 (1981)

Superceding negligence of second attorney retained

Cline v. Watkins (1977) 66 Cal.App.3d 174 [135 Cal.Rptr. 838]

Training of staff

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

Transactional matters

client must prove causation

Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Trust administrator's attorney's fees are compensable in litigation related to trust administration

Estate of Gump (1991) 1 Cal.App.4th 582 [2 Cal.Rptr.2d 269]

PROFESSIONAL SOCIETIES

Committees established for the maintenance of professional standards

immunity for liability

Civil Code section 43.7

Peer review committees

immunity for liability

Civil Code section 43.7

Professional standards, committees established for maintenance of

immunity for liability

Civil Code section 43.7

PROFESSIONALISM

California Attorney Guidelines of Civility and Professionalism

Attorney's must strive to maintain the highest standards of civility and professionalism and must be an example of lawfulness, not lawlessness

Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

Integrity of adversary system depends on the highest standard of ethics, civility, and professionalism in the practice of law

Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]

PROPERTY

Client's property

attorney's duties

Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

-withdrawal from representation

Rule 2-111(A)(2), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Sale of

auctioneer, attorney may act as

-where trust or deed of trust gives power of sale to trustee

Civil Code section 2924a

conduct sale

-attorney for trustee may

Civil Code section 2924a

non-judicial foreclosure

Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]

prevailing borrower defined under Civil Code section 2924.12

Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]

trust or deed of trust gives power of sale to trustee

-attorney for trustee may conduct sale

Civil Code section 2924a

PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [[See](#) Estate. Purchasing property at probate, foreclosure, or judicial sale.]

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

Refusal to return other party's

LA(l) 1966-8

PROSECUTOR [[See](#) Attorneys of government agencies.

Conflict of interest.]

Communication with criminal defendant who is potential witness to another crime

[CAL](#) 1979-49

Communication with jurors

[CAL](#) 1976-39

Conflict of interest

welfare proceeding

-between state and child

--disclosure to court

[CAL](#) 1977-45

Cumulative effect of errors results in prejudice

U.S. v. Preston (9th Cir. 2017) 873 F.3d 829

Legal advice
to victim of crime
-of civil remedies
[CAL 1976-40](#)

Rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133

Sanctions
not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters
[Nash v. Clark County District Attorney's Office \(In re Nash\)](#) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

PROSECUTORIAL MISCONDUCT [See Competence. Ineffective assistance of counsel. Judges, ex parte communication with. Trial conduct.]

[Note: This section is arranged according to the stage of the proceeding in which the conduct occurs.]

[Rule 5-110](#), Rules of Professional Conduct (operative as of May 1, 2017)

prosecutor must disclose and/or conduct an investigation when the prosecutor is presented with "new, credible and material" evidence of a wrongful conviction
[Rule 5-110\(F\)](#)

prosecutor must exercise reasonable care to prevent persons under the prosecutor's supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120
[Rule 5-110\(E\)](#)

prosecutor must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters
[Rule 5-110\(B\)](#)

prosecutor must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused's appearance in pro per
[Rule 5-110\(C\)](#)

prosecutor must seek to remedy a conviction when the prosecutor "knows of clear and convincing evidence" establishing that a wrongful conviction occurred
[Rule 5-110\(G\)](#)

Advocacy, proper
[People v. Kelley](#) (1984) 158 Cal.App.3d 1085, 1097

Appeal
timely objection required
[People v. Fondron](#) (1984) 157 Cal.App.3d 390

Authority
effect of trial court discretion on
[People v. Geiger](#) (1984) 35 Cal.3d 510, 530

Brady disclosures
law firm representing victim is not part of the prosecution for purposes of *Brady* disclosure requirements
[IAR Systems Software Inc. v. Superior Court \(Shehayed\)](#) (2017) 12 Cal.App.5th 503 [218 Cal.Rptr.3d 852]

no violation found where witnesses/notes of witnesses' statements which were not favorable to the defendant were not given to defense counsel but statements were given at trial and were not suppressed. No reasonable probability that disclosure of the information would have altered the trial results
[People v. Verdugo](#) (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
[Connick v. Thompson](#) (2011) 563 U.S. 51 [131 S.Ct. 1350]

Breach of plea bargain agreement
[U.S. v. Manzo](#) (9th Cir. 2012) 675 F.3d 1204
[People v. Leroy](#) (1984) 155 Cal.App.3d 602, 606

California county district attorney acted as state official for purposes of section 1983 claim when deciding whether to prosecute individual for criminal defense
[Weiner v. San Diego County](#) (9th Cir. 2000) 210 F.3d 1025

Closing argument [See 26 A.L.R. 3d 1909; 85 A.L.R. 2d 1132.]

admission into evidence of extrajudicial statement made by defendant in attempt to impeach defendant's testimony
[People v. Disbrow](#) (1976) 16 Cal.3d 101 [127 Cal.Rptr. 360, 545 P.2d 272]
[People v. Nudd](#) (1974) 12 Cal.3d 204, 210 [115 Cal.Rptr. 372, 524 P.2d 844]

alleged racial slur
[People v. Torres](#) (1982) 133 Cal.App.3d 265, 281 [184 Cal.Rptr. 39]

appeal jurors' fear of friends and family condemnation, if jury finds in favor of defendant, was blatant misconduct
[People v. Shazier](#) (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

appeal to passion and prejudice
[Zapata v. Vasquez](#) (9th Cir. 2015) 788 F.3d 1106
[Drayden v. White](#) (9th Cir. 2000) 223 F.3d 704
[People v. Shazier](#) (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
[People v. Simington](#) (1993) 19 Cal.App.4th 1374 [23 Cal.Rptr.2d 769]

comment during penalty phase that evidence favorable to defendant didn't exist, when prosecutor knew that it did exist
[In re Miranda](#) (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

comment in attempt to discredit defense witness on fact witness's children had been taken from her because of neglect
[People v. Dontanville](#) (1970) 10 Cal.App.3d 783, 795 [89 Cal.Rptr. 172]

comment of defense counsel, not prejudicial
[Demirdjian v. Gipson](#) (9th Cir. 2016) 832 F.3d 1060
[People v. Friend](#) (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defense counsel's expert witness as a "hired mouthpiece" not found denigrating to defense and witness
[People v. Dworak](#) (2021) 11 Cal.5th 881 [281 Cal.Rptr.3d 176]

comment on counsel for defendant
[Allen v. Woodford](#) (9th Cir. 2005) 395 F.3d 979
[People v. Goldberg](#) (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]
[People v. Meneley](#) (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]

comment on defendant's bias and motive for lying
[People v. Jenkins](#) (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

comment on defendant's case
[People v. Jenkins](#) (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
[People v. Meneley](#) (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]

comment on defendant's character and his associates
[People v. Arredondo](#) (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
[People v. Bevea](#) (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]

comment on defendant's choice of counsel
[People v. Schindler](#) (1980) 114 Cal.App.3d 178, 187 [170 Cal.Rptr. 461]

comment on defendant's demeanor
[Allen v. Woodford](#) (9th Cir. 2005) 395 F.3d 979

comment on defendant's failure to call certain witness/introduce evidence
[Reynolds v. Superior Court](#) (1974) 12 Cal.3d 834 [117 Cal.Rptr. 437, 528 P.2d 45]
[People v. Beagle](#) (1972) 6 Cal.3d 441 [99 Cal.Rptr. 313, 442 P.2d 1]

PROSECUTORIAL MISCONDUCT

- In re Banks (1971) 4 Cal.3d 337, 349-351 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Coy (1981) 119 Cal.App.3d 254, 278-279 [173 Cal.Rptr. 889]
People v. Singleton (1980) 112 Cal.App.3d 418, 423 [169 Cal.Rptr. 333]
People v. Gray (1979) 91 Cal.App.3d 545, 551 [154 Cal.Rptr. 555]
People v. Corona (1978) 80 Cal.App.3d 684, 725 [145 Cal.Rptr. 894]
People v. Frohner (1976) 65 Cal.App.3d 94, 109 [135 Cal.Rptr. 153]
People v. Demond (1976) 59 Cal.App.3d 574, 591 [130 Cal.Rptr. 590]
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
People v. DeVaney (1973) 33 Cal.App.3d 630, 636 [109 Cal.Rptr. 276]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Powell (1971) 14 Cal.App.3d 693, 695 [92 Cal.Rptr. 501]
People v. Rice (1970) 10 Cal.App.3d 730, 742 [89 Cal.Rptr. 200]
*People v. Hall (1970) 7 Cal.App.3d 562, 567 [86 Cal.Rptr. 504]
comment on defendant's failure to previously come forward with defense asserted at trial
People v. Martin (1980) 101 Cal.App.3d 1000, 1008-1009 [162 Cal.Rptr. 133]
comment on defendant's failure to reply to accusatory statement
People v. Martin (1980) 101 Cal.App.3d 1000, 1007-1008 [162 Cal.Rptr. 133]
comment on defendant's failure to request live line-up
People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]
comment on defendant's failure to testify
U.S. v. Preston (9th Cir. 2017) 873 F.3d 829
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Vargas (1973) 9 Cal.3d 470 [108 Cal.Rptr. 15, 509 P.2d 959]
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]
People v. Goodall (1982) 131 Cal.App.3d 129 [182 Cal.Rptr. 243]
People v. Jones (1970) 10 Cal.App.3d 237, 293 [88 Cal.Rptr. 871].
But see
In re Banks (1971) 4 Cal.3d 337, 349-351
People v. Gaulden (1974) 36 Cal.App.3d 942, 959-958 [111 Cal.Rptr. 803]
People v. Parks (1973) 32 Cal.App.3d 143, 151 [108 Cal.Rptr. 34]
People v. Meneley (1972) 29 Cal.App.3d 41 [105 Cal.Rptr. 432]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Bethea (1971) 18 Cal.App.3d 930, 936 [96 Cal.Rptr. 229] cert. den. 405 U.S. 1042, 31 L.Ed.2d 584, 92 S.Ct. 1325
-comment to jury on why defense witness did not testify
People v. Gaines (1997) 54 Cal.App.4th 821 [63 Cal.Rptr.2d 188]
-indirectly commenting on defendant's failure to testify
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]
-sanity phase of trial
People v. Flores (1976) 55 Cal.App.3d 118
-statement that defendant's exercise of his Fifth Amendment rights did not mean that he was innocent or that jury was supposed to find him not guilty
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr.382]
comment on defendant's prior jail time, brief and not prejudicial
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
comment on defendant's silence in face of accusation by private person
People v. Martin (1980) 101 Cal.App.3d 1000, 1004-1008 [162 Cal.Rptr. 133]
comment on defense counsel's failure to reveal alibi defense prior to trial
People v. Lindsey (1988) 205 Cal.App.3d 112, mod. 205 Cal.App.3d 986
comment on defense counsel's tactics, implication of chicanery
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
comment on failure of defense to call witnesses to advance alibi defense urged by defendant
People v. Najera (1979) 88 Cal.App.3d 930, 933-935 [152 Cal.Rptr. 124]
comment on failure of defense to present evidence corroborating defendant's asserted alibi
People v. Chandler (1971) 17 Cal.App.3d 798, 805-806 [95 Cal.Rptr. 146]
comment on lack of defense testimony
People v. Beye (1974) 38 Cal.App.3d 176, 199 [113 Cal.Rptr. 254]
comment on lack of evidence presented by defense
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
People v. Gaulden (1974) 36 Cal.App.3d 942, 954-958 [111 Cal.Rptr. 803]
comment on merit of evidence presented by defense
People v. Powell (1980) 101 Cal.App.3d 513, 520 [161 Cal.Rptr. 803]
comment on possible sentence
People v. Kozel (1982) 133 Cal.App.3d 507, 519 [184 Cal.Rptr. 208]
comment on post-arrest silence
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
People v. Delgado (1992) 10 Cal.App.4th 1837 [13 Cal.Rptr.2d 703]
comment on post-Miranda silence was harmless error
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
comment on pre-arrest silence
People v. Kelly (1981) 125 Cal.App.3d 575 [178 Cal.Rptr. 84]
comment on presentation of defendant's case/choice of counsel/trial tactics
People v. Gordon (1982) 136 Cal.App.3d 519
comment on prior judgments/convictions of defendant [See Prior judgments/convictions.]
People v. Bolton (1979) 23 Cal.3d 208, 212-15 [152 Cal.Rptr. 141, 589 P.2d 396]
People v. McDaniel (1976) 16 Cal.3d 156, 175-77 [127 Cal.Rptr. 467, 545 P.2d 843], cert. den. 429 U.S. 847 [50 L.Ed.2d 119, 97 S.Ct. 131]
*People v. Allums (1975) 47 Cal.App.3d 654, 661 [121 Cal.Rptr. 62]
People v. Martinez (1973) 31 Cal.App.3d 355, 358 [107 Cal.Rptr. 284]

People v. Savala (1969) 2 Cal.App.3d 415, 419-20 [82 Cal.Rptr. 647]
comment on testimony
-of character of witnesses
In re Gary G. (1981) 115 Cal.App.3d 629, 637 [171 Cal.Rptr. 531]
*People v. Benton (1979) 100 Cal.App.3d 92, 97 [161 Cal.Rptr. 12]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Ayers (1975) 51 Cal.App.3d 370, 379 [124 Cal.Rptr. 283]
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 405-06 [119 Cal.Rptr. 378]
People v. Bevea (1974) 38 Cal.App.3d 176, 197 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 91, 60 [105 Cal.Rptr. 432]
People v. Luckett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]
-of defendant, comment as to veracity
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1, 609 P.2d 468]
-of expert witness
People v. Dworak (2021) 11 Cal.5th 881 [281 Cal.Rptr.3d 176]
comment on what would have been the testimony of uncalled witness
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
comment that SVP (sexually violent predator) would be placed in mental hospital
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
commenting on reasonable doubt instructions
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
comments contrary to established law in robbery cases; prosecutor in closing argument repeatedly misstated to the jury that “[t]he law is an objective standard” and that it did not “matter if anybody is afraid”
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
comments misstated to the jury regarding circumstantial evidence
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
comments on defendants’ characters: “pack of wolves” “little punk” “what a tough guy you are”
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
comments on jury being “conscience of community,” lack of mercy shown victim, discounting of mitigating circumstances was not misconduct
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
comments that defense could not use defendant’s right not to testify as sword and shield were fair response to defense counsel’s argument
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]
comments that evidence was “uncontroverted” was fair response to defense counsel’s argument
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]
comments that jury did not hear any evidence of narrative presented by defense counsel were permissible comments on the evidence
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]

comments to jury regarding defendant living near schools, with his mother and without parole, allowed jury to consider consequences of their verdict, such considerations were wholly improper
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
comments to jury that they were being “groomed” or manipulated by the defendant was improper
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
comments within permissible argument
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
comparison of defendant to Hitler
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
conviction obtained on what appeared to be prosecutor’s misstatement of the evidence when in fact court reporter’s official transcript has since been corrected and no misstatement actually occurred
U.S. v. Mageno (9th Cir. 2015) 786 F.3d 768
death penalty reversed due to prosecutor’s misleading closing argument
People v. Farmer (1989) 47 Cal.3d 888 [254 Cal.Rptr. 508, 765 P.2d 940]
defendant’s failure to call certain witnesses/introduce evidence
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
disparaging remarks about defense counsel
People v. Reyes (1974) 12 Cal.3d 486, 505-06 [116 Cal.Rptr. 217, 526 P.2d 225]
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]
during closing argument, a prosecutor may make reasonable inferences based on the evidence presented at trial
U.S. v. Wijegoonaratna (9th Cir. 2019) 922 F.3d 983
erroneous statement of the law
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Scott (1982) 129 Cal.App.3d 301 [180 Cal.Rptr. 891]
expression of belief in defendant’s guilt
People v. Prysock (1982) 127 Cal.App.3d 972 [180 Cal.Rptr. 15]
expression of opinion as to defendant’s guilt
Ford v. Peery (9th Cir. 2020) 976 F.3d 1032
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1]
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
People v. Herring (1993) 20 Cal.App.4th 1066 [25 Cal.Rptr.2d 213]
People v. Brown (1981) 119 Cal.App.3d 116, 133 [173 Cal.Rptr. 877]
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr. 382]
People v. Bush (1978) 84 Cal.App.3d 294, 306 [148 Cal.Rptr. 430]
People v. La Fontaine (1978) 79 Cal.App.3d 176, 186 [144 Cal.Rptr. 729]
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
*People v. Wiley (1976) 57 Cal.App.3d 149, 162-63 [129 Cal.Rptr. 13]

PROSECUTORIAL MISCONDUCT

- People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
People v. Calpito (1970) 9 Cal.App.3d 212, 222-23 [88 Cal.Rptr. 64]
expression of opinion as to a witness credibility
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
United States v. Kerr (9th Cir. 1992) 981 F.2d 1050
false statement of fact to jury
US v. Reyes (9th Cir. 2009) 577 F.3d 1069
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
harmless error
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
improper remarks as to defendant's character and as to consequences of acquittal
People v. Jones (1970) 7 Cal.App.3d 358, 362-365 [86 Cal.Rptr. 516]
improper remarks directed against counsel for the defense
*People v. Perry (1972) 7 Cal.3d 756, 789-91 [103 Cal.Rptr. 161, 499 P.2d 129]
-prosecutor's use of words, "conjured up" a witness effectively asserted that defense counsel suborned perjury
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
improper remarks regarding conduct of defendant
People v. Blagg (1970) 10 Cal.App.3d 1035, 1040 [89 Cal.Rptr. 446]
impugning defense counsel's tactics at trial and in argument
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
inciting the passions and prejudice of the jury
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
inferences and deductions
People v. Kozel (1982) 133 Cal.App.3d 507, 518-519 [184 Cal.Rptr. 208]
inferences and deductions drawn from facts ascertained at trial
People v. Preston (1973) 9 Cal.3d 308, 317 [107 Cal.Rptr. 300, 508 P.2d 300]
People v. Butler (1980) 104 Cal.App.3d 868, 878 [162 Cal.Rptr. 913]
People v. Lawson (1979) 100 Cal.App.3d 60, 65-66 [161 Cal.Rptr. 7]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Mendoza (1974) 37 Cal.App.3d 717, 726-727 [112 Cal.Rptr. 565]
People v. Meneley (1972) 29 Cal.App.3d 41, 61 [105 Cal.Rptr. 432]
People v. Vattelli (1971) 15 Cal.App.3d 54, 63 [92 Cal.Rptr. 763]
People v. Rice (1970) 10 Cal.App.3d 730, 743 [89 Cal.Rptr. 200]
People v. Brown (1970) 6 Cal.App.3d 619, 625 [86 Cal.Rptr. 149]
misleading the jury that the defendant had committed other similar crimes
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
misstatement of law to jury
Ford v. Peery (9th Cir. 2020) 976 F.3d 1032
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Medellin (2020) 45 Cal.App.5th 519 [258 Cal.Rptr.3d 867]
People v. Pineiro (1982) 129 Cal.App.3d 915 [179 Cal.Rptr. 883]
-district attorney so misrepresented the law that it infected the case with prejudicial error
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
misstatement/erroneous statement of law or fact
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
People v. Strickland (1974) 11 Cal.3d 946, 955-57 [114 Cal.Rptr. 632, 523 P.2d 672]
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Beyea (1974) 38 Cal.App.3d 176, 198 [113 Cal.Rptr. 254]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
-prosecutor did not misstate intent element of crime charged in closing argument
People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]
-prosecutor's statement that the burden was on the defendant to prove his innocence violated the defendant's 14th Amendment due process rights
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
no "guilt by association" argument where prosecutor made comments regarding sexual misconduct by Catholic priests
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
no "stand in the shoes of the victim" comment where prosecutor presented hypothetical situations for jurors to imagine the inability to remember details
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
objection by prosecutor to defense counsel's statements regarding reasonable doubt as misstatement of the law not found to be prosecutorial misconduct
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
penalty trial
-attempt to re-open issues resolved at guilt trial
People v. Haskett (1982) 30 Cal.3d 841, 864 [180 Cal.Rptr. 640, 640 P.2d 776]
prejudicial inflammatory comments during closing argument
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
People v. Deasee (1993) 19 Cal.App.4th 374
People v. Duckett (1984) 161 Cal.App.3d 307, 316 [207 Cal.Rptr. 491]
-gang member entitled to habeas relief where his attorney failed to object to prosecutor's inflammatory, fabricated and ethnically charged remarks therefore was ineffective
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
prosecutor effectively calling defense counsel a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
prosecutorial misconduct to repeatedly use "cockroaches" to describe defendants and other gang members, suggested guilt by association
People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
reference to Biblical passage sanctioning capital punishment not prejudicial
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
reference to defendant as "smart thief" and "parasite on the community"
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]

- reference to defendant's use of heroin
Hall v. Whitley (9th Cir. 1991) 935 F.2d 164
- reference to facts not in evidence
U.S. v. Wijegoonaratna (9th Cir. 2019) 922 F.3d 983
People v. Galloway (1979) 100 Cal.App.3d 551, 563-564 [160 Cal.Rptr. 914]
People v. Panky (1978) 82 Cal.App.3d 772, 781 [147 Cal.Rptr. 341]
People v. Baeske (1976) 58 Cal.App.3d 775, 783 [130 Cal.Rptr. 35]
People v. Bevea (1974) 38 Cal.App.3d 176, 197-98 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 41, 62 [105 Cal.Rptr. 432]
People v. McDowell (1972) 27 Cal.App.3d 864, 880 [104 Cal.Rptr. 181]
People v. Wallace (1970) 13 Cal.App.3d 608, 616 [91 Cal.Rptr. 643]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
- reference to lack of witnesses/evidence presented by defense to corroborate asserted defense
People v. Roberts (1975) 51 Cal.App.3d 125, 135-137 [123 Cal.Rptr. 893]
- remarks about defendant's self-representation and statements to the effect that prosecutors are held to higher standards than others
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
- soliloquy delivered in voice of murder victim from witness chair
Drayden v. White (9th Cir. 2000) 223 F.3d 704
- statement impugning defendant's testimony
People v. Haslouer (1978) 79 Cal.App.3d 818, 833 [145 Cal.Rptr. 234]
- statement that "the defendant thinks it is funny" regarding facing criminal charges
People v. Gilliam (1974) 41 Cal.App.3d 181, 194-195 [116 Cal.Rptr. 317]
- statements denigrating the defense as a sham
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
- statements directed at the jury regarding its functions, duties, and conclusions properly drawn
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Wilson (1979) 97 Cal.App.3d 547, 550 [158 Cal.Rptr. 811]
People v. Patino (1979) 95 Cal.App.3d 11, 29-31 [156 Cal.Rptr. 815]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Panky (1978) 82 Cal.App.3d 772, 780-781 [147 Cal.Rptr. 341]
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
*People v. Smith (1973) 33 Cal.App.3d 51, 70-71 [108 Cal.Rptr. 698]
People v. Gay (1972) 28 Cal.App.3d 661, 675 [104 Cal.Rptr. 812]
People v. Daniels (1971) 16 Cal.App.3d 36, 47-48 [93 Cal.Rptr. 628]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
- statements to jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]
People v. Haskett (1982) 30 Cal.3d 841, 863 [180 Cal.Rptr. 640, 640 P.2d 776]
- People v. Medellin (2020) 45 Cal.App.5th 519 [258 Cal.Rptr.3d 867]
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
-as to what the testimony of an uncalled witness would have been
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
-defense counsel's definition of reasonable doubt was a misstatement of the law
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
-use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
statements to the effect that defendant lied, and that a co-defendant had "ice running through his veins"
People v. Reyes (1974) 12 Cal.3d 486, 505 [116 Cal.Rptr. 217, 526 P.2d 225]
suggestion that defendant has the burden of raising a reasonable doubt as to guilt
*People v. Ramos (1982) 30 Cal.3d 553, 574-575 [180 Cal.Rptr. 266, 639 P.2d 908]
unsupported implication by prosecutor that defense counsel has fabricated a defense
People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]
use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
vouching by prosecutor not plain error
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440
vouching for the credibility or prestige of the district attorney's office
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
vouching for witness credibility
People v. Rodriguez (2018) 26 Cal.App.5th 890
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
- Comments on defendant's conduct
People v. Garcia (1984) 160 Cal.App.3d 82, 93-94
- Comments on lies by witnesses at a foreign extradition hearing constituted reversible error
People v. Jaspal (1991) 234 Cal.App.3d 1446
- Comments to jury concerning personal responsibility for death penalty
People v. Fierro (1991) 1 Cal.4th 173
- Communication with defendant
People v. Manson (1976) 61 Cal.App.3d 102, 164 [132 Cal.Rptr. 265]
- Conduct before a grand jury
failure to disclose witness's potential bias
U.S. v. Benjamin (9th Cir. 1988) 852 F.2d 413
- Constitutional protection for criminal defendant
People v. Smith (1984) 155 Cal.App.3d 1103, 1138
- Cross-examination
allegation of improper questioning and comment, and objectionable demeanor on part of prosecutor
People v. Hyatt (1971) 18 Cal.App.3d 618, 624 [96 Cal.Rptr. 156]
allegation that prosecutors questions exceeded the scope of direct examination
People v. Harris (1981) 28 Cal.3d 935, 953 [171 Cal.Rptr. 679, 623 P.2d 240]

PROSECUTORIAL MISCONDUCT

alleged prejudicial questioning concerning defendant's use of/involvement with narcotics

People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]

arguing facts not in evidence

People v. Baines (1981) 30 Cal.3d 143, 149 [177 Cal.Rptr. 861, 635 P.2d 455]

asking questions of defendant which implied that he was guilty of the charged offense where facts requisite to such a conclusion were not in evidence and had not been established

People v. Romero (1977) 68 Cal.App.3d 543, 597-598 [137 Cal.Rptr. 675]

asking questions of defendant's girlfriend, who had borne defendant's daughter, and mother designed to show bias

People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]

asking questions reasonably necessary to develop fact of defendant's prior felony convictions

People v. Medina (1972) 26 Cal.App.3d 809, 820-822 [103 Cal.Rptr. 337]

asking questions which infer that witness has fabricated her testimonial evidence

People v. Straiten (1977) 71 Cal.App.3d 526, 535-36 [139 Cal.Rptr. 414]

asking witness, in attempt to impeach, whether he had ever been convicted of a felony

People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

attempt to discredit and impeach an alibi

-witness for defense

People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]

attempt to discredit/impeach witness for defense regarding testimony as to defendant's mental/physical health at time of commission of the charged offense

People v. Mazoros (1977) 76 Cal.App.3d 32, 46-49 [142 Cal.Rptr. 599]

attempt to impeach defendant on basis of his silence following arrest and *Miranda* warnings

United States v. Lopez (9th Cir. 2007) 500 F.3d 840

People v. Galloway (1979) 100 Cal.App.3d 551, 556-560 [160 Cal.Rptr. 914]

bad faith may be manifested by prosecutor intentionally asking questions of witness, the answers to which he knows are inadmissible because of their prejudice to the accused, or by asking questions which he knows are improper and inadmissible

People v. Romero (1977) 68 Cal.App.3d 543, 548 [137 Cal.Rptr. 675]

claim of improper questioning of defendant forfeited where no objection by counsel

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defendant being a "danger," prejudice cured by court's admonishment to jury

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defendant's right of silence

U.S. v. Sehnal (9th Cir. 1991) 930 F.2d 1420

comment to defendant that "you stand an excellent chance of being convicted of first-degree murder"

People v. Hall (1970) 5 Cal.App.3d 116, 124-126 [85 Cal.Rptr. 188]

detailed examination of defendant on matters testified to on direct examination

People v. Green (1979) 95 Cal.App.3d 991, 1007-1008 [157 Cal.Rptr. 520]

directing improper questions to defendant

People v. Wong (1973) 35 Cal.App.3d 812, 833-835 [111 Cal.Rptr. 314]

eliciting testimony concerning defendant's need for money as a motive for commission of charged offense

People v. Morales (1979) 88 Cal.App.3d 259, 264 [151 Cal.Rptr. 610]

exceeding the scope of direct examination

*People v. Goss (1980) 105 Cal.App.3d 542, 546-547 [166 Cal.Rptr. 1]

failed attempt to impeach witness by prior inconsistent statement

People v. Robinson (1970) 6 Cal.App.3d 448, 454-455 [86 Cal.Rptr. 56]

failure to offer any evidence in rebuttal of defendant's denial of use of a false name

*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

forcing defendant to characterize U.S. Marshall as liar

United States v. Sanchez (9th Cir. 1999) 176 F.3d 1214

impeachment of defendant on a collateral matter

People v. Blair (1979) 25 Cal.3d 640, 664 [159 Cal.Rptr. 818, 602 P.2d 738]

impeachment of defendant's testimony at trial on basis of statements made by him at time of arrest and after proper *Miranda* warnings

People v. Hill (1980) 110 Cal.App.3d 937, 943 [168 Cal.Rptr. 272]

improper examination in order to place inadmissible prejudicial evidence before the jury

People v. Johnson (1978) 77 Cal.App.3d 866, 873 [143 Cal.Rptr. 852]

insinuations, made during objection to questioning of defendant by his counsel, that prosecutor had in his possession undisclosed but highly relevant and damaging evidence regarding defendant's prior sexual conduct

People v. Villa (1980) 109 Cal.App.3d 360, 364-367 [167 Cal.Rptr. 265]

laughing and juvenile behavior by prosecutor demeans office but was not prejudicial

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

presentation of rebuttal testimony regarding defendant's possession of a gun which was the basis of the charged offense

*People v. Goss (1980) 105 Cal.App.3d 542, 546-47 [166 Cal.Rptr. 1]

propriety of inquiries respecting prior convictions of defendant

People v. Watts (1954) 126 Cal.App.2d 659, 662-63 [272 P.2d 814]

propriety of questions to defendant regarding witness' truthfulness need not be decided where defendant did not show ineffective assistance of counsel

People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

question asked of defendant in attempt to produce evidence that would clarify inconsistency in identification testimony where prosecutor had no evidence to support the innuendo contained in the question

People v. Lyons (1971) 18 Cal.App.3d 760, 779-80 [96 Cal.Rptr. 76]

question by prosecutor, on cross-examination of defendant, as to whether defendant knew that another person who had been present during the execution of the search warrant was a heroin user

People v. Lovett (1978) 82 Cal.App.3d 527, 534 [147 Cal.Rptr. 136]

questioning co-defendant concerning the involvement of a third person in the actual perpetration of the charged offense where such involvement was revealed for the first time at trial

People v. Love (1977) 75 Cal.App.3d 928, 933 [142 Cal.Rptr. 532]

questioning defendant about post-arrest statements made which were inconsistent with his testimony on direct examination

People v. Clem (1980) 104 Cal.App.3d 337, 344 [163 Cal.Rptr. 553]

questioning defendant about prior conviction for armed robbery
People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

questioning defendant as to whether he had explained his alibi to arresting officers
People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant concerning his post-arrest silence
People v. Matthews (1980) 108 Cal.App.3d 793, 795 [167 Cal.Rptr. 8]
 *People v. Gaines (1980) 103 Cal.App.3d 89, 92-96 [162 Cal.Rptr. 827]

questioning defendant concerning inconsistencies between the effect of his in-court testimony and his confession, where the matter was not raised on direct
People v. Blair (1975) 51 Cal.App.3d 480, 486 [124 Cal.Rptr. 123]

questioning defendant on his activities after the date of the crime and while defendant was in another jurisdiction, where said subject had not been raised on direct
People v. James (1976) 56 Cal.App.3d 876, 887-88 [128 Cal.Rptr. 733]

questioning defendant on his alleged use of marijuana at the scene of the crime absent any corroborative or independent evidence of such conduct
People v. Rocha (1971) 3 Cal.3d 893, 901-02 [92 Cal.Rptr. 172, 479 P.2d 372]

questioning defendant on the specifics of his asserted alibi defense
People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant regarding post-*Miranda* silence was harmless error
United States v. Lopez (9th Cir. 2007) 500 F.3d 840

questioning defendant to ascertain his motive in taking murder weapon to a third person after commission of crime
People v. Harris (1970) 7 Cal.App.3d 922, 927-28 [87 Cal.Rptr. 46]

questioning witness regarding a drug overdose for which she received emergency treatment
People v. Straiten (1977) 71 Cal.App.3d 526, 536 [139 Cal.Rptr. 414]

questions concerning defendant's knowledge of how to use a knife, asked of defendant in prosecution for possession of dirk/dagger by a prisoner
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 404 [119 Cal.Rptr. 378]

questions eliciting fact that defendant was found with a newspaper of sexual orientation where defendant was charged with various sex offenses
People v. James (1976) 62 Cal.App.3d 399, 408 [132 Cal.Rptr. 888]

questions relating to defendant's post-arrest silence
People v. Farris (1977) 66 Cal.App.3d 376, 387-88 [136 Cal.Rptr. 45]

questions which improperly suggest to jurors that prosecutor had a source of information unknown to them which corroborated the implication in questions that accused had engaged in extensive prior drug transactions
People v. Wagner (1975) 13 Cal.3d 612, 619 [119 Cal.Rptr. 457, 532 P.2d 105]

reference to fact that defendant's wife did not testify on his behalf in the first trial (on some charges) as a basis for impeachment
People v. Straiten (1977) 71 Cal.App.3d 526, 535 [139 Cal.Rptr. 414]

repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]

use by prosecutor of defendant's voluntary pretrial exculpatory statement in which he failed to claim that he had been coerced by another into aiding in the killings (charged offense) to impeach his inconsistent defense of coercion at trial

People v. Barker (1979) 94 Cal.App.3d 321, 327-330 [156 Cal.Rptr. 407]
 See also
Anderson, Warden v. Charles (1980) 447 U.S. 404 [100 S.Ct. 2180]

Coercive effect of misconduct on defense decision to plea bargain or go to trial
U.S. v. Basalo (9th Cir. 2001) 258 F.3d 945

Deception of grand jury
United States v. Condo (9th Cir. 1984) 741 F.2d 238

Delay, defendant not prejudiced
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

Deliberately causing a witness to invoke his Fifth Amendment privilege to the detriment of the defendant
United States v. Lord (9th Cir. 1983) 711 F.2d 887, 891

Due diligence required
People v. Clay (1984) 153 Cal.App.3d 433, 436

Duty to avoid prejudicial, non-relevant material by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364

Effect subsequent trial for greater charge
Barajas v. Superior Court (1983) 149 Cal.App.3d 30 [196 Cal.Rptr. 599]

Evidence
 admission of defendant's statement, "I think I want a lawyer," made in response to question as to his whereabouts on the night of the crime; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 58 [105 Cal.Rptr. 432]

admission of evidence of another burglary in which defendant was involved
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]

allegations of material evidence
Price v. State Bar (1982) 30 Cal.3d 537, 547 [179 Cal.Rptr. 914, 638 P.2d 1311]

alleged knowing use of perjured testimony
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]

alleged suppression of evidence by prosecution's failure to call unindicted co-conspirator as witness; alleged suppression of prosecution witness's phone records
People v. Pic'l (1981) 114 Cal.App.3d 824, 879-880 [171 Cal.Rptr. 106]

altering evidence in criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 543-546 [179 Cal.Rptr. 914, 638 P.2d 1311]

attempt to introduce arrest record of a defense witness, waving around what was apparently the witness's rap sheet during argument at the bench
People v. Hernandez (1977) 70 Cal.App.3d 271, 281-282 [138 Cal.Rptr. 675]

attempts to display to jury photographs of wounds sustained by victims where said photos had been ruled objectionable on basis of their prejudicial effect
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]

Brady test not met where suppression of evidence is not materials
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

PROSECUTORIAL MISCONDUCT

conversation, in bathroom between defendant and prosecutor where prosecutor allegedly offered fair treatment in exchange for cooperation found irrelevant at state court does not warrant evidentiary hearing

Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

disclosure of rebuttal witnesses to defense's potential witnesses is required by due process and assures reciprocity

People v. Gonzalez (2006) 38 Cal.4th 932 [44 Cal.Rptr.3d 237]

display of dangerous weapons to jury

*People v. Thornton (1974) 11 Cal.3d 762 [114 Cal.Rptr. 467, 523 P.2d 267]

displaying handguns and other items not admitted into evidence to the jury

People v. Chi Ko Wong (1976) 18 Cal.3d 698, 723 [135 Cal.Rptr. 392, 557 P.2d 976]

elicitation of inadmissible evidence

U.S. v. Danielson (9th Cir. (Or.) 2003) 325 F.3d 1054

People v. Parsons (1984) 156 Cal.App.3d 1165, 1170-1172

eliciting inadmissible testimony concerning defendant's parole status and residence in a halfway house

People v. Morgan (1978) 87 Cal.App.3d 59, 65-70, 76 [150 Cal.Rptr. 712]

fabricating

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

failure to accept proffered stipulation by defendant as to an element of the charged offense where proof introduced at trial would be rightly prejudicial

People v. Sherren (1979) 89 Cal.App.3d 752, 755-759 [152 Cal.Rptr. 828]

failure to clarify testimony susceptible of an interpretation known to be false by prosecutor

People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

failure to comply with trial court's order to delete references to defendant's conduct on parole from an exhibit given to the jury, even where such failure is inadvertent

*People v. Piper (1980) 103 Cal.App.3d 102, 112-113 [162 Cal.Rptr. 833]

failure to correct perjured testimony

Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

failure to disclose deal between prosecutor and star witness, immunity for testimony, *Brady* violation

Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

failure to disclose evidence

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]

-sanctions for failure to provide discovery to the public defender

People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

failure to disclose evidence to defense which is not favorable to the defendant nor material to the probable cause determination does not violate duty to disclose

Bridgeforth v. Superior Court (2013) 214 Cal.App.4th 1074 [154 Cal.Rptr.3d 528]

failure to disclose information to defense that was material as to either guilt or punishment. Prosecution's withholding of favorable and material evidence violates due process "irrespective of the good faith or bad faith of the prosecution."

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

failure to disclose whereabouts of informant upon whose testimony charges are founded; failure to produce informant at pretrial

People v. Partlow (1978) 84 Cal.App.3d 540, 557-59 [148 Cal.Rptr. 744]

failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157

failure to present exculpatory evidence along with an admission by defendant contained in a taped telephone conversation, which had no bearing on the charges contained in defendant's indictment

People v. Valleriga (1977) 67 Cal.App.3d 847, 835-885 [136 Cal.Rptr. 429]

failure to preserve

People v. Gonzales (1984) 156 Cal.App.3d 558, 561-562

failure to provide exculpatory evidence

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

failure to show that prosecution presented false evidence

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

improper vouching by federal prosecutor

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

intentional destruction of capital defense strategy tape not violative of due process

People v. Zapien (1993) 4 Cal.4th 929 [17 Cal.Rptr.2d 122]

introduction of physical evidence forming the basis of a count dismissed by the court

People v. Harris (1977) 71 Cal.App.3d 959, 967 [139 Cal.Rptr. 778]

location and nature of evidence disclosed, though police action may have been negligent, no denial of due process

Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222

knowingly presenting false evidence

Hayes v. Brown (9th Cir. 2005) 399 F.3d 972

manipulation of the evidence

Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

no suppression where evidence was available to defense

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel

People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]

In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

statements by prosecutor during direct examination, inferring that defendant was the "Hillside Strangler"

People v. Wills-Watkins (1979) 99 Cal.App.3d 451, 456, 457 [160 Cal.Rptr. 289]

suppression by prosecutor of statement by victim to the effect that a third person, identified as a perpetrator, had been involved in the crime

People v. Bauer (1969) 1 Cal.3d 368, 375 [82 Cal.Rptr. 357, 461 P.2d 637]

- suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments
People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
- suppression of letter to witness that witness would not be prosecuted for selling marijuana
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
- suppression of witness location and information favorable to defense
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- use by prosecutor of allegedly perjured testimony of defendant's accomplice
People v. Lavergne (1971) 4 Cal.3d 735, 742-744 [94 Cal.Rptr. 405, 484 P.2d 77]
- use of perjured testimony
People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]
- Ex parte communication with administrative law judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
- Examination of witness or defendant
- alleged influence of witness, even if true would not have resulted in actual prejudice and was harmless
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
- asking a rebuttal witness whether he was aware of an investigation of defendant's billing practices in an earlier period in a prosecution for offenses arising out of defendant's doctor's presentation of allegedly false Medi-Cal claims
People v. Slocum (1975) 52 Cal.App.3d 867, 887-888 [125 Cal.Rptr. 442] cert. den. 426 U.S. 924
- asking character witness on cross-examination about specific acts of misconduct relating to the offense for which defendant was charged
People v. Qui Mei Lee (1975) 48 Cal.App.3d 516, 528 [122 Cal.Rptr. 43]
- asking questions clearly suggesting the existence of facts harmful to defendant where such facts were not in evidence and could not be established independently
 *People v. Choinacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]
- asking questions known to be inadmissible and improper; asking questions for the clear purpose of prejudicing the jury against defendant
People v. Dorsey (1974) 43 Cal.App.3d 953, 964-966 [118 Cal.Rptr. 362]
- asking questions, the answers to which prosecutor knows to be both irrelevant and prejudicial
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311 [105 Cal.Rptr. 458]
- asking questions, the answers to which prosecutor knows to be inadmissible
People v. Mazoros (1977) 76 Cal.App.3d 32, 48 [142 Cal.Rptr. 599]
- attempt to impeach defense alibi witness by demonstrating that she learned of the crime one day earlier than she had claimed in prior testimony
People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]
- attempt to impeach defense witness by asking if he was in custody because of outstanding traffic warrants
People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]
- attempts by prosecution to cast aspersions upon defendant's character in relation to his personal sexual morality
People v. Yanikian (1974) 39 Cal.App.3d 366, 381-382 [114 Cal.Rptr. 188]
- attempts to elicit allegedly improper testimony
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]
- attempts to elicit testimony of defendant's domain over drugs at a time outside a limitation previously set by trial court
People v. Pacheco (1972) 27 Cal.App.3d 70, 83 [103 Cal.Rptr. 583]
- comment on defendant's failure to request live line-up
People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]
- duty to see that a witness called by prosecutor volunteers no statement that would be inadmissible, and also those which are prejudicial
People v. Schiers (1971) 19 Cal.App.3d 102, 112-114 [96 Cal.Rptr. 330]
- eliciting references to defendant's arrest record
People v. Brunt (1972) 24 Cal.App.3d 945, 957-958 [101 Cal.Rptr. 457]
- eliciting statement on redirect of prosecution witness, that defendant had been in trouble with the police previously
People v. Vernon (1979) 89 Cal.App.3d 853, 865-867 [152 Cal.Rptr. 765]
- expression of personal opinion regarding witnesses' credibility
U.S. v. Kerr (1992) 981 F.2d 1050
- improper use of leading questions
People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]
- inadvertently eliciting from witness the fact of defendant's previous imprisonment
People v. Sims (1976) 64 Cal.App.3d 544, 554-55 [134 Cal.Rptr. 566]
- non-production of records used to refresh recollection of key prosecution witness
People v. Blackwell (1981) 117 Cal.App.3d 372, 378 [172 Cal.Rptr. 636]
- prosecutor commits flagrant violation of defendant's right to remain silent by eliciting testimony that defendant had refused to make pretrial statement; asking defendant on cross-examination whether he made any pre-trial disclosure of his defense
People v. Andrews (1970) 14 Cal.App.3d 40, 48-49 [92 Cal.Rptr. 49]
- question asked of defendant as to whether he had any means of identification on him at time of arrest
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311-12 [105 Cal.Rptr. 458]
- question by prosecutor of victim of prior felony-rape as to whether witness had ever told prosecutor that it appeared that she had been raped by the same man as had witness
People v. Rance (1980) 106 Cal.App.3d 245, 253 [164 Cal.Rptr. 822]
- question by prosecutor which assumed that defendant and his companion had killed the victim
People v. Helfend (1969) 1 Cal.App.3d 873, 883-84 [82 Cal.Rptr. 295] cert. den. 398 U.S. 967 [26 L.Ed.2d 551, 90 S.Ct. 2182]
- questioning certain witnesses concerning defendant's appearance before, during, and after a prior court proceeding; questioning witnesses about alleged "affair" defendant had during relevant time period
People v. Mazoros (1977) 76 Cal.App.3d 32, 47-48 [142 Cal.Rptr. 599]
- questioning defendant's psychiatric expert witness on statements made by defendant to the psychiatrist, where such statements formed the basis of the expert's testimony
People v. Mazoros (1977) 76 Cal.App.3d 32, 46-47 [142 Cal.Rptr. 599]
- reference by prosecution to defendant's parole status
 *People v. Romo (1975) 47 Cal.App.3d 976, 987-88 [121 Cal.Rptr. 684]
- reference to defendant as "assailant" during direct examination of complaining witness in prosecution of rape
People v. Sims (1976) 64 Cal.App.3d 544, 552 [134 Cal.Rptr. 566]

PROSECUTORIAL MISCONDUCT

- reference to defendant's failure to surrender weapon (used in charged offense) to the police
People v. Burton (1981) 117 Cal.App.3d 382, 388-89 [172 Cal.Rptr. 632]
- reference to defendant's pre-arrest silence
People v. Burton (1981) 117 Cal.App.3d 382, 386-88 [172 Cal.Rptr. 632]
- remarks properly dismissed as abuse of writ of habeas corpus
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
- repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct
People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]
- seeking legal conclusion from witness and accusing defense counsel of having told a "blatant lie"
People v. Montgomery (1976) 61 Cal.App.3d 718, 734 [132 Cal.Rptr. 558]
- statements by prosecutor in a murder trial which in effect accused defense counsel of causing a witness to prejudice himself
People v. Benjamin (1975) 52 Cal.App.3d 63, 79-81 [124 Cal.Rptr. 799]
- testimony elicited by prosecutor containing a reference to a parole agent
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 312 [105 Cal.Rptr. 458]
- use of leading questions in direct examination by prosecutor in attempt to elicit damaging hearsay evidence
People v. Burciago (1978) 81 Cal.App.3d 151, 163-165 [146 Cal.Rptr. 236]
- Failure to disclose evidence
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
- sanctions for failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
- Failure to disclose exculpatory evidence
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
- Failure to honor plea bargain
U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204
People v. Leroy (1984) 155 Cal.App.3d 602 [202 Cal.Rptr. 88]
- Failure to know whereabouts of informant
Twiggs v. Superior Court (1983) 34 Cal.3d 360
- Failure to train
pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]
- Failure to use diligence in obtaining evidence
People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296
- Frivolous or bad faith litigation
denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
- Goading a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409
- Habeas petition
standard for habeas relief based on prosecutorial misconduct
Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093
- Harmless error
U.S. v. Preston (9th Cir. 2017) 873 F.3d 829
- Harmless misconduct
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
- no egregious pattern of misconduct
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
- publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
- without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
- Held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
- Immunity
§ 1983 claims
-prosecutors afforded absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747
- absolute or qualified immunity may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant
Morley v. Walker (1999) 175 F.3d 756
- county district attorney may not be entitled to qualified immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
- county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062
- district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment
Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572
- district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]
- fabricating evidence, filing false crime report, making comments to the media and investigating crime against attorney may not be protected by absolute immunity against § 1983 claims
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
- lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
- Improper argument
People v. Smith (1984) 155 Cal.App.3d 1103, 1182
- Improper questioning
People v. Darwiche (1984) 152 Cal.App.3d 630, 641-642
- Inferences and deductions
People v. Ferguson (1982) 129 Cal.App.3d 1014 [181 Cal.Rptr. 593]
- Intent to cause mistrial test
People v. Batts (2003) 30 Cal.4th 660 [134 Cal.Rptr.2d 67]

- Intentional violation of law
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Interference with attorney-client relationship
Boulas v. Superior Court (1986) 187 Cal.App.3d 356
- Intimidation of witnesses
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
People v. Warren (1984) 161 Cal.App.3d 961
People v. Bryant (1984) 157 Cal.App.3d 582, 592-595
 prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel
People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]
 violation of defendant's right to compulsory process not found when prosecutor not responsible for deportation of defendant's key witness
People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]
 violation of defendant's right to compulsory process when prosecutor interferes with defendant's right to present witnesses on his behalf
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
- Jury selection
 prosecutor's discriminatory use of peremptory challenges
People v. Guitierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]
Ali v. Hickman (9th Cir. 2009) 571 F.3d 902
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
 -discriminatory exclusion of Hispanic juror results in reversal of convictions when Batson/Wheeler motion denied
People v. Guitierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]
- May include mischaracterizing evidence, referring to factors not in evidence, misstating the law, predicting the defendant will commit future crimes if found not guilty, and appealing to the passions of the jury
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
- Misstatements of law
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
 inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
 -district attorney did not misstate intent element of charged offense in closing so defense attorney's failure to object could not constitute ineffective assistance of counsel
People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]
 using of a jigsaw to illustrate reasonable doubt standard
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Motive
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 374-375 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Obligation to avoid prejudicial non-relevant testimony by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364, 1368 fn. 1
- Opening statement
 misstatement of the value of a quantity of heroin in possession of defendant
People v. Cooper (1979) 95 Cal.App.3d 844, 849-850 [157 Cal.Rptr. 348]
 prosecutor improperly refers to defendant's failure to testify
People v. Diaz (1989) 207 Cal.App.3d 922 [255 Cal.Rptr. 91]
- prosecutor's statement that evidence would prove defendant committed a murder at the insistence of his girl friend
People v. Brown (1981) 119 Cal.App.3d 116, 131-32 [173 Cal.Rptr. 877]
 reference to change in appearance
Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143
 reference to defendant as a felon
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35 [88 Cal.Rptr. 789]
 reference to expected testimony of a person who had testified at preliminary examination to potentially incriminating statements made by defendant, where said witness was never called
People v. Rhinehart (1973) 9 Cal.3d 139, 153-54 [107 Cal.Rptr. 34, 507 P.2d 642] *ovrid.* People v. Bolton (1979) 23 Cal.3d 208 [152 Cal.Rptr. 141, 589 P.2d 396]
 reference to fact of defendant's status as a life prisoner
People v. Robles (1970) 2 Cal.3d 205, 213-214 [85 Cal.Rptr. 166, 466 P.2d 710]
 reference to fact that one accused, arrested with defendant, led police to defendant's brother, where the brother had not been charged and was never formally accused of crime
People v. Brown (1980) 110 Cal.App.3d 24, 35-36 [167 Cal.Rptr. 557]
 reference to murder victim's tragic life story
Tak Sun Tan v. Runnels (9th Cir. 2005) 413 F.3d 1101
 reference to polygraph test
People v. Carpenter (1979) 99 Cal.App.3d 527, 531-33 [160 Cal.Rptr. 386]
 reference to statement made by defendant at time of arrest but prior to defendant's having been advised of his *Miranda* rights
Mozzetti v. Superior Court (1971) 4 Cal.3d 699 [94 Cal.Rptr. 412, 484 P.2d 84]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
People v. Havenstein (1970) 4 Cal.App.3d 710, 713-715 [84 Cal.Rptr. 528]
 reference to statement of separately tried co-defendant indicating a third party had committed the crime
People v. Brown (1981) 119 Cal.App.3d 116, 132 [173 Cal.Rptr. 877]
 reference to the effect that defendant had "said very little" in response to the questions of an investigating police officer; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 59 [105 Cal.Rptr. 432]
 references to evidence never produced by prosecutor in trial
People v. Hernandez (1970) 11 Cal.App.3d 481, 488-91 [89 Cal.Rptr. 766]
 references to extraneous matters dealing with defendant's private life
People v. Powell (1974) 40 Cal.App.3d 107, 165-66 [115 Cal.Rptr. 109]
 references to witnesses/testimony not produced at trial; statements known to be untrue
People v. Watson (1971) 15 Cal.App.3d 28, 44-45 [92 Cal.Rptr. 860]
 remark that prosecution expected a certain witness to testify because the defense had subpoenaed her
*People v. Yarber (1979) 90 Cal.App.3d 895, 902 [153 Cal.Rptr. 875]
 statement to jury that prosecutor would prove defendant's prior narcotics convictions by testimony of parole officers and by documentary evidence
*People v. Cruz (1970) 6 Cal.App.3d 384, 391 [85 Cal.Rptr. 918]
 stating theory of the case
*People v. Ramos (1982) 30 Cal.3d 553, 574-75 [180 Cal.Rptr. 266, 639 P.2d 908]

PROSECUTORIAL MISCONDUCT

- use by prosecutor of allegedly “inflammatory” words, descriptions
 - People v. Hayes (1971) 19 Cal.App.3d 459, 469-70 [96 Cal.Rptr. 879]
- use of unauthenticated voice recordings
 - People v. Kirk (1974) 43 Cal.App.3d 921, 929
- Penalty phase
 - biblical authority quoted in final argument does not require reversal of penalty judgment
 - People v. Sandoval (1992) 4 Cal.4th 155 [14 Cal.Rptr.2d 342]
- Permissible advocacy
 - must contribute materially to the verdict
 - People v. Jackson (1984) 151 Cal.App.3d 153, 163
- Pervasive misconduct was harmless
 - People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
- Pervasive pattern of questions, comment and argument, denial of due process
 - People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
- Plea Bargain
 - agreement that percipient witness/co-defendant not testify at trial, denied other co-defendant the right to compulsory process and due process under 6th and 14th amendments
 - People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]
- Post trial
 - jurors, communication with
 - Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
 - CAL 1976-39
 - post trial declaration of victim recanting allegation
 - People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
- Prejudice to appellant
 - New Hampshire Insurance Co. v. Madera (1983) 144 Cal.App.3d 298 [192 Cal.Rptr. 548]
 - assertion without proof that defense counsel fabricated a defense
 - People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
 - lack of diligence re introducing prior convictions until after prosecutors case closed
 - People v. Rodriguez (1984) 152 Cal.App.3d 289 [199 Cal.Rptr. 433]
 - not shown, where prosecution failed to turn over to defense, a letter stating that witness would not be prosecuted for selling marijuana
 - Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
- Prejudice to defendant
 - People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
 - People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
 - multiple instances of prosecutorial misconduct and trial conduct error deprived capital defendant of a fair trial
 - People v. Hill (1998) 17 Cal.4th 800 [72 Cal.Rptr.2d 656]
 - prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel
 - People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]
 - In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479
- Preliminary hearing
 - alleged use of perjured testimony
 - People v. Brice (1982) 130 Cal.App.3d 201 [181 Cal.Rptr. 518]
 - failure to disclose evidence to defense which is not favorable to the defendant nor material to the probable cause determination does not violate duty to disclose
 - Bridgeforth v. Superior Court (2013) 214 Cal.App.4th 1074 [154 Cal.Rptr.3d 528]
- knowingly presenting false evidence
 - Hayes v. Brown (9th Cir. 2005) 399 F.3d 972
- misstatement of the facts by prosecutor, representing that defendant “was running” from the scene of the crime allowed inference of guilty knowledge on part of defendant
 - People v. DeLaSierra (1970) 13 Cal.App.3d 528, 534-35 [91 Cal.Rptr. 674]
- Presumption of vindictiveness
 - United States v. Jenkins (9th Cir. 2007) 504 F.3d 694
 - Twiggs v. Superior Court (1983) 34 Cal.3d 360, 368-369 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Pretrial
 - Rule 7-106(A), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)
 - announcement to court by prosecutor that there was presently on file in municipal court an action against appellant (defendant)
 - People v. Patejdl (1973) 35 Cal.App.3d 936, 946
 - comment on prior judgments/convictions of defendant
 - People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]
 - failure to elect
 - People v. Dunnahoo (1984) 152 Cal.App.3d 548
 - failure to join unrelated offenses
 - People v. Tirado (1984) 151 Cal.App.3d 341, 353-354
 - failure to use diligence in obtaining evidence
 - People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296
 - has burden to show good cause as to why accused has not been brought to trial
 - Rhinehart v. Municipal Court (1984) 35 Cal.3d 772, 780-781
 - Improper comments by prosecutor that undermine a defenses witness' willingness to testify
 - People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]
 - inappropriate warning that if appellant testified in a manner inconsistent to prior testimony, he could be prosecuted for perjury
 - People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]
 - lineup by district attorney without notifying the attorney of record
 - People v. Sharp (1983) 150 Cal.App.3d 13, 18
- Private prosecution
 - California law does not permit private prosecution of criminal case without presence of public prosecutor
 - People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]
- Prosecutor
 - deliberately altered an interrogation transcript
 - In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479
 - must disclose and/or conduct an investigation when the prosecutor is presented with “new, credible and material” evidence of a wrongful conviction
 - Rule 5-110(F), Rules of Professional Conduct (operative as of May 1, 2017)
 - must exercise reasonable care to prevent persons under the prosecutor's supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120
 - Rule 5-110(E), Rules of Professional Conduct (operative as of May 1, 2017)
 - must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters
 - Rule 5-110(B), Rules of Professional Conduct (operative as of May 1, 2017)

must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused's appearance in pro per

[Rule 5-110\(C\)](#), Rules of Professional Conduct (operative as of May 1, 2017)

must seek to remedy a conviction when the prosecutor "knows of clear and convincing evidence" establishing that a wrongful conviction occurred

[Rule 5-110\(G\)](#), Rules of Professional Conduct (operative as of May 1, 2017)

Questions which are sufficient for reversal

[People v. Barr](#) (1984) 159 Cal.App.3d 1129, 1160

Recusal

conflict of interest

-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

[Packer v. Superior Court](#) (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

[Packer v. Superior Court](#) (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial

[People v. McPartland](#) (1988) 198 Cal.App.3d 569 [243 Cal.Rptr. 752]

no recusal required where prosecutor wrote a novel containing factual similarities of the underlying case

[Haraguchi v. Superior Court](#) (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

not required where less drastic alternatives such as walling off of witness/employee of district attorney's office would be effective

[People v. Cannedy](#) (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

not required where prosecutor advocates but does not formally represent the interests of third party

[People v. Superior Court \(Humberto\)](#) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

Relocation costs for witness, paid by prosecution not disclosed till after trial, no reasonable probability that disclosure would have altered the trial results, no *Brady* violation

[People v. Verdugo](#) (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

Restitution hearing

California law does not permit private prosecution of criminal case without presence of public prosecutor

[People v. Dehle](#) (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]

Retaliation against defendant

[Morley v. Walker](#) (1999) 175 F.3d 756

[People v. Lucious](#) (1984) 153 Cal.App.3d 416, 421

Suppression of evidence

Hast. Const. L.Q. 715 (fall 1977)

[People v. Newsome](#) (1982) 136 Cal.App.3d 992 [186 Cal.Rptr. 676]

advising rape victim of her right to refuse a psychiatric examination

[People v. Mills](#) (1978) 87 Cal.App.3d 302, 308 [151 Cal.Rptr. 71]

Brady and *Napue* claims, no reasonable probability that the outcome of the guilt phase would have been different

[Hamilton v. Ayers](#) (9th Cir. 2009) 583 F.3d 1100

defendant is not required to show that prosecutor failed to turn over discovery materials it was obligated to produce at trial in order to obtain post-conviction discovery in capital crime case

[Curl v. Superior Court](#) (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

destruction of tapes containing recorded, incriminating statements to police by accused

[People v. Anderson](#) (1976) 59 Cal.App.3d 831, 843 [131 Cal.Rptr. 104]

failure to call informant to testify for People

[People v. Moran](#) (1970) 1 Cal.3d 755, 761 [83 Cal.Rptr. 411, 463 P.2d 763]

failure to disclose deal between prosecutor and star witness, immunity for testimony, *Brady* violation

[Horton v. Mayle](#) (9th Cir. 2005) 408 F.3d 570

failure to disclose identity of an informant

[In re Bacigalupo](#) (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

[People v. Rand](#) (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]

failure to disclose police reports

[People v. Johnson](#) (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

failure to disclose to co-defendant offer of leniency in exchange for testimony

[People v. Westmoreland](#) (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

failure to disclose to defense, letter to witness, that witness would not be prosecuted for selling marijuana

[Hein v. Sullivan](#) (9th Cir. 2010) 601 F.3d 897

failure to disclose to prosecution reasonably accessible address of prospective witness

[In re Littlefield](#) (1993) 5 Cal.4th 122 [19 Cal.Rptr.2d 248]

failure to inform counsel for defense that evidence critical to asserted defense had been falsified, causing defendant to abandon the defense, where prosecutor knew that facts would sustain the defense if truthfully disclosed

[People v. Dena](#) (1972) 25 Cal.App.3d 1001, 1010 [102 Cal.Rptr. 357]

failure to produce a prior statement of prosecution witness to police which incriminated defendant in a way different in factual detail but not in effect from witness's statement

[People v. Green](#) (1971) 3 Cal.3d 981, 991 [92 Cal.Rptr. 494, 479 P.2d 998]

failure to produce evidence favorable to defendant

[In re Bacigalupo](#) (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

[In re Miranda](#) (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

improper interference with defendant's right to psychiatric examinations of the complaining witness in prosecution for incest and rape

[People v. Davis](#) (1971) 20 Cal.App.3d 890, 896-97 [89 Cal.Rptr. 71]

material evidence bearing on credibility of key prosecution witness

[People v. Ruthford](#) (1975) 14 Cal.3d 399, 406-409 [121 Cal.Rptr. 261, 534 P.2d 1341]

[People v. Uribe](#) (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

pretrial suppression does not bar retrial

[Sons v. Superior Court](#) (2004) 125 Cal.App.4th 110 [22 Cal.Rptr.3d 647]

suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments

[People v. Treadway](#) (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]

suppression of exculpatory fingerprint

[Imbler v. Craven](#) (1969) 298 F.Supp. 795, affd. 424 F.2d 631 cert. den. 400 U.S. 865, 27 L.Ed.2d 104, 91 S.Ct. 100

suppression of extra-judicial statement of defendant as to co-defendant

[People v. Brawley](#) (1969) 1 Cal.3d 277, 296 [82 Cal.Rptr. 161, 461 P.2d 361] cert. den. 400 U.S. 993, 27 L.Ed.2d 441, 91 S.Ct. 462

PROSECUTORIAL MISCONDUCT

Trial conduct

argumentative questioning of defense witness, not designed to elicit evidence, but to argue to the jury

People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

calling to the stand defendant's juvenile accomplice, knowing that the minor would invoke the privilege against self-incrimination

People v. Chandler (1971) 17 Cal.App.3d 798, 803-05 [95 Cal.Rptr. 146]

comment by prosecutor on

-defense counsel's intentions

People v. Goldberg (1984) 161 Cal.App.3d 170, 190-191 [207 Cal.Rptr. 431]

-merits of a case both as to law and fact

People v. Johnson (1979) 39 Cal.App.3d 749, 763 [114 Cal.Rptr. 545]

-presumption of innocence in closing argument misrepresented

People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]

conferring with judge in absence of opposing counsel respecting alteration of evidence by prosecutor

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

criticizing trial court's publicity order, attempting to secure removal of defense counsel

People v. Manson (1976) 61 Cal.App.3d 102, 179-180 [132 Cal.Rptr. 265]

duty to disclose misleading testimony of prosecution's witnesses

In re Martin (1983) 150 Cal.App.3d 148, 169

effect of conduct on verdict

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569 [198 Cal.Rptr. 182]

ex parte communication to the adjudication hearing referee in juvenile court proceeding indicating that a witness in a companion case had told him that the companion minor had attempted to run over the witness's children

In re Robert W. (1977) 68 Cal.App.3d 705, 713-14 [137 Cal.Rptr. 558]

ex parte communication with administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

failure of district attorneys to inform appointed defense counsel of bargain made with defendant; deliberate debasement of the attorney-client relationship by disparaging defendant's counsel; encouraging defendant to reveal nothing of the prosecutor's bargain to his counsel

People v. Moore (1976) 57 Cal.App.3d 437, 441 [129 Cal.Rptr. 279]

failure to indicate modification in standard jury instructions

People v. Kozel (1982) 133 Cal.App.3d 507, 518 [184 Cal.Rptr. 208]

failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial

Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157

inadvertent violation of court order prohibiting reference to highly prejudicial evidence

People v. Gomez (1976) 63 Cal.App.3d 328, 337-39 [133 Cal.Rptr. 731]

inconsistency in referring to date of commission of charged offense where prosecutor alternately referred to two dates and defense was predicated on alibi accounting for only one of those

*People v. Choinacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

interview given to magazine reporters by a deputy district attorney in violation of court's publicity order

People v. Manson (1976) 61 Cal.App.3d 102, 177-79 [132 Cal.Rptr. 265]

making disparaging remarks concerning the ongoing prosecution of defendant

People v. Jones (1970) 10 Cal.App.3d 237, 245 [88 Cal.Rptr. 871]

material evidence bearing on credibility of key prosecution witness

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

offer of assistance to criminal defendant in exchange for valuable consideration

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

offer to stipulate to reopening case in order to corroborate testimony to which defendant had objected

People v. Utter (1972) 24 Cal.App.3d 535, 554 [101 Cal.Rptr. 214]

prejudicial comments

United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455

People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]

reference, in criminal proceedings under juvenile court law, to fact that defendant's father was facing criminal charges

In re Gary G. (1981) 115 Cal.App.3d 629, 637

reference to fact that two of defendant's fellow gang members had been convicted of charges arising out of the same murders in which defendant was charged

People v. Szeto (1981) 29 Cal.3d 20 [171 Cal.Rptr. 652]

repeated acts of intemperate and unprofessional conduct by deputy district attorney, including personal attacks and threats against defense counsel, ridicule of defendants and their defense, and refusal on occasion to comply with trial court's orders

People v. Kelley (1977) 75 Cal.App.3d 672, 680-690 [142 Cal.Rptr. 457]

statements insinuating that defendant was involved in a prostitution ring

*People v. Hathcock (1973) 8 Cal.3d 599, 610-11 [105 Cal.Rptr. 540, 504 P.2d 476]

threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant

People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

use of district attorney's address as his own by prosecution witness

People v. Page (1980) 104 Cal.App.3d 569, 573 [163 Cal.Rptr. 839]

vouching for witness' credibility

People v. Rodriguez (2018) 26 Cal.App.5th 890

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

Two-step analysis

People v. Callegri (1984) 154 Cal.App.3d 856, 864

Use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]

Vindictiveness

United States v. Jenkins (9th Cir. 2007) 504 F.3d 694

People v. Hudson (1989) 210 Cal.App.3d 784 [258 Cal.Rptr. 563]

Voir dire

leaving police officer's file in position where plainly visible to members of venire

People v. Lockett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]

peremptory challenge based on gender violated Equal Protection Clause

United States v. De Gross (9th Cir. 1992) 960 F.2d 1433

peremptory challenges on unmarried female venire persons violated defendant's right to equal protection

United States v. Omoruyi (1993) 7 F.3d 880

prosecutor's peremptory challenge of sole black juror not a showing of group bias

Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159

People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]

prosecutor speculating as to whether defendant would elect to take the stand; statement that in event of evidentiary conflict defendant would only have to take the witness stand and deny the charges

People v. Rodgers (1979) 90 Cal.App.3d 368, 371-72 [153 Cal.Rptr. 382]

reference to impeaching effect which defendant's five prior felony convictions would have

People v. Bowen (1971) 22 Cal.App.3d 267, 289-91 [99 Cal.Rptr. 498]

selection of a "death penalty oriented" jury

People v. Wong (1973) 35 Cal.App.3d 812, 832-33 [111 Cal.Rptr. 314]

unsupported implication by prosecutor that defense counsel has fabricated a defense

People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]

using peremptory challenges for racially discriminatory purposes

Miller-El v. Cockrell (2003) 537 U.S. 322 [123 S.Ct. 1029]

Ali v. Hickman (9th Cir. 2009) 571 F.3d 902

People v. Guitierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]

People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]

People v. Sanchez (1992) 6 Cal.App.4th 913 [8 Cal.Rptr.2d 200]

People v. Clay (1984) 153 Cal.App.3d 433 [200 Cal.Rptr. 269]

-not found

People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

Vouching

People v. Rodriguez (2018) 26 Cal.App.5th 890

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

United States v. Molina (9th Cir. 1991) 934 F.2d 1440

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

not found

U.S. v. Tavakkoly (9th Cir. 2001) 238 F.3d 1062

Withholding evidence

United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455

People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

Witness's absence not improperly effected by prosecutor

Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581

People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]

Witness credibility

expression of personal opinion

U.S. v. Kerr (9th Cir. 1992) 981 F.2d 1050

witness's recanting of claims

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

PUBLIC OFFICE [See Administrative agency. Court. Judge. Political activity.]

City attorney

acts as both advocate of city's position and advisor to neutral decision maker

Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]

associate of

-practice by

LA(l) 1975-4

former associate or partner refers clients to former firm

CAL 1967-10

partner

-practice by

LA(l) 1975-4

partner represents

-in criminal matters

LA 242 (1957), LA(l) 1975-4

partnership with

-practice by

--associate of

LA(l) 1975-4

City council member

associate, practice by

CAL 1977-46

LA(l) 1975-4

communication with

Rule 2-100, Rules of Professional Conduct

CAL 1977-43

partner

-practice by

CAL 1977-46, LA(l) 1975-4

represents

-criminal defendants

CAL 1977-46

-in ordinance violations

LA 273 (1962), SD 1969-1

-in traffic cases

SD 1969-1

Electioneering

for judge

-lawyer may question incumbent judge's qualifications

LA 304 (1968)

Judge

election campaign for

-lawyer may question incumbent judge's qualifications

LA 304 (1968)

systematically and routinely sold his office and his public trust

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Lawyer

as a candidate for

-misleading public re experience

LA 297 (1966)

-use of campaign materials to advertise profession

LA 297 (1966)

Prosecuting attorney

communication with criminal defendant

-who may be witness for matter unrelated to that for which accused

CAL 1979-49

criticizes sentence

SD 1974-8

employer of, practice by

LA 377 (1978)

PUBLICATION

former
-represent person indicted by grand jury
--when served as, during pendency of same action
LA 117 (1937)

legal advice
-to victim of crime
--regarding civil remedies
[CAL](#) 1976-40

partner of
-practice by
LA 377 (1978)
-represents
--in criminal matter
Business and Professions Code section 6131
LA 377 (1978)

state official role versus county administrative functionary for purposes of absolute or qualified immunity
[Ceballos v. Garcetti](#) (9th Cir. 2004) 361 F.3d 1168

welfare proceedings
-potential conflict between interests of state and child
--disclosure to court
[CAL](#) 1977-45

Public officials
entitled to qualified immunity for acts that do not violate clearly established constitutional rights of which a reasonable person would have known
[Ceballos v. Garcetti](#) (9th Cir. 2004) 361 F.3d 1168
may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
[Eng v. Cooley](#) (9th Cir. 2009) 552 F.3d 1062

PUBLICATION [[See](#) Advertising, publication. Judicial conduct. Lecture. Solicitation.]
Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Article
about self
LA 38 (1927), SD 1975-3
on law
-about pending case
LA 343 (1974)
-attorney cannot be identified as an attorney
SF 1972-1
-lay publication
LA 181 (1951), LA(I) 1978-1
SF 1972-1
-newspaper
LA 175 (1950), SD 1974-3
-periodical
LA 181 (1951), LA(I) 1964-2, LA(I) 1960-4
-trade of professional
LA 200 (1952), LA(I) 1964-2

Biography
LA 268 (1960), SD 1973-4

Blogging by attorney
[CAL](#) 2016-196

Book
about case
[Hollywood v. Superior Court](#) (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
[Haraguchi v. Superior Court](#) (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
LA 369 (1977)
course for real estate salespeople
LA(I) 1963-3
law book
LA 235 (1956)
Client's counsel listed in
SF 1974-2

Column
law
-in newspaper
LA 354 (1976), LA 191 (1952), LA 34 (1927)
SD 1976-2, SD 1974-3
--bar association
LA 191 (1952)
"Course" for real estate salespeople
LA(I) 1963-3
Directory
SD 1968-1
Legal newsletter or service
LA 148 (1944)
Pamphlet
"consult your lawyer first," by bar association
LA 65 (1931)
on legal topic
LA(I) 1962-1

PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [[See](#) Estate.]

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 4-300, Rules of Professional Conduct (operative as of May 27, 1989)
[Sodikoff v. State Bar](#) (1975) 14 Cal.3d 422, 425-432 [121 Cal.Rptr. 467, 535 P.2d 331]
[Lee v. State Bar](#) (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]
[Stanford v. State Bar of California](#) (1940) 15 Cal.2d 721, 722-728 [104 P.2d 635]
[Lantz v. State Bar](#) (1931) 212 Cal. 213 [298 P. 497]
[Carlson v. Lantz](#) (1929) 208 Cal. 134, 138-142 [280 P. 531]
Expanding prohibition to include purchases made by attorney's spouse
[Marlowe v. State Bar](#) (1965) 63 Cal.2d 304, esp. at 307-308 [46 Cal.Rptr. 326, 405 P.2d 150]
Permissible where attorney only represents a mortgage company to obtain relief from an automatic stay in bankruptcy court
LA 455
Presumption of undue influence respecting agreements between attorney and client
[Magee v. State Bar](#) (1962) 58 Cal.2d 423, 425-433 [24 Cal.Rptr. 839, 374 P.2d 807]
[Estate of Witt](#) (1926) 198 Cal. 407, 419-426 [245 P. 197]
"Probate sale" construed
[Eschwig v. State Bar](#) (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
[Calzada v. Sinclair](#) (1970) 6 Cal.App.3d 903, 906-918 [86 Cal.Rptr. 387]
See also:
[Silver v. State Bar](#) (1974) 13 Cal.3d 134, 137-140 [117 Cal.Rptr. 821, 528 P.2d 1157]
[Yokozeki v. State Bar](#) (1974) 11 Cal.3d 436, 441-451 [113 Cal.Rptr. 602, 521 P.2d 858]
[Ames v. State Bar](#) (1973) 8 Cal.3d 910, 915-921 [106 Cal.Rptr. 489, 506 P.2d 625] (applicability, scope and breadth of rule 5-103 vis-à-vis rule 5-102)
[Coviello v. State Bar](#) (1955) 45 Cal.2d 57, 60-66 [286 P.2d 357]
[Estate of Effron](#) (1981) 117 Cal.App.3d 915, 928-931 [173 Cal.Rptr.93] (applicability of rule 5-103 in probate proceedings, especially with respect to attorneys duties to client/client's interest)
You may also wish to consult:
[In the Matter of Randall](#) (1981) 640 F.2d 898

QUANTUM MERUIT [[See](#) Fee.]
REAL ESTATE [[See](#) Trustee.]
Attorney/realtor [[See](#) Practice of law, dual occupation.]
[CAL](#) 1982-69, SD 1992-1, SD 1969-2, LA 413, LA 384
Board
attorney becomes affiliate of
[CAL](#) 1968-15

REAL ESTATE TRANSACTION [See Conflict of interest. Estate.

Purchasing property at probate, foreclosure or judicial sale.]

Represent

buyer and seller/later one against other

SF 1973-22

client in donating property to another client, later same client

in attempt to secure return of property

LA(I) 1970-10

REALTOR [See Practice of law, dual profession and Business Activity, dual profession.]

REBATE [See Commission. Fees.]

Code of Civil Procedure section 568

RECEIVER [See Bankruptcy.]

Code of Civil Procedure section 568

Entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

RECORDING

Rule 2-101(E), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Court proceedings

California Rule of Court 1.150

Disclosure of wiretap after its authorization expires violated 18 U.S.C. 2232(c)

U.S. v. Aguilar (1995) 515 U.S. 593 [115 S.Ct. 2357]

Of conversation

California Penal Code section 632

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

California Penal Code section 633

-applicability to city attorney while prosecuting misdemeanor cases

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

telephone

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

[CAL](#) 1966-5, LA 272 (1962), LA 182 (1951)

-district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment

Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572

REFERRAL FEE [See Division of Fees. Referral of legal business.]

REFERRAL OF BUSINESS

To physician

LA 443 (1988)

REFERRAL OF LEGAL BUSINESS [See Division of fees.

Fee. Lay employees. Lay intermediaries. Legal referral services. Solicitation of business.]

Business and Professions Code section 6152(c)

Rules 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Between partners when one is lawyer-physician

LA 331 (1973)

Referred by

adjuster

-who failed to settle claim

LA 59 (1930)

attorney to associate or partner

-who specializes in field of law

[CAL](#) 1967-10

business to partner who is lawyer

[CAL](#) 1969-18

client's employees

LA(I) 1973-10

consumer organization

LA(I) 1978-1, SD 1983-5, SD 1975-17, SF 1973-27

educational foundation

LA(I) 1977-2

foreign attorney

LA(I) 1959-3

insurance agent

LA(I) 1964-3

investigator

-employed by client

LA 67 (1932)

lay entity

-by membership organization

LA 401 (1982)

-by religious organization

--employing attorney

---referral of member

LA 298 (1966)

-for compensation from client

LA 135 (1941)

-of employees

--where lawyer hired to advise, counsel, and represent

employee of industrial organization

LA 137 (1941)

management consulting company

LA 446 (1987)

membership organization

LA 401 (1982)

non-profit organization

SF 1976-2

physician

LA(I) 1949-1

real estate agent/broker

-in expectation of compensation

LA 18 (1922)

real estate business

LA 140 (1942)

-associated with lawyer

LA 140 (1942)

selling of legal services

LA 137 (1941)

suspended attorney

LA(I) 1937-1

traveler's aid

-no charge

LA 73 (1934)

union representative who is spouse

LA(I) 1974-5

Civil case

duty to referring attorney

Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

Compensation in consideration for

by lawyers

Rule 2-108(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 2-200(B), Rules of Professional Conduct (operative as of May 27, 1989)

by non-lawyers

Rule 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-320(B), Rules of Professional Conduct (operative as of May 27, 1989)

by representative of the press

Rule 3-102(C), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-320(C), Rules of Professional Conduct (operative as of May 27, 1989)

Thank sources of

LA(I) 1968-2

To opposing counsel

LA(I) 1959-6

REFERRAL SERVICES

Traffic court appearances
SD 1974-2

REFERRAL SERVICES

Minimum standards [See This Compendium, Part I-B, appendix A, State Bar Act.]

REINSTATEMENT

After disbarment

Hippard v. State Bar (1989) 49 Cal.3d 1084
Calaway v. State Bar (1986) 41 Cal.3d 743
In re Andreani (1939) 14 Cal.2d 736, 748-750
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

denied because of petitioner's failure to prove rehabilitation, present moral qualifications, and present legal learning and ability

In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894

In the Matter of Miller (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 423

In the Matter of Heiner (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 301

In the Matter of Rudman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 756

After resignation

passage of professional responsibility examination is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

After resignation with disciplinary charges pending

denied for failure to make restitution

In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

does not affect the necessity for a reinstatement proceeding

Hippard v. State Bar (1989) 49 Cal.3d 1084, 1082, fn. 4

Calaway v. State Bar (1986) 41 Cal.3d 743, 745

Tardiff v. State Bar (1980) 27 Cal.3d 395, 398

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 314, fn. 2

petitioner must pass professional responsibility examination and demonstrate rehabilitation, present moral qualifications, and present learning and ability in the general law

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

unauthorized practice of law and lack of candor demonstrated the lack of moral reform that would prevent reinstatement

In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630

Consideration of reinstatement decisions from jurisdictions other than California

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Denied because of petitioner's insufficient showing of rehabilitation

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Moral character

unresolved tax delinquencies

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Not precluded by egregiousness of misconduct as law favors rehabilitation

Resner v. State Bar (1967) 67 Cal.2d 799, 811

In re Andreani (1939) 14 Cal.2d 736, 749

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309

In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373, 382

Requirements for reinstatement

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
petition for reinstatement requires reimbursement of discipline costs and reimbursement for payments made by the Client Security Fund

In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

Standard for rehabilitation and present moral qualifications

Calaway v. State Bar (1986) 41 Cal.3d 743

Resner v. State Bar (1967) 67 Cal.2d 799

Allen v. State Bar (1962) 58 Cal.2d 912

Werner v. State Bar (1954) 42 Cal.2d 187

Jones v. State Bar (1946) 29 Cal.2d 181

In re Gaffney (1946) 28 Cal.2d 761

Preston v. State Bar (1946) 28 Cal.2d 643

In re Andreani (1939) 14 Cal.2d 736

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

In the Matter of Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 320

Standards same for disbarred and resigned with charges pending

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Tax delinquencies not involving concealed assets

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Testimony by members given in support of reinstatement is governed by [rule](#) 1-200(B) of the Rules of Professional Conduct

In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

REPORTING FEES [See Advancement of funds.]

Failure to pay for contracted services

[CAL](#) 1979-48

RESIGNATION [See Disabled lawyer. Disbarment.

Suspension.]

Business and Professions Code section 6180 et seq.

As active member of State Bar

Business and Professions Code sections 6004-6007

Duties of resigned attorney

Rule 9.20, California Rules of Court

Resignation requires passage of responsibility examination as a condition of reinstatement, not a condition precedent to filing of a petition for reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Resignation with disciplinary charges requires passage of professional responsibility examination and demonstration of rehabilitation, present moral qualifications, and present learning and ability in the general law as conditions of reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Resigned attorney may not represent parties in state administrative hearings

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

With disciplinary charges pending

criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

In the Matter of Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

RESTRICTIVE COVENANT BETWEEN LAWYERS

RESTRICTIVE COVENANT BETWEEN LAWYERS

Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-500, Rules of Professional Conduct (operative as of May 27, 1989)
[CAL](#) 2009-176, [CAL](#) 1988-104
LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990), LA 445 (1987)
SF 2012-1
Business and Professions Code section 16602, applicability
[Howard v. Babcock](#) (1993) 6 Cal.4th 409
Collaborative family law practice
OC 2011-01
Confidential settlement agreements
LA 512 (2004)
Contract term compelling departing partners to forfeit a significant sum of money should they decide to compete with their former partners not contrary per se to public policy
[Haight, Brown & Bonesteel v. Superior Court](#) (1991) 234 Cal.App.3d 963
Contract term providing that if an attorney leaves the firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable
[Moncharsh v. Heily & Blase](#) (1992) 3 Cal.4th 1
Covenant not to compete
[Howard v. Babcock](#) (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]
[Matull & Associates v. Cloutier](#) (1987) 194 Cal.App.3d 1049
LA 480 (1995)
Law Partners' Agreement imposing reasonable toll on departing partners who compete with firm is enforceable
[Howard v. Babcock](#) (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]
[In the Matter of Respondent X](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

RETAINER [See Client trust account, Non-refundable retainer. Contract for employment. Fee.]

Rule, 3-700(D)(2), California Rule of Professional Conduct
[Securities and Exchange Commission v. Interlink Data Network](#) (9th Cir. 1996) 77 F.3d 1201
[In re Montgomery Drilling Co.](#) (E.D. Cal. 1990) 121 B.R. 32
[Katz v. Workers' Compensation Appeals Board](#) (1981) 30 Cal.3d 353, 356 at fn. 2 [178 Cal.Rptr. 815]
[Baranowski v. State Bar](#) (1979) 24 Cal.3d 153, 163
[T & R Foods, Inc. v. Rose](#) (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[In the Matter of Fonte](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1

RULE AGAINST PERPETUITIES

[Lucas v. Hamm](#) (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]

RULES OF PRACTICE BEFORE THE STATE BAR COURT

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

State Bar Court, State Bar of California
180 Howard Street, San Francisco, California 94105
Telephone: (415) 538-2050

RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

State Bar Court, State Bar of California
180 Howard Street, San Francisco, California 94105
Telephone: (415) 538-2050

Rule 205 [requirement of motion for relief from actual suspension] not a valid reason for failure to recommend a specific period of stayed suspension

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension

[In the Matter of Stansbury](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

Rule 220(b) [requirement to file a decision within 90 days of submission]

neither mandatory nor jurisdictional, but directory

[In the Matter of Petilla](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Rule 221 (b)(2) (request for review filed prior to ruling)

[In the Matter of Ozowski](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67

Rule 262 [dismissal]

[In the Matter of Silverton](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Rule 270(c) [disclosure of private reproof]

[Mack v. State Bar of California](#) (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]

Rules 271 and 290

examined in connection with Section 6078 of Business and Professions Code and rule 9.19, California Rules of Court

[In the Matter of Respondent Z](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85

Rule 283(b) [costs recoverable by an exonerated attorney]

[In the Matter of Wu](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Rule 290 [completion of Ethics School if discipline is imposed]

may be required as a probation condition

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

may be required at the time of a ruling on a motion to end actual suspension

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Rule 300 Interlocutory Review

[In the Matter of Terrones](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

[In the Matter of Sheppard](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

probation modification rulings

[In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 301(a)(2) [trial transcript required for review]

[In the Matter of Wu](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Rule 301 (d) (filing of post-trial motion)

[In the Matter of Ozowski](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67

Rule 305 [independent de novo review]

[In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 305(a) Great Weight to Credibility Determinations by Hearing Judge

[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

[In the Matter of Lais](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Rule 561 [standard of proof in probation revocation, preponderance of evidence]

[In the Matter of Taggart](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 634 Standard 1.4(c)(ii) Proceeding, Petitioner's Burden of Proof, Preponderance of the Evidence

[In the Matter of Terrones](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

RULES OF PROFESSIONAL CONDUCT

Rule 639 Standard 1.4(c)(ii) Proceeding, Review Under Rule 300, Abuse of Discretion or Error of Law

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Rule 655 Reinstatement

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Rule 662

In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

RULES OF PROFESSIONAL CONDUCT [The full text of the rules are reprinted in part I A above. The annotated Rules of Professional Conduct are found in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 319]

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

CAVEAT: Subject headings must be consulted for cases interpreting particular Rules of Professional Conduct in addition to rule headings.

Duty to abide with

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170

adopted as standard of professional conduct

-Federal District Court, Eastern District

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679

attorney ethics rules do not apply only to attorneys who are acting in their role as advocates for others

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

attorney ethics rules do not apply to non-lawyers and law entities

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

attorney's conduct evaluated by the Rules of Professional Conduct in effect at the time of the misconduct

Image Technical Services v. Eastman Kodak (C.D. 1993) 820 F.Supp. 1212

Dudugjian v. State Bar (1991) 52 Cal.3d 1092, 1094, fn. 1 [278 Cal.Rptr. 90]

King v. State Bar (1990) 52 Cal.3d 307 [276 Cal.Rptr. 176]

Kelson v. State Bar (1976) 17 Cal.3d 1, 4 fn. 1

Jackson v. State Bar (1975) 15 Cal.3d 372, 374, fn. 1 [124 Cal.Rptr. 185, 540 P.2d 25]

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 569 fn. 1 [119 Cal.Rptr. 335, 531 P.2d 1119]

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343

civil case

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

Government attorneys

applicability to

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]

Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84

CAL 2002-158

Interpretation of

rules conclusively set ethical duties

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

-effect of expert testimony

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Judicial notice of

Evidence Code section 451

Jurisdiction

California courts non-disciplinary jurisdiction over non-resident California attorney

Crea v. Busby (1996) 48 Cal.App.4th 509 [555 Cal.Rptr.2d 513]

Edmunds v. Superior Court (1994) 24 Cal.App.4th 221

over out-of-state arbitration representatives

Code of Civil Procedure section 1282.4

Purpose of, generally

Allen v. Academic Games League of America (C.D. 1993) 831 F.Supp. 785

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. 1992) 809 F.Supp. 1383

Zitney v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

govern discipline of attorneys and do not create disqualification standards for courts but may be used for guidance

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

CURRENT RULES OF PROFESSIONAL CONDUCT (operative November 1, 2018)

Rule 1.0 Purpose and Function of the Rules of Professional Conduct

101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)

Rule 1.1 Competence

-attorney must ensure competence when advising client regarding litigation funding

CAL 2020-204

Rule 1.2 Scope of Representation and Allocation of Authority

Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

CAL 2021-207

Rule 1.2.1 Advising or Assisting the Violation of Law

CAL 2020-202, LA 531 (2019)

Rule 1.5 Fees for Legal Services

refund of fee advanced

SD 2019-3

Rule 1.6 Confidential Information of a Client

CAL 2021-207, CAL 2021-205, CAL 2019-200

Rule 1.7 Conflict of Interest: Current Clients

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

CAL 2021-205, LA 533 (2020)

101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)

Rule 1.8.5 Payment of Personal or Business Expenses Incurred by or for a Client

LA 532 (2019)

Rule 1.8.6 Compensation from One Other than Client

litigation funding

CAL 2020-204

Rule 1.9 Duties To Former Clients

CAL 2021-205

Rule 1.10 Imputation of Conflicts of Interest: General Rule

CAL 2021-205

Rule 1.15 Safekeeping Funds and Property of Clients and Other Persons

refund of fee advanced

SD 2019-3

Rule 1.16 Declining or Terminating Representation

CAL 2019-200

Rule 1.18 Duties To Prospective Client

CAL 2021-205

Rule 3.3 Candor Toward the Tribunal

Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]

CAL 2019-200

Rule 3.7 Lawyer as Witness

Doe v. Yim (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613]

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- [Rule 4.2](#) Communication with a Represented Person
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
- [Rule 4.3](#) Communication with an Unrepresented Person
LA 531 (2019)
- [Rule 4.4](#) Duties Concerning Inadvertently Transmitted Writing
LA 531 (2019)
- [Rule 5.4](#) Financial and Similar Arrangements with Nonlawyers
SD 2019-2
- [Rule 5.5](#) Unauthorized Practice of Law; Multijurisdictional Practice of Law
SF 2021-1
remote practice of law
SF 2021-1
“systematic or continuous presence in California” defined
SF 2021-1
- [Rule 7.1](#) Communications Concerning a Lawyer’s Services
[CAL](#) 2019-199
- [Rule 7.2](#) Advertising
[CAL](#) 2019-199
paragraph (b)
SD 2019-2
- [Rule 7.3](#) Solicitation of Clients
SD 2018-2
- [Rule 8.4](#) Misconduct
LA 531 (2019)
- [Rule 8.4.1](#) Prohibited Discrimination, Harassment and Retaliation
[CAL](#) 2021-207

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- [Rule 1-100](#) Rules of Professional Conduct, In General.
Bankruptcy of Mortgage & Realty Trust (1996) 196 B.R. 740
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
[CAL](#) 2014-190, [CAL](#) 2012-184, [CAL](#) 2001-155, [CAL](#) 1998-152, [CAL](#) 1996-145, [CAL](#) 1997-149, [CAL](#) 1997-148
LA 527 (2015), LA 504 (2000), LA 470 (1992)
SD 2011-2, SD 1993-1, SD 1989-4
consideration of ethical rules of other jurisdictions
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

- duty to abide with
-Central District of California has adopted the “State Bar Act, the Rules of Professional Conduct of the State Bar of California” as the standard of professional conduct in the district
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
“lawyer” defined
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
purpose of the rules
-protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Rules of Professional Conduct serve as an expression of public policy to protect the public
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
willful violation is disciplinary offense
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
-“associate” defined
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- [Rule 1-110](#) Disciplinary Authority of the State Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
- [Rule 1-120](#) Assisting, Soliciting, or Inducing Violations.
[CAL](#) 2012-183, [CAL](#) 1993-128, [CAL](#) 1992-126
LA 522 (2009), LA 518 (2006)
- [Rule 1-200](#) False Statement Regarding Admission to the Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
- [Rule 1-300](#) Unauthorized Practice of Law.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
[CAL](#) 2001-155, SD 2007-1
- [Rule 1-310](#) Forming a Partnership With a Non-Lawyer.
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[CAL](#) 1999-154, [CAL](#) 1995-142, [CAL](#) 1995-141
LA 518 (2006), LA 510 (2003), LA 488 (1996)
- [Rule 1-311](#) Employment of Disbarred, Suspended, Resigned, or Voluntary Inactive Member
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

[Rule](#) 1-320 Financial Arrangements With Non-Lawyers.

[In re Carlos](#) (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

[McIntosh v. Mills](#) (2004) 121 Cal.App.4th 333 [17 Cal.Rptr.3d 66]

[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

[In the Matter of Kreitenberg](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

[CAL](#) 1999-154, [CAL](#) 1997-148, [CAL](#) 1995-143, [CAL](#) 1995-142, [CAL](#) 1995-141, [CAL](#) 1992-126

LA 523 (2009), LA 518 (2006), LA 515 (2005), LA 510 (2003), LA 488 (1996), LA 461, LA 457

SD 1989-2

[Rule](#) 1-400 Advertising and Solicitation.

[Ramirez v. Trans Union, LLC](#) (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120

[In re Morse](#) (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

[Rubin v. Green](#) (1993) 4 Cal.4th 1187

[Best Buy Stores, L.P. v. Superior Court](#) (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]

[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

[CAL](#) 2016-196, [CAL](#) 2012-186, [CAL](#) 2004-167, [CAL](#) 2004-166,

[CAL](#) 2004-165, [CAL](#) 2001-155, [CAL](#) 1999-154, [CAL](#) 1997-150,

[CAL](#) 1997-148, [CAL](#) 1995-144, [CAL](#) 1995-143, [CAL](#) 1995-142,

[CAL](#) 1995-141, [CAL](#) 1993-129

LA 494 (1998) LA 474 (1993)

SD 2018-2, SD 2018-1, SD 1996-1, SD 1992-3. OC 93-001

Standard 1

[In the Matter of Copren](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

Standard 4

SD 2000-1

Standard 5

[In re McKesson HBOC, Inc. Securities Litigation](#) (N.D. Cal. 2001) 126 F.Supp.2d 1239

Standard 7

LA 530 (2018)

Standard 8

[People ex rel. Dept. of Corporations v. Speedee Oil Change Systems](#) (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

LA 516 (2006)

Standard 9

LA 516 (2006), LA 511 (2003)

use of former employer's client lists for solicitation purposes

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

[Rule](#) 1-500 Agreements Restricting a Member's Practice.

[In re J.T. Thorpe, Inc.; Thorpe Insulation Co., Debtors](#)

[Michael J. Mandelbrot; The Mandelbrot Law Firm; The Mandelbrot Law Firm, Appellants, v. J.T. Thorpe Settlement Trust; Thorpe Insulation Company Asbestos Settlement Trust; Charles B. Renfrew, Administrative Law Judge, Futures Representative, Appellees](#) (9th Cir. 2017) 870 F.3d 1121

[In the Matter of Respondent X](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592

[CAL](#) 2012-185, [CAL](#) 2009-176

LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990) OC 2011-01, SF 2012-1

[Rule](#) 1-600 Legal Service Programs.

[Frye v. Tenderloin Housing Clinic, Inc.](#) (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

[Gafcon, Inc. v. Ponsor & Associates](#) (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

[CAL](#) 1997-148, [CAL](#) 1992-126

LA 500 (1999)

[Rule](#) 1-650 Limited Legal Services Programs

[CAL](#) 2011-182

[Rule](#) 1-700 Member as Candidate for Judicial Office

[In the Matter of Parish](#) (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 370

statement accusing judicial opponent of involvement in bribery and corporate fraud was a factual misrepresentation made with reckless disregard for the truth

[In the Matter of Parish](#) (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 370

[Rule](#) 1-710 Member as Temporary Judge, Referee, or Court-Appointed Arbitrator

LA 514 (2005)

[Rule](#) 2-100 Communication With a Represented Party.

[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133

[Graham v. U.S.](#) (9th Cir. 1996) 96 F.3d 446

[Karnazes v. Ares](#) (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]

[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

[McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n](#) (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]

[La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court](#) (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]

[Snider v. Superior Court](#) (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

[Koo v. Rubio's Restaurants, Inc.](#) (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

[Truitt v. Superior Court](#) (1997) 59 Cal.App.4th 1183

[Jorgensen v. Taco Bell](#) (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]

[Jackson v. Ingersoll-Rand](#) (1996) 42 Cal.App.4th 1163

[Continental Insurance Company v. Superior Court](#) (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]

[In the Matter of Dale](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

[In the Matter of Wyshak](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

*[In the Matter of Twitty](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

[CAL](#) 2011-181, [CAL](#) 2009-178, [CAL](#) 1996-145, [CAL](#) 1993-133, [CAL](#) 1993-131, [CAL](#) 1991-125, [CAL](#) 1989-110,

LA 508 (2002), LA 502 (1999), LA 490, LA 487, LA 472

SD 2011-2, SD 2005-1

public officer, board committee or body exception

-not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation

[Guthrey v. California Department of Corrections and Rehabilitation](#) (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

[U.S. v. Sierra Pacific Industries](#) (E.D. Cal. 2011) 759 F.Supp.2d 1215

[Rule](#) 2-200 Financial Arrangements Among Lawyers.

[Hance v. Super Store Industries](#) (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

[Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler](#) (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

[Brown v. Grimes](#) (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

[Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

[Cohen v. Brown](#) (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

[Strong v. Beydoun](#) (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

[Mark v. Spencer](#) (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
- Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
- Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
- Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
- CAL 2004-165
LA 518 (2006), LA 503 (2000), LA 486, LA 473 (1993), LA 470 (1992), LA 467 (1992)
association of outside counsel not a basis for exemption from [rule](#) 2-200 requirements
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- does not apply to partnership agreements with respect to fees from unfinished cases taken by departing partner
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
- failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
- Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- purpose of the rule
-protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
- terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200
Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]
- use of client confidential information in action to recover unpaid attorney referral fees
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- [Rule](#) 2-300 Sale or Purchase of a Law Practice of a Member, Living, or Deceased.
LA 475 (1993)
- [Rule](#) 2-400 Discriminatory Conduct in a Law Practice (operative March 1, 1994)
- [Rule](#) 3-100 Confidential Information of a Client
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
- Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- [CAL](#) 2016-195, [CAL](#) 2015-193, [CAL](#) 2012-183, [CAL](#) 2011-182, [CAL](#) 2010-179, [CAL](#) 2008-175, [CAL](#) 2007-173, [CAL](#) 2005-168, [CAL](#) 2003-164, [CAL](#) 2003-163, [CAL](#) 2003-162, [CAL](#) 2003-161, [CAL](#) 2002-158, [CAL](#) 1997-150, [CAL](#) 1992-126
LA 529 (2017), LA 528 (2017), LA 525 (2012), LA 520 (2007) OC 2011-01
SD 2012-1
SF 2014-1, SF 2011-1
- attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- [Rule](#) 3-110 Failing to Act Competently
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- Oliveros v. County of Los Angeles (2004) 120 Cal.App.4th 1389 [16 Cal.Rptr.3d 638]
- In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
- In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
- In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
- In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
- In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
- In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
- In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
- [CAL](#) 2015-193, [CAL](#) 2014-190, [CAL](#) 2012-184, [CAL](#) 2012-183, [CAL](#) 2011-182, [CAL](#) 2010-179, [CAL](#) 2008-175, [CAL](#) 2007-173, [CAL](#) 2005-168, [CAL](#) 2004-165, [CAL](#) 2003-164, [CAL](#) 2003-163, [CAL](#) 2003-162, [CAL](#) 2003-161, [CAL](#) 2002-158, [CAL](#) 1997-150, [CAL](#) 1992-126
LA 529 (2017), LA 522 (2009), LA 521 (2007), LA 518 (2006), LA 512 (2004), LA 504 (2000), LA 502 (1999), LA 488 (1996), LA 471 (1992)
SD 2012-1, SD 2007-1, SD 1997-2
OC 2011-02, OC 2011-01
SF 2011-1
- attorney violates 3-110(A) when he failed to represent client with undivided loyalty, to exercise independent judgment on client's behalf, and to act in client's best interests
- [Rule](#) 1.1
[CAL](#) 2020-204

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
negligent legal representation by itself does not prove misconduct
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- [Rule 3-120 Sexual Relations With Client](#)
OC 2003-02
- [Rule 3-200 Prohibited Objectives of Employment.](#)
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]
Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
[CAL](#) 1996-146
LA 522 (2009), LA 502 (1999)
high ethical and professional standards of an attorney and an officer of the court require him to inform client that an attorney is precluded from pursuing an appeal that is frivolous or taken for the purpose of delay
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
- [Rule 3-210 Advising the Violation of Law.](#)
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
[CAL](#) 2013-189, [CAL](#) 2003-162, [CAL](#) 1996-146
LA 527 (2015), LA 522 (2009), LA 520 (2007), LA 502 (1999) SD 1993-1
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
LA 527, SF 2015-1
- [Rule 3-300 Avoiding Adverse Interests.](#)
In re Tallant (9th Cir. 1998) 218 B.R. 58
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Fletcher v. Davis (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
- In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
[CAL](#) 2009-178, [CAL](#) 2006-170, [CAL](#) 2003-164, [CAL](#) 2002-159, [CAL](#) 1999-154, [CAL](#) 1995-140, [CAL](#) 1995-141, [CAL](#) 1994-135, [CAL](#) 1994-136, [CAL](#) 1993-130, [CAL](#) 1989-116
LA 521 (2007), LA 507 (2001), LA 496 (1998), LA 492 (1998), LA 477 (1994)
OC 2011-02, OC 93-002
SD 1992-1, SD 1989-2, SF 1997-1
attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
business transactions with a client
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- [Rule 3-310 Avoiding the Representation of Adverse Interests.](#)
Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180, fn. 4 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
 80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
[CAL](#) 2014-191, [CAL](#) 2011-182, [CAL](#) 2009-178, [CAL](#) 2004-165, [CAL](#) 2003-164, [CAL](#) 2003-163, [CAL](#) 2003-162, [CAL](#) 2003-161, [CAL](#) 2002-159, [CAL](#) 2002-158, [CAL](#) 2001-156, [CAL](#) 1999-154, [CAL](#) 1999-153, [CAL](#) 1998-152, [CAL](#) 1997-148, [CAL](#) 1995-141, [CAL](#) 1995-140, [CAL](#) 1995-139, [CAL](#) 1993-138, [CAL](#) 1993-129, [CAL](#) 1993-128, [CAL](#) 1992-126, [CAL](#) 1989-116, [CAL](#) 1989-113
 LA 521 (2007), LA 513 (2005), LA 507 (2001), LA 506 (2001), LA 502 (1999), LA 501 (1999), LA 500 (1999), LA 492 (1998), LA 471 (1992), LA 468 (1992), LA 465 (1991), LA 463, LA 461, LA 462, LA 459 (1990), LA 379
 SD 2017-1, SD 2013-1, SD 2006-1, SD 1997-2, SD 1990-3, SD 1989-4
 OC 2012-1, OC 2011-02, OC 2011-01, OC 95-002, OC 94-003
 attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
 paragraph (B)
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
 SD 2017-1
 paragraph (C)
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

paragraph (C)(1) and (2)

ECC Capital Corporation et al. v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]

paragraph (C)(3)

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

paragraph (E)

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

-no conflict where the court found that the partner who switched sides had no involvement in the instant action and had not discussed the action with the attorneys at the new law firm and where the firm had not used the new partner's services relating to the instant action

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

paragraph (F)

LA 510 (2003)

-fees paid by 3rd party payor

Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

Rule 3-320 Relationship With Other Party's Lawyer.

SD 1989-4

34 Santa Clara L. Rev. 1157 (1994)

Rule 3-400 Limiting Liability to Client.

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

CAL 2009-178, CAL 1992-127, CAL 1989-116

LA 502 (1999), LA 489(1997), LA 471 (1992)

OC 2011-01

Rule 3-500 Communication.

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

CAL 2012-184, CAL 2009-178, CAL 2008-175, CAL 2004-165, CAL 2003-163, CAL 2003-161, CAL 1998-152, CAL 1997-151, CAL 1994-135

LA 528 (2017), LA 520 (2007), LA 518 (2006), LA 506 (2001), LA 473 (1993)

SD 2017-1, SD 2012-1, SD 2007-1, SD 2006-1, SD 2004-1, SD 2001-1

SF 2011-1

Rule 3-510 Communication of Settlement Offer.

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

CAL 2009-176, CAL 1994-136, CAL 1994-135

LA 512 (2004)

Rule 3-600 Organization as Client

Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]

Forrest v. Baeza (1997) 58 Cal.App.4th 65

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

*Ronson v. Superior Court (1994) 24 Cal.App.4th 94

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717

Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

*Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337

CAL 2001-156, CAL 1999-153, CAL 1994-137

SD 2017-1, OC 2011-02

Rule 3-700 Termination of Employment

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896

In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
- In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
- In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Dale K. Nees (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459
- [CAL](#) 2015-194, [CAL](#) 2015-192, [CAL](#) 2014-190, [CAL](#) 2013-189, [CAL](#) 2009-177, [CAL](#) 2007-174, [CAL](#) 2003-163, [CAL](#) 2001-157, [CAL](#) 1999-153, [CAL](#) 1994-134, [CAL](#) 1992-127, [CAL](#) 1989-111
- LA 528 (2017), LA 521 (2007), LA 520 (2007), LA 504 (2000), LA 502 (1999), LA 498 (1999), LA 493, LA 491, LA 471, LA 462
- SD 2004-1, SD 2001-1, SD 1997-1, SD 1990-2
- OC 2011-01, SF 2011-1
- client coerced into accepting settlement under threat of attorney's withdrawal
- Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
- disclosure of confidences at motion for withdrawal
- Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
- [CAL](#) 2015-192
- duty to release to client mental health care records is not altered by written warning from mental health care provider that disclosure may be detrimental to client
- LA 509 (2002)
- failure to return unearned fees
- In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
- failure to provide status reports to law firm on client matters when attorney-employees abruptly resigned from law firm
- Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
- [Rule](#) 4-100 Preserving Identity of Funds and Property of a Client.
- Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
- Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
- In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
- In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
- In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
- In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
- In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
- In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
- In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
- In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
- In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
- In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
- Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
- [CAL](#) 2009-177, [CAL](#) 2008-175, [CAL](#) 2006-171, [CAL](#) 2005-169, [CAL](#) 2002-159, [CAL](#) 2001-157
- LA 485 (1995), LA 484 (1995) LA 475 (1993)
- OC 99-002
- overdraft protection
- [CAL](#) 2005-169
- unilateral disbursement of funds without consent of corporate client
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- [Rule](#) 4-200 Fees for Legal Services
- In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
- Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

- Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
CAL 2006-170, CAL 1994-136, CAL 1994-135, CAL 1988-101
LA 526 (2015), LA 523 (2009), LA 521 (2007), LA 515 (2005), LA 507 (2001), LA 505 (2000), LA 499 (1999), LA 479 (1994),
LA 467 (1992), LA 458 (1990)
SD 2013-3, OC 99-001, SF 1999-1
elder abuse cases
-Welfare and Institutions Code § 15657.1 incorporates rule 4-200 by reference
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
loan modification services
-collecting pre-performance fees in violation of the law
In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
Rule 4-210 Payment of Personal or Business Expenses Incurred by or for a Client.
Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
Hernandez v. Siegal (2014) 230 Cal.App.4th 165 [178 Cal.Rptr.3d 417]
CAL 1996-147
LA 517 (2006), LA 499 (1999), LA 495 (1998)
SF 1989-1
Rule 4-300 Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review.
LA 455
Rule 4-400 Gifts From Client.
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
CAL 2011-180
LA 462
Rule 5-100 Threatening Criminal, Administrative, or Disciplinary Charges.
Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]
Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
CAL 1991-124, CAL 1989-106, CAL 1983-73
LA 469 (1992)
SD 2005-1
Rule 5-110 Performing the Duty of Member in Government Service. (operative September 14, 1992 to April 30, 2017)
CAL 1989-106, CAL 1991-24(I)
Rule 5-110 Special Responsibilities of a Prosecutor. (operative May 1, 2017 to present)
prosecutor must disclose and/or conduct an investigation when the prosecutor is presented with “new, credible and material” evidence of a wrongful conviction
Rule 5-110(F)
prosecutor must exercise reasonable care to prevent persons under the prosecutor’s supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120
Rule 5-110(E)
prosecutor must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters
Rule 5-110(B)
prosecutor must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused’s appearance in pro per
Rule 5-110(C)
prosecutor must seek to remedy a conviction when the prosecutor “knows of clear and convincing evidence” establishing that a wrongful conviction occurred
Rule 5-110(G)
Rule 5-120 Trial Publicity (operative October 1, 1995).
statements found not in violation of rule
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
Rule 5-200 Trial Conduct.
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
CAL 2008-175
LA 522 (2009), LA 504 (2000), LA 502 (1999), LA 497 (1999), LA 482 (1995), LA 464 (1991)
OC 95-001, OC 94-003
SD 2017-1, SD 2012-1, SD 2011-1, SD 1990-2
attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Rule 5-210 Member as Witness.
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
CAL 1993-133, SD 2017-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)

case law articulates an exception not found in Rule 5-210 permitting an attorney to act as a witness where the evidence is otherwise not available

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

[Rule 5-220](#) Suppression of Evidence.

In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

LA 497 (1999), LA 466 (1991)

OC 2011-01

[Rule 5-300](#) Contact With Officials.

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

LA 514 (2005)

SD 2013-2

OC 94-001

allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel

In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850] technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

[Rule 5-310](#) Prohibited Contact With Witnesses.

[CAL](#) 1997-149

[Rule 5-320](#) Contact With Jurors.

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80 SD 2010-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)

[Rule 1-100](#) Rules of Professional Conduct, In General. [See Admission to the bar.]

[CAL](#) 1975-33

LA 342 (1973)

SD 1977-2, SD 1974-6, SD 1972-17

SF 1977-2, SF 1977-1

[Rule 1-101](#) Maintaining Integrity and Competence of the Legal Profession. [See Admission to the bar.]

[Rule 2-101](#) Professional Employment. [See Advertising. Business activity. Solicitation.]

Business and Professions Code section 6105

[CAL](#) 1988-105, [CAL](#) 1987-91, [CAL](#) 1986-90, [CAL](#) 1982-68,

[CAL](#) 1982-67, [CAL](#) 1982-66, [CAL](#) 1982-65, [CAL](#) 1981-61,

[CAL](#) 1981-60, [CAL](#) 1981-56, [CAL](#) 1980-54

LA 449 (1988), LA 446 (1987), LA 434 (1984), LA 430 (1984),

LA 423 (1983), LA 421 (1983), LA 413 (1983), LA 419 (1983),

LA 404 (1983), LA 392 (1983), LA 401 (1982), LA 385 (1980),

LA 384 (1980), LA 381 (1979)

SF 1980-1, SF 1979-1

subsection (B) & (C)

[CAL](#) 1983-75

[Rule 2-102](#) Legal Service Programs. [See Group legal services. Legal services.]

[CAL](#) 1987-91, [CAL](#) 1982-65

LA 444 (1987), LA 401 (1982)

SD 1983-6

[Rule 2-105](#) Advising Inquirers Through the Media on Specific Legal Problems. [See Advising inquirers through media. Broadcasting.]

[CAL](#) 1976-40, [CAL](#) 1975-32

LA 336 (1973), LA 326 (1972), LA 311 (1969)

SD 1976-4, SD 1976-2, SD 1974-16, SD 1969-6

[Rule 2-107](#) Fees for Legal Services. [See Fees.]

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]

Roa v. Lodi Medical Group, Inc. (1982) 129 Cal.App.3d 318, 329 [181 Cal.Rptr. 41]

Estate of Efron (1981) 117 Cal.App.3d 915, 926 [173 Cal.Rptr. 93]

In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 296 [149 Cal.Rptr. 918]

Baron v. Mare (1975) 47 Cal.App. 304, 312 [120 Cal.Rptr. 675]

[CAL](#) 1987-94, [CAL](#) 1987-91, [CAL](#) 1988-12(12), [CAL](#) 1983-72, [CAL](#) 1982-67, [CAL](#) 1982-65, [CAL](#) 1980-53

LA 431 (1984), LA 416 (1983), LA 413 (1983), LA 391 (1981), LA 370 (1978), LA 360 (1976)

SD 1982-69, SD 1976-4, SD 1975-4

[Rule 2-108](#) Financial Arrangements among Lawyers. [See Division of fees. Referral of legal business.]

Moran v. Harris (1982) 131 Cal.App.3d 913

Breckler v. Thaler (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]

Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]

[CAL](#) 1981-61, [CAL](#) 1975-34

LA 423 (1983), LA 413 (1983), LA 392 (1983), LA 385 (1980)

SD 1978-5, SD 1977-2, SD 1976-13, SD 1976-12

SF 1981-1, SF 1977-1

[Rule 2-109](#) Agreements Restricting the Practice of a Member of the State Bar. [See Restrictive covenant between lawyers.]

[CAL](#) 2009-176

LA 468 (1992), LA 445 (1987)

[Rule 2-110](#) Acceptance of Employment. [See Acceptance of employment.]

[CAL](#) 1982-65

SD 1978-6

[Rule 2-111](#) Withdrawal From Employment. [See Substitution of attorney. Termination of attorney-client relationship. Withdrawal from employment.]

Kirsch v. Duryea (1978) 21 Cal.3d 303, 310-311 [146 Cal.Rptr. 218]

Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9]

People v. Goldstein (1982) 130 Cal.App.3d 1024, 1032 [182 Cal.Rptr. 207]

People v. Goldstein (1981) 126 Cal.App.3d 550, 556 [178 Cal.Rptr. 894]

Reich v. Club Universe (1981) 125 Cal.App.3d 965, 972 [178 Cal.Rptr. 473]

Lyle v. Superior Court (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]

Pollack v. Lytle (1981) 120 Cal.App.3d 931, 949 [175 Cal.Rptr. 81]

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]

Chadwick v. Superior Court (1980) 106 Cal.App.3d 108, 118 [164 Cal.Rptr. 864]

People v. Ballard (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]

Harris v. Superior Court (1979) 97 Cal.App.3d 488, 492 [158 Cal.Rptr. 807]

Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43, 49 [156 Cal.Rptr. 841]

Brown v. DeRuggeris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]

Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]

People ex rel. Younger v. Superior Court (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]

*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]

Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

Vann v. Shilleh (1975) 54 Cal.App.3d 192, 197 [126 Cal.Rptr. 401]

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

People v. Guerrero (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]

[CAL](#) 1988-96, [CAL](#) 1983-74, [CAL](#) 1982-65, [CAL](#) 1981-64, [CAL](#) 1981-62, [CAL](#) 1979-50, [CAL](#) 1979-49

FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)

- LA 417 (1983), LA 399 (1982), LA 394 (1982), LA 371 (1977), LA 367 (1977), LA 362 (1976), LA 360 (1976), LA 356 (1976), LA 323 (1971), LA 312 (1969), LA 305 (1968)
SD 1983-10, SD 1978-7, SD 1977-3
SF 1984-1, SF 1980-1, SF 1979-3, SF 1977-2, SF 1976-1, SF 1975-4, SF 1973-5
district attorney called as witness
*People v. Superior Court (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
subsection (A)(2)
SF 1984-1
- Rule 3-101 Aiding the Unauthorized Practice of Law. [See Unauthorized practice of law.]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1988-103, [CAL](#) 1982-68, [CAL](#) 1987-91
LA 436 (1985), LA 426 (1984), LA 413 (1983), LA 402 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 338 (1973), LA 327 (1972)
SD 1983-12, SD 1983-7, SD 1983-4, SD 1982-69, SD 1982-68, SD 1975-18, SD 1975-13, SD 1974-23, SD 1974-21 1/2, SD 1974-17, SD 1974-7, SD 1969-6
subsection (A)
[CAL](#) 1984-79
- Rule 3-102 Financial Arrangements With Non-lawyers. [See Division of fees.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1982-65, [CAL](#) 1981-60, [CAL](#) 1977-44, [CAL](#) 1975-34
LA 447 (1987), LA 446 (1987), LA 444 (1987), LA 437 (1985), LA 431 (1984), LA 426 (1984), LA 423 (1983), LA 413 (1983), LA 401 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 327 (1972)
SD 1984-1, SD 1983-12, SD 1983-7, SD 1982-69, SD 1975-18, SD 1975-13, SD 1974-7, SD 1974-23, SD 1974-21, SD 1974-17, SD 1968-5
SF 1981-1, SF 1976-2, SF 1973-27
subsection (A)
[CAL](#) 1984-79
subsection (B)
[CAL](#) 1983-75
- Rule 3-103 Forming a Partnership With a Non-lawyer [See Business activity, partnership. Misconduct, partnership. Partner, non-lawyer.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1988-103, [CAL](#) 1984-79
LA 444 (1987), LA 426 (1984), LA 413 (1983), LA 372 (1978)
LA 335 (1983), LA 372 (1978), LA 335 (1973)
SD 1984-1, SD 1983-4, SD 1975-18, SD 1975-13, SD 1974-7, SD 1974-23, SD 1974-21, SD 1974-17, SD 1972-10, SD 1969-6
- Rule 4-101 Accepting Employment Adverse to a Client. [See Acceptance of employment. Conflict of interest. Confidences of client.]
[CAL](#) 1987-91, [CAL](#) 1982-65, [CAL](#) 1981-63, [CAL](#) 1981-61, [CAL](#) 1981-57, [CAL](#) 1980-52
LA 451 (1988), LA 450 (1988), LA 448 (1987), LA 439 (1986), LA 433 (1984), LA 406 (1982), LA 395 (1982), LA 423 (1983), LA 418 (1983), LA 413 (1983), LA 409 (1983), LA 392 (1981), LA 377 (1978), LA 366 (1977), LA 363 (1976), LA 344 (1974), LA 341 (1973)
SD 1984-2, SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1, SD 1976-16, SD 1976-10, SD 1975-19, SD 1975-1, SD 1974-15, SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1969-1, SD 1968-3
SF 1979-2, SF 1973-6
- Rule 5-101 Avoiding Adverse Interest. [See Conflict of interest.]
[CAL](#) 1987-94, [CAL](#) 1982-65, [CAL](#) 1981-63, [CAL](#) 1981-62, [CAL](#) 1981-56, [CAL](#) 1981-55
LA 451 (1988), LA 416 (1983), LA 409 (1983), LA 407 (1982), LA 398 (1982), LA 347 (1975), LA 317 (1970)
SD 1987-2, SD 1984-1, SD 1976-14, SD 1975-19
Rule 5-102 Avoiding Representation of Adverse Interest. [See Conflict of interest.]
[CAL](#) 1988-96, [CAL](#) 1987-92, [CAL](#) 1987-91, [CAL](#) 1982-65, [CAL](#) 1981-63, [CAL](#) 1981-61, [CAL](#) 1981-59, [CAL](#) 1979-49, [CAL](#) 1977-46, [CAL](#) 1977-45, [CAL](#) 1976-41, [CAL](#) 1975-35
LA 451 (1988), LA 450 (1988), LA 449 (1988), LA 439 (1986), LA 435 (1985), LA 434 (1984), LA 432 (1984), LA 427 (1984), LA 424 (1984), LA 423 (1983), LA 418 (1983), LA 415 (1983), LA 413 (1983), LA 412 (1983), LA 409 (1983), LA 406 (1982), LA 398 (1982), LA 397 (1982), LA 395 (1982), LA 392 (1981), LA 385 (1980), LA 384 (1980), LA 383 (1979), LA 382 (1979), LA 377 (1978), LA 363 (1976), LA 353 (1976), LA 353 (1976), LA 344 (1974), LA 341 (1973), LA 333 (1973)
SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1, SD 1976-16, SD 1976-12, SD 1976-10, SD 1975-19, SD 1974-22, SD 1972-2, SD 1969-1, SD 1968-3
SF 1979-2, SF 1976-2
- Rule 5-103 Purchasing Property at a Probate, Foreclosure or Judicial Sale. [See Purchasing property at a probate, foreclosure or judicial sale.]
LA 317 (1970)
See: 94 A.L.R.3d 863; 93 A.L.R.3d 1091; 93 A.L.R.3d 1070; 75 A.L.R.3d 309; 35 A.L.R.3d 674; 19 A.L.R.3d 589, 620; 98 A.L.R.2d 1237; 97 A.L.R.2d 207; 66 A.L.R. 229; 29 Hast. L.J. 841; 13 Hast. L.J. 562 Cal. L.R. 612; 29 Cal. L.R. 93, 50 J.B.C. 383, 13 U.C.D. 412, 7 Sw.R. 613
- Rule 5-104 Payment of Personal Business Expenses Incurred By or For a Client. [See Advancement of funds. Costs. Expenses.]
[CAL](#) 1981-55, [CAL](#) 1976-38
LA 434 (1984), LA 432 (1984), LA 379 (1979), LA 357 (1976)
SD 1976-8
SF 1976-2
- Rule 5-105 Communication of Written Settlement Offer [See Settlement.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
LA 393 (1981)
- Rule 6-101 Failing to Act Competently. [See Competence. Ineffective assistance of counsel. Misconduct.]
[CAL](#) 1988-96, [CAL](#) 1987-92, [CAL](#) 1987-91, [CAL](#) 1982-65, [CAL](#) 1981-64, [CAL](#) 1981-61, [CAL](#) 1979-51, [CAL](#) 1979-50, [CAL](#) 1977-45
LA 385 (1980), LA 383 (1979), LA 379 (1979)
SD 1982-69
- Rule 6-102 Limiting Liability to Client. [See Limiting liability to client.]
[CAL](#) 1981-56, [CAL](#) 1979-50, [CAL](#) 1977-47
- Rule 7-101 Advising the Violation of Law. [See Advising violation of law.]
[CAL](#) 1986-89, [CAL](#) 1981-58, [CAL](#) 1975-33
SD 1983-10
- Rule 7-102 Performing the Duty of Member of the State Bar in Government Service. [See Attorneys of governmental agencies.]
LA 429 (1984), SD 1983-3
- Rule 7-103 Communicating With an Adverse Party Represented by Counsel. [See Adverse party.]
[CAL](#) 1979-49, [CAL](#) 1977-43, [CAL](#) 1975-33
LA 442 (1987), LA 416 (1983), LA 411 (1983), LA 410 (1983), LA 397 (1982), LA 389 (1981), LA 376 (1978), LA 375 (1978), LA 369 (1977), LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 334 (1973), LA 315 (1970)
SD 1984-5, SD 1983-11, SD 1983-9, SD 1983-2, SD 1978-9, SD 1978-8, SD 1978-6, SD 1978-4, SD 1978-3, SD 1976-14, SD 1972-5, SD 1968-2
SF 1973-25

FORMER RULES OF PROFESSIONAL CONDUCT (operative 1928–1975)

Rule 7-104 Threatening Criminal Prosecution. [See Threatening criminal prosecution.]

[CAL](#) 1983-73

SD 1984-2, SD 1978-9, SD 1978-6, SD 1978-3
SF 1975-6

Rule 7-105 Trial Conduct. [See Trial conduct.]

LA 408 (1982), LA 394 (1982)
SD 1983-3, SF 1977-2

Rule 7-106 Communication With or Investigation of Jurors. [See Contact with jurors. Jurors, communication with or investigation of.]

[CAL](#) 1988-100, [CAL](#) 1987-95, [CAL](#) 1976-39

Rule 7-107 Contact With Witnesses. [See Witness.]

[CAL](#) 1983-74, LA(l) 1975-3, SD 1984-4

subsection (A)

[CAL](#) 1984-76

subsection (C)

[CAL](#) 1984-79

Rule 7-108 Contact With Officials. [See Contact with officials. Judges.]

LA 387 (1981), LA 343 (1974)

subsection (B)

[CAL](#) 1984-78

LA 451 (1988)

Rule 8-101 Preserving Identity of Funds and Property of a Client. [See Client trust account.]

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

[CAL](#) 1988-97, [CAL](#) 1975-36

LA 454, LA 438 (1985), LA 407 (1982), LA 388 (1981),
LA 357 (1976)

SD 1976-5

SF 1984-1, SF 1980-1, SF 1976-2

subsection (B)(3)

SF 1984-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative 1928–1975)

Rule 2-101 General Prohibition Against Solicitation of Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1977-44, [CAL](#) 1977-42, [CAL](#) 1975-32

LA 346 (1975), LA 342 (1973)

SD 1976-13, SD 1976-11, SD 1976-9, SD 1976-8, SD 1976-4,
SD 1976-2, SD 1975-17, SD 1975-15, SD 1975-14, SD 1975-7,
SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21,
SD 1974-19, SD 1974-16, SD 1974-11, SD 1974-9, SD 1974-7,
SD 1974-3, SD 1973-10, SD 1973-8, SD 1973-6, SD 1972-16,
SD 1972-9, SD 1969-7, SD 1969-6,
SF 1976-2, SF 1975-3

Rule 2-102 Publicity in General. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1975-32

LA 349 (1975), LA 346 (1975), LA 328 (1972), LA 327 (1972),
LA 316 (1970), LA 307 (1968)

SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-2,
SD 1975-17, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3,
SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-7,
SD 1974-11, SD 1974-10, SD 1973-8, SD 1973-10, SD 1973-4,
SD 1973-14, SD 1972-16, SD 1969-6
SF 1976-2

Rule 2-103 Professional Notices, Letterheads, Offices, and Law Lists. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1982-66, [CAL](#) 1975-32, [CAL](#) 1971-24

LA 384 (1980), LA 349 (1975), LA 346 (1975), LA 345 (1975),
LA 340 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972),
LA 325 (1972), LA 324 (1971), LA 320 (1970), LA 310 (1969),
LA 306 (1968)

SD 1976-11, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17,
SD 1975-16, SD 1975-15, SD 1975-14, SD 1975-11,
SD 1975-9, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2,

SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-11,
SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-6, SD 1973-1,
SD 1972-16, SD 1969-6, SD 1969-5, SD 1969-4

SF 1976-2, SF 1975-3, SF 1975-1, SF 1974-5, SF 1974-1

Rule 2-104 Recommendation for Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1977-44, [CAL](#) 1977-42, [CAL](#) 1975-32

LA 339 (1973), LA 336 (1973), LA 328 (1972), LA 327 (1972),
LA 326 (1972), LA 322 (1971), LA 313 (1969), LA 311 (1969)

SD 1978-2, SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4,
SD 1976-3, SD 1976-2, SD 1976-1, SD 1975-18, SD 1975-17,
SD 1975-14, SD 1975-13, SD 1975-7, SD 1975-6, SD 1975-5,

SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21 1/2,
SD 1974-21, SD 1974-19, SD 1974-17, SD 1974-11,

SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-7, SD 1973-6,
SD 1972-9, SD 1969-6

SF 1976-2, SF 1975-3

Rule 2-106 Specialization. (Repealed by order of Supreme Court, effective April 1, 1979.)

SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-16, SD 1975-15

SF 1976-2

Rule 1 (Rules of Professional Conduct, In General)

[CAL](#) 1971-27, [CAL](#) 1971-24, [CAL](#) 1970-22, [CAL](#) 1970-20,

[CAL](#) 1969-18, [CAL](#) 1967-8, [CAL](#) 1967-12, [CAL](#) 1967-11,

[CAL](#) 1967-10, [CAL](#) 1966-5, [CAL](#) 1965-3

LA 339 (1973), LA 336 (1973), LA 335 (1973), LA 323 (1971),
LA 320 (1970), LA 287 (1965)

SD 1974-6, SD 1972-17, SD 1972-2

SF 1973-26, SF 1973-23, SF 1973-7, SF 1972-1

Rule 2 (Advertising and Solicitation)

[CAL](#) 1982-65, [CAL](#) 1972-29, [CAL](#) 1971-27, [CAL](#) 1971-24,

[CAL](#) 1970-20, [CAL](#) 1969-19, [CAL](#) 1969-18, [CAL](#) 1969-17,

[CAL](#) 1968-15, [CAL](#) 1968-13, [CAL](#) 1967-12, [CAL](#) 1967-10,

[CAL](#) 1967-8, [CAL](#) 1967-7, LA 342 (1973), LA 340 (1973),

LA 336 (1973), LA 335 (1973), LA 332 (1973), LA 331 (1973),

LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 324 (1971),

LA 322 (1971), LA 321 (1971), LA 319 (1970), LA 318 (1970),

LA 316 (1970), LA 314 (1970), LA 313 (1969), LA 308 (1968),

LA 307 (1968), LA 303 (1968), LA 301 (1967), LA 299 (1965),

LA 298 (1965), LA 297 (1965), LA 296 (1965), LA 294 (1966),

LA 293 (1965), LA 289 (1965), LA 287 (1965), LA 286,

LA 285 (1964), LA 281 (1963), LA 280 (1963), LA 268 (1960),

LA 262 (1959), LA 260 (1959), LA 258 (1959), LA 257 (1959),

LA 256 (1959), LA 255 (1958), LA 250 (1958), LA 247 (1957),

LA 244 (1957), LA 241 (1957), LA 240 (1957), LA 236 (1956),

LA 235 (1956), LA 227 (1955), LA 225 (1955), LA 224 (1955),

LA 221 (1954), LA 215 (1953), LA 214 (1953), LA 210 (1953),

LA 209 (1953), LA 206 (1953), LA 201 (1952), LA 200 (1952),

LA 199 (1952), LA 198 (1952), LA 196 (1952), LA 187 (1951),

LA 185 (1951), LA 184 (1951), LA 181 (1951), LA 180 (1951),

LA 179 (1951), LA 178 (1950), LA 175 (1950), LA 173 (1950),

LA 172 (1950), LA 171 (1950), LA 169 (1949), LA 167 (1948),

LA 165 (1947), LA 164 (1947), LA 163 (1947), LA 160 (1945),

LA 158 (1945), LA 157 (1945), LA 156 (1945), LA 155 (1945),

LA 153 (1945), LA 152 (1945), LA 151 (1945), LA 150 (1945),

LA 148 (1944), LA 147 (1943), LA 145 (1943), LA 142 (1943),

LA 140 (1942), LA 137 (1941), LA 135 (1941), LA 134 (1940),

LA 131 (1940), LA 128 (1940), LA 127 (1940), LA 122 (1939),

LA 119 (1938), LA 110 (1937), LA 107 (1936), LA 104 (1936),

LA 101 (1936), LA 100 (1936), LA 98 (1936), LA 97 (1936),

LA 96 (1936), LA 95 (1936), LA 92 (1936), LA 90 (1935),

LA 87 (1935), LA 85 (1935), LA 84 (1935), LA 83 (1935),

LA 71 (1933), LA 70 (1933), LA 65 (1931), LA 64 (1930),

LA 63 (1930), LA 62 (1930), LA 58 (1928), LA 55 (1928),

LA 43 (1927), LA 42 (1927), LA 38 (1927), LA 34 (1927),

LA 29 (1925), LA 28 (1925), LA 26 (1925), LA 25 (1923),

LA 24 (1923), LA 17 (1922), LA 13 (1921), LA 12 (1921),

LA 11 (1921), LA 8 (1920), LA 3 (1917), LA 1 (1917)

SD 1975-17, SD 1975-16, SD 1975-14, SD 1975-5,

SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19,

SD 1974-16, SD 1974-11, SD 1974-10, SD 1974-9,

SD 1974-7, SD 1974-3, SD 1973-14, SD 1973-10, SD 1973-8,

RUNNERS AND CAPPERS

SD 1973-6, SD 1973-4, SD 1973-1, SD 1972-9, SD 1969-6, SD 1968-4
SF 1974-2, SF 1973-27, SF 1973-11, SF 1973-7, SF 1972-1
Rule 3 (Touting, Division of Fees, Aiding Unauthorized Practice of Law, Exploitation of Lawyer's Services)
[CAL](#) 1982-65, [CAL](#) 1975-34, [CAL](#) 1971-24, [CAL](#) 1969-18
LA 344 (1974), LA 339 (1973), LA 338 (1973), LA 335 (1973), LA 332 (1973), LA 328 (1972), LA 327 (1972), LA 325 (1972), LA 314 (1970), LA 306 (1968), LA 301 (1967), LA 299 (1966), LA 298 (1966), LA 295 (1966), LA 292 (1965), LA 286 (1965), LA 279 (1963), LA 277 (1963), LA 270 (1962), LA 262 (1959), LA 249 (1958), LA 240 (1957), LA 222 (1954), LA 194 (1952), LA 190 (1952), LA 166 (1947), LA 162 (1947), LA 156 (1945), LA 151 (1945), LA 149 (1944), LA 137 (1941), LA 135 (1941), LA 106 (1936), LA 99 (1936), LA 96 (1936), LA 89 (1935), LA 80 (1935), LA 73 (1934), LA 69 (1933), LA 61 (1930), LA 59 (1930), LA 54 (1927), LA 44 (1927), LA 36 (1927), LA 35 (1927), LA 18 (1922), LA 16 (1922), LA 12 (1921), LA 4 (1917)
SD 1975-18, SD 1975-17, SD 1975-13, SD 1974-23, SD 1974-21 1/2, SD 1974-17, SD 1974-7, SD 1972-10, SD 1969-6
SF 1974-4, SF 1973-27, SF 1973-23, SF 1973-16
Rule 4 (Avoiding Adverse Interests)
[CAL](#) 1981-62
LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959), LA 228 (1955)
SF 1973-16, SF 1973-12
Rule 5 (Accepting Employment Adverse to Client)
LA 344 (1974), LA 341 (1973), LA 333 (1963), LA 276 (1963), LA 269 (1962), LA 266 (1959), LA 262 (1959), LA 252 (1958), LA 246 (1957), LA 231 (1955), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 192 (1952), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 117 (1937), LA 77 (1934), LA 74 (1934), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 30 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)
SD 1976-10, SD 1975-1, SD 1974-15, SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1972-1, SD 1970-2, SD 1969-1, SD 1968-3
SF 1973-22, SF 1973-19, SF 1973-15, SF 1973-10, SF 1973-6
Rule 6 (Disclosure to a Client of Relation with Adverse Party and Interest in Subject Matter)
LA 333 (1973), LA 276 (1963), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 141 (1943), LA 117 (1937), LA 108 (1936), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)
SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3, SF 1973-156
Rule 7 (Representation of Conflicting Interests)
[CAL](#) 1970-22
LA 343 (1974), LA 341 (1973), LA 333 (1973), LA 298 (1966), LA 291 (1965), LA 284 (1964), LA 276 (1963), LA 273 (1962), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 219 (1954), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 170 (1949), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 136 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 108 (1936), LA 94 (1936), LA 72 (1934), LA 57 (1928), LA 51 (1927), LA 27 (1927), LA 23 (1923), LA 22 (1923), LA 6 (1918), LA 2 (1917)
SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3
SF 1973-26, SF 1973-22, SF 1973-19, SF 1973-15
Rule 8 (Purchase of Property at Probate, Foreclosure, or Judicial Sale)
Rule 9 (Duty in Respect to Client's Funds and Property)
LA 149 (1944)
SF 1973-14, SF 1970-3

Rule 10 (Advising Commencement, Prosecution or Defense of a Case Unless Consulted or Related)
LA 331 (1973), LA 326 (1972), LA (1969), LA 163 (1947), LA 158 (1945), LA 122 (1939), LA 93 (1936), LA 62 (1930)
Rule 11 (Advising Violation of the Law)
LA 47 (1927), LA 41 (1927)
Rule 12 (Communicating With an Adverse Party Represented by Counsel)
[CAL](#) 1979-49, [CAL](#) 1975-33, [CAL](#) 1965-3
LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 326 (1972), LA 315 (1970), LA 234 (1956), LA 350 (1975), LA 213 (1953)
SD 1978-8, SD 1968-2
SF 1973-25, SF 1973-4
Rule 13 (Acceptance of Employment for Purpose of Harassment, Delay, or Spite)
LA 208 (1953)
Rule 14 (Disclosure to Public Body of Professional Capacity)
Rule 15 (Advising Person to Avoid Service of Process or to Secret Self, or Otherwise Make Testimony Unavailable)
Rule 16 (Communicating with Judge not in Open Court, in Absence of Opposing Counsel)
LA 56 (1928), LA 37 (1927)
Rule 17 (Trial Conduct, Misquotation to and Deception of Judge)
Rule 18 (Advising Inquirers in Respect to Specific Legal Questions through the Media)
[CAL](#) 1972-29, [CAL](#) 1969-17, [CAL](#) 1967-12
LA 318 (1970), LA 307 (1968), LA 299 (1966), LA 286 (1965), LA 221 (1954), LA 200 (1952), LA 186 (1951), LA 175 (1950), LA 87 (1935), LA 34 (1927), LA 8 (1920)
SD 1974-16, SD 1969-6
Rule 19 (Employment of Unlicensed Person to Appear on Behalf of Member before a Board or Agency)
LA 332 (1973), LA 166 (1947), LA 156 (1945), LA 143 (1943)
SD 1974-1, SF 1974-1
Rule 20 (Participation of Members in a Legal Aid Plan)
SD 1978-2, SD 1975-17, SD 1974-19, SD 1974-9
Rule 22 (Division of Fees Among Lawyers)
LA 332 (1973)
Rule 23 (Furnishing Legal Services Pursuant to Arrangement for Prepaid Legal Services)
SD 1975-13

RUNNERS AND CAPPERS [See Solicitation of business.]

Business and Professions Code sections 6076, 6150-6154
Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Runners and Cappars Act
[In re Arnoff](#) (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]
[Goldman v. State Bar](#) (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447]
[Younger v. State Bar](#) (1974) 12 Cal.3d 274 [113 Cal.Rptr. 829]
[Honoroff v. State Bar](#) (1958) 50 Cal.2d 202, 205
[Hildebrand v. State Bar](#) (1950) 36 Cal.2d 504, 506 [225 P.2d 508]
[People v. Kitsis](#) (1977) 77 Cal.App.3d Supp. 1 [143 Cal.Rptr. 537]
[Hutchins v. Municipal Court](#) (1977) 61 Cal.App.3d 77 [132 Cal.Rptr. 758]
[People v. Levy](#) (1935) 8 Cal.App.2d Supp. 763
[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
[In the Matter of Scapa and Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
[In the Matter of Nelson](#) (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
[CAL](#) 1995-143
Agent
Business and Professions Code section 6151(b)
Defined
Business and Professions Code section 6151(a)
Falsification of medical reports and bills
[In re Gross](#) (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]

- Living trust marketer sends attorney clients
CAL 1997-148
- Penalty
 Business and Professions Code section 6153
- Release from liability claim
 fraudulent if executed within 15 days after physical confinement or prior to release from clinic or health facility
 Business and Professions Code section 6152(b)
- Unlawful acts
 Business and Professions Code section 6152(a)
- SALE OR PURCHASE OF A LAW PRACTICE**
Rule 2-300, California Rules of Professional Conduct
 Valuation of law practice may require deduction of operating costs
In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
- SANCTIONS** [See Acceptance of employment.]
Corralejo v. Quiroga (1984) 152 Cal.App.3d 871 [199 Cal.Rptr. 733]
- Abuse of discovery
Cornerstone Realty Advisors, LLC v. Summit Healthcare (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]
Guzman v. General Motors Corp. (1984) 154 Cal.App.3d 438, 445-447 [201 Cal.Rptr. 246]
- Abuse of discretion in imposing
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
 28 U.S.C. § 1927 permits an award of sanctions against attorneys, not against law firms
Kaass Law v. Wells Fargo Bank (9th Cir. 2015) 799 F.3d 1290
 bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
 bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute
In re Pham (9th Cir. BAP 2015) 536 B.R. 424
 court abused its discretion by denying motion for continuance thus terminating sanctions and granting summary judgment
Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]
 court cannot sanction pro hac vice attorney for misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 court has no statutory authority to impose monetary sanctions against pro hac vice attorney for misconduct, but in its discretion, court may revoke attorney's status
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 district court did not give attorney notice or opportunity to be heard
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
 under Penal Code § 1054.5(c)
 -before excluding witness testimony court must consider and exhaust all other sanctions
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
- Against attorney for conduct violative of American Bar Association standards but which is not addressed by California authorities are subject to reversal
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
- Against attorney for failure to appear at oral argument without adequate justification
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
- Against attorney for failure to appear at trial
In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]
- Against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
- Against attorney for motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Against attorney is reviewable only after final judgment is entered
Sanders Associates v. Summargraphics Corp (1993) 2 F.3d 394
 order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
- Against attorney for taking all actions necessary to protect his client's rights
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
- Against law firm for continuing to pursue unlawful detainer action in state court despite automatic stay by bankruptcy court
In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726
- Against non-party attorneys is final and appealable by the person sanctioned when imposed
Mesirow v. Pepperidge Farm, Inc. (9th Cir. 1983) 703 F.2d 339, 345
- Against non-party attorneys may be abuse of discretion
Westlake North Property Owners Association v. City of Thousand Oaks (9th Cir. 1990) 915 F.2d 1301
- Against the attorney for disclosure of information contained in a confidential child custody report
In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]
- Against the attorney for violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
- Agreement regarding allocation of future sanction payments may be ethical with adequate disclosure to the client
CAL 1997-151
- Arbitration proceedings
 arbitrator's award of sanctions proper for mishandling of inadvertently received privileged documents
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
- Attempt to depose opposing counsel
Estate of Ruchti (1993) 12 Cal.App.4th 1593 [16 Cal.Rptr.2d 151]
- Attorneys fees awarded as sanctions for failure to comply with discovery order
Falstaff Brewing Corp. v. Miller Brewing Co. (9th Cir. 1983) 702 F.2d 770
- filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
- improper for violation of a Rule of Court
Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
- improper for violation of a Rule of Professional Conduct
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

SANCTIONS

- in dissolution matter
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- Authority of court
Code of Civil Procedure section 128.5
-inherent authority of appellate court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 828-829
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Rush v. Weinzettl (1993) 14 Cal.App.4th 66 [17 Cal.Rptr.2d 354]
attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
bankruptcy court has the power to disbar or suspend for misconduct
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
court allowed to impose sanctions on its own motion, but attorney must be afforded procedural due process protections pursuant to CCP § 177.5
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
court may not impose sanction summarily and orally from the bench; CCP § 177.5 requires that sanction be written and contain a detailed recitation of the conduct or circumstances justifying such sanction
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]
People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5 [204 Cal.Rptr. 563]
-award of "reasonable expenses" as sanction under CCP § 437c does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- improper sanctions imposed when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
Foxgate Homeowners' Association, Inc. v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
inherent power
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
- Awarded by the court
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
after rendering of verdict
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
belong to client unless express attorney-client agreement or court order to contrary
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
in order to be awarded, a compensatory award must be linked to a harm caused by attorney's statement; large non-compensatory awards are akin to criminal contempt
Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024
- Bad faith
no bad faith violation found where attorney did not, in fact, violate the district court's order
Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024
trial court's thorough recitation of reasons supporting finding of bad faith constituted an implied finding of bad faith sufficient to support sanctions against appellant's counsel for failure to appear at trial
In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]
when attorney disregarded clients' instructions
In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]
- Bankruptcy court
against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
against law firm for violation of automatic stay imposed by bankruptcy court
In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726
authority to impose its own sanctions and to refer the matter to the State Bar
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute
In re Pham (9th Cir. BAP 2015) 536 B.R. 424
consideration of ABA standards to categorize misconduct and to identify the appropriate sanction
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
court did not err when it imposed discovery sanctions against attorney/debtor for transferring property with intent to hinder, delay or defraud creditor
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]

imposition of sanctions against attorney for filing bankruptcy petition without corporate authorization and failing to conduct reasonable inquiry was appropriate

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

sanctions not justified where creditor did not actively participate in settlement negotiations in violation of discharge injunction and sanctions were not appropriate against district attorney who negotiated repayment of gambling debt in a criminal proceeding; strong public policy advising against interference by bankruptcy court in state criminal matters

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

Complaint filed without legal or factual justification

Ramsey v. City of Lake Elsinore (1990) 220 Cal.App.3d 1530 [269 Cal.Rptr. 198]

Copyright action under 17 U.S.C. § 505

Neft v. Vidmark, Inc. (9th Cir. 1991) 923 F.2d 746

Court initiated

court-initiated sanctions in the Ninth-Circuit is "akin to contempt" which requires more than ignorance or negligence on the part of an attorney

Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886

Deposition

bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute

In re Pham (9th Cir. BAP 2015) 536 B.R. 424

instructions not to answer sanctionable

Tucker v. Pacific Bell Mobile Services (2010) 186

Cal.App.4th 1548 [115 Cal.Rptr.3d 9]

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

Discovery sanctions

client's conduct was not a contributing cause of the terminating sanctions and attorney's declaration of fault entitles client to relief from the judgment

Rodriguez v. Brill (2015) 234 Cal.App.4th 715 [184 Cal.Rptr.3d 265]

complaint need not specify by dollar amount the attorney fees that will be incurred and sought in a case ultimately resolved by a default judgment entered as a terminating sanction

Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]

discovery sanctions against attorney may be a significant development and should be communicated to the client

CAL 1997-151

discovery sanction order makes attorney liable for client's costs and expenses

Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162

discovery sanction order against attorney who no longer represents party in lawsuit was immediately appealable

Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]

Barton v. Ahmanson (1993) 17 Cal.App.4th 1358 [22 Cal.Rptr.2d 56]

discovery sanctions not available to attorney who litigates in propria persona under Code of Civil Procedure sections 2030(1) and 2023(b)(1)

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

dismissal of special circumstance allegation improper as discovery sanction

People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]

terminating sanctions appropriate for willful failure to comply with discovery order

Los Defensores, Inc. v. Gomez (2014) 223 Cal.App.4th 377 [166 Cal.Rptr.3d 899]

to reimburse a party proving truth of a requested admission under CCP § 2033(o)

Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

to reimburse a party proving truth of a requested admission under CCP § 2033.420

Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

trustee lacked standing to appeal order awarding discovery sanctions against counsel

In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372

when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

Dismissal of action

client entitled to relief from terminating sanctions caused solely by her attorney's neglect of discovery

Rodriguez v. Brill (2015) 234 Cal.App.4th 715 [184 Cal.Rptr.3d 265]

dismissal of special circumstance allegation improper as discovery sanction

People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]

for failure to comply with court order

Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037

for flagrant and repeated violations of the court's orders

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

for misuse of discovery process

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

in malpractice action where plaintiff allowed the entire client file to be destroyed

Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]

where sanction amounted to dismissal of action, court must consider if noncompliance involved willfulness, fault or bad faith

R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

Dissolution

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]

District court's inherent authority to sanction by awarding attorney fees

Chambers v. NASCO, Inc. (1991) 501 U.S. 32 [111 S.Ct. 2123]

Primus Automotive Financial Services, Inc. v. Batarse (9th Cir. 1997) 115 F.3d 644

denied by court of appeal

Fields v. Gates (9th Cir. 2000) 233 F.3d 1174

Evidence

destruction of

Unigard Security Ins. Co. v. Lakewood Engineering and Manufacturing (9th Cir. 1992) 982 F.2d 363

SANCTIONS

- intentional concealment of
 - Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
- Excessive imposition of court ordered monetary sanctions may result in State Bar discipline
 - Canatella v. California (9th Cir. 2002) 304 F.3d 843
- Failure to obey court order to appear personally
 - People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]
- Failure to obtain court's permission to withdraw in 39 cases
 - Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- False statements
 - sanctioned for false statements to the court and concealment of facts regarding actions of opposing counsel
 - Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]
- Federal Rule of Bankruptcy Procedure 9011
 - bankruptcy court has inherent power to impose district-wide suspension of attorney
 - In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
 - case law interpreting rule 11 is applicable to Rule 9011
 - Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886
- Federal Rule of Civil Procedure 11
 - cannot be awarded to a client against his own attorney
 - Mark Industries, Limited v. Sea Captain's Choice (9th Cir. 1995) 50 F.3d 703
 - factually unfounded motions
 - Hammer v. Career College Association (9th Cir. 1992) 979 F.2d 758
 - Stitt v. Williams (9th Cir. 1990) 919 F.2d 516
 - failure to investigate a client's domicile before filing a diversity action
 - Hendrix v. Naphtal (9th Cir. 1992) 971 F.2d 398
 - failure to make reasonable inquiry
 - Warren v. Guelker (9th Cir. 1994) 29 F.3d 1386
 - Maisonville v. America, Inc. (9th Cir. 1990) 902 F.2d 746
 - frivolous complaint
 - Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
 - Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626
 - "judge shopping"
 - Fields v. Gates (9th Cir. 2000) 233 F.3d 1174
 - meritless suit
 - Business Guides Inc. v. Chromatic Communications Enterprises Inc. (1991) 498 U.S. 533 [111 S.Ct. 922]
 - McCright v. Santoki (9th Cir. 1992) 977 F.2d 590
 - King v. Idaho Funeral Service Association (9th Cir. 1988) 862 F.2d 744
 - method of calculation
 - Lyddon v. Geothermal Properties (9th Cir. 1993) 996 F.2d 212
 - Lockary v. Kayfetz (9th Cir. 1992) 974 F.2d 1166
 - no inherent power to sanction when case already dismissed
 - Fields v. Gates (9th Cir. 2000) 233 F.3d 1174
 - non-frivolous complaint
 - In re Keegan Management Co. (9th Cir. 1996) 78 F.3d 431
 - not require payment for any activities outside the context of district court proceedings
 - Partington v. Gedan (9th Cir. 1991) 923 F.2d 686
 - objective reasonableness standard
 - Unigard Security Insurance Company v. Lakewood Engineering and Manufacturing Corporation (9th Cir. 1992) 982 F.2d 363
 - sanctions
 - Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
 - levied on party not the attorney for the party
 - Lockary v. Kayfetz (9th Cir. 1992) 974 F.2d 1166
- levied only on lawyers, not law firms
 - Pavelic & LeFlor v. Marvel Entertainment Group (1989) 493 U.S. 120
- scope of
 - Lyddon v. Geothermal Properties (9th Cir. 1993) 996 F.2d 212
- signature – for purposes of Rule 11, "signature" is more than a typewritten name
 - Geibelhaus v. Spindrift Yachts (9th Cir. 1991) 938 F.2d 962
- Federal Rule of Civil Procedure 26
 - R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
- Federal Rule of Civil Procedure 37
 - R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
 - Unigard Security Ins. Co. v. Lakewood Engineering and Manufacturing Corp. (9th Cir. 1992) 982 F.2d 363
- order imposing sanctions on attorney pursuant to Rule 37(a)(4) is not final decision and thus not immediately appealable
 - Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
 - Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
- Federal Rule of Civil Procedure 41(a)(2)
 - Heckethorn v. Sunan Corp. (9th Cir. 1993) 992 F.2d 240
- Federal Rule of Civil Procedure 41(b)
 - Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037
- Fees and costs
 - Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
 - In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577 [198 Cal.Rptr. 90]
 - award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
 - Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- For bad faith
 - appeal taken solely for purpose of delay
 - United States v. Blodgett (9th Cir. 1983) 709 F.2d 608
 - Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
 - award of "reasonable expenses" as sanction under CCP § 437c does not include authority to include attorney's fees
 - Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
 - courts levying sanctions must make explicit findings regarding an attorney's conduct
 - In re Silberkraus (9th Cir. 2003) 336 F.3d 864
 - Primus Automotive Financial Services, Inc. v. Batarse (9th Cir. 1997) 115 F.3d 644
 - evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
 - Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 - failure to disclose to court and/or opposing counsel receipt of confidential information
 - Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
 - State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 - Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
 - failure to dismiss a defendant
 - MGIC Indemnity Corporation v. Moore (9th Cir. 1991) 952 F.2d 1120
 - intentional concealment of evidence
 - Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
 - violation of protective order
 - Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

when attorney disregarded clients' instructions

Trulis v. Barton (9th Cir. 1995) 67 F.3d 779

willful actions/recklessness coupled with frivolousness, harassment, or improper purpose

Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

In re Deville (9th Cir. BAP 2002) 280 B.R. 483

In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

-attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se

Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

For contempt of court

against defendant contractor for failing to take reasonable steps to comply with settlement agreement

Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085

against law firm for continuing to pursue unlawful detainer action in state court despite automatic stay by bankruptcy court

In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726

inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court

In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]

In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

it was improper for trial court to impose multiple punitive contempt judgments for attorney's failure to pay discovery sanctions

In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

For default

Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500

For delay

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500

Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764

In re DeVille (9th Cir. BAP 2002) 280 B.R. 483

Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]

attorney should not accept so much employment, that the attorney is unable to appear due to other case commitments

People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]

attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se

Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

family law

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

sanctions under CCP § 128.5 require notice of grounds and opportunity to respond

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Jansen Associates, Inc. v. Codercard, Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]

In re Marriage of Quinlan (1989) 209 Cal.App.3d 1417 [257 Cal.Rptr. 850]

For discovery abuses

Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162

Cornerstone Realty Advisors, LLC v. Summit Healthcare (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]

Ellis v. Toshiba America Information Systems, Inc. (2013) 218 Cal.App.4th 853 [160 Cal.Rptr.3d 557]

In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

Karlsson v. Ford Motor Co. (2006) 140 Cal.App.4th 1202 [45 Cal.Rptr.3d 265]

Kaplan v. Hartunian (1994) 21 Cal.App.4th 1611 [26 Cal.Rptr.2d 786]

Ghanooni v. Super Shuttle of Los Angeles (1993) 20 Cal.App.4th 256 [24 Cal.Rptr.2d 501]

Imuta v. Nakano (1991) 233 Cal.App.3d 1570

dismissal of special circumstance allegation improper as discovery sanction

People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]

failure of law firm to disclose corporate client's suspended status is sanctionable even though firm did not engage in any abuse of the discovery process

Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision and thus not immediately appealable

Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]

when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

For failure to admit facts contained in request for admissions

Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

For failure to comply with court order

Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060

Pacific Harbor Capital, Inc. v. Carnival Air Lines, Inc. (9th Cir. 2000) 210 F.3d 1112

Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037

Ellis v. Toshiba America Information Systems, Inc. (2013) 218 Cal.App.4th 853 [160 Cal.Rptr.3d 557]

Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

SANCTIONS

- In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
Karlsson v. Ford Motor Co. (2006) 140 Cal.App.4th 1202 [45 Cal.Rptr.3d 265]
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]
violation or Rule of Professional Conduct is not a violation of a court order
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
For failure to disclose corporate client's suspended status
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
For failure to meet and confer with adversary
Bullock v. Vultee (1990) 224 Cal.App.3d 526 [273 Cal.Rptr. 704]
For failure to participate meaningfully in judicial arbitration
Rietveld v. Rosebud Storage Partners (2004) 121 Cal.App.4th 250 [16 Cal.Rptr.3d 791]
attorney not subject to sanctions under local rules where such rules are inconsistent with statutory procedures
Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]
For failure to settle case
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
Barrientos v. City of Los Angeles (1994) 30 Cal.App.4th 63 [35 Cal.Rptr.2d 520]
For frivolous appeal
Scott v. Younger (9th Cir. 1984) 739 F.2d 1464, 1467
DeWitt v. Western Pacific Railroad Company (9th Cir. 1983) 719 F.2d 1448
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
Pollock v. University of Southern California (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Say v. Castellano (1994) 22 Cal.App.4th 88 [27 Cal.Rptr.2d 270]
Cohen v. General Motors (1992) 2 Cal.App.4th 893
Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
McDonald v. Scripps Newspaper (1989) 210 Cal.App.3d 100 [257 Cal.Rptr. 473]
National Secretarial Service v. Froehlich (1989) 210 Cal.App.3d 510 [258 Cal.Rptr. 506]
Corona v. Lundigan (1984) 158 Cal.App.3d 764, 769 [204 Cal.Rptr. 846]
Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
bad faith, vexatious, wanton, or oppressive reasons
Int'l. Union of P.I.W v. Western Indus. Main. (9th Cir. 1983) 707 F.2d 425, 428
by disbarred attorney
-merits substantial sanctions
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
family law
-order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
in frivolous habeas corpus petitions, sanctions should be imposed sparingly, except in most egregious cases, so as not to discourage use of the writ
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
notification of State Bar
Papadakis v. Zelis (1992) 8 Cal.App.4th 1146 [11 Cal.Rptr.2d 411]
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
For frivolous claims
sanctions award against successor attorney for frivolous claims filed by predecessor attorney not supported
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
For frivolous complaint
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626
McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270 Cal.Rptr.3d 803]
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
denied, no authority of court when an attorney presents a frivolous claim to an arbitrator during binding arbitration
Optimal Markets, Inc. v. Salant (2013) 221 Cal.App.4th 912 [164 Cal.Rptr.3d 901]
For frivolous motion
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
In re the Marriage of Burgard (1999) 72 Cal.App.4th 74 [84 Cal.Rptr.2d 739]
Monex International v. Peinado (1990) 224 Cal.App.3d 1619 [274 Cal.Rptr. 667]
action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
fees awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the merits and motion was found to be frivolous and without merit
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

- Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
- For frivolous petition
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- For frivolous petition demonstrating pattern of delay
Gottlieb v. Superior Court (1991) 232 Cal.App.3d 804 [283 Cal.Rptr. 771]
- For frivolous pleadings
580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]
requires subjective bad faith
Llamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]
- For misleading responses to requests for admission
Marchand v. Mercy Medical Center (9th Cir. 1994) 22 F.3d 933
- For multiplying proceedings unreasonably and vexatious under 28 U.S.C. section 1927
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
In re DeVille (9th Cir. BAP 2002) 280 B.R. 483
- For obstreperous actions of counsel
In re Marriage of Daniels (1993) 19 Cal.App.4th 1102
- For repeated requests for reconsideration
Conn v. Borjorquez (9th Cir. 1992) 967 F.2d 1418
- For unjustified litigation
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- For violation of California Rules of Professional Conduct
family court may not order attorney to pay sanctions for hiring co-counsel, who could not practice in California, based on California Rules of Court
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
- For violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
- For waste of court's resources
sanctions imposed to compensate court in part for cost to process, review, and decide frivolous petitions
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- Harsh judicial words constitute sanction only if they are expressly identified as reprimand
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- Imposed by State Bar against disciplined attorneys under Business and Professions Code § 6086.13
In re Taggart (2001) 249 F.3d 987
- Inability to pay
attorney made no effort to introduce evidence of inability to pay the \$50,000 sanction
In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]
attorney unable to present evidence of financial inability to pay monetary sanctions when court calculated fees attorney received from clients to file frivolous appeals
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- Inherent power of court
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
- bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
- bankruptcy court has authority to impose sanctions against law firm for continuing to pursue unlawful detainer action in state court despite automatic stay by bankruptcy court
In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726
- bankruptcy court has inherent power to impose district-wide suspension of attorney
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
trial court's award of attorney's fees against plaintiff's counsel for violation of an in limine order was neither within the court's inherent powers nor was authorized by statute
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
- Insults and affronts to court and opposing counsel, confrontational, accusatory and disdainful tone, civility required; sanctions appropriate
People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]
- Judicial
Business and Professions Code section 6068(o)(3)
duty to report monetary sanctions over \$1,000 except for discovery sanctions
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
CAL 1997-151
- Law firm has standing to appeal monetary sanction on firm attorney
Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]
- Limitations on
Caldwell v. Samuels Jewelers (1990) 222 Cal.App.3d 970 [272 Cal.Rptr. 126]
Altmeyer v. AICCO (1984) 156 Cal.App.3d 855, 864-866 [203 Cal.Rptr. 106]
Stegman v. Bank of America (1984) 156 Cal.App.3d 843 [203 Cal.Rptr. 103]
- court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
- juvenile proceeding
In re Sean R. (1989) 214 Cal.App.3d 662
trial court's award of attorney's fees against plaintiff's counsel for violation of an in limine order was neither within the court's inherent powers nor was authorized by statute
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
- May not be imposed without hearing
Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]
- Meritless suit results in Federal Rule of Civil Procedure, Rule 11, sanctions on attorney
Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
King v. Idaho Funeral Service Association (9th Cir. 1988) 862 F.2d 744

SANCTIONS

- Meritorious cause of action
improper basis for imposing sanctions
Atchison, Topeka and Santa Fe R.R. Co. v. Stockton Port District (1983) 140 Cal.App.3d 111 [189 Cal.Rptr. 208]
- Misrepresentation of evidence in argument
In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004
- Misuse of discovery under CCP section 2023 need not be willful
Kohan v. Cohan (1991) 229 Cal.App.3d 967 [280 Cal.Rptr. 474]
- Monetary
Code of Civil Procedure section 128
Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]
Code of Civil Procedure section 128.7
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
-attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
-does not authorize sanctions in the form of an award of attorney fees to self represented attorneys
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
Rule 9011 (Fed. Rules Bankr. Proc., 11 U.S.C.A)
In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64
dismissal inappropriate for failure to pay
Jones v. Otero (1984) 156 Cal.App.3d 754, 759 [203 Cal.Rptr. 90]
for alleged violation of local court rules conduct must clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
inapplicable to appellate courts
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
"safe harbor" provisions preclude the imposition of sanctions who added fictitious defendants on the eve of trial
Goodstone v. Southwest Airlines (1998) 63 Cal.App.4th 406 [73 Cal.Rptr.2d 655]
- Non-compliance with local rules
Rietveld v. Rosebud Storage Partners (2004) 121 Cal.App.4th 250 [16 Cal.Rptr.3d 791]
- Non-party attorney may lack standing to seek sanctions for harassment against a party attorney
Capotosto v. Collins (1991) 235 Cal.App.3d 1439
Pennwalt Corp. v. Durand-Wauland, Inc. (9th Cir. 1983) 708 F.2d 492, 495
- Not properly imposed on client for alleged failure of counsel to adhere to court rule
Estate of Meeker (1993) 13 Cal.App.4th 1099 [16 Cal.Rptr. 825]
- On attorney and client
Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]
appropriate method for dealing with unjustified litigation
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 873-874 [254 Cal.Rptr. 336]
S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- Probate court
award of monetary sanctions and attorney's fees improper for violation of Rule of Professional Conduct
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
- Procedure for seeking sanctions
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- Prosecutor
failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
must not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters
Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]
- Public defender
not imposed for filing misleading emergency petition where factual omission resulted from mistake
Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
- Purpose for sanctions award
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- Reciprocal Discovery Rule
In re Thomas F. (2003) 113 Cal.App.4th 1249 [7 Cal.Rptr.3d 19]
- Reliance on State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
- Reporting of sanctions
court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- Safe Harbor period to withdraw sanctions
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- Scheduling depositions and serving subpoenas when opposing counsel is known to be out of the country
Tenderloin Housing Clinic, Inc. v. Sparks (1992) 8 Cal.App.4th 299
- State Bar discipline imposed for repeated sanctions
Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128
- Terminating sanctions
dismissal with prejudice deemed appropriate sanction for attorney's repeated violation of court's order
Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
sanctions properly terminated when attorney threatens opposing attorney with physical harm and is openly contemptuous of trial court
Crawford v. JP Morgan Chase Bank (2015) 242 Cal.App.4th 1265 [195 Cal.Rptr.3d 868]
- Trial court award of attorney fees
Benson v. Greitzer (1990) 220 Cal.App.3d 11 [269 Cal.Rptr. 201]
- Two requirements: just and related to particular claim as to discovery
Wyle v. R.J. Reynolds Industries, Inc. (9th Cir. 1983) 709 F.2d 585, 591
- Under 28 U.S.C. § 1927
permits an award of sanctions against attorneys, not against law firms
Kaass Law v. Wells Fargo Bank (9th Cir. 2015) 799 F.3d 1290
- Under Code of Civil Procedure section 128.5
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]

bad faith intentional concealment of evidence
Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]

bad faith required for sanctions
Foxgate Homeowners' Association, Inc. v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Muega v. Menocal (1996) 50 Cal.App.4th 868 [57 Cal.Rptr.2d 697]
Javor v. Dellinger (1992) 2 Cal.App.4th 1258
On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568
 -evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

bad faith submission of forged documents
Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]

bad faith violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

duty to report the imposition of sanctions to State Bar not excused solely because of the pendency of an appeal
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 867

filing a frivolous lawsuit
Andrus v. Estrada (1995) 39 Cal.App.4th 1030

filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

order must specify attorney misconduct
Jansen Associates, Inc. v. Codercard Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]

require written notice of hearing
O'Brien v. Cseh (1983) 148 Cal.App.3d 957 [196 Cal.Rptr. 409]

"reasonable expenses" cannot be read to amount to consequential damages
Brewster v. Southern Pacific Transportation Co. (1991) 235 Cal.App.3d 701

Under Code of Civil Procedure section 128.7, the purpose is to deter frivolous actions and give the offending party the opportunity to withdraw or correct the pleading
McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270 Cal.Rptr.3d 803]
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]
 action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]

Under Code of Civil Procedure section 177.5
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]

calculated decision to violate a court order
Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

imposition of monetary sanctions for failing to obey court order is within discretion of the trial court
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

sanctions resolved in court's favor when attorney fails to provide adequate record transcript to support position
People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]

when attorney leaves courtroom after being told not to leave
Seykora v. Superior Court (1991) 232 Cal.App.3d 1075

Under Code of Civil Procedure sections 2030(1) and 2023(b)(1) discovery sanctions not available to attorney who litigates in propria persona
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

Under Code of Civil Procedure section 2033
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

Under Penal Code § 1054.5
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

Vexatious litigant
 attorney appearing for client is not a litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
 lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]

Violation of the Rules of Professional Conduct
 technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

When defendant and attorneys fail to appear at deposition
Rockwell International Inc. v. Pos-A-Traction Industries (9th Cir. 1983) 712 F.2d 1324, 1326

SEARCH WARRANT FOR LAW OFFICE

Penal Code sections 1524, 1525
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
United States v. Mittleman (1993) 999 F.2d 440
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

SEMINARS

LA 286 (1965), LA 221 (1954)
 SD 1974-16, SD 1974-21

SETTLEMENT

Acceptance of settlement offers
 subsequent rejection
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

SETTLEMENT

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

Attorney may not seek written or oral agreement that client will not file, nor seek a representation from the client that they have not filed, nor intend to file, a State Bar complaint

CAL 2012-185

Authority of attorney

Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170

Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]

Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]

Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]

general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney

Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

By attorney representing insured defendant for amount above policy limit

LA 239 (1957)

Check issued only to client, but delivered to attorney who has a lien

OC 99-002

Class action

abuse of discretion

Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]

class member has standing to appeal final award of costs and fees which were payable by defendants independently rather than from class settlement

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

court must have sufficient information to make an informed evaluation on fairness

Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

settlement shall not include attorney fees as portion of common fund established for benefit of class

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Staton v. Boeing Co. (9th Cir. (Wash.) 2003) 327 F.3d 938

withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Client cannot be located

LA 441 (1987)

Client may negotiate settlement with opposing party without authorization from the attorneys involved in the case

In re Marriage of Hasso (1991) 229 Cal.App.3d 1174

Client objects

LA 49 (1927)

Communication of written offer

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

Communication with opposing party about SD 1978-8

by client

LA 375 (1978)

SF 1973-25

counsel of opposing party refuses to acknowledge offer

LA 350 (1975)

not represented by counsel

LA 170 (1949)

represented by absent counsel

SD 1968-2

represented by counsel

LA 350 (1975)

Communications made during confidential mediation cannot be disclosed without express waiver of parties

Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]

Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]

Eisendrath v. Superior Court (2003) 109 Cal.App.4th 351 [134 Cal.Rptr.2d 716]

Confidential settlement agreement

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]

LA 512 (2003)

confidentiality provisions in the settlement agreement can extend to the attorney signing off the agreement for form and content on behalf of the client

Monster Energy Company v. Schechter (2019) 7 Cal.5th 781 [249 Cal.Rptr.3d 295]

renders CCP § 998 offer invalid

Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]

Condition settlement on plaintiff's attorney waiving fees

Venegas v. Mitchell (1990) 110 S.Ct. 1679

Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

CAL 2009-176

LA 505 (2000), LA 445 (1987)

Conflict between joint clients

SD 2013-1

Conflicting instructions from insurance company and assured

LA 344 (1974)

Corporation's settlement proceeds are claimed by individual members of the board of directors

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

Defense misrepresented principal benefits of settlement

Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]

Deposition of opposing counsel to inquiry of bad or unreasonable conduct of defendant in settlement process

Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Disclosure of death of client

In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

LA 300 (1967)

Duty to inform opposing party of mistake

no duty found

LA 380 (1979)

- Endorsement of client check
 successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Enforceable where attorney stipulated to waiver of mediation confidentiality; client consent not required as substantial rights not affected
Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
- Exonerate client in public eye, attorney no duty to
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- Insurance defense matter
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
- Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Joint clients
 SD 2013-1
- Judgment call
 settlements are often protected judgment calls of attorney
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- Lay person who is adjuster, with
 SD 1978-8
- Lay person who is employee
 LA 277 (1963), LA(I) 1972-19
- Malpractice claim
 breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
 settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
[CAL](#) 2009-178
- Marital settlement agreements
 attorney approval not required for parties in dissolution matter to enter into a written marital settlement agreement
In re Marriage of Hasso (1991) 229 Cal.App.3d 1174
 scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
- Minor's compromise
 trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
- Negotiation for an in propria persona litigant
 LA 502 (1999)
- Negotiations not to prosecute
[CAL](#) 1986-89
- No client consent obtained
Sampson v. State Bar (1974) 12 Cal.3d 70 [115 Cal.Rptr. 43]
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]
[CAL](#) 1994-136
- Offer
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Cassin v. Financial Ind. Co. (1958) 160 Cal.App.2d 631 [325 P.2d 228]
 fee-waiver offer to plaintiff is not ethically prohibited
[CAL](#) 2009-176
 informing client of written offer to settle
[Rule](#) 3-510, Rules of Professional Conduct
- plaintiff entitled to award of attorney's fees as prevailing party where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
 settlement offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
 settlement offer under Code of Civil Procedure section 998, that is silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
 which include fee-waiver provisions under fee shifting statutes
[CAL](#) 2009-176
- Oral acceptance of settlement offers
 subsequent rejection
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
- Represent in settlement when fee owed by client comes out of settlement
 LA 350 (1975), SD 1975-4
- Requires client's consent
Elyaoudayan v. Hoffman (2003) 104 Cal.App.4th 1421 [129 Cal.Rptr.2d 41]
Sampson v. State Bar (1974) 12 Cal.3d 70, 82
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497
 LA 505 (2000)
- Restricts right of attorney to practice law
[Rule](#) 1-500, Rules of Professional Conduct
 stipulation barring attorney from submitting claims to asbestos trust may be proper when attorney admits to conduct that casts doubt on his fitness to practice
In re J.T. Thorpe, Inc.; Thorpe Insulation Co., Debtors Michael J. Mandelbrot; The Mandelbrot Law Firm; The Mandelbrot Law Firm, Appellants, v. J.T. Thorpe Settlement Trust; Thorpe Insulation Company Asbestos Settlement Trust; Charles B. Renfrew, Administrative Law Judge, Futures Representative, Appellees (9th Cir. 2017) 870 F.3d 1121
- Revocation of settlement offer
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
- Scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
- Stop payment of check for
 LA(I) 1966-5
- Structured settlement, use of
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Franck v. Polaris E-Z Go Division of Textron (1984) 157 Cal.App.3d 1107, 1116, 1119
 31 A.L.R.4th 96 (1984)
 31 Am.Jur. Trials 605 (1984)
 70 A.B.A.J. 67 (May 1994)
[CAL](#) 1994-135, [CAL](#) 1987-94
- Unauthorized settlement
 client coerced into accepting settlement under threat of attorney's withdrawal
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
 client may not accept benefits of a settlement negotiated by that client's attorney and, at the same time, disavow the settlement to the extent that it is against the client's perceived interest
Hurvitz v. St. Paul Fire & Marine Ins. Co. (2003) 109 Cal.App.4th 918 [135 Cal.Rptr.2d 703]
 no client consent or knowledge
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]

SEXUAL RELATIONS WITH CLIENT

Sampson v. State Bar (1974) 12 Cal.3d 70, 82 [115 Cal.Rptr. 43]

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 480-481 [219 Cal.Rptr. 52]

CAL 1994-135

LA 441 (1987)

ratification, client enforcement of beneficial part of

City of Fresno v. Baboian (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]

Under Code of Civil Procedure 998

court has discretion in evaluating the reasonableness of the settlement offer or its refusal

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

expert witness fees awarded to public entity where plaintiffs failed to raise at trial the issue of the award's financial impact on them or to create a factual record to resolve the issue in their favor

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

when a Section 998 offer is silent on costs and fees, the prevailing party is entitled to costs and fees, the prevailing party is entitled to costs and fees, if authorized by statute or contract

Wohlgemuth v. Catepillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]

withdrawal of oral acceptance

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Workers' Compensation cases

claimant's attorney is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

Written offer of, communication to client

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

SEXUAL RELATIONS WITH CLIENT

Rule 3-120, Rules of Professional Conduct.

Business & Professions Code Section 6106.9

McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]

CAL 1987-92, OC 2003-02

SMALL CLAIMS COURT

Attorney's appearance in

Dorsey v. Superior Court (2015) 241 Cal.App.4th 583 [193 Cal.Rptr.3d 834]

LA 105 (1936)

SOLICITATION OF BUSINESS [See Advertising. Business activity. Fee. Lay intermediaries. Referral of legal business. Runners and cappers.]

Business and Professions Code sections 6150-6154, 6157

Rule 2-101(B),(C),(D), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1988-105

LA(l) 1974-6, LA(l) 1972-16, LA(l) 1959-2,

Acceptance of employment resulting from unsolicited advice

Colonial Life & Accident Ins. Co. v. Superior Court (1982) 31 Cal.3d 785 [183 Cal.Rptr. 810, 647 P.2d 86]

Ambulance chasing

Tonini v. State Bar (1956) 46 Cal.2d 491, 497

Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]

Waterman v. State Bar (1939) 14 Cal.2d 224 [93 P.2d 95]

McCue v. State Bar (1935) 4 Cal.2d 79 [47 P.2d 268]

Clark v. State Bar (1931) 214 Cal. 281, 284 [4 P.2d 944]

Dudney v. State Bar (1931) 214 Cal. 238, 239 [4 P.2d 770]

Dahl v. State Bar (1931) 213 Cal. 160 [1 P.2d 977]

Irving v. State Bar (1931) 213 Cal. 81 [1 P.2d 2]

Howe v. State Bar (1931) 212 Cal. 222 [298 P. 25]

Smallberg v. State Bar (1931) 212 Cal. 113 [297 P. 916]

Shaw v. State Bar (1931) 212 Cal. 52 [297 P. 532]

Smith v. State Bar (1930) 211 Cal. 249 [294 P. 1057]

Townsend v. State Bar (1930) 210 Cal. 362 [291 P. 837]

SD 2000-1

investigation service in personal injury matters

CAL 1995-144, LA 474 (1993)

Announcement to clients

of association of firm specializing in tax matters

LA 119 (1938)

Assigned counsel, by

Business and Professions Code section 6152(d)

SD 1968-4

Attorney remunerates another for soliciting or obtaining professional employment

Hildebrand v. State Bar (1950) 36 Cal.2d 504, 510 [225 P.2d 508]

Hildebrand v. State Bar (1941) 18 Cal.2d 816, 824 [117 P.2d 860]

Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]

Bid for legal work

LA 342 (1973)

Blogging by attorney

CAL 2016-196

Broadcasting [See Advertising, Broadcasting and Solicitation, Radio or television.]

Brochure

randomly distributed

LA 419 (1983)

Business activity as means for

LA 262 (1959), LA(l) 1965-3

By adjustment of fees

lower fees

-in return for guaranteed additional work

LA 322 (1971)

By attorney

of attorney

CAL 1981-61

of clients

SD 2018-2

-engaged in dual occupation

--real estate business

CAL 1981-61

LA 446 (1987), LA 413 (1983), LA 140 (1942)

of those with interests similar to those of existing client

SD 1976-3

By attorney at hospital

Business and Professions Code sections 6150-6154

Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 450

Mitton v. State Bar (1958) 49 Cal.2d 686, 688 [321 P.2d 13]

Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]

Fish v. State Bar (1931) 214 Cal. 215, 221 [4 P.2d 937]

By attorney's investigator

Rose v. State Bar (1989) 49 Cal.3d 646, 659

LA 474 (1993)

By business card delivered to accident victim at scene of accident

SD 2000-1

By heir hunter

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

By insurance company attorney

representation of assured

LA 336 (1973)

SOLICITATION OF BUSINESS

- By lay employee
LA 381 (1979)
- By lay entity
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
CAL 1995-143, CAL 1995-144
LA 474 (1993)
attorney employed by
-to advise, counsel and represent employees of
LA 137 (1941)
client for own counsel
LA(l) 1975-1, SD 1974-20
contract to acquire tax title to property
-involving referral to lawyer for compensation
LA 135 (1941)
group representation
LA 257 (1959)
management consultant company
LA 446 (1987)
real estate business
LA 140 (1942)
-associated with attorney
LA 140 (1942)
recommends particular lawyer
LA 314 (1970), LA 158 (1945), LA 155 (1945), LA 148 (1944), LA(l) 1934-1
SD 1983-4, SD 1973-8
referral, systematic
LA 349 (1975), LA 262 (1959), LA 151 (1944), LA(l) 1948-3
SD 1983-4, SD 1974-21 1/2, SD 1973-8
- By legal research service
operated by attorneys
-constitutes practice of law
LA 301 (1967)
- By letter
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Primus (1978) 436 U.S. 412, 416 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Utz v. State Bar (1942) 21 Cal.2d 100, 105 [130 P.2d 377]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 1995-142, CAL 1988-105, CAL 1982-67, CAL 1981-61, CAL 1980-54
LA 404 (1983), LA 24 (1923), LA 3 (1917)
SD 1992-3, SD 1983-5, OC 93-001
of creditors
-advising of claims of which unaware
--offering to represent on percentage basis
LA 122 (1939)
statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
target mail
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
People v. Morse (1993) 21 Cal.App.4th 816 [25 Cal.Rptr.2d 816]
-using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
targeted to specific potential clients
CAL 1995-142, CAL 1988-105
- SD 1992-3, OC 93-001
to members of trade association
-announce resignation of public office and opening of private practice
LA 127 (1940)
-announce specialized legal services
LA 127 (1940)
to other lawyers
-describing qualifications
LA 29 (1925)
-offering to represent in other jurisdictions
LA 71 (1933)
-requesting referral
CAL 1981-61, SF 1970-2
to prospective clients
CAL 1980-54, SD 1983-5
-advising of meritorious claims
LA 404 (1983), LA 62 (1930)
-using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
- By mail [See supra, by letter.]
card, professional
-designation of specialized legal services
LA 127 (1940)
-to other lawyers
LA 419 (1983), LA 127 (1940)
target mail
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
-statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
targeted to specific potential clients
CAL 1995-142, CAL 1988-105
SD 1992-3
OC 93-001
to lawyers
-opening law office, announcing
LA 128 (1940)
-requesting referrals
SF 1970-2
-specialized legal services, notice of
LA 128 (1940)
to non-clients
Adams v. Attorney Registration, et al. (D.C. ILL 1985) 617 F.Supp. 449
SD 1983-5
to prospective clients
LA 404 (1983)
-opening law office, announcement of
LA 128 (1940)
-specialized legal services, notice of
LA 128 (1940)
to realtors, fee discounted for referrals
CAL 1983-75
- By non-lawyer
who will receive part of recovery
-claims against corporation
LA 93 (1936)

SOLICITATION OF BUSINESS

- By physician
 - [CAL](#) 1995-143
- By specialist
 - LA(l) 1974-6
- By telephone
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - [CAL](#) 1988-105
 - not prohibited if prospective client calls a qualified lawyer referral service because it is reasonable for a lawyer to conclude that the lawyer is communicating with a person who potentially wants to employ him or her
 - SD 2018-2
 - offer to conduct seminars
 - LA 494 (1998)
- By third party
 - Goldman v. State Bar (1977) 20 Cal.3d 130 [141 Cal.Rptr. 447]
 - Urbano v. State Bar (1977) 19 Cal.3d 16 [136 Cal.Rptr. 572]
 - Kelson v. State Bar (1976) 17 Cal.3d 1 [130 Cal.Rptr. 29]
 - Geffen v. State Bar (1975) 14 Cal.3d 843 [122 Cal.Rptr. 865]
 - Younger v. State Bar (1974) 12 Cal.3d 274 [113 Cal.Rptr. 829]
 - Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233]
 - Linnick v. State Bar (1964) 62 Cal.2d 17, 20 [41 Cal.Rptr. 1]
 - Best v. State Bar (1962) 57 Cal.2d 633, 635, 637 [21 Cal.Rptr. 589, 371 P.2d 325]
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 22]
 - Utz v. State Bar (1942) 21 Cal.2d 100, 108 [130 P.2d 377]
 - Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]
 - Werner v. State Bar (1939) 13 Cal.2d 666, 673 [91 P.2d 881]
 - Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
 - Sawyer v. State Bar (1934) 220 Cal. 702, 711 [32 P.2d 369]
 - Fish v. State Bar (1931) 214 Cal. 215, 218 [4 P.2d 937]
 - Smallberg v. State Bar (1931) 212 Cal. 113, 118 [297 P. 916]
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
 - LA 474 (1993)
 - in criminal actions
 - Best v. State Bar (1962) 57 Cal.2d 633, 635, 637 [21 Cal.Rptr. 589]
 - in debt collection matter
 - attorney and non-lawyer to divide
 - LA 96 (1936)
- Capping
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - In the Matter of Nelson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
 - LA 474 (1993)
- Card, professional
 - LA 419 (1983)
 - delivered to accident victim at scene of accident
 - SD 2000-1
 - by mail
 - to other lawyers
 - designation of specialized legal services
 - LA 127 (1940)
 - "nominal fee" printed on
 - LA 131 (1940)
 - random distribution
 - LA 419 (1983)
- Chat room
 - [CAL](#) 2004-166
- Civil rights
 - In re Primus (1977) 436 U.S. 412, 422 [98 S.Ct. 1893, 56 L.Ed. 2d 417]
 - NAACP v. Button (1963) 371 U.S. 415, 428 [9 L.Ed.2d 405, 83 S.Ct. 328]
- Class action
 - potential members of class
 - prior to certification
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Collections
 - LA 96 (1936)
- Communicate information about claims or actions in law to parties
 - LA 158 (1945), LA(l) 1968-5
 - SD 1976-3, SF 1973-17
 - to heirs
 - LA 163 (1947)
- Communication distinguished
 - SD 2000-1
- Constitutional limitations
 - 44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
 - Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
 - Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
 - Central Hudson Gas & Electric Corp. v. Public Service Comm. Of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
 - Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 - Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
 - LA 494 (1998)
 - statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 - Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
- Consumer groups
 - attorney may solicit for opposition memoranda
 - SF 1973-17
- Contacting potential member of a class action
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Do-it-yourself clinics
 - Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
- Dual practices/occupation
 - [CAL](#) 1982-69
 - LA 446 (1987), LA 413 (1983), LA 384 (1980)
 - preparation of tax returns, advertisement of
 - SD 1975-2
- Employment solicited, of legal and other business
 - LA 135 (1941)
- Endorsement of commercial product
 - Belli v. State Bar (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]
 - Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
- Faxing of unsolicited advertisements prohibited
 - Destination Ventures Limited v. Federal Communications Commission (9th Cir. 1995) 46 F.3d 54

Former attorney-employees
 liable for violation of Uniform Trade Secrets Act (Civil Code § 3426 et seq.) if found to have misappropriated employer's protected trade secret client list to solicit or to attain an unfair competitive advantage
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Group legal services as a means for
United Mine Workers v. Illinois State Bar Association (1967) 389 U.S. 217 [19 L.Ed.2d 426, 88 S.Ct. 353]
Brotherhood of Railroad Trainmen v. Virginia State Bar (1964) 377 U.S. 1 [12 L.Ed. 89, 84 S.Ct. 1113]
NAACP v. Button (1963) 371 U.S. 415 [9 L.Ed.2d 405, 83 S.Ct. 328]
Brotsky v. State Bar (1962) 57 Cal.2d 287, 292 [19 Cal.Rptr. 153]
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 508 [225 P.2d 508]

Heirs of decedent
 by heir hunter
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 by letter
 LA 3 (1917)

Homestead declarations
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]

In newspaper
Jacoby v. State Bar (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77]
Bushman v. State Bar (1974) 11 Cal.3d 558, 567 [113 Cal.Rptr. 904]
Millsberg v. State Bar (1971) 6 Cal.3d 65, 74 [490 P.2d 543]
 LA 8 (1917)

In person
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
[CAL](#) 1995-144, [CAL](#) 1988-105, SD 1977-4
 business card delivered to accident victim at scene of accident
 SD 2000-1
 by non-lawyer
 LA 474 (1993)
 -acceptance of employment to prosecute claims against corporation
 LA 93 (1936)
 -employed by attorney
 LA 96 (1936)

In publications
 notice of specialized service published in
 LA 124 (1939)

In social setting
 by sponsoring coffee hour
 SD 1973-14

Indirect
 in newspaper
 -series of articles on tax problems
 LA 87 (1935)

Interference with prospective business advantage [See Practice of law, interference with prospective business advantage.]
 Investigation of (out-of-state) accident before being retained as attorney
Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233, 453, P.2d 737]
Honoroff v. State Bar (1958) 50 Cal.2d 202, 204 [323 P.2d 1003]

Internet advertising
 a website is neither delivered in person nor by telephone and is not prohibited solicitation
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
[CAL](#) 2001-155

chat room
[CAL](#) 2004-166

court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
Hassell v. Bird (2018) 5 Cal.5th 522 [234 Cal.Rptr.3d 867]
 court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights
Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]

In-person by attorney
Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 454 [98 S.Ct. 1912, 98 St. Ct. 1925, 56 L. Ed. 2d 444]
Kelson v. State Bar (1976) 17 Cal.3d 1 at 4, 6 [130 Cal.Rptr. 29]
Younger v. State Bar (1974) 12 Cal.3d 274, 287 [113 Cal.Rptr. 829]
Mitton v. State Bar (1958) 49 Cal.2d 686, 689 [321 P.2d 13]
Tonini v. State Bar (1956) 46 Cal.2d 491, 493 [297 P.2d 1]
Friday v. State Bar (1943) 23 Cal.2d 501 [144 P.2d 564]
Hildebrand v. State Bar (1941) 18 Cal.2d 816, 829 [117 P.2d 860]
Ewell v. State Bar (1934) 2 Cal.2d 209, 215 [40 P.2d 264]
Fish v. State Bar (1931) 214 Cal. 215 [4 P.2d 937]
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
[CAL](#) 1995-144
 business card delivered to accident victim at scene of accident
 SD 2000-1
 of other attorneys
[CAL](#) 1981-61
 through living trust marketer as an agent
[CAL](#) 1997-148

Law lists
 cards, professional may be inserted in
 -if approved by court
 LA 90 (1935)

Litigation privilege
 dismissal of defamation action against law firm justified
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 not a bar to cause of action for unlawful business practice resulting from law firm's direct solicitation of clients
Rubin v. Green (1992) 3 Cal.App.4th 1418

Lower fees
 in return for referrals
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
 SD 1974-21 1/2, SD 1974-20
 in return for solicitation of business
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
 to union members
Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]

Mailing letter to particular potential clients
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

SOLICITATION OF BUSINESS

- People v. Morse (1993) 21 Cal.App.4th 259[25 Cal.Rptr.2d 816]
- CAL 1995-142, CAL 1988-105, OC 93-001, SD 1992-3
- Mailing postcards to potential clients
 - Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
 - Mayer v. State Bar (1934) 2 Cal.2d 71, 73 [39 P.2d 206]
- Management consultant firm
 - LA 446 (1987)
- Medical liaison
 - CAL 1995-143
- Non-legal lecture engagements
 - Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527]
 - advertising of
 - SD 1969-6
 - for client or other lay entity
 - LA 286 (1965), LA 96 (1936)
- Non-profit organization
 - In re Primus (1977) 436 U.S. 412, 420 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
 - NAACP v. Button (1963) 371 U.S. 415, 419 [9 L.Ed.2d 405, 83 S.Ct. 328]
- Of claims against corporation
 - by non-lawyer
 - who will receive part of recovery
 - acceptance of employment by lawyer
 - LA 93 (1936)
- Potential members of class action
 - Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
 - In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
 - using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
 - Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
- Presentation
 - use of a living trust marketer to solicit clients for the attorney
 - CAL 1997-148
 - use of a medical liaison to give a presentation containing a promotional message to a group of doctors who might recommend patients to the lawyer
 - CAL 1995-143
- Pro bono services
 - lawyer to provide
 - LA 55 (1928)
- Public defender, exemption for
 - Business and Professions Code section 6152(d)
 - In re Brindle (1979) 91 Cal.App.3d 660, 682 [154 Cal.Rptr. 563]
- Publishing company
 - LA 446 (1987)
- Radio or television, use of
 - Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]
 - Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643
 - educational television
 - LA(l) 1970-8
 - participation by attorney
 - in radio or television programs
 - CAL 1972-29, LA 318 (1970), LA 186 (1957), LA(l) 1975-7, LA(l) 1970-12, LA(l) 1964-7
 - answering questions on law submitted by listeners
 - LA 299 (1966)
 - identification of name of lawyer
 - LA 299 (1966)
- televised trial
 - LA 404 (1983)
- Random distribution
 - LA 419 (1983)
- Recommend or designate other lawyer
 - LA 313 (1969), LA 216 (1953)
- Referral
 - by lay entity
 - religious organization members, referred to attorney employed by
 - LA 298 (1966)
 - by non-profit organization
 - no charge
 - LA 73 (1934)
 - Referral, reciprocal agreement with lawyer
 - LA(l) 1959-3
- Remuneration of third party
 - Linnick v. State Bar (1964) 62 Cal.2d 17, 20 [41 Cal.Rptr. 1, 396 P.2d 33]
 - Geffen v. Moss (1975) 53 Cal.App.3d 215, 226 [125 Cal.Rptr. 687]
 - Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
- Rules of Professional Conduct
 - Rule 2-101(B), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
- Runners and cappers
 - Business and Professions Code sections 6150 et seq., 6152, 6153 and 6160 et seq.
 - Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
- attorney agrees to use and compensate for services
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 - Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - LA 474 (1993)
- attorney supplies "capper" with list of potential clients
 - Business and Professions Code section 6154
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 - Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]
 - LA 474 (1993)
- contract secured by is void, use of
 - Brotherhood of Railroad Trainmen v. VA (1964) 377 U.S. 1 [845 S.Ct. 1113, 12 L. Ed 2d 89]
 - NAACP v. Button (1963) 371 U.S. 415, 423 [9 L.Ed.2d 405, 83 S.Ct. 328]
 - Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
 - Kitsis v. State Bar (1979) 23 Cal.3d 857, 863 [153 Cal.Rptr. 836]
 - In re Arnoff (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 506 [225 P.2d 508]
 - Hutchins v. Municipal Court (1976) 61 Cal.App.3d 77, 83 [132 Cal.Rptr. 158]
 - People v. Levy (1935) 8 Cal.App.2d Supp. 763, 768
 - In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
 - LA 401 (1982)
- Seminar
 - LA 494 (1998)
 - use of living trust marketer to solicit clients for the attorney
 - CAL 1997-148

Sign
 location
 -where no office
 LA 134 (1940)

Social media
 [CAL](#) 2012-186, SD 2018-1

Target mail
 Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
 [CAL](#) 1995-142, [CAL](#) 1988-105
 OC 93-001, SD 1992-3

Unauthorized representation
 LA 40 (1927), LA(l) 1961-6

Violation of Rules of Professional Conduct, waiver by client
 [CAL](#) 1988-105

Will
 participate in organized drafting
 LA 196 (1952)

SPECIAL MASTER

Penal Code section 1524(c)
Atkinson-Baker & Associates v. Kolts (1993) 7 F.3d 1452
Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
 Court's inherent authority to appoint special master to assist in examining documents seized from attorney's offices and in ruling on privilege does not include the power to require parties to bear the cost of a special master's services
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

Oversight of attorney disciplinary system
In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
 Trial court cannot condition its willingness to rule on claims of privilege upon a party's agreement to pay for the services of a special master
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

SPECIALIZATION [See Legal specialization. Practice of law.]

STATE BAR ACT

Business and Professions Code sections 6000-6228. [The full text of the State Bar Act is reprinted above in part I.A. of this Compendium.]
 Cross Reference Table
 origins of the State Bar Act. [See part I.A. to this Compendium, at Cross Reference Table.]
 Historical role of the State Bar
Hirsh v. Justice of the Supreme Court of the State of California (9th Cir. 1995) 67 F.3d 708

STATE BAR OF CALIFORNIA [See Admission to the bar.

Ethics committees.]
 Business and Professions Code sections 6000-6228
 California Constitution, Article 6, section 6
 Civil Code section 43.95
 Civil Code section 365
 Civil Code section 1141.18 (c)
 Corporations Code section 10830 (d)
 Education Code section 94360
 Education Code section 94361
 Government Code section 10307
 Government Code section 12011.5

Penal Code section 1524
 Penal Code section 13825
 Revenue and Taxation Code section 2374(d)
 Offices:
 Los Angeles:
 845 Figueroa Street, Suite 100, Los Angeles, California 90017-5450
 Telephone: (213) 765-1000
 San Francisco:
 180 Howard Street, San Francisco, California 94105
 Telephone: (415) 538-2000
 Advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]
 As an adjunct of the California Supreme Court
Hirsh v. Justices of the Supreme Court of the Supreme Court of the State of California (1995) 67 F.3d 708
Benjamin J. Ramos dba University of Honolulu School of Law v. California Committee of Bar Examiners (1994) 857 F.Supp.702
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
Lebbos v. State Bar (1991) 53 Cal.3d 37
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]

Disciplinary authority
Canatella v. California (9th Cir. 2002) 304 F.3d 843
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 power to discipline attorneys is held exclusively by the Supreme Court and by the State Bar
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

Dues
 Business and Professions Code sections 6140 et seq.
Ingels v. Riley (1936) 5 Cal.2d 154
 government agency can pay "Hudson Fees" portion of the bar dues of agency attorneys
 75 Ops. Cal. Atty. Gen. 137 (9/3/92; No. 92-202)
 interim Discipline Assessment
In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]
 municipality can assess business license fee, notwithstanding State Bar dues
Ingels v. Riley (1936) 5 Cal.2d 154
 reimbursement of Client Security Fund cannot be in form of
State Bar of California v. Statile (2008) 168 Cal.App.4th 650 [86 Cal.Rptr.3d 72]
 suspension for non-payment of
 Business and Professions Code section 6143
 use of bar dues for political activities
 75 Ops. Cal. Atty. Gen. 137 (9/3/92)
Keller v. State Bar (1990) 110 S.Ct. 2228
Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
Brosterhous v. State Bar (1995) 12 Cal.4th 315 [48 Cal.Rptr.2d 87]
County of Ventura v. State Bar (1995) 35 Cal.App.4th 1055 [41 Cal.Rptr.2d 794]; mod. at 36 Cal.App.4th 822a
 -State Bar of Nevada may use dues to conduct a public information and education campaign on the role of lawyers in the judicial system
Gardner v. State Bar of Nevada (9th Cir. (Nevada) 2002) 284 F.3d 1040

Duty to comply with and be familiar with standards of professional conduct required of members of the State Bar of California, Civil Local Rule 11-4
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

STATUTE OF LIMITATIONS

- Enforceability of State Bar rules concerning delegates participating in the State Bar Conference of Delegates
Criminal Courts Bar Association v. State Bar of California (1972) 22 Cal.App.3d 681 [99 Cal.Rptr. 661]
- Enforceability of State Bar rules concerning restricting candidates to Board of Governors
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- Equal protection
California's decision to regulate lawyers principally via a judicially supervised administrative body attached to the State Bar of California has a rational basis and is thus constitutional
Scheer v. Kelly (9th Cir. 2016) 817 F.3d 1183
- Federal courts may require membership in the State Bar of California to assure the character and moral fitness and to bring any misconduct to the attention of the State Bar
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
- Law corporation
nonprofit corporation
-not required to register as a law corporation
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
- Legislature cannot impair the judicial functions of the Supreme Court of California
O'Brien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
Brydonjack v. State Bar (1929) 208 Cal. 439
State Bar of California v. Superior Court (1929) 208 Cal. 323
- May seek superior court's assumption of a resigned attorney's state administration practice but not his federal practice
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- Minimum Continuing Legal Education Program
no violation of equal protection rights of attorneys
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
- Public access to bar examination statistics: balancing of right of access and right of applicants' privacy
Sander v. Superior Court (2018) 26 Cal.App.5th 651 [237 Cal.Rptr.3d 276]
- Purpose
Brosterhous v. State Bar (1995) 12 Cal.4th 315 [48 Cal.Rptr.2d 87]
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- State Bar Court
Hirsh v. Justices of the Supreme Court of the State of California (1995) 67 F.3d 708
O'Brien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]
- State Bar prosecutors have absolute immunity from monetary liability for performance of prosecutorial functions
Wu v. State Bar of California (C.D. Cal. 1996) 953 F.Supp. 315
- Statutory privileges and immunities protect State Bar and staff from action brought by a disbarred attorney
Rosenthal v. Vogt (1991) 229 Cal.App.3d 69 [280 Cal.Rptr. 1]
- Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney
Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]
- Unified Bar
Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- STATUTE OF LIMITATIONS** [See Professional Liability.]
Actions against attorneys, under CCP 340.6
Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]
- Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]
client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"
Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]
dismissal reversed to determine whether client's action against attorney arose from the performance of legal services
Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]
- Criminal offense of conspiracy to defraud by false pretenses or false promises is subject to three-year statute of limitations
People v. Milstein (2012) 211 Cal.App.4th 1158 [150 Cal.Rptr.3d 290]
- Habeas petition
attorney abandonment may constitute extraordinary circumstances that may require relief
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
death row inmate entitled to assistance from conflict-free counsel in federal habeas petition to argue equitable tolling
Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]
prisoner may be entitled to equitable tolling where there were extraordinary circumstances; attorney who resigns, running "writ mill" may be extraordinary
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
tolling of habeas petition deadline when prisoner did not have access to file
Lott v. Mueller (9th Cir. 2002) 304 F.3d 918
- STIPULATION** [See Authority of attorney, stipulation.]
- SUBPOENA**
Grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship
U.S. v. Bergeson (9th Cir. (Or.) 2005) 425 F.3d 1221
Of attorney information regarding client [See Search warrant.]
Prosecutor is not automatically entitled to subpoena a lawyer to testify against his client before a grand jury merely because the information sought is not privileged
U.S. v. Bergeson (9th Cir. (Or.) 2005) 425 F.3d 1221
Protection from discovery
subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity
Cooley v. Superior Court (2006) 140 Cal.App.4th 1039 [45 Cal.Rptr.3d 183]
- SUBSTITUTION OF COUNSEL** [See Withdrawal.]
Code of Civil Procedure sections 284, 285
Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
Abuse of discretion in denying criminal defendant's request for substitution
U.S. v. Torres-Rodriguez (9th Cir. 1991) 930 F.2d 1375
- Adverse party
notice of
Code of Civil Procedure section 285
- Appeal
Rule 8.36 and rule 8.768, California Rules of Court
- Application for
Code of Civil Procedure section 284
"Appointed" distinguished from "retained" counsel for purposes of determining the right of an indigent defendant to replace an attorney without cause
People v. Turner (1992) 7 Cal.App.4th 1214
- Attorney interest in case
Irsin v. Superior Court (1965) 63 Cal.2d 153, 158 [45 Cal.Rptr. 320]

Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]
O'Connell v. Superior Court (1935) 2 Cal.2d 418, 423 [41 P.2d 334]
Estate of Cazaurang (1934) 1 Cal.2d 712, 716 [36 P.2d 1069]
Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 598]
Hoult v. Beam (1960) 178 Cal.App.2d 736 [3 Cal.Rptr. 191]
Attorney interest in subject matter
Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]
Authority of attorney
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1, 7 [207 Cal.Rptr. 233]
actual authority from client to represent is more important than the substitution document recording it
In re Marriage of Park (1980) 27 Cal.3d 337 [165 Cal.Rptr. 792, 612 P.2d 882]
Baker v. Boxx (1991) 226 Cal.App.3d 1303
attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
disagreement between attorney and client as to which motions to file is not a sufficient reason to require substitution
People v. Turner (1992) 7 Cal.App.4th 913
Based on public defender's excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
Client has absolute right to
General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
Fracasse v. Brent (1972) 6 Cal.3d 784, 790
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 1994-134
LA 489 (1997), LA 481
discharge retained counsel in criminal case
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
Conflict of interest
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]
Conflicts of clients in different proceedings
Levensen v. Superior Court (1983) 34 Cal.3d 530
Consent to
Code of Civil Procedure section 284
SD 1972-17
Conservatorship proceedings
prospective conservatee's due process interest in his statutory right to counsel requires, upon his request for substitute appointed counsel, that he be given a hearing to state the reasons for his request
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
Contingent fee agreement
Tracy v. MacIntyre (1938) 29 Cal.App.2d 145 [84P.2d 526]
Court order
Code of Civil Procedure section 284

Death of attorney
Code of Civil Procedure section 286
Denial of criminal defendant's motion for substitution of counsel without first conducting proper inquiry is abuse of discretion
U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
Dissolution of a corporation or partnership
Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]
Duty to represent client until obtain court approval, if required
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
CAL 1994-134
Excusable neglect not found when attorney fails to file for trial de novo as a result of taking over a large case load from another attorney including the arbitration matter
Ayala v. Southwest Leasing and Rental (1992) 7 Cal.App.4th 40 [8 Cal.Rptr.2d 637]
Failure to file substitution form constitutes negligence and may not be imputed to the client
Gallegos v. Gallegos (1994) 23 Cal.App.4th 68 [28 Cal.Rptr.2d 350]
Grand jury subpoena seeking non-privileged documents held by law firms takes precedence over civil protective order
In re Grand Jury Subpoenas (White) (9th Cir. 2010) 627 F.3d 1143
In propria se
*People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]
Local rule of substitution
Hock v. Superior Court of San Diego County (1990) 221 Cal.App.3d 670 [270 Cal.Rptr. 579]
Motion made one day before trial scheduled
People v. Yackee (1984) 161 Cal.App.3d 843 [208 Cal.Rptr. 44]
New attorney's authority
Estate of Hultin (1974) 29 Cal.2d 825 [178 P.2d 756]
Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]
McMahon v. Thomas (1896) 114 Cal. 588 [46 P. 732]
Carrara v. Carrara (1953) 121 Cal.App.2d 59 [262 P.2d 591]
Ross v. Ross (1953) 120 Cal.App.2d 70 [260 P.2d 652]
Davis v. Rudolph (1947) 80 Cal.App.2d 397 [181 P.2d 765]
Jackson v. Jackson (1945) 71 Cal.App.2d 837 [163 P.2d 780]
Estate of Morgan (1928) 94 Cal.App. 617 [271 P. 762]
McMunn v. Lehrke (1915) 29 Cal.App. 298 [155 P. 473]
Notice
Code of Civil Procedure section 284
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
In re Martinez (1959) 52 Cal.2d 808, 813 [345 P.2d 449]
Echlin v. Superior Court (1939) 13 Cal.2d 368, 372 [90 P.2d 63]
Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
Todd v. Superior Court of San Francisco (1919) 181 Cal. 406, 411-413 [184 P. 684]
Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 581]
Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]
Lee v. Superior Court (1896) 112 Cal. 354 [44 P. 666]
Ex parte Clarke (1881) 62 Cal. 490
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Marriage of Warner (1974) 38 Cal.App.3d 714 [113 Cal.Rptr. 556]
People v. Ward (1972) 27 Cal.App.3d 218, 231 [103 Cal.Rptr. 671]

SUBSTITUTION OF COUNSEL

- People v. Cohen (1970) 12 Cal.App.3d 298, 319 [90 Cal.Rptr. 612]
Skelly v. Richman (1970) 10 Cal.App.3d 844, 856 [89 Cal.Rptr. 556]
Cloer v. Superior Court (1969) 271 Cal.App.2d 143, 145 [76 Cal.Rptr. 217]
People v. Donel (1967) 255 Cal.App.2d 394, 401 [63 Cal.Rptr. 168]
People ex rel. Department of Public Works v. Hook (1967) 248 Cal.App.2d 618, 623 [56 Cal.Rptr. 683]
Estate of McManus (1963) 214 Cal.App.2d 390, 395 [29 Cal.Rptr. 543]
People v. Metrim Corp. (1960) 187 Cal.App.2d 289, 292 [9 Cal.Rptr. 584]
Hoult v. Beam (1960) 178 Cal.App.2d 736, 738 [3 Cal.Rptr. 191]
Bergan v. Badham (1956) 142 Cal.App.2d Supp. 855 [297 P.2d 815]
Sherman v. Panno (1954) 129 Cal.App.2d 375 [277 P.2d 80]
Metzenbaum v. Metzenbaum (1953) 115 Cal.App.2d 771, 775 [252 P.2d 1014]
Tracy v. MacIntyre (1938) 29 Cal.App.2d 145, 148 [84 P.2d 526]
Foster v. Superior Court (1938) 26 Cal.App.2d 230, 233 [79 P.2d 144]
Atchinson v. Hulse (1930) 107 Cal.App. 640, 644 [290 P. 916]
Warden v. Lamb (1929) 98 Cal.App. 738 [277 P. 867]
Security Bank etc. Co. v. Wilbur (1922) 56 Cal.App. 604 [205 P. 886]
CAL 1994-134
- Notice of
change of attorney
Code of Civil Procedure section 284
death of attorney
-replacement after
Code of Civil Procedure section 286
suspension of attorney
Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]
to adverse party
Code of Civil Procedure section 285
- Notice of substitution
Gill v. Southern Pacific Co. (1916) 174 Cal. 84 [161 P. 1153]
- On motion of trial court
People v. Lucev (1986) 188 Cal.App.3d 551, 556
on request of criminal defendant
South v. Superior Court (1986) 188 Cal.App.3d 1055, 1060
- Original attorney's authority
People v. Bouchard (1957) 49 Cal.2d 438 [317 P.2d 971]
Reynolds v. Reynolds (1943) 21 Cal.2d 580 [134 P.2d 251]
In re Marriage of Borson (1974) 37 Cal.App.3d 632 [112 Cal.Rptr. 432]
People v. Hook (1967) 248 Cal.App.2d 618 [56 Cal.Rptr. 683]
Sherman v. Panno (1954) 129 Cal.App.2d 375 [277 P.2d 80]
- Pre-signed substitution forms
LA 371 (1977)
- Procedure
Code of Civil Procedure section 284
Rule 8.36, California Rules of Court
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
Wright v. Security etc. Bank (1939) 13 Cal.2d 139 [88 P.2d 125]
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
- Refusal to execute
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950-951 [203 Cal.Rptr. 463]
- Removal of
appointment of replacement on
Code of Civil Procedure section 286
- Replacement of
on death of attorney
Code of Civil Procedure section 286
on removal of
Code of Civil Procedure section 286
on retirement of attorney
Code of Civil Procedure section 286
on suspension of attorney
Code of Civil Procedure section 286
Aldrich v. San Fernando Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]
on termination of services
Code of Civil Procedure section 286
- Retirement of attorney
notice of replacement of, on
Code of Civil Procedure section 286
- Scheduling conflict
People v. Harden (1982) 132 Cal.App.3d 622, 629
- Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
- Signed by client at outset of employment
improper
LA 371 (1977)
- Substituted counsel
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
diligence of new counsel substituted in at the last minute
Yao v. Anaheim Eye Medical Group, Inc. (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]
duty with respect to client's file
LA(l) 1964-5, LA(l) 1959-4
SD 1970-3, SF 1975-4
- fee
-contingent
LA 50 (1927)
may recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
- notice to
LA 183 (1951), LA 154 (1945)
substitute counsel should only be appointed upon showing that defendant's right to counsel has been substantially impaired
People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]
- Substituting counsel
borrowed file of client's returned to substituted counsel
LA 253 (1958)
- Suspension of attorney
notice of replacement of
Code of Civil Procedure section 286
- Termination of services
Code of Civil Procedure section 286
- Timeliness of motion for
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
- Trial court denial of motion to substitute, denies right to effective assistance of counsel
Schell v. Witek (1999) 181 F.3d 1094
- Withdrawal in domestic actions
Code of Civil Procedure section 285.1

SUIT AGAINST CLIENT [See Fee, unpaid.]

Dismiss one party's in order to enhance chances of other
LA(I) 1968-6
For unpaid fee
LA 476 (1994), LA 407 (1982), LA 362 (1976),
LA 212 (1953), LA 109 (1936)

SURVEILLANCE

Undercover surveillance of opposing party
LA 315 (1970)

SUSPENSION [See Disabled lawyer. Disbarment. Resignation.]

Bankruptcy court has inherent power to impose district-wide suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

Duties of suspended lawyer

Rule 9.20, California Rules of Court

-purpose of imposition of requirement to comply with Rule 9.20

In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646

In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

Failure to comply with rule 9.20, California Rules of Court

Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]

In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646

In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413

Standard 1.4(c)(ii) proceeding for relief from actual suspension alcohol and drug addiction brought under control

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

not a reinstatement proceeding

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

petitioner's burden of proof, preponderance of the evidence

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

standard of review

-abuse of discretion or error of law

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

-substantial evidence supported hearing judge's findings

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

summary nature of proceeding

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Suspended attorney

authority to represent party in litigation

Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]

discipline may be aggravated if attorney fails to take all steps necessary, short of practicing law, to protect client's interest

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

must be licensed at time services performed to recover fees

Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]

referrals from

LA(I) 1937-1

share office with

LA(I) 1937-1

TAX

Attorney's fees paid in tort-based action were excluded from client's gross income

Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Contingency fee portion of settlement recovery constitutes taxable income

C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]

Determination of whether attorney's fees are to be included in gross income involves how federal law operates in light of a state's definition of attorney's rights in the action

Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Failure of attorney to pay

In re Fahey (1973) 8 Cal.3d 842, 849-854

Fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

TEACHING [See Business activity. Educational activity. Judge. Law practice.]

TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP [See Substitution of counsel. Withdrawal from employment.]

Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Agreement evidenced parties' intent to establish an ongoing attorney-client relationship of an open-ended nature, terminable only by specific methods described in the agreement and under conditions that included attorney's return of all property and funds to the client

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

By client [See Discharge of attorney by client.]

Client may have a reasonable belief that attorney continued the client's representation even though attorney had not communicated with the client for two and a half years

Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]

Compliance with rule 9.20, California Rules of Court, in connection with disbarment

Bercovich v. State Bar (1990) 50 Cal.3d 116

Conflict of interest

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Death or incapacity of attorney

appeal from judgment not extended by death of the attorney

Voinich v. Poe (1921) 52 Cal.App. 597 [199 P. 74]

Code of Civil Procedure section 286 requires notice to a party that his attorney has died

California Water Service v. Sidebotham & Son (1964) 224 Cal.App.2d 715 [37 Cal.Rptr. 1]

death of one member of the firm leaves option to consider employment terminated

Little v. Caldwell (1894) 101 Cal. 553 [36 P. 107]

party whose attorney has ceased to act must appoint new attorney

Unwin v. Barstow-San Antonio Oil Co. (1918) 36 Cal.App. 508 [172 P. 622]

written notice required by adverse party to appoint another attorney

Code of Civil Procedure section 286

Larkin v. Superior Court (1916) 176 Cal. 719 [154 P. 841]

Death or incapacity of client

LA 300

death of client-defendant terminates attorney's authority to represent him in a suit

Swartfager v. Wells (1942) 53 Cal.App.2d 522 [128 P.2d 128]

insanity or incapacity of client terminates authority of attorney

Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]

relation of attorney-client not terminated by death of client in a special contract of employment

Estate of Malloy (1929) 99 Cal.App. 96 [278 P. 488]

retention or destruction of files

LA 491 (1997)

Dependency proceeding

inability to provide competent legal services because of disagreement with a minor client

LA 504 (2000)

TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP

Discharge of attorney by client

absolute right to discharge

General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]

CAL 1994-134

LA 489 (1997), LA 481

-attorney in an action may be changed at any time

Gage v. Atwater (1902) 136 Cal. 170 [68 P. 581]

-executors had absolute right to change attorneys at any stage of probate proceedings

Estate of McManus (1963) 214 Cal.App.2d 390 [29 Cal.Rptr. 543]

-if discharged without cause, client liable for compensation and damages

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

-may change attorneys at any stage of action even if contingent fee exists

Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]

-may discharge attorney at any time unless attorney has vested interest

Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]

-plaintiff was without authority to substitute an attorney adverse to interests of associates

Scott v. Donahue (1928) 93 Cal.App. 256 [269 P. 774]

-retained attorney in criminal case

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

-right of a litigant to change attorneys at any stage of a proceeding

Estate of Hardenberg (1936) 6 Cal.2d 371 [57 P.2d 914]

-right to change attorney at any state in action absence any relation of attorney to subject matter

Meadow v. Superior Court (1963) 59 Cal.2d 610 [30 Cal.Rptr. 824, 381 P.2d 648]

-right to discharge attorney even if attorney rendered valuable services

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

-to prohibit discharge, attorney must have a "power coupled with an interest"

People v. Metrim Corp (1960) 187 Cal.App.2d 289 [9 Cal.Rptr. 584]

-wrongfully discharged under contingent fee contract entitled same compensation as if completed contemplated services

Herron v. State Farm Mut. Ins. Co. (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]

criminal matters

Code of Civil Procedure 284

-client's motion to discharge counsel does not require showing of incompetency

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Ortiz (1989) 210 Cal.App.3d 833 [258 Cal.Rptr. 581]

-court discretion for continuance

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

-denial of defendant's motion to discharge retained counsel was abuse of discretion

U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337

-right to discharge retained counsel

U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

duty is not dissolved

-corporate attorney cannot take sides in a serious dispute between owners (dissolution)

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

minimal duties of attorney

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

power coupled with an interest

-agreement did not result in a contract coupled with an interest

Fields v. Potts (1956) 140 Cal.App.2d 697 [295 P.2d 965]

-contingent fee contract and assignment were ineffectual to create a power coupled with an interest

Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]

-interest must be specific, must be in the subject matter of the litigation and must be beneficial

Redevelopment Agency v. Superior Court (1961) 195 Cal.App.2d 591 [16 Cal.Rptr. 45]

-interest not created by execution of a contingent fee contract

Bandy v. Mt. Diablo Unified School Dist. (1976) 56 Cal.App.3d 230 [126 Cal.Rptr. 890]

-must be a specific, present, and coexisting interest in the subject of the power or agency

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

-must be an interest in the thing itself

Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]

-no exception when the relation of the attorney to subject matter arises from his employment

Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]

unwarranted discharge by court

-defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law

*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

-order preventing attorneys from representing clients contrary to wishes of all those involved

Cloer v. Superior Court (1969) 271 Cal.App.2d 143 [76 Cal.Rptr. 217]

-over attorney's and defendant's consistent and repeated objections

Smith v. Superior Court (1968) 68 Cal.2d 547 [68 Cal.Rptr. 1, 440 P.2d 65]

Dismissal of case may not terminate attorney-client relationship

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Factors demonstrating ongoing attorney client relationship with corporate client

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Failure to move to withdraw as counsel paired with client's belief that he was represented constitutes abandonment of a client

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Not necessary to terminate prior agreement where there was only a framework for future representation, contract was not self effectuating, it required reciprocal actions by attorney and client

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Objective standard governs end of relationship

Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]

Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

firm's representation terminated when firm emailed client that it "must withdraw" as client's attorney, that its "attorney-client relationship with client is terminated forthwith," and that it "no longer represents client with regard to any matters."

GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

Scheduling conflict

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Standard for determining end of relationship

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

Undue influence

attorney used party's financial entanglements to coerce an agreement with plaintiff

Donnelly v. Ayer (1986) 183 Cal.App.3d 978, 984 [228 Cal.Rptr. 764]

TESTIMONY [See Witness.]

Copy of results of discovery given to lawyer with some interest in the matter

LA(l) 1965-16

THIRD PARTY [See Client Trust Account. Conflict of Interest, Fee, paid by third party. Duties of attorney. Liens. Professional liability.]

THREATENING ADMINISTRATIVE ACTION WITH EEOC

CAL 1984-81

THREATENING CRIMINAL PROSECUTION

Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]

Crane v. State Bar (1981) 30 Cal.3d 117, 123 [177 Cal.Rptr. 670, 635 P.2d 163]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Arden v. State Bar (1959) 52 Cal.2d 310, 314-315, 320-321 [341 P.2d 6]

Libarian v. State Bar (1952) 38 Cal.2d 328, 328-329 [239 P.2d 865]

Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 566-573 [160 P.2d 9]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

Kinnamon v. Staitman & Snyder (1977) 66 Cal.App.3d 893, 894-897 [136 Cal.Rptr. 321]

In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

LA 469 (1992)

SD 2005-1

Anti-SLAPP

letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege

Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]

plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute

Stenehjem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]

Client of attorney

assisting client in the filing of an improper State Bar complaint

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

bad check for fees

LA 5 (1918)

Disciplinary action

attorney may not advise client to do what attorney may not do
CAL 1983-73, LA 469 (1992), SD 2005-1

Filing of Bar complaint as a prohibited act of extortion

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

In attempt to collect fees due and owing

Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

Letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege

Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]

Public prosecutor

CAL 1989-106, SF 1975-6

Statement that "all available legal remedies will be pursued" may not be improper

CAL 1991-124

Threat may be implied

Crane v. State Bar (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670]

In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

TRADE NAME [See Advertising, fictitious name. Practice of law, fictitious name.]

Business and Professions Code section 6164J

TRIAL CONDUCT

Business and Professions Code sections 6068(a)

changing vote while serving as a juror in order to shorten deliberations and get back to law practice

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

counsel's flagrant and repeated violations of the court's orders

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

Business and Professions Code section 6068(b)

accusing judge of lack of integrity

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

In re Siegel (1975) 45 Cal.App.3d 843, 845 [120 Cal.Rptr. 8]

advising client to violate court order

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

arguing to jury that goal of defense and prosecution counsel is to misrepresent facts

Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

disrespectful reference to defense attorney

-prosecutor effectively calling defense attorney a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439

disrespectful reference to prosecutor

Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]

disrespectful remarks concerning judge

Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]

Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

TRIAL CONDUCT

- counsel's use of "succubistic" describing a female judicial officer and accusing judge of failure to follow the law in court filings are reportable
 - Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
- falsely maligning appellate court judges
 - Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]
- impugning integrity of prosecutor and legal profession
 - Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- knowingly presenting falsified check
 - Reznik v. State Bar (1969) 1 Cal.3d 198, 203 [81 Cal.Rptr. 769, 460 P.2d 969]
- no discipline for factual statements unless the State Bar proves that such statements are false
 - Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
 - In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- no discipline for rhetorical hyperbole incapable of being proved true or false
 - Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
 - In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- repeated statements in pleadings and letters that impugned the integrity of numerous judges
 - In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- series of offensive statements against judges and others
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 - In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- unwarranted charges of bias against superior court judges
 - Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
 - Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
- Business and Professions Code sections 6068(b), (c), (d), (g) attacked those involved with State Bar and State Bar Court by commencing a federal civil rights action against the justices of the Supreme Court, State Bar Court judges and attorneys of the State Bar
 - In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- Business and Professions Code section 6068(d)
 - affirmative false representation actionable even though no harm results
 - Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]
 - attorney never directly asked by court, not guilty of intentionally misleading court by not expressly revealing facts
 - Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1] OC 95-001
 - breach of an attorney's duty to be truthful in statements made to a court
 - In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
 - citing case known not to be controlling, failure to cite known controlling case
 - Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
 - client's absence from court, attorney may not answer court's inquiry if harmful to client
 - SD 2011-1
- concealing known material letter from court
 - Sullins v. State Bar (1975) 15 Cal.3d 609, 620 [125 Cal.Rptr. 471, 542 P.2d 631]
- concealment of known material information
 - In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
 - Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Jeffers (Review Dept 1994) 3 Cal. State Bar Ct. Rptr. 211 OC 95-001
- counsel married to bailiff/court reporter
 - CAL 1987-93
- disrespectful reference to prosecutor
 - Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
 - Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
- disrespectful remarks concerning judge
 - Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
- duty to disclose possible violation of court order by third party, no duty found
 - LA 394 (1982)
- failure to disclose material facts
 - In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
 - Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381, 768 P.2d 1058]
 - Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - *Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 - In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211 OC 95-001
- falsely maligning appellate court judges
 - Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]
- falsely maligning prosecutor and legal profession
 - Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- knowingly allowing client to testify falsely
 - People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]
- law firm representing corporation has duty to disclose to the court and to opposing counsel corporate client's suspended status
 - Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- misleading judge by concealment of request for continuance
 - Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553] OC 95-001
- misleading judge through failure to disclose, filing false documents
 - Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
 - Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
 - In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

- misleading judge through knowing concealment of material facts
Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 OC 95-001
- misleading judge through the use of misleading, inaccurate, and incomplete responses to discovery requests and presentation of fraudulent evidence
Pumphrey v. K.W. Thompson Tool Co. (9th Cir. 1995) 62 F.3d 1128
- misrepresentations made to the opposing counsel and the court
 LA 482 (1995), OC 95-001
- misrepresentation of appellate decision in opening brief
Sacramento County Department Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
- naming a person as a plaintiff in a lawsuit without the person's knowledge or consent
Lebbos v. State Bar (1991) 53 Cal.3d 37
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
 LA 502 (1999)
- offensive gender based remarks to a government attorney
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
- offensive references to opposing parties and counsel
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
- offering false evidence, subornation of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448, 487 P.2d 1016]
- presentation of known false fact presumes intent to deceive
Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]
- presentation of known false fact which tends to mislead sufficient for violation
Vickers v. State Bar (1948) 32 Cal.2d 247 [196 P.2d 10]
 presenting documents containing known false allegations
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
- pretended non-participation in fraudulent claim made to insurance company
People v. Benson (1962) 206 Cal.App.2d 519, 531 [23 Cal.Rptr. 908]
- violation found even if attempt to mislead is unsuccessful
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Business and Professions Code section 6068(f)
 unconstitutional vagueness of "offensive personality"
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- Rules 7-105, 7-106, 7-107, and 7-108, Rules of Professional Conduct (operative until May 26, 1989)
Rules 5-200, 5-320, 5-310, and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
- Absence of attorney during jury deliberations not prejudicial to appellant
People v. Nunez (1983) 144 Cal.App.3d 697 [192 Cal.Rptr. 788]
- Administration of justice
 attempted interference with
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Admonishment of defense counsel by trial court in front of jury was proper for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Advising client to disobey court order
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 117 [116 Cal.Rptr. 713]
- Advocacy of counsel
 money sanctions for violation of lawful court order not applicable to
 Code of Civil Procedure section 177.5
- Altering copy of court order
Lebbos v. State Bar (1991) 53 Cal.3d 37
- Altering evidence in criminal trial
Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
- Attorney admitted to Supreme Court Bar in order to represent self in appeal from sanctions imposed by 9th Circuit
In the Matter of Admission of Christopher A. Brose (1983) 77 L.Ed.2d 1360
- Attorney misconduct must sufficiently permeate an entire proceeding and affect result
McKinley v. City of Eloy (9th Cir. 1983) 705 F.2d 1110, 1117
- Attorney sanctions for frivolous appeal
In re Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508, 646 P.2d 179]
Olsen v. Harbison (2005) 134 Cal.App.4th 278 [35 Cal.Rptr.3d 909]
Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
Pollock v. University of Southern California (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]
Bank of America v. Henkin (1986) 185 Cal.App.3d 919 [230 Cal.Rptr. 113]
In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- Candor
 client's absence from court, attorney may not answer court's inquiry if harmful to client
 SD 2011-1
- duty of
 -advise adversary of contribution to campaign committee of presiding judge in case
 LA 387 (1981)
 -disclosure
 --counsel married to bailiff
CAL 1987-93
 --counsel married to court reporter
CAL 1987-93
 --that client cannot be located
CAL 1989-111
 -in admission proceedings
State Bar v. Lanbert (1954) 43 Cal.2d 636, 642 [276 P.2d 596]
 -in attorney disciplinary proceedings
Barreiro v. State Bar (1970) 2 Cal.3d 912, 926 [88 Cal.Rptr. 192, 471 P.2d 992]
In re Honoroff (1958) 50 Cal.2d 202, 210 [323 P.2d 1003]
Burns v. State Bar (1955) 45 Cal.2d 296 [288 P.2d 514]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

TRIAL CONDUCT

- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- in criminal matter defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime
LA 466 (1991)
- electronic data, concealing in violation of law
SD 2012-1
- Citing as controlling law a case not in point
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
- Citing unpublished opinions
- Ninth Circuit Rule 36-3(b), no sanctions ordered
Hart v. Massanari (9th Cir. 2001) 266 F.3d 1155
Sorchini v. City of Covina (9th Cir. 2001) 250 F.3d 706
 - Rule 8.1115, California Rules of Court
In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639
- Client's role
- People v. Davis (1984) 161 Cal.App.3d 796, 802-804 [207 Cal.Rptr. 846]
- Closing argument
- conviction obtained on what appeared to be prosecutor's misstatement of the evidence when in fact court reporter's official transcript has since been corrected and no misstatement actually occurred
U.S. v. Mageno (9th Cir. 2015) 786 F.3d 768
 - defense counsel prohibited from expressing opinion as to defendant's innocence
People v. Tyler (1991) 231 Cal.App.3d 1692 [283 Cal.Rptr. 268]
 - misstatement of the law
 - district attorney misrepresented the law that it infected the case with prejudicial error
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
 - prejudicial statement made during
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
Jackson v. Park (2021) 66 Cal.App.5th 1196 [281 Cal.Rptr.3d 634]
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]
 - prosecutorial misconduct to repeatedly use "cockroaches" to describe defendants and other gang members, suggested guilt by association
People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
 - prosecutor's use of a visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Collateral attack, defined
Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
- Communication with judge ex parte
- filing brief without knowledge of opposing counsel
LA 56 (1928)
 - trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
- Communication with juror
CAL 1988-100, CAL 1976-39
- Communication with member of grand jury
Matter of Tyler (1884) 64 Cal. 434 [1 P. 884]
- Contempt of court
- appointment of counsel as "advisor" to criminal defendant
 - refusal to accept
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
 - attorney assists husband to assist subpoena service
In re Holmes (1983) 145 Cal.App.3d 934
 - contempt proceedings for impugning the integrity of the court are criminal in nature even though they arise from a civil action
In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 - defense attorney's isolated reference to the possible penalty did not warrant summary contempt
Watson v. Block (9th Cir. 1996) 102 F.3d 433
 - due process requires that reasonable notice be given as to the charges and the opportunity to be heard
Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075
 - filing of a false affidavit of disqualification against judge
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
 - inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 - indirect contempt
 - presiding judge may defer contempt adjudication to another judge
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- Court order
- appointment of counsel as "advisor" to criminal defendant
 - refusal to accept
In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
 - attorney's direct violation of court order by asking a witness for opinion on cause of an accident at trial does not warrant mistrial or new trial
Pope v. Babick (2014) 229 Cal.App.4th 1238 [178 Cal.Rptr.3d 42]
 - compliance with to produce privileged material
 - court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 - opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - test validity of court order
Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]
 - dismissal of action for flagrant and repeated violations of the court's orders is within the authority of the trial court
Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
 - disobedience of void court order
Maltaman v. State Bar (1987) 43 Cal.3d 924
 - imposition of monetary sanctions for failing to obey court order is within discretion of the trial conduct
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

- Court order, violation of
 money sanctions
 -not applicable to advocacy of counsel
 Code of Civil Procedure section 177.5
- Criminal proceedings
 failure to file timely notice of appeal
 -recusal of lawyer for conflict of interest
In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]
 gender based peremptory challenge of venire persons violates Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
 misstatement of evidence by defense counsel in opening argument
People v. Coleman (1992) 5 Cal.App.4th 646
 tardy request to allow defendant-witness to change clothes before testifying
People v. Froehlig (1991) 1 Cal.App.4th 260
- Criticism of the court
Matter of Humphrey (1917) 174 Cal. 290, 295 [163 P. 60]
- Cross-complaint
 duty to decline to file when totally meritless and frivolous
 LA 464 (1991)
- Cumulative effect of errors results in prejudice
U.S. v. Preston (9th Cir. 2017) 873 F.3d 829
- Delaying tactics
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577
- Depositions
 duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation
 LA 497 (1999)
 instructions not to answer sanctionable
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
- Destruction of evidence
 Penal Code section 135
R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]
- Dismissal with prejudice deemed appropriate sanction for attorney's repeated violation of court's order
Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
- Duty to advise court of a violation of a court order by third party
 LA 394 (1982)
- Duty to disclose adverse case in controlling jurisdiction
Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291
 failure to discuss most pertinent legal authority
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- Duty to disclose expert witness notes
People v. Lamb (2006) 136 Cal.App.4th 575 [40 Cal.Rptr.3d 609]
- Duty to inform court that corporate client is suspended
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
 LA 408 (1982)
- Duty to reveal altered evidence
 SD 1983-3
- Duty to reveal facts
 failing to correct a judge's misapprehension of fact
Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]
Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
- failure to file briefs on time
In re Young (9th Cir. 1976) 537 F.2d 326
- failure to reveal harmful facts
Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]
 -client's prior criminal conviction
 CAL 1986-87
 negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
 *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 use of false evidence of perjured testimony
 Penal Code sections 127, 132-135, 137
 when asked directly, that client cannot be located
 CAL 1989-111
- Ex parte communication with judge
 CAL 1984-82, CAL 1984-78
 communications between agency prosecutor and agency judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]
 ex parte communications between trial judge and a deliberating jury are prohibited
People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]
 judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
- Ex parte tampering with selection of potential jurors
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
- Extensions
 answer
 -attorney cannot assume extension of time to answer without communication from opposing counsel
Lott v. Franklin (1988) 206 Cal.App.3d 521
- Failure to file jury instructions with Joint Issues Conference Statement
Cooks v. Superior Court (1990) 224 Cal.App.3d 723
- Failure to monitor progress of client's case results in denial of motion for a preferential trial date
Shaffer v. Weber (1991) 233 Cal.App.3d 944
- False statements of fact or law
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
 attorney disciplined for false averments of fact by clients
Barton v. State Bar (1931) 213 Cal. 186, 188 [2 P.2d 149]
 attorney gives false testimony while under oath in court
Green v. State Bar (1931) 213 Cal. 403, 405
 citing case known not to be controlling
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
 concealment of request for continuance not distinguishable from false statement of fact
Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]
 court responsible for ascertaining attorney's role in preparation and presentation of sham evidence
Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
 deputy district attorney hints that defendant has prior criminal record, where such remarks have no basis in fact
People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]
 false accounting
 CAL 1988-96

TRIAL CONDUCT

- false declarations made to court
 - Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363
- false representations made to the State Bar
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - Olguin v. State Bar (1980) 28 Cal.3d 195, 200 [167 Cal.Rptr. 876, 616 P.2d 858]
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- false statement of fact made to jury
 - City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647, 558 P.2d 545]
- false statement to opposing counsel
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 - CAL 2015-194
- in pleading
 - verified by client
 - LA 33 (1927)
- knowingly presenting false evidence
 - Hayes v. Brown (9th Cir. 2005) 399 F.3d 972
- presentation of known false fact presumes intent to deceive
 - Pickering v. State Bar (1944) 24 Cal.2d 141, 144 [148 P. 2d 1]
 - Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]
- presentation of known false fact which tends to mislead sufficiently
 - Vickers v. State Bar (1948) 32 Cal.2d 247, 253 [196 P.2d 10]
- presenting altered document to court
 - Utz v. State Bar (1942) 21 Cal.2d 100, 104 [130 P.2d 377]
- False testimony
 - attorney induces
 - no civil liability
 - Rens v. Woods (1987) 193 Cal.App.3d 1134
 - by client
 - SD 1983-8
 - attorney knowingly allows
 - Business and Professions Code section 6068(d)
 - Penal Code section 127
 - Rule 7-101, Rules of Professional Conduct (former rule)
 - In re Branch (1968) 70 Cal.3d 200, 210
 - People v. Pike (1962) 58 Cal.2d, 70, 97
 - People v. Lucas (1969) 1 Cal.App.3d 637, 643
 - by witness
 - CAL 2019-200
- offer by attorney
 - no duty to
 - Business and Professions Code section 6068(d)
- False verification
 - In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- Falsely maligning judge
 - abuse of judge of the trial court in brief filed in appellate court treated as contempt of appellate court
 - Sears v. Starbird (1888) 75 Cal. 91 [16 P. 531]
- affidavit accuses superior court judges of criminal conspiracy
 - Bar Association v. Philbrook (1917) 35 Cal.App. 460 [170 P. 440]
- appeal accuses trial court judge of conspiracy
 - In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- appellate court judges
 - Ramirez v. State Bar (1980) 28 Cal.3d 402 [169 Cal.Rptr. 206]
- assailing state Supreme Court justice in filed brief
 - In re Philbrook (1895) 105 Cal. 471, 477 [38 P. 511, 38 P. 884]
- attacking judge by publicly making false and inflammatory statements
 - Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- attacking judge in letter to court dictated by attorney, signed by client
 - Ex parte Ewell (1925) 71 Cal.App. 744, 748 [236 P. 205]
- circular attack of official and personal acts of judge
 - In re Graves (1923) 64 Cal.App. 176, 181 [221 P. 411]
- closing brief contains disrespectful language
 - Baldwin v. Daniels (1957) 154 Cal.App.2d 153, 155 [315 P.2d 889]
- disrespectful remarks concerning judge
 - Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
 - Sacramento County Department Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
 - In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
 - trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- making false statements to disqualify a judge
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
- Filing false affidavit
 - Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329, 348 [178 Cal.Rptr. 801, 636 P.2d 1139]
 - Light v. State Bar (1939) 14 Cal.2d 328 [94 P.2d 35]
 - In re Wharton (1896) 114 Cal. 367 [46 P. 172]
 - In re Knott (1887) 71 Cal. 584 [12 P. 780]
 - in support of application for admission to bar
 - Spearz v. State Bar (1930) 211 Cal. 183, 187 [294 P. 697]
- Following conclusion of case, the issue of whether law firm should have been disqualified is moot
 - Nakano v. United States (9th Cir. 1983) 698 F.2d 1059, 1060
- Free speech right of the attorney at issue
 - Gentile v. State Bar of Nevada (1991) 501 U.S. 1030 [111 S.Ct. 2720]
 - Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
 - Zal v. Steppe (9th Cir. 1991) 968 F.2d 924
 - Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
- Frivolous appeal
 - sanctions
 - against attorney
 - In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
 - Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
 - Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
 - Bach v. County of Butte (1989) 215 Cal.App.3d 294
 - Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
 - Kapelus v. Newport Equity Funds, Inc. (1983) 147 Cal.App.3d 1, 9 [194 Cal.Rptr. 893]

In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
 --denied where plaintiff had probable cause to sue defendant
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
 --notification of State Bar
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
 -against attorney and client for delay
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 -for delay
 --defendant
Hersch v. Citizens (1983) 146 Cal.App.3d 1002, 1012 [194 Cal.Rptr. 628]
 -for frivolous *Marvin* appeal
Kurokawa v. Blum (1988) 199 Cal.App.3d 976 [245 Cal.Rptr. 463]
 -granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
 -motion devoid of merit, bad faith
Karwasky v. Zachay (1983) 146 Cal.App.3d 679 [194 Cal.Rptr. 292]

Frivolous matter
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
 attorney appearing for client is not litigant for purposes of being sanctioned as vexatious litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
 lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
In re Shieh (1993) 17 Cal.App.4th 1154 [21 Cal.Rptr.2d 886]

Frivolous motion
 for purposes of delay, discipline imposed
Bernstein v. State Bar (1990) 50 Cal.3d 221
 for purposes of delay, sanctions imposed
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
 sanctions
In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
 unlawful workplace activity below some threshold level of significance not an issue of public interest for purposes of anti-SLAPP motion to strike, even though it implicates public policy
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]

Frivolous petition
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 defense counsel did not oppose dismissal of petition filed by pro se defendant, for unconditional release where there were no changed circumstances
People v. Reynolds (2010) 181 Cal.App.4th 1402 [105 Cal.Rptr.3d 560]

Frivolous pleading
 anti-SLAPP
RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc. (2020) 56 Cal.App.5th 413 [270 Cal.Rptr.3d 425]
 sanctions
580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

Immunity
 attorney not entitled to judicial immunity for preparing order for judge
Burton v. Infinity Capital Management (9th Cir. 2014) 753 F.3d 954
 fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004
 may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant
Morley v. Walker (1999) 175 F.3d 756

Improper remarks about opposing party during trial corrected by sustained objections and court's admonishment
West v. Johnson & Johnson Products, Inc. (1985) 174 Cal.App.3d 831 [220 Cal.Rptr. 437]
 trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Incompetent representation
 basis for reversal of judgment
 -must be reported by clerk to State Bar
 Business and Professions Code section 6086.7

Insinuation
Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]

Juror lists
 attempted interference with
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]

Litigation privilege
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
 failure to redact opposing party's personal information
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
 may not apply to republication of privileged statements to non-participants in the action
Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
 responding party may establish facts that would, if accepted, show that litigation was not contemplated in good faith and under serious consideration
RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc. (2020) 56 Cal.App.5th 413 [270 Cal.Rptr.3d 425]

Local court rules
 dismissal of action appropriate sanction for violations of fast track rules
Intel Corp. v. USAIR, Inc. (1991) 228 Cal.App.3d 1559 [279 Cal.Rptr. 569]

Media and press statements
Rule 5-120, Rules of Professional Conduct (operative October 1, 1995)
 may be regulated under "clear and present danger" standard
Gentile v. State Bar of Nevada (1991) 501 U.S. 1030 [111 S.Ct. 2720]
Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430

Misconduct by counsel
People v. Burnett (1993) 12 Cal.App.4th 469 [15 Cal.Rptr.2d 638]
 attorney's direct violation of court order by asking a witness for opinion on cause of an accident at trial does not warrant mistrial or new trial
Pope v. Babick (2014) 229 Cal.App.4th 1238 [178 Cal.Rptr.3d 42]

TRIAL CONDUCT

- basis for reversal of judgment
 - must be reported by clerk to State Bar
 - Business and Professions Code section 6086.7
 - Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
- no misconduct found in lawyer's aggressive solicitation of improper opinion testimony
 - Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
- prosecutor effectively calling defense counsel a liar
 - United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
- Misconduct by judge
 - trial judges' misconduct which deprives plaintiff of fair trial warrants judgment reversal
 - Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]
- Misleading judge or other party
 - In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004
 - Maltaman v. State Bar (1987) 43 Cal.3d 924
 - In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
 - In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
 - In the Matter of Conroy (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 86
- altering and filing stipulations
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
- attorney knowingly presents false statements which tend to deceive/mislead the court
 - U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
 - Davis v. State Bar (1983) 37 Cal.3d 231
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- client's absence from court, attorney may not answer court's inquiry if harmful to client
 - SD 2011-1
- co-counsel for criminal defendant conspire to procure improper dismissal of case by falsely representing whereabouts of client
 - In re Richardson (1930) 209 Cal. 492, 499
- concealment of material fact is as misleading as an overtly false statement
 - Di Sabatino v. State Bar (1980) 27 Cal.3d 159
 - Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
 - In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 - In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
 - OC 95-001
- concealment of suspended corporate client's status
 - Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- deceit concerning disbursements of funds held for benefit of both spouses in marital dissolution
 - In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- defense misrepresented principal benefits of settlement
 - Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]
- distortion of record by deletion of critical language in quoting from record
 - Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476
- electronic data, concealing in violation of law
 - SD 2012-1
- false statement of law
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- fees requested where none incurred and no supervision of non-attorneys
 - LA 522 (2009)
- knowingly presenting a false statement intending to mislead the court
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 - In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
 - In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
 - *In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321
- litigation privilege
 - company's defamation suit may continue against attorneys based on press release and listing on internet
 - GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
 - dismissal of defamation action against law firm justified
 - Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]
 - Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 - judicial or litigation privilege as bar to tort actions based on misrepresentations in context of proceedings
 - Silberg v. Anderson (1990) 50 Cal.3d 205
 - Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
 - may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to earlier litigation
 - American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
- making misrepresentation to judge while attorney served on a jury
 - In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- misleading judge that attorney was not "advised" to get his client to mediation and denial of receipt of written order
 - Bach v. State Bar (1987) 43 Cal.3d 848, 855-856 [239 Cal.Rptr. 302]
- misleading judge through failure to disclose, filing false documents
 - Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
 - *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- pre-signed verification forms
 - Drociak v. State Bar (1991) 52 Cal.3d 1085 [278 Cal.Rptr. 86]
- prosecutor misleads defense counsel by altering evidence
 - Price v. State Bar (1982) 30 Cal.3d 537, 542 [179 Cal.Rptr. 305, 405 P.2d 129]
- regarding suspended status of corporate client
 - Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
 - LA 408 (1982)

- social media "friend" request to represented party
SD 2011-2
- verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- Misleading pleadings
attorney acting as guardian presents known misleading account to probate court
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
false averments of fact by attorney in petition for adoption
Bruns v. State Bar (1931) 213 Cal. 151, 155
filing dishonest and inaccurate pleadings denounced even where no direct evidence of malice, intent to deceive, or hope of personal gain
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 473 [169 Cal.Rptr. 581, 619 P.2d 1005]
making false allegations in petition to probate court
Paine v. State Bar (1939) 14 Cal.2d 150 [93 P.2d 103]
misrepresentation of record on appeal -sanctions imposed
In re Disciplinary Action Boucher (9th Cir. 1988) 850 F.2d 597
no difference whether judicial officer misled by false statement, misleading silence, or combination of both; allowing client to sign known false affidavit
In re Lincoln (1929) 102 Cal.App. 733, 741
- Misrepresentation by counsel, willful
basis for reversal of judgment
-must be reported by clerk to State Bar
Business and Professions Code section 6086.7
failure to provide exculpatory evidence and location of witness favorable to defense
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Misrepresentations made to opposing counsel
CAL 2015-194, LA 482 (1995)
- Misstatement of the law
district attorney misrepresented the law that it infected the case with prejudicial error
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
prosecutor's use of a visual aid in the form of PowerPoint jigsaw puzzle to illustrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Monetary sanctions not warranted where attorney's conduct of returning late from lunch and failure to await court preparation of a verdict form did not clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- Motion for relief from mistake appropriate where attorney neglected to pay transfer of venue fees resulting in dismissal of client's matter
Gee v. Estate of James Charles Jewett (2016) 6 Cal.App.5th 477 [211 Cal.Rptr.3d 137]
- Non-disclosure of material facts
concealing assets from judgment creditor
Lebbos v. State Bar (1991) 53 Cal.3d 37
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 617 [125 Cal.Rptr. 471, 542 P.2d 631]
failure to disclose material facts to bail commissioner
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 164 [162 Cal.Rptr. 458, 606 P.2d 765]
failure to disclose to court attorney's purchase of principal estate asset while representing executrix
Rule 5-103, Rules of Professional Conduct
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
- failure to disclose to judge earlier order affecting same parties; knowing failure to disclose to judge intended use of granted ex parte order
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
- failure to disclose to judge known whereabouts of absent opposing counsel
OC 95-001
- misleading the court
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
negligent failure to cite applicable case violates rule 5-200(B)
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
suspended corporate client's status
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- Obstruction of justice
In re Richardson (1930) 209 Cal. 492, 499 [288 P. 669]
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Offensive descriptions of opposing party's counsel
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
- Offensive personality
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
Lebbos v. State Bar (1991) 53 Cal.3d 37
Van Sloten v. State Bar (1989) 48 Cal.3d 921, 925
Weber v. State Bar (1988) 47 Cal.3d 492, 500
Dixon v. State Bar (1982) 32 Cal.3d 728, 735
Ramirez v. State Bar (1980) 28 Cal.3d 402, 404, 406
Snyder v. State Bar (1976) 18 Cal.3d 286, 292
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- unconstitutional vagueness
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- Omission of material statements of fact or law
Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Peremptory challenges to exclude all Asians from the jury as possible trial court error
People v. Lopez (1991) 3 Cal.App.4th Supp. 11 [5 Cal.Rptr.2d 775]
- Perjury
by client
-criminal proceeding
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
Lowery v. Caldwell (9th Cir. 1978) 575 F.2d 727
People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

TRIAL CONDUCT

- People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr.2d 219]
OC 2003-01
- disclosure of
- by attorney
- People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
People v. Brown (1988) 203 Cal.App.3d 1335
CAL 1983-74
LA 386 (1981), LA 305 (1968)
- no civil liability for attorney for inducing false testimony by client
- Rens v. Woods (1987) 193 Cal.App.3d 1134
- narrative form of testimony is best choice when attorney fears client will commit perjury
- People v. Guzman (1998) 45 Cal.3d 915 [248 Cal.Rptr. 467]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
- of former client in ongoing case
- LA 386 (1977)
- withdrawal
- OC 2003-01
- by attorney
- People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
People v. Brown (1988) 203 Cal.App.3d 1335
CAL 1983-74
SD 1983-8
LA 305 (1968)
- Prejudicial conduct of counsel
- reversal of verdict on appeal
- Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
Simmons v. Southern Pac. Transp. Co. (1976) 62 Cal.App.3d 341 [133 Cal.Rptr. 42]
- Prejudicial statements during closing argument [See Closing argument] Privileged acts of attorney
- attorney's acts found not privileged under Civil Code section 47(2)
- Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]
Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]
- attorney's acts privileged under Civil Code section 47(2)
- Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]
Home Ins. Co. v. Zurich Ins. Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
- "interest of justice" test
- Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]
- Pro hac vice attorney
- Rule 9.40, California Rules of Court
- Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
- censure for failure to follow local court rules
- United States v. Ries (9th Cir. 1996) 100 F.3d 1469
United States v. Summet (9th Cir. 1988) 862 F.2d 784
- Public defender
- assignment to act as advisory counsel proper even though attorney is officially relieved of the representation
- Ligda v. Superior Court (1970) 5 Cal.App.3d 811 [85 Cal.Rptr. 744]
- refusal to obey court order to proceed with care excused when counsel is unprepared
- Hughes v. Superior Court (1980) 106 Cal.App.3d 1 [164 Cal.Rptr. 721]
- Punctuality for court appearances
- Clark v. Los Angeles Superior Court (1992) 6 Cal.App.4th 58 [7 Cal.Rptr.2d 772]
In re Allis (9th Cir. 1976) 531 F.2d 1391
- Removal of defense counsel warranted when counsel's repeated delays are the result of a medical condition
- Maniscalco v. Superior Court (1991) 234 Cal.App.3d 846
- Repeated threatening telephone calls
- In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- Repeating questions after objection sustained
- Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]
- Repetitive motions
- Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
- Representation by incompetent counsel not enough for reversal
- Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
- Respect for judiciary
- published letter written about opinion of a judge
- Lloyd v. Superior Court (1982) 133 Cal.App.3d 896 [184 Cal.Rptr. 467]
- Reversal of judgment in judicial proceeding
- altering evidence in criminal trial
- Price v. State Bar (1982) 30 Cal.3d 537, 549 [179 Cal.Rptr. 914, 638 P.2d 1311]
- based upon counsel's
- incompetent representation
- Business and Professions Code section 6086.7
- misconduct
- Business and Professions Code section 6086.7
- willful misrepresentation
- Business and Professions Code section 6086.7
- report to State Bar
- Business and Professions Code section 6086.7
Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)
- concealment of material facts just as misleading as explicit false statements
- Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]
Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
- denying known material fact in argument to jury
- City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647]
- false pleading
- Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 469 [169 Cal.Rptr. 581, 619 P.2d 1005]
- false statement of law
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218
- presenting fabricated documents, making false representation in response to State Bar investigation
- Olquin v. State Bar (1980) 28 Cal.3d 195, 199 [167 Cal.Rptr. 876, 616 P.2d 858]
- prosecutorial misconduct to hint that defendant has prior criminal record where such remarks have no basis in fact
- People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]
- regarding suspended status of corporate client
- LA 408 (1982)

Sanctions

attorney wrongfully held in contempt for refusing to turn over documents to third party

In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

bankruptcy court imposed discovery sanctions against attorney/debtor for transferring property with intent to hinder, delay or defraud creditor

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

bankruptcy court's inherent power allows it to sanction "bad faith" or "willful misconduct" by attorneys

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

concealment of suspended corporate client's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

delay

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

disclosure by attorney were done maliciously, recklessly, and without justification in violation of confidential child custody report

In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]

failure to comply with court order

Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

-law firm must pay sanctions for continuing to pursue unlawful detainer action despite automatic stay imposed by bankruptcy court

In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726

failure to file an opposition to summary judgment does not make the failure willful and thus court's grant of terminating sanctions was abuse of discretion

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

Federal Rule 11 sanctions levied only on lawyers, not law firms

Pavelic & LeFlore v. Marvel Entertainment Group (1989) 493 U.S. 120 [110 S.Ct. 456]

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146

frivolous appeal

Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. Dependable Insurance Co. (1988) 204 Cal.App.3d 871

Bach v. County of Butte (1985) 172 Cal.App.3d 848 [218 Cal.Rptr. 613]

Conservatorship of Gollock (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]

-granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal

Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]

frivolous pleadings

580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

-in favor of dismissed party for bad faith tactics of plaintiff's attorney

Frank Annino & Sons v. McArthur Restaurants (1989) 215 Cal.App.3d 353

limitations

-court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred

Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]

-juvenile proceeding

In re Sean R. (1989) 214 Cal.App.3d 662

multiplying proceedings unreasonably and vexatiously under 28 U.S.C. section 1927

Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216

Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

In re DeVille (9th Cir. BAP 2002) 280 B.R. 483

pro hac vice attorney

-censure for failure to follow local court rules

United States v. Summet (9th Cir. 1988) 862 F.2d 784

reckless misstatements of law and fact, combined with an improper purpose

Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

second petition for removal frivolous when its basis has been previously rejected

Peabody v. Maud Van Cortland Hill Schroll Trust (9th Cir. 1989) 892 F.2d 772

tardiness

United States v. Stoneberger (9th Cir. 1986) 805 F.2d 1391

Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]

terminating sanctions was proper when attorney threatens opposing attorney with physical harm and is openly contemptuous of trial court

Crawford v. JP Morgan Chase Bank (2015) 242 Cal.App.4th 1265 [195 Cal.Rptr.3d 868]

violation of local court rule

-attorney not subject to sanctions under local rules for failing to meet and confer with opposing counsel before moving for new trial

Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]

-cannot be imposed for mere negligent violation

Zambrano v. City of Tustin (9th Cir. 1989) 885 F.2d 1473

-cannot be imposed unless sanctioning court first gives attorney opportunity to be heard

Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]

Signing declarations under penalty of perjury on behalf of clients and witnesses may be improper and a conflict of interest

In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]

Solicitation of perjured testimony

In re Allen (1959) 52 Cal.2d 762, 768 [344 P.2d 609]

Special appearances

special appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Statement

use of one that may have been improperly obtained
LA 376 (1978)

Subornation of perjury

attorney instructs client to commit perjury

Paonessa v. State Bar (1954) 43 Cal.2d 222, 226

attorney may not knowingly allow witness to testify falsely, whether he or she is criminal defendant or otherwise

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664]

TRIAL PUBLICITY

- criminal defendant insists on testifying perjurally, appropriate and necessary for defense counsel to present request to withdraw
People v. Brown (1988) 203 Cal.App.3d 1335
- knowingly countenance the commission of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448]
- lack of sufficient evidence to prove attorney advised client to commit perjury
In re Petersen (1929) 208 Cal. 42, 52 [280 P. 124]
- no duty to offer on client's behalf testimony which is untrue (in criminal proceeding)
In re Branch (1969) 70 Cal.2d 200, 212 [74 Cal.Rptr. 233]
- penalty
In re Jones (1929) 208 Cal. 240, 242-243 [280 P. 964]
- presentation of known false claim to insurance company by attorney
People v. Benson (1962) 206 Cal.App.2d 519, 530 [23 Cal.Rptr. 908]
- procure and countenance the commission of perjury
In re Allen (1959) 52 Cal.2d 762, 767 [344 P.2d 609]
- public defender questions veracity of criminal defendant's witnesses
In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]
- requires proof of corrupt agreement between attorney and witness
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
- Suppression of evidence
Penal Code section 135
- Tape recorder, use during trial
People v. Ashley (1990) 220 Cal.App.3d 919 [269 Cal.Rptr. 769]
- Two attorneys may question a deponent when deponent has agreed
Rockwell International Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325
- Verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
- Vexatious litigant
attorney appearing for client is not litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
- Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Violation of lawful court order
money sanctions
-not applicable to advocacy of counsel
Code of Civil Procedure section 177.5
- Voir dire
defendant in a criminal case may not engage in purposeful race discrimination in the exercise of peremptory challenges
Georgia v. McCollum (1992) 505 U.S. 42 [112 S.Ct. 2348]
- denial of defense request to voir dire on racial bias not an abuse of discretion peremptory challenge based on gender violated Equal Protection Clause
United States v. De Gross (9th Cir. 1992) 960 F.2d 1433
People v. Chaney (1991) 234 Cal.App.3d 853
- discriminatory exclusions of Hispanic juror results in reversal of convictions when Batson/Wheeler motion denied
People v. Gutierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]
- proposition 115 restrictions on jury voir dire by counsel not in violation of U.S. Constitution
People v. Adam (1991) 235 Cal.App.3d 916
- prosecutor's peremptory challenge of sole black juror
People v. Christopher (1991) 1 Cal.App.4th 666
- Withdrawal when client commits perjury
LA(l) 1974-7
- Withdrawal when client intends to commit perjury
CAL 1983-74
LA 362 (1976)
OC 2003-01
- Yield to rulings of court
Business and Professions Code section 6103
Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
- whether right or wrong
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

TRIAL PUBLICITY

- Rule 5-120, Rules of Professional Conduct (operative October 1, 1995).
- Statements found not in violation of rule
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
- TRUST ACCOUNT** [See Client's trust account.]
- TRUSTEE** [See Assignment. Bankruptcy. Estate, trustee.]
- Action brought by beneficiaries
against attorney for trustee
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
- against trustee
Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
- Attorney as trustee, client as beneficiary
Probate Code sections 15687 and 16004(c)
Schneider v. State Bar (1987) 43 Cal.3d 784
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
- attorney violated fiduciary duties under Probate Code
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
- duty to third party
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
- Attorney-client privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
- trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]
- Attorney-client relationship does not extend to beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282

Breach of trustee fiduciary duty
Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

Cannot assign legal malpractice claim by trustee of bankruptcy estate
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
 bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

Employs himself as counsel for trustee
 LA(l) 1966-2

Escrow holder
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Legatee for testamentary trust
 LA 219 (1954)

Non-attorney trustee who represents trust in action to protect trust property engages in unauthorized practice of law
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

Receiver entitled to attorney-client privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Standing to sue corporate attorneys of “sham” corporation for malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

Successor trustee “stands in the shoes” of predecessor trustee and thus may assert legal malpractice claims against predecessor’s attorney
Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]

Trustee as client of attorney
 Probate Code section 16247
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
 successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Unauthorized practice of law not found where non-attorney represents himself as sole trustee, sole settlor and beneficiary in litigation involving trust property
Aulio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]

UNAUTHORIZED PRACTICE OF LAW
 Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
 Business and Professions Code section 6105
McGregor v. State Bar (1944) 24 Cal.2d 283, 287

Business and Professions Code section 6125
 76 Cal. Ops. Gen. 208 (9/17/93; opn. no. 93-416)
 76 Cal. Ops. Gen. 193 (8/30/93; opn. no. 93-303)
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]
Bluestein v. State Bar (1974) 13 Cal.3d 162, 173-174 [118 Cal.Rptr. 175, 529 P.2d 599]
Biakanja v. Irving (1958) 49 Cal.2d 647, 651 [320 P.2d 16]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
In re Gordon J. (1980) 108 Cal.App.3d 907, 914
Woodriff v. McDonald’s Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]
Howard v. Superior Court (1975) 52 Cal.App.3d 722, 726
Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507, 512 [120 Cal.Rptr. 207]
In re Steven C. (1970) 9 Cal.App.3d 255, 265
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
People v. Sipper (1943) 61 Cal.App.2d Supp.844, 846 [142 P.2d 960]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 SF 2021-1

Business and Professions Code section 6126
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]
Farnham v. State Bar (1976) 7 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]
Gerhard v. Stephens (1968) 68 Cal.2d 864, 917-918 [69 Cal.Rptr. 612, 442 P.2d 692]
Crawford v. State Bar (1960) 54 Cal.2d 659, 666 [7 Cal.Rptr. 746, 355 P.2d 490]
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
 SD 1983-12, SD 1983-7

Advertising as entitled to practice law
 contempt of court
 Business and Professions Code section 6127
 lawyer disbarred or under suspension
 Business and Professions Code section 6126

UNAUTHORIZED PRACTICE OF LAW

- misdemeanor
 - Business and Professions Code section 6126
- non-lawyers
 - Business and Professions Code section 6127(b)
- Aiding and abetting
 - In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
 - Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]
 - Ridley v. State Bar (1972) 6 Cal.3d 551, 558 [99 Cal.Rptr. 873, 493 P.2d 105]
 - Crawford v. State Bar (1960) 54 Cal.2d 659, 667 [7 Cal.Rptr. 746, 355 P.2d 490]
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 472
 - Geibel v. State Bar (1938) 11 Cal.2d 412, 424 [79 P.2d 1073]
 - Dudney v. State Bar (1937) 8 Cal.2d 555, 562
 - Smallberg v. State Bar (1931) 212 Cal. 113, 119
 - People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
 - In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
 - In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
 - In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 - advising non-lawyer who performs services in forming corporations for charge
 - LA 69 (1933)
 - association with firm rendering advice concerning construction
 - CAL 1969-18
 - attorney as employee of lay organization providing services to other attorneys
 - LA 359 (1976)
 - independent contractor for
 - LA 327 (1972)
 - by client
 - LA 402 (1982)
 - client
 - LA 436 (1985), LA 402 (1982)
 - collections
 - CAL 1982-68, LA 522 (2009)
 - contracts
 - advising agent concerning legality of
 - being negotiated by agent for fee
 - LA 80 (1935)
 - corporation provides paid legal services
 - for employees
 - directs employees to one attorney
 - LA 292 (1965)
 - disbarred lawyer to practice
 - Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746, 355 P.2d 490]
 - LA 402 (1982)
 - employees of dual practice brokerage/law firm
 - LA 413 (1983), LA 384 (1980)
 - employment agency
 - LA 359 (1976), LA 327 (1972)
 - financial management company, attorney as shareholder
 - LA 372 (1978)
 - foreign attorney
 - LA 426 (1984)
 - SD 2007-1
 - living trust marketers
 - In re Mid-American Living Trust Association, Inc., et al. (Mo. 1996) 927 S.W.2d 855
 - The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
 - out-of-state lawyer
 - renting office to
 - where public might be misled to believe person admitted in California
 - LA 99 (1936)
 - outsourced legal services
 - LA 518 (2006)
 - SD 2007-1
 - partnership with doctor providing legal services
 - LA 335 (1973)
 - resigned attorney allowed to practice
 - People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
 - Rule 1-311, allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - uncharged violation of rule 1-300(A) considered in aggravation and involved moral turpitude
 - In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

Arbitration

 - Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]
 - In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
 - certification of non-resident, out-of-state attorney representatives
 - Code of Civil Procedure section 1282.4
 - representing party while suspended from practice of law
 - In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

Assuming and acting as attorney without authority

 - contempt of court
 - Business and Professions Code section 6127(a)
 - Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
 - People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]

Attorneys

 - Bagg v. Wickizer (1935) 9 Cal.App.2d 753
 - California attorney is disbarred for practicing law in other states by settling consumer debt matters and holding himself out as entitled to practice in those jurisdictions
 - In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
 - controlled by consultants
 - CAL 1984-79
 - criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
 - In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
 - People v. Vigiil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
 - disbarred while
 - In re McKelvey (1927) 82 Cal.App. 426, 429 [255 P. 834]
 - out-of-state
 - arbitration representatives
 - Code of Civil Procedure section 1282.4
 - California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
 - Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
 - hired as "consultant" who merely assists California lawyer may recover attorney fees
 - Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

-lawyer renting office to
 --where public might be led to believe person admitted
 in California
 LA 99 (1936)

resigned attorney may not represent parties in state
 administrative hearings

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61
 [38 Cal.Rptr.3d 759]

-law corporations are members of the State Bar and are
 bound by rules prohibiting aiding resigned attorneys in
 the unauthorized practice of law

People ex rel. Herrera v. Stender (2012) 212
 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

suspended from practice, while

Porter v. State Bar (1990) 52 Cal.3d 518

In re Naney (1990) 51 Cal.3d 186

Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr.
 789, 789 P.2d 922]

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257
 Cal.Rptr. 696, 771 P.2d 394]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Chasteen v. State Bar (1985) 40 Cal.3d 586, 591 [220
 Cal.Rptr. 842]

Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131
 Cal.Rptr. 661, 552 P.2d 445]

In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889]

Ridley v. State Bar (1972) 6 Cal.3d 551, 559 [99 Cal.Rptr.
 873, 393 P.2d 105]

Abraham v. State Bar (1941) 17 Cal.2d 625 [111 P.2d
 317]

Hill v. State Bar of California (1939) 14 Cal.2d 732, 735

In re the Marriage of Bianco (2013) 221 Cal.App.4th 826
 [164 Cal.Rptr.3d 785]

*People v. Barillas (1996) 45 Cal.App.4th 1233 [53
 Cal.Rptr.2d 418]

People v. Medler (1986) 177 Cal.App.3d 927 [223
 Cal.Rptr. 401]

Gomes v. Roney (1979) 88 Cal.App.3d 274 [151
 Cal.Rptr. 756]

In the Matter of Hoffman (Review Dept. 2020) 5 Cal.
 State Bar Ct. Rptr. 698

In the Matter of Thomson (Review Dept. 2006) 4 Cal.
 State Bar Ct. Rptr. 966

In the Matter of Mason (Review Dept. 1997) 3 Cal. State
 Bar Ct. Rptr. 639

In the Matter of Acuna (Review Dept. 1996) 3 Cal. State
 Bar Ct. Rptr. 495

In the Matter of Lynch (Review Dept. 1995) 3 Cal. State
 Bar Ct. Rptr. 287

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State
 Bar Ct. Rptr. 563

In the Matter of Burckhardt (Review Dept. 1991) 1 Cal.
 State Bar Ct. Rptr. 343

In the Matter of Trousil (Review Dept. 1990) 1 Cal. State
 Bar Ct. Rptr. 229

Bankruptcy

11 U.S.C. § 110(c) enacted to remedy widespread fraud and
 the unauthorized practice of law in the bankruptcy petition
 preparers industry

In re Reynoso (9th Cir. 2007) 477 F.3d 1117

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr.
 Ct. Rep. 46]

attorney must be admitted to practice in the jurisdiction
 where the services were rendered

In re Peterson (1994) 163 B.R. 665

attorney not licensed in Arizona, but who is admitted to prac-
 tice before Arizona district court, can receive fee as counsel for
 Chapter 13 debtor

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

In re Mendez (9th Cir. BAP 1999) 231 B.R. 86

Complaints about

Contact: Unauthorized Practice of Law

Office of Complaint Intake

State Bar of California

845 Figueroa Street, Suite 100, Los Angeles, California
 90017-5450

Telephone: (800) 843-9053

Questions regarding research assistance on activities of law
 clerks, paralegals, and inactive members.

Contact: Unauthorized Practice of Law

Office of Professional Competence

180 Howard Street, San Francisco, CA 94105

(415) 538-2150

(800) 238-4427 (within CA)

Contempt of court

Business and Professions Code section 6127

advertising or holding oneself as entitled to practice

Business and Professions Code section 6127(b)

assuming and acting as attorney without authority

Business and Professions Code section 6127(a)

Contract preparation

by non-lawyer

-for compensation

--involving legal knowledge of skill

LA 80 (1935)

Corporations

Merco Const. Eng. v. Municipal Court (1978) 21 Cal.3d 724,
 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]

People v. Merchants Protective Corp. (1922) 189 Cal. 531,
 535

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th
 1222 [93 Cal.Rptr.2d 482]

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163
 Cal.Rptr. 573]

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d
 655, 657-658 [142 Cal.Rptr. 367]

People v. California Protective Corp. (1926) 76 Cal.App. 354,
 360

76 Cal. Ops. Gen. 208 (9/27/93; opn. no. 93-303)

appearing in small claims court

Code of Civil Procedure section 116.540

Caressa Camille Inc. v. Alcohol Beverage Control

Appeals Board (2002) 99 Cal.App.4th 1094 [121
 Cal.Rptr.2d 758]

collections

LA 522 (2009)

Corporations Code Section 13406(b) does not govern all
 nonprofit corporations providing legal services

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th
 23 [40 Cal.Rptr.3d 221]

in-house attorney

SD 1975-18

law corporations are members of the State Bar and are
 bound by rules prohibiting aiding resigned attorneys in the
 unauthorized practice of law

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th
 614 [152 Cal.Rptr.3d 16]

need not be represented by counsel before administrative
 agencies and their tribunals

Caressa Camille Inc. v. Alcohol Beverage Control

Appeals Board (2002) 99 Cal.App.4th 1094 [121
 Cal.Rptr.2d 758]

sole proprietorship on appeal

Code of Civil Procedure section 904.3

to provide financial and other services

LA 372 (1978)

Defined

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

In re Peterson (1994) 163 B.R. 665

In re Glad (9th Cir. 1989) 98 B.R. 976

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct.
 Rep. 80]

UNAUTHORIZED PRACTICE OF LAW

- Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
OC 94-002, SF 2021-1
inactive members of the bar
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
LA 426 (1984)
SD 1983-12
- Definition of "attorney"
Rodriguez v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
- Department of Unauthorized Practice of Law. [See Complaints or Questions.]
- Deposition in California for use in another state
Code of Civil Procedure sections 2026, 2029
- Disgorgement of fees
bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate
In re Peterson (1994) 163 B.R. 665
bankruptcy petition preparer ordered to disgorge excessive fees for engaging in unauthorized practice of law
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
non-attorney who offered financial services and referred debtor to bankruptcy counsel not required to disgorge fees where court found no evidence of unauthorized practice of law
In re Peterson (1994) 163 B.R. 665
- "Do-it-yourself"
Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
SD 1983-12
- Eviction services
People v. Landlord Professional Services, Inc. (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]
- Expert witnesses provided by consulting service
CAL 1984-79
- Federal court
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Spanos v. Skours (1966) 364 F.2d 161
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
McCue v. State Bar (1930) 211 Cal. 57 [293 P. 47]
bankruptcy court
-attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (9th Cir. BAP 1999) 231 B.R. 86
-suspension from federal practice is not dictated by state rules
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
- disbarment from state does not result in automatic disbarment from Federal Court
In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]
- Federal District Courts (Central, Eastern, Northern re State Bar Membership)
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
Federal district judge's request for attorney fees in action to amend a local rule
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
- Federal law
State Bar Act does not regulate practice before United States courts
Sperry v. State of Florida (1963) 373 U.S. 379
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Augustine v. Department of Veterans Affairs (Fed. Cir. 2005) 429 F.3d 1334
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
state prohibition of practicing law without a license is assimilated into federal law under Assimilative Crimes Act
United States v. Clark (9th Cir. 1999) 195 F.3d 446
- Fees for legal services
bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate
In re Peterson (1994) 163 B.R. 665
must be licensed at time services performed to recover
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
-out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
-pro hac vice
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- Financing arrangements jointly controlled by buyer and seller may constitute unlawful, unfair, and fraudulent business practices
Hernandez v. Atlantic Finance Co. (1980) 105 Cal.App.3d 65 [164 Cal.Rptr. 279]

- Foreign attorney in law office
 - Rule 9.44, California Rules of Court
 - LA 426 (1984)
- Ghostwriting pleadings
 - U.S. v. Kimsey (9th Cir. 2012) 668 F.3d 691
- Guardian ad litem
 - Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
 - J.W., a Minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]
- Holding oneself out as entitled to practice law
 - Business and Professions Code section 6127
 - California attorney held himself out as entitled to practice law in other states
 - In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
- contempt of court
 - Business and Professions Code section 6127(b)
 - In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
 - People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
- disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., “accountants”) which are normally used only by state licensees
 - Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 358]
- honorific “ESQ” appended to a signature creates an impression that the person signing is presently able and entitled to practice law
 - People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
 - In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
 - [CAL](#) 1999-154
- lawyer
 - disbarred or under suspension
 - Business and Professions Code sections 6125, 6126, and 6127
 - Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]
 - resigned with charges pending mid-trial
 - In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
 - Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
 - People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
- letterhead of New York law firm listing a California lawyer as “admitted in California only”
 - Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
- misdemeanor where person not active member of the State Bar of California
 - Business and Professions Code section 6126 (a)
- non-lawyers
 - Business and Professions Code section 6127(b)
 - In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
 - In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889, 543 P.2d 257]
 - use of terms “Legal Aid,” “Legal Aid Services,” “Legal Services”
 - Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
- non-member administrative proceeding advisor
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
 - Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- suspension order disqualifies an attorney not only from practicing law but also from holding himself or herself out as entitled to practice
 - Arm v. State Bar (1990) 50 Cal.3d 763, 775 [268 Cal.Rptr. 789, 789 P.2d 922]
- In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
- In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
- In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
- while living out-of-state, indicating only that respondent was licensed in California, no indication such as “only” in California or “not licensed” in other state
 - In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- Immigration matters
 - law corporations allowed a resigned member to provide legal services in INS matters to clients in violation of rules of professional conduct and the State Bar act
 - People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
 - use of Notarios or Notarios publicos
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Inactive member
 - In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
- Individuals with Disabilities Education Act (IDEA) allows parents to prosecute claims under the act on their own behalf without representation by counsel
 - Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
- Ineffective assistance of counsel
 - People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]
 - People v. Johnson (1990) 224 Cal.App.3d 52
 - in-house counsel representing insureds
 - [CAL](#) 1987-91
- Internet advertising
 - [CAL](#) 2001-155
- Investigation service
 - in personal injury matters
 - not agree to collect any claim for damages
 - not practice of law
 - LA 81 (1935)
- Lay person
 - may not represent another
 - Simon v. Hartford Life, Inc. (9th Cir. 2008) 546 F.3d 661
 - People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
 - Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
 - Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
 - Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
 - J.W., a minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]
 - Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]
 - assignment of debt for breach of contract did not create attorney-client relationship between assignor and assignee
 - Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
- may not represent unincorporated association in court
 - Clean Air Transport Systems v. San Mateo County Transit District (1988) 198 Cal.App.3d 576 [243 Cal.Rptr. 799]
- referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
 - Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]
 - Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

UNAUTHORIZED PRACTICE OF LAW

- represents before administrative agency
 - Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
 - Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
 - LA 195 (1952)
- resigned attorney may not represent parties in state administrative hearings
 - Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- self-representation
 - trustees representing themselves is not an unauthorized practice of law
 - Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260 Cal.Rptr.3d 844]
 - trustees seeking judicial clarification on how to interpret trust document where the matter is between trustees and trust beneficiaries in the context of probate proceeding is not an unauthorized practice of law
 - Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260 Cal.Rptr.3d 844]
- treble damages warranted for injury caused by unlicensed practice of law
 - Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
 - McKay v. Longworth (1989) 211 Cal.App.3d 1592 [260 Cal.Rptr. 250]
- Legal services corporation which includes non-attorney see shareholders
 - LA 444 (1987)
 - Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services
 - Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
- Lending name of attorney
 - to be used by non-lawyer
 - in collection cases
 - LA 61 (1930)
- Lending to non-attorney
 - Business and Professions Code section 6105
 - McGregor v. State Bar (1944) 24 Cal.2d 283, 286-287 [148 P.2d 865]
- Letterhead
 - in-house counsel for insurance company representing insureds
 - [CAL](#) 1987-91
 - use of attorney's by non-lawyer
 - [CAL](#) 1969-18
- Licensed attorneys practicing in another jurisdiction where they are not licensed including in a federal court which required membership in the state where resident resided and practicing in that state
 - In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- Licensed attorneys who are not active members of the State Bar of California
 - certification of non-resident, out-of-state attorney arbitration representatives
 - Code of Civil Procedure section 1282.4
 - effect on underlying matter
 - Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
 - People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]
 - *People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
 - People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
 - Gomez v. Roney (1979) 88 Cal.App.3d 274
- criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
 - In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
 - People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
- out-of-state attorneys
 - Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
 - Russell v. Hug (9th Cir. 2002) 275 F.3d 812
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
 - Giannini v. Real (9th Cir. 1990) 911 F.2d 354
 - Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
 - In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 - Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]
- subject to liability for malpractice
 - Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
- outsourced legal services
 - LA 518 (2006)
 - SD 2007-1
 - see also:
 - 40 So.Cal.L.Rev. 569
 - 11 ALR3d 907
 - 19 Stanf.L.Rev. 856
- Living Trusts
 - In re Mid-American Living Trust Association, Inc., et al. (Mo. 1996) 927 S.W.2d 855
 - The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
 - [CAL](#) 1997-148
 - unauthorized practice of law not found where non-attorney represents himself as sole trustee, sole settlor and beneficiary in litigation involving trust property
 - Aulisio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]
- Medical-legal consulting service
 - Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
- Name of attorney
 - use of, by non-lawyer
 - LA 16 (1922)
- Non-lawyers
 - In re Peterson (1994) 163 B.R. 665
 - bankruptcy petition preparers
 - In re Reynoso (9th Cir. 2007) 477 F.3d 1117
 - bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services
 - Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
 - code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and right to privacy
 - In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]
 - certified law student
 - People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]
 - certified public accountant
 - Zelkin v. Caruso Discount Corp. (1960) 186 Cal.App.2d 802, 805-806 [9 Cal.Rptr. 220]
 - Agran v. Shapiro (1954) 127 Cal.App.2d Supp. 807, 815 [273 P.2d 619]
 - collection agencies
 - Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]

LeDoux v. Credit Research Corp. (1975) 52 Cal.App.3d 451, 454 [125 Cal.Rptr. 166]
Cohn v. Thompson (1932) 128 Cal.App.Supp. 783, 787 LA 522 (2009)

contract negotiation
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

corporation
 -Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
 -need not be represented by counsel before administrative agencies
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
 -representation by, prohibited in court of law
Merco Constr. Eng. Inc. v. Municipal Court (1978) 21 Cal.3d 724 [147 Cal.Rptr. 631, 581 P.2d 636]

corporation formation
 LA 69 (1933)

divorce center
 SD 1983-12

effect on underlying matter
Russell v. Dopp (1995) 36 Cal.App.4th 765 [42 Cal.Rptr.2d 768]
City of Downey v. Johnson (1968) 263 Cal.App.2d 775 [69 Cal.Rptr. 630]
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]

eviction service
People v. Landlords Professional Services (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]

executor of estate
City of Downey v. Johnson (1968) 263 Cal.App.2d 775, 778 [69 Cal.Rptr. 830]

heir hunter
Estate of Butler (1947) 29 Cal.2d 644, 651 [177 P.2d 16]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Estate of Collins (1968) 268 Cal.App.2d 86, 92 [73 Cal.Rptr. 599]

immigration consultants
 -no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel
Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014

insurance adjuster
 Insurance Code section 14000 et seq.
 Insurance Code section 15002 et seq.
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

insurance company
Woodruff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]

law clerks
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Johnson v. Davidson (1921) 54 Cal.App. 251, 257 [202 P. 159]
 SD 1983-7, SD 1974-5

law students
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
 SD 1983-7, SD 1974-1, SD 1973-9

living trust marketers
In re Mid-American Living Trust Association, Inc., et al. (Mo. 1996) 927 S.W.2d 855
The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
CAL 1997-148

negotiate reaffirmation agreement with chapter 7 debtors
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

notary public
Biakanja v. Irving (1958) 49 Cal.2d 647 [320 P.2d 16]
Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507 [120 Cal.Rptr. 207]
 76 Ops. Cal. Atty. Gen. 193 (8/30/93; No. 93-303)

outsourced legal services
 LA 518 (2006)

paralegals
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364, fn.3 LA 522 (2009), OC 94-002
 -appearance before Workers' Compensation Appeals Board
CAL 1988-103
 -general guidelines
 SD 1983-7, SD 1976-9

parents may prosecute claims under the Individuals with Disabilities Education Act without representation by counsel
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]

penalties and other effects
In re Carpenter (1931) 213 Cal. 122 [1 P.2d 983]
Mickel v. Murphy (1957) 147 Cal.App.2d 718, 722 [305 P.2d 993]

probation officer
In re Steven C. (1970) 9 Cal.App.3d 255, 265 [88 Cal.Rptr. 97]

providing small claims, para-court services in partnership with attorney
 SD 1983-4

real estate brokers
People v. Sipper (1943) 61 Cal.App.2d Supp. 844, 846-847 [142 P.2d 960]

resigned attorney
 -attorney allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

scrivener
 -petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
Taub v. Weber (9th Cir. 2004) 366 F.3d 966

trustee represents interests of beneficiaries
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

unlawful detainer assistants
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]

Out-of-state attorneys
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]

UNAUTHORIZED PRACTICE OF LAW

- as ghostwriter
OC 2014-1
- bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate
In re Peterson (1994) 163 B.R. 665
- California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
- certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
- foreign attorney's declaration of fault entitled client to relief under CCP § 473
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
- out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
- remote practice of law
SF 2021-1
- subject to liability for malpractice
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
- see also:
40 So. Cal. L. Rev. 569
11 ALR 907
19 Stanf. L. Rev. 856
- Outsourced legal services
LA 518 (2006)
SD 2007-1
- Participate in activity that assists unauthorized practice of law
LA 286 (1965)
as partner in agency conducting small claims court actions
SD 1983-4
renting law office
-to out-of-state lawyer
--where public led to believe person admitted in California
LA 99 (1936)
- Partnership with non-lawyer
LA 444 (1987), LA 372 (1978), LA 335 (1973)
- Power of attorney
Alexander v. Robertson (9th Cir. 1990) 882 F.2d 421
Porter v. State Bar (1990) 52 Cal.3d 518
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
- Practice in jurisdiction, outside of California, where attorney is not licensed
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- Practice of law, defined
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Morgan v. State Bar (1990) 51 Cal.3d 598
Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]
- Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
OC 94-002, SD 1983-4, SD 1983-7
- Preparation of legal documents
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
Law Offices of Matthew Higbee v. Expungement Assistance Services (2013) 214 Cal.App.4th 544 [153 Cal.Rptr.3d 865]
- Prepare petition for court of another state
LA 218 (1953)
- Pro hac vice
Rule 9.40, California Rules of Court
Paculian v. George (9th Cir. 2000) 229 F.3d 1226
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
- Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
- attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
- counsel for plaintiffs "practice law in California" without pro hac vice admission therefore fee section of settlement deemed illegal
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
- defendant not entitled to pro hac vice representation by attorney who failed to follow court rules
United States v. Ries (9th Cir. 1996) 100 F.3d 1469
- duties of associate counsel
People v. Cooks (1983) 141 Cal.App.3d 224 [190 Cal.Rptr. 211]
- out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
- Qualification for non-lawyer immigration consultant
People v. Salcido (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]
- Questions about research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
Office of Professional Competence
180 Howard Street, San Francisco, CA 94105
(415) 538-2150
(800) 238-4427 (within CA)
- Remote practice of law
SF 2021-1
- Representation by non-lawyer in court of law prohibited
Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
Merco Const. Eng. v. Municipal Court (1978) 21 Cal.3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]
Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

Sanctions

guarantee of right to counsel denied when representation is provided by an attorney who has submitted a resignation with disciplinary charges pending and placed on inactive status

In re Johnson (1992) 1 Cal.App.4th 689

monetary award against law firm proper sanction for aiding in unauthorized practice of law

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

voiding judgment inappropriate where it neither protects judicial integrity nor vindicates interests of parties

Retail Clerks Union Joint Pension Trust v. Freedom Food Center, Inc. (9th Cir. 1991) 938 F.2d 136

Alexander v. Robertson (9th Cir. 1989) 882 F.2d 421

Special hearings

administrative proceeding

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

-resigned attorney may not represent parties in state administrative hearings

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

alcohol beverage control appeals board

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

certification of non-resident, out-of-state attorney representatives

Code of Civil Procedure section 1282.4

city council proceedings

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 543 [86 Cal.Rptr. 673, 496 P.2d 353]

justice court proceedings

Gray v. Justice's Court (1937) 18 Cal.App.2d 420, 423 [63 P.2d 1160]

patent

Sperry v. Florida (1963) 373 U.S. 379 [83 S.Ct. 1322, 10 L. Ed. 2d 428]

Schroeder v. Wheeler (1932) 126 Cal.App.367 [14 P.2d 903]

public utilities commission proceedings

Consumers Lobby Against Monopolies v. PUC (1979) 25 Cal.3d 891, 913 [160 Cal.Rptr. 124, 603 P.2d 41] 80 Ops. Cal. Atty. Gen. 221 (8/5/97; No. 97-409)

securities arbitration proceedings

Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]

workers' compensation proceedings

Eagle Indemnity Co. v. Industrial Accident Commission (1933) 217 Cal. 244, 247 [18 P.2d 341]

CAL 1988-103

-disbarred or suspended attorney may be excluded from participation in Workers' Compensation proceedings
Title 8 CA Administration Code section 10779

-non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

State Bar Act of 1927

Section 47.49

People v. Ring (1937) 26 Cal.App.2d Supp. 768, 771

Trademark matters

unlawful practice before the United State Patent and Trademark Office

In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418

Transactional matter

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Treble damages in civil action caused by unlicensed persons

CCP § 1029.8

Unfair business practices and unlawful advertising

Business and Professions Code section 17200

Unfair Competition Law

district attorney may hire private counsel to pursue civil penalties under California's Unfair Competition Law (UCL)

American Bankers Management Company, Inc. v. Heryford (9th Cir. 2018) 885 F.3d 629

law firm may sue online legal services provider for unfair competition based on unauthorized practice of law

Law Offices of Matthew Higbee v. Expungement Assistance Services (2013) 214 Cal.App.4th 544 [153 Cal.Rptr.3d 865]

Unincorporated association

lay person may not represent in court

Clean Air Transport Systems v. San Mateo County Transit District (1988) 198 Cal.App.3d 576 [243 Cal.Rptr. 799]

Virtual law office (VLO)

CAL 2012-184

"Writ mill"

In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

UNPOPULAR CAUSE

Business and Professions Code section 6068(h)

UNREPRESENTED PERSON [See Communication, Not represented by counsel.]

USURY

California Constitution Art. 15, Usury § 1, par. 2

on past due receivables

CAL 1980-53

LA 374 (1978), LA 370 (1978)

SD 1983-1, SD 1976-8, SF 1970-1

Enforce usurious claim

LA 44 (1927)

VIOLATION OF THE LAW [See Advising violation of the law.]

WILL [See Estate, Trustee.]

Attorney as beneficiary

undue influence

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

LA 462 (1990)

Attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Attorney who drafted will was later employed as attorney for executor

Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

Counsel for organization drafts for those leaving money to it

LA 428 (1984), LA(l) 1966-17

Failure to advise client regarding requirements governing presumptively disqualified donees may lead to liability to intended beneficiary

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

Given to executor after incompetency of client

LA 229 (1955)

Person who must sign will is a client regardless of who has sought out and employed the attorney

SD 1990-3

Will depository

Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent

CAL 2007-173

Will revision considered protected activity for anti-SLAPP motion purposes

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

WIRETAPPING

attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests

[CAL](#) 2007-173

WIRETAPPING [See Recording.]

WITHDRAWAL FROM EMPLOYMENT [See Conflict of interest.

Files. Public office. Substitution of counsel.]

Code of Civil Procedure section 284 et seq.

Rule 3.1362, California Rules of Court

Rules 2-111 and 8-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Acts of attorney required to demonstrate the existence of a continuing attorney-client relationship

[Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al.](#) (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

Appeal

indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

[United States v. Griffy](#) (9th Cir. 1990) 895 F.2d 561

Assisting the transition from one attorney to another is not providing assistance on the same subject matter of the representation and thus does not constitute a continuing attorney/client relationship

[Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al.](#) (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

Associate leaving law firm

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

[CAL](#) 2020-201, [CAL](#) 2014-190, [CAL](#) 1985-86, LA 405 (1982)

Attorney appointed by court to represent a minor

[In re Jesse C.](#) (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

Attorney as advisor for an in propria persona litigant

LA 502 (1999)

Attorney as witness

[Kirsch v. Duryea](#) (1978) 21 Cal.3d 303, 310 [146 Cal.Rptr. 218, 578 P.2d 935]

[Comden v. Superior Court](#) (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]

[Smith, Smith & Kring v. Superior Court](#) (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

[People v. Goldstein](#) (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]

[People v. Goldstein](#) (1981) 126 Cal.App.3d 550, 554 [178 Cal.Rptr. 894]

[Reich v. Club Universe](#) (1981) 125 Cal.App.3d 965 [178 Cal.Rptr. 473]

[Lyle v. Superior Court](#) (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]

[Chronometrics, Inc. v. Sysgen, Inc.](#) (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]

[People v. Ballard](#) (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]

[Harris v. Superior Court](#) (1979) 97 Cal.App.3d 488, 492 [158 Cal.Rptr. 807]

[Graphic Process Co. v. Superior Court](#) (1979) 95 Cal.App.3d 43, 50 [156 Cal.Rptr. 841]

[Brown v. DeRuggeris](#) (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]

[People ex rel. Younger v. Superior Court](#) (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]

*[People v. Superior Court \(Hollenbeck\)](#) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]

[People v. Guerrero](#) (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]

[People v. Smith](#) (1970) 13 Cal.App.3d 897, 903 [91 Cal.Rptr. 786]

[Kalmus v. Kalmus](#) (1951) 103 Cal.App.2d 405, 423 [230 P.2d 57]

LA 399 (1982)

Attorney for guardian ad litem

[Mossanen v. Manfared](#) (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]

[Torres v. Friedman](#) (1985) 169 Cal.App.3d 880, 888 [215 Cal.Rptr. 604]

SD 2017-2

Attorney who might be called as witness not required to withdraw with written consent of client

[Smith, Smith & Kring v. Superior Court](#) (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

[People v. Goldstein](#) (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]

Attorney-client relationship not established

LA(I) 1968-7

Before suing client for fee

LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

Break-down in communications asserted as basis for withdrawal but court does not agree

[Rus, Miliband & Smith v. Conkle & Olesten](#) (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Cannot provide level of advocacy required by rule 6-101

[People v. Munoz](#) (1974) 411 Cal.App.3d 62 [115 Cal.Rptr. 726]

Class action

counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment

[Barboza v. West Coast Digital GSM Inc.](#) (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]

duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate

[7-Eleven Owners for Fair Franchising v. The Southland Corporation](#) (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Client

appears to have abandoned case

[CAL](#) 1989-111

LA 441 (1987), LA(I) 1958-1

burden to prove

[William H. Raley Co. v. Superior Court](#) (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]

cannot be located

[CAL](#) 1989-111

LA 441 (1987)

claims cannot pay fee

LA 356 (1976)

SD 1983-6

commits

-fraud

LA 329 (1972)

SF 1977-2

-perjury

[CAL](#) 1983-74

LA(I) 1974-7

conducts undercover surveillance of opposing party

LA 315 (1970)

engaged in unlawful activity

LA 353 (1976)

intends to commit perjury

[People v. Bolton](#) (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

[People v. Brown](#) (1988) 203 Cal.App.3d 1335

LA 362 (1976)

objects to fee

LA 211 (1953)

perjured testimony

[CAL](#) 1983-74

OC 2003-01

plaintiff's failure to correct defendant's overpayment of a settlement may require withdrawal if plaintiff's conduct constitutes a fraud

LA 520 (2007)

refuses to file accurate fiduciary accounting

SD 1983-10

refuses to follow advice

LA 362 (1976)

threatens harm to attorney or attorney's staff

-veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

unable to pay fee

LA 251 (1958)

uncooperativeness of client

Shukry Messih v. Lee Drug, Inc. (1985) 174 Cal.App.3d 312, 313-314 [220 Cal.Rptr. 43]

Client conduct renders continued representation unreasonably difficult

leads attorney to believe client needs a conservator

OC 95-002

Client's claim lacks merit

CAL 2019-198

Client's refusal to cooperate with attorney's withdrawal does not excuse attorney from making motion to be removed as counsel of record

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Code of Civil Procedure section 284

People v. Bouchard (1957) 49 Cal.2d 438, 440 [317 P.2d 971]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Roswall v. Municipal Court (1979) 89 Cal.App.3d 467, 472 [152 Cal.Rptr. 337]

Mandell v. Superior Court (1977) 67 Cal.App.3d 1, 4 [136 Cal.Rptr. 354]

People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]

People v. Kerfoot (1960) 184 Cal.App.2d 622, 635 [7 Cal.Rptr. 674]

Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423-424 [230 P.2d 57]

Compensation dispute

People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]

People v. Collins (1966) 242 Cal.App.2d 626, 636 [51 Cal.Rptr. 604]

Helpe v. Kluge (1951) 104 Cal.App.2d 461 [231 P.2d 505]

Cassell v. Gregori (1937) 28 Cal.App.2d Supp. 769, 771

Linn v. Superior Court (1926) 79 Cal.App. 721 [250 P. 880]

LA 251 (1958), LA 212 (1953), SD 1983-6

Competence of attorney

People v. Strozier (1993) 20 Cal.App.4th 55 [24 Cal.Rptr.2d 362]

Conflict of interest

Hodcarriers, etc. Local Union v. Miller (1966) 243 Cal.App.2d 391 [52 Cal.Rptr. 251]

SD 1972-1

appearance of impropriety due to counsel's relationship with judge may be cured by withdrawal

In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557

becoming apparent

LA 333 (1973), LA 219 (1954)

may be required where attorney represents corporation and officer in separate matters and then learns of officer's sexual harassment of employees of corporation

CAL 2003-163

multiple representation

-where client's interests become adverse

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

CAL 1988-96

LA 471 (1992), LA 459 (1990), LA 427 (1984), LA 395 (1982)

obligated to withdraw when consent cannot be obtained to an actual conflict

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

public defender must re-evaluate minor's situation, when charged in a subsequent petition, and offer representation if a prior conflict no longer exists and other statutory requirements are met

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

removal of criminal defense attorney improper due to insufficient conflict of interest

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

request by public defender to be re-appointed as counsel of record after withdrawing based on a conflict of interest required that defendant's new appointed counsel be present at the hearing

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Contract for employment

includes substitution of attorney clause

LA 371 (1977)

Control by court

DeRecat Corp. v. Dunn (1926) 197 Cal. 787 [242 P. 936]

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

Gion v. Stroud (1961) 191 Cal.App.2d 277 [12 Cal.Rptr. 540]

Cassel v. Gregori (1937) 28 Cal.App.2d Supp. 769 [70 P.2d 721]

Linn v. Superior Court (1926) 79 Cal.App. 721

discretion

People v. Turner (1992) 7 Cal.App.4th 913

People v. Brown (1988) 203 Cal.App.3d 1335

People v. Stevens (1984) 156 Cal.App.3d 1119, 1128 [203 Cal.Rptr. 505]

substitution sought on morning of probation revocation hearing

People v. Turner (1992) 7 Cal.App.4th 913

Counsel who represented defendant at preliminary examination only was not required to file formal motion to withdraw

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

Criminal cases

based on public defender's excessive caseload and limited resources

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

following impeachment of a prosecution witness by prosecutor's own testimony

People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

not required, defense counsel may Wendt appellate briefs instead

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

WITHDRAWAL FROM EMPLOYMENT

De facto withdrawal

In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131

Delay in serving complaint excused, in part, because of a last minute change of attorneys

Yao v. Anaheim Eye Medical Group (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]

Dependency proceedings

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609] inability to provide competent legal services because of disagreement with a minor client
LA 504 (2000)

Determination whether to grant or deny motion to withdraw as counsel of record lies within sound discretion of trial court

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

Discharge of attorney

Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]

Disclosure of client confidence or secret during withdrawal

Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1129 [78 Cal.Rptr.2d 494]

People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]

CAL 2015-192, LA 498 (1999)

Disqualification of counsel

entire firm disqualified

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232] trial court has power

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]

Dissolution of law firm

CAL 2014-190

notice to clients

Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

CAL 2020-201, CAL 1985-86, LA 405 (1982)

Domestic relations case

Code of Civil Procedure section 285.1

Reynolds v. Reynolds (1943) 21 Cal.2d 580
SF 1973-5, SF 1977-2

Duties not altered by who terminates relationship

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

Duty to avoid foreseeable prejudice

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Martin v. State Bar (1991) 52 Cal.3d 1055

Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]

Kapelus v. State Bar (1987) 44 Cal.3d 179

Frazer v. State Bar (1987) 43 Cal.3d 564 [238 Cal.Rptr. 54]

Franklin v. State Bar (1986) 41 Cal.3d 700 [244 Cal.Rptr. 738]

Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

CAL 2014-190, CAL 1992-127

attorney's failure to file lawsuit or negotiate the settlement led to loss of claim after statute of limitation expired

In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564

rule barring withdrawal from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client not violated where client consents to withdrawal and requests that its file be transferred to replacement counsel

GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

Duty to avoid reasonable prejudice

CAL 2019-198

Duty to client and administration of justice require effectuation of consensual withdrawal or motion under Code of Civil Procedure section 284

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Duty to impart information to third parties at former client's request

LA 360 (1976), LA 330 (1972)

Duty to represent client until court approves withdrawal

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
CAL 1994-134

Effect on contingency fee contract

Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

Failure to communicate with clients regarding intention to withdraw

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

Failure to execute a substitution of attorney

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

Failure to move to withdraw as counsel paired with client's belief that he was represented constitutes abandonment of client

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Failure to return client property

Martin v. State Bar (1991) 52 Cal.3d 1055

Failure to return unearned fees

Harford v. State Bar (1990) 52 Cal.3d 93

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

Failure to take reasonable steps to avoid prejudice by first attorney's lack of cooperation with client's new attorney

Friedman v. State Bar (1990) 50 Cal.3d 235

Fee dispute

LA 521 (2007)

settlement negotiations do not require attorney to withdraw
CAL 2009-178

File

King v. State Bar (1990) 52 Cal.3d 307

Cal Pak Delivery v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
CAL 1992-127
 electronic file
CAL 2007-174
 mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client
 LA 509 (2002)
 multiple clients each demand the original
 LA 493 (1998)

For non-payment of fee
 LA 362 (1976), LA 212 (1953)
 court cannot coerce attorney to represent defendant at trial without compensation when defendant paid for attorney's appearance at the preliminary examination only
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
 failure or refusal to pay or secure proper fees or expenses as grounds for withdrawal
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
 notice to client
 LA 125 (1940)
 SD 1978-7
 suit for fees
 LA 476 (1994) LA 407 (1982), LA 362 (1976) LA 212 (1953)

Formal substitution ordinarily ends the attorney/client relationship. However, the relationship can continue—notwithstanding the withdrawal and substitution—if objective evidence shows that the attorney continues to provide legal advice or services.
Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
 Former client, not party, objects to representation
 LA(l) 1976-3
 "Framework" agreement for future representation did not require withdrawal to terminate contract which was not self-effectuating because it required reciprocal actions by attorney and client, there was no current representation
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Frivolous appeal
 brief requirement prior to withdrawal discussing frivolous appeal deemed permissible
McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
 defense counsel believes that American Bar Association Model Rule 3.1 would be violated by asserting issues claimed by defendant
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921

If client persists in illegitimate acts
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

Inability to provide services as agreed through virtual law office (VLO) setting
CAL 2012-184

Inability to work with co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Incompetence of attorney
 LA 383 (1979)

Ineffective assistance of counsel as basis for motion
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]

Intent to withdraw is not necessary for finding client abandonment
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Legal aid lawyer
CAL 1981-64, SD 1983-6, SF 1973-5

Mandatory withdrawal
 Rule 2-111(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
CAL 2019-200, CAL 2019-198, CAL 2013-189, CAL 1995-139
 attorney must withdraw if attorney obtains from insured that could provide basis for insurance carrier to deny coverage
 LA 528 (2017)
 client letter containing perceived insults of law firm is not a basis for mandatory withdrawal
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
 client's case lacks merit
CAL 2019-198

Minimal requirements
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Motion for
 Rule 3.1362, California Rules of Court
 attorney failed to seek permission to withdraw, as required by district court's rule
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
 attorney may declare a conflict of interest without disclosing facts
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
 attorney honor client's instructions not to disclose confidential information
 LA 504 (2000)
 based on public defender's excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 failure to file a brief in compliance with applicable procedures
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921
 may be denied if attorney fails to provide even general information regarding nature of ethical dilemma
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
CAL 2015-192

Neglect [See Neglect.]
 protect client's position in litigation
 LA 125 (1940)

Neighborhood Legal Assistance Foundation
 SF 1973-5

Notice of withdrawal not communicated to client is prejudicial
In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

Partial when case against one defendant weak
 LA 223 (1954)

Perjury
 Rule 2-111(B)(1) and (C)(1)(a), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
 by client
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

WITHDRAWAL FROM EMPLOYMENT

- People v. Brown (1988) 203 Cal.App.3d 1335
CAL 1983-74, LA 305 (1968), OC 2003-01
- Permissive withdrawal by attorney
- Rule 2-111(C), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
- Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]
- Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
- Vann v. Shilleh (1975) 54 Cal.App.3d 192 [126 Cal.Rptr. 401]
- Lane v. Storke (1909) 10 Cal.App. 347 [101 P. 937]
- attorney's claim of permissive basis rejected
- Rus. Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
- client's conduct leads attorney to believe client needs a conservator
- OC 95-002
- Prejudice to client
- Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
- Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
- Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009
- Martin v. State Bar (1991) 52 Cal.3d 1055
- Borré v. State Bar (1991) 52 Cal.3d 1047
- Aronin v. State Bar (1990) 52 Cal.3d 276
- Cannon v. State Bar (1990) 51 Cal.3d 1103
- In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
- Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
- Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
- Kapelus v. State Bar (1987) 44 Cal.3d 179
- Frazer v. State Bar (1987) 43 Cal.3d 564 [238 Cal.Rptr. 54]
- Franklin v. State Bar (1986) 41 Cal.3d 700
- Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
- Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
- Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
- In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
- In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
- In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
- In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- arguing against the interest of client in making motion to withdraw
- In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- collaborative family law practice, in order to avoid prejudice, the circumstances for withdrawal must be adequately addressed at the outset of the attorney-client relationship
- OC 2011-01
- Recusal of district attorney staff, conflict of interest
- People v. Lopez (1984) 155 Cal.App.3d 813, 824-826
- Representation ends when client actually has or reasonably should have no expectation that the attorney will provide further legal services for purposes of CCP 340.6(a)(2)
- Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
- Representation of a corporation
- Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]
- Request for withdrawal properly denied despite prospect of client perjury
- People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- People v. Brown (1988) 203 Cal.App.3d 1335
- Return papers and property to client
- SD 1997-1, SD 1984-3, SD 1977-3
- Right to establish in retainer agreement
- LA 371 (1977)
- Scope of representation
- Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
- LA 483 (1995), LA 476 (1995)
- Skilled counsel prejudices criminal defendant
- People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]
- Substitution of attorney clause in retainer agreement
- LA 371 (1977)
- Suit for fees
- LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
- Threat to withdraw if client refuses settlement
- Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
- Timeliness of motion for substitution of counsel
- United States v. Moore (9th Cir. 1998) 159 F.3d 1154
- Unjustifiable delay in cooperating with client's new attorney
- Conroy v. State Bar (1991) 53 Cal.3d 495
- King v. State Bar (1990) 52 Cal.3d 307
- Friedman v. State Bar (1990) 50 Cal.3d 235
- In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
- Unpaid fee
- Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
- Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
- LA 476 (1994), LA 407 (1982), LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA(I) 1936-1
- by third party
- *Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
- CAL 1981-64
- debtor's pursuit of discharge in bankruptcy is not breach of duty to pay
- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
- no denial of effective assistance of counsel when defendant becomes indigent and retained counsel withdraws because court denies request to appoint the retained counsel
- People v. Castillo (1991) 233 Cal.App.3d 36
- settlement, conflicting instructions from insured and assured
- LA 344 (1974)
- suit for fees
- LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
- Violation of professional responsibility
- Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
- Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090-1091 [206 Cal.Rptr. 45]
- failure to withdraw where required due to incapacity
- Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- Violation of the withdrawal rule is not inconsistent with discipline for failure to communicate
- In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

- In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
- Witness
- Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
- in case
- LA 367 (1977), LA 323 (1971)
- for client
- LA 399 (1982), LA 323 (1971), LA 203 (1952), LA(l) 1970-13
- WITNESS** [See Lay employee. Testimony.]
- Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
- Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
- Attorney as
- Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
- SD 2017-1
- about nature and value of services rendered
- Brandt v. Superior Court (1985) 37 Cal.3d 813, 820 fn.7 [210 Cal.Rptr. 211]
- Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]
- against criminal defendant
- *Olson v. Superior Court (1984) 157 Cal.App.3d 780, 791 [204 Cal.Rptr. 217]
- United States v. Edwards (9th Cir. 1998) 154 F.3d 915
- against former client
- LA 75 (1934)
- associate of attorney as
- LA 399 (1982)
- before grand jury
- In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554
- behalf of adverse party
- duty to assert privilege
- LA 20 (1923)
- calling former associate as witness
- LA 399 (1982)
- client's right to counsel of choice
- Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- Lyle v. Superior Court (1981) 122 Cal.App.3d 470 [175 Cal.Rptr. 918]
- consent of client
- Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
- Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
- CAL 1993-133
- calling former associate as witness
- LA 399 (1982)
- defense counsel testifies at penalty phase
- People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
- for impeachment purposes
- Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
- not applicable to non-jury trials
- Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
- exception where roles of advocate and witness are irreconcilable, multiple conflicting and awkward roles; witness and advocate for son adverse to mother of grandson
- Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
- proceeding where representing client
- on behalf of client
- Rule 2-111(A)(4), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
- Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
- Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
- LA 367 (1977)
- on behalf of party other than client
- Rule 2-111(A)(5), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
- LA 323 (1971)
- prosecutor
- U.S. v. Prantil (1985) 756 F.2d 759
- People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
- purpose of ethical prohibition against attorney acting as both advocate and witness
- Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
- People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
- where representing client in same proceeding
- called by party other than client
- Graphic Process v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]
- Communication with
- LA 490 (1997), LA 234 (1956), LA 213 (1953), LA(l) 1975-3 SD 1983-9
- Contact with
- Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
- communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
- County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- defense attorney consults in confidence one defendant who becomes witness against other co-defendants
- attorney may not represent other co-defendants
- LA 366 (1977)
- defense attorney contact treating physician of plaintiff
- notification of attorney
- Rules of Professional Conduct, rule 7-107, former rule 15 SD 1983-9
- suppressing evidence which attorney has a legal obligation to reveal or produce
- Rule 7-107(A), Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-220, Rules of Professional Conduct (operative as of May 27, 1989)
- Price v. State Bar (1982) 30 Cal.3d 537, 543-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
- advising or causing witness to secrete himself
- Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
- Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

WORK PRODUCT

- Snyder v. State Bar (1976) 18 Cal.3d 286, 288-291 [133 Cal.Rptr. 864, 555 P.2d 1104]
Waterman v. State Bar (1936) 8 Cal.2d 17, 18-21 [63 P.2d 1133]
- expert witness is former client of attorney
LA 513 (2005)
- plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
- Contingent fee prohibited
Oieda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1 [CAL 1984-79]
- Intimidation of
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
disbarment for soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
- Judge
solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
when testify as witness in a case in which he presides must give advance notice and obtain consent of parties
People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
- Non-party recovery of costs of subpoena duces tecum
In re Marriage of Stephens (1984) 156 Cal.App.3d 909
- Payment to
Hare v. McGue (1918) 178 Cal. 740
Von Kesler v. Baker (1933) 131 Cal.App. 654
LA(I) 1954-6
by a criminal defendant for purposes of civil compromise (Penal Code 1377-78) where payment is made to complaining witness/victim in criminal matter
People v. Moulton (1982) 131 Cal.App.3d Supp. 10 [182 Cal.Rptr. 761]
People v. Strub (1975) 49 Cal.App.3d Supp. 1 [122 Cal.Rptr. 374]
- expert
Davis v. City and County of San Francisco (9th Cir. 1992) 976 F.2d 1536
LA(I) 1969-7
- non-expert
CAL 1997-149
- transportation, meals, lodging
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
- Perjury
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Physician as expert witness
SD 1984-4
communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- Prosecution
client in another matter
SD 1974-15
former client is
United States v. Henke (9th Cir. 2000) 222 F.3d 633
prosecutor as witness to impeach testimony of prosecution witness' testimony
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
CAL 1980-52
SD 1974-15
- Purpose of [rule](#) 5-210
Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
- Request warrant for absent witness when responsible for non-appearance
LA(I) 1969-9
- When counsel in case
LA 312 (1969), LA 203 (1952), LA(I) 1972-1, LA(I) 1970-13
partnership
LA 367 (1977), LA 323 (1971), LA 312 (1969)
- ## WORK PRODUCT
- Client's right to
Rose v. State Bar (1989) 49 Cal.3d 646 [262 Cal.Rptr. 702]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
MGM, Inc. v. Superior Court (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]
Rumac v. Bottomley (1983) 143 Cal.App.3d 810, 812 In. 3 [192 Cal.Rptr. 104]
CAL 1994-134, CAL 1992-127, SD 2004-1, SD 1997-1, SF 1990-1
- Common interest doctrine
determination of privilege under a joint prosecution or defense agreement
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
no waiver of the privilege under a joint prosecution or defense agreement
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
- Expert
need not be removed where plaintiff's expert was previously represented by defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Federal Rule of Civil Procedure 26(b)(3)
report prepared by expert-consultant is protected by the attorney's work product privilege
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
- Of attorney
California Code of Civil Procedure section 2018 (b), (c), (f)
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.App.4th 844]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Thompson v. Superior Court (1997) 53 Cal.App.4th 480 [61 Cal.Rptr.2d 785]
In re Tabatha G. (1994) 45 Cal.App.4th 1159 [53 Cal.Rptr.2d 93]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
CAL 2013-188, CAL 1994-134, LA 531 (2019), SD 2004-1, SD 1997-1

- applicable to non-attorney in propria persona litigant
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
- belongs to attorney
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
- belongs to client whether or not attorney has been paid
Weiss v. Marcus (1975) 51 Cal.3d 590
CAL 1992-127
 LA 330, LA 362, SD 1997-1, SF 1984-1, SF 1975-4
- belongs to law firm and not associate of firm
Ellis v. Superior Court (Nelson) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]
- disclosure of putative class members' identity does not violate
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- does not extend to disclosure of identity of non-testifying expert
Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
- general (qualified) versus attorney's impressions, conclusions, opinions, or legal research or theories (absolute)
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]
- identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)
Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]
- intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]
- merely turning over documents prepared independently by party to attorney does not make them privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- report prepared by expert-consultant is protected by the attorney's work product privilege
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
- restrictions on discovery of an attorney's impressions, conclusions, opinions or legal research, (CCP § 2018.030)
Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]
- standing to assert absolute or qualified privilege
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
- unwritten opinion work product is entitled to the protection of the absolute work product privilege
Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
- Privilege
 by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
- corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
- deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
- does not extend to disclosure of identity of a non-testifying expert
Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
- fraud or crime exception does not apply to work product
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
CAL 2013-188
- hardship test for non-opinion work product discovery
Doubleday v. Ruh (1993) 149 F.R.D 601
Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
- identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)
Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]
- must yield to a compelling public purpose
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
Kizer v. Sulnick (1988) 202 Cal.App.3d 431 [248 Cal.Rptr. 712]
- not found
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- relationship to Proposition 115, "Crime Victims Justice Reform Act"
Izazaga v. Superior Court (1991) 54 Cal.3d 356
- restrictions on discovery of an attorney's impressions, conclusions, opinions or legal research, (CCP § 2018.030)
Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]
- standing to assert attorney-client privilege and work product doctrine
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
- unwritten opinion work product is entitled to the protection of the absolute work product privilege
Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
- waiver
Electro Scientific Industries v. General Scanning (N.D. Cal. 1997) 175 F.R.D. 539
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Metro-Goldwyn-Mayer Inc. v. Superior Court (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]
- common interest doctrine
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

WORKERS' COMPENSATION

-corporation waived attorney-client and work product privileges when it shared documents with government
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

-defendant did not waive attorney-client and work product privileges when it shared documents with government

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-employer did not waive attorney-client or attorney work product protections by providing sex discrimination claimant substantial discovery of employer's non-attorney in-house investigation report

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

-no waiver of work product protection where disclosing memoranda authored by corporate in-house counsel to outside law firm did not qualify as disclosure to adversary or conduit to adversary

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

-not found simply because objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

-sharing memoranda with outside law firm did not waive work product protection; waiver was limited to underlying facts and data in the memo

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Witness interviews, conducted by investigators employed by counsel, are protected by work product privilege

Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]

Work product doctrine reaches documents prepared because of litigation even if they were prepared in connection with a business transaction or also served a business purpose

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065

Work product privilege and the client's right to his or her file pose an apparent conflict that has not been definitely resolved by the courts

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Work product rule distinguished from attorney-client privilege

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065

McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703

Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486

Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]

WORKERS' COMPENSATION [See Administrative agency.]

Advertising

Labor Code sections 5430-5434

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799

Attorney-client privilege and work product doctrine

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

Contingent fee contracts

to represent plaintiff

-exempt from written contract provisions

Business and Professions Code section 6147(c)

Disregard of order by a workers' compensation judge violates Business & Professions Code section 6103

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

Evidence Code section 915 is applicable in Workers' Compensation proceedings

The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]

Fees

award of fees to employee justified on the grounds that employer's petition for writ of review indisputably lacked merit

Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]

burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)

Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041

claimant's attorneys is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

class action

-standing to pursue claim for interest on award of attorney's fees

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906

Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]

successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act

Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066

Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044

under Labor Code § 4607

Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]