To assist you in your research on attorney professional responsibility, an electronic copy of the 2007 *California Compendium on Professional Responsibility* index is posted here. Enclosed are the following:

1. How to Use This Index Reference
2. Table of Contents
3. Index (including entries through 12/31/05)
4. Compendium Update Case List***

Other helpful research links:

1. Ethics Hotliner Newsletter
2. California Rules of Professional Conduct
3. State Bar Ethics Opinions
4. Handbook on Client Trust Accounting for California Attorneys
5. Draft Rules Under Consideration by the Commission for the Revision of the Rules of Professional Conduct

Information about the *Compendium* and other professional responsibility publications are available for purchase is found at http://www.calbar.ca.gov/ethics - ethics publications.

*** An alphabetical list of cases added in this 2007 update of the California Compendium on Professional Responsibility index. Generally, cases added in this update are from January 2005 to December 2005.

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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:

JURISDICTION	LEVEL OF COURT	ORDER
California:	Selected statutes	In numerical order.
	Rules of Professional Conduct	In numerical order.
	Selected California Attorney General Opinions	Most recent opinions first, descending chronologically to oldest cases.
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.)

JURISDICTION	LEVEL OF COURT	ORDER
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.

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 (l966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]
Rule 1-100 Rules of Professional Conduct, In General.
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.]

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.
OCBA 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 (l965):	Refers you to Opinions of the Attorney General of California, 46th volume, at page 74. [Issued in 1965.]
See:	Refers you to the heading wherein citations or other information are contained within the compendium.
Contact:	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

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-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]
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]
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 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]
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
Prohibited employment
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)
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 Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
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
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
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
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 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
Authority of Committee of Bar Examiners
Mothershed v. Justices of Supreme Court (9th Cir. (Arizona) 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
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
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.]
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
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
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
Misconduct prior to admission
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In the Matter of Ike (1996) 3 Cal. State Bar Ct. Rptr. 483
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 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 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
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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]
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
Paciulan v. George (9th Cir. 2000) 229 F.3d 1226
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 (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 (2004) 374 F. 3d 857
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, 467-469
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In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
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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
State supreme court's rules governing bar admissions does not violate First Amendment rights
Mothershed v. Justices of Supreme Court (9th Cir. (Arizona) 2005) 410 F.3d 602
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)
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one party in, after advising the other
LA(I) 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
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CAL 1981-55
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LA(I) 1954-5
By client
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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
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
-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
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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]
-retainer fee
Rule 3-700(D)
SF 1980-1
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
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LA 379 (1979), LA 149 (1944), SF 1985-2
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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)
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CAL 1976-38
-on contingent contract
Rule 5-104(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
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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
to client
-upon promise to repay
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
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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)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 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.]
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-conducted for existing clients
SD 1969-8
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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]
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Johnson v. State Bar (1935) 4 Cal.2d 744, 752 [52 P.2d 928]
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]
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Bar membership number
pleadings
Rule 201, California Rules of Court (Superior Court)
Rule 501(e), California Rules of Court (Municipal Court)
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SD 1973-4
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LA 446 (1987)
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Radio or television, use of
Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112 Cal.Rptr. 527, 519 P.2d 575]
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LA(I) 1970-8
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CAL 1972-29, LA 318 (1970), LA 186 (1957), LA(I) 1975-7, LA(I) 1970-12, LA(I) 1964-7
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LA 404 (1983)
Brochures, random distribution of
LA 419 (1983)
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LA 446 (1987), LA 335 (1973), LA 214 (1953), LA(I) 1976-5, LA(I) 1931-4, SD 1975-2
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In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
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CAL 1999-154
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LA 286 (1965)
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LA 286 (1965), LA 256 (1959), LA 241 (1957)
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LA 446 (1987)
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Libarian v. State Bar (1944) 25 Cal.2d 314, 315 [153 P.2d 739]
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Moore v. California State Board of Accountancy (1990) 222 Cal.App.3d 919 [272 Cal.Rptr. 108]
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LA 419 (1983)
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-use of name of
LA 123 (1939)
degrees on
CAL 1999-154, SD 1969-5
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LA 381 (1979)
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LA 168 (1948)
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-periodical
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LA 404 (1982)
--random distribution
LA 419 (1983)
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LA(I) 1971-11
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CAL 2004-166

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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
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Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
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counsel identified on
LA 286 (1965), LA 241 (1957), LA(I) 1971-1, SD 1973-5
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Communications concerning the availability for professional employment
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SD 2000-1
Controversial cause, espousal of
LA(I) 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]
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
OR 93-001
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CAL 1985-86
"Do-it-yourself" clinics
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LA 434 (1984)
Donation of legal services contingent upon bequest to certain organization
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Rule 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)
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LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1926), LA 349 (1925)
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CAL 1972-29
LA 221 (1954)
SD 1974-21
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SD 1977-4
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SD 1975-8, SD 1975-5
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LA 319 (1970), LA(I) 1972-13
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LA 319 (1970)
Endorsement [See Political activity.]
Rule 1-400, std. 2, Rules of Professional Conduct (operative September 14, 1992)
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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
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LA(I) 1979-3
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LA(I) 1979-3
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Rule 1-400, std. 14, California Rules of Professional Conduct (operative May 11, 1994)
OR 93-001
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Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
CAL 1982-66
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LA 421 (1983)
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CAL 2004-167, CAL 1997-150, CAL 1986-90
LA 413 (1983), LA 385, LA 325 (1972)
SD 1985-1
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LA 511 (2003)
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CAL 1986-90
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CAL 1986-90
SD 1985-1
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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]
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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]
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SD 1983-5
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Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
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CAL 1995-142, CAL 1988-105, SD 1992-3, OR 93-001
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SD 2000-1
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CAL 1987-91

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CAL 2004-166
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CAL 2004-166
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-series of articles on tax problems written by attorney
LA 87 (1935)
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LA 310 (1969)
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-use of name of
LA 123 (1939), SD 1969-4
former partner
-use of name of
CAL 1986-90
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Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 1985-86
Lawyer referral service
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565
Lawyers to serve as guardians of minors
SD 1975-8
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LA 286 (1965), LA(I) 1964-7
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Belli v. State Bar (1974) 10 Cal.3d 824, 835 [112 Cal.Rptr. 527, 519 P.2d 575]
-degrees listed on
LA 349 (1925)
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CAL 1972-29
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CAL 1967-12
Legal aid agency
SD 1974-9
Legal document [See Publication.]
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LA(I) 1971-1
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CAL 1969-19
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LA(I) 1971-1
Legal services connected with senior citizen membership
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Legal work for lawyers
LA 65 (1931)
Legal work from bar
LA 167 (1948)
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In re Primus (1977) 436 U.S. 412, 422
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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
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-describing qualifications
CAL 1981-61
-offering to represent in other jurisdictions
CAL 1981-61
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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]
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SD 1992-3
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LA 392 (1983)
affiliation with "correspondent firm" in another county
LA 430 (1984)
attorney
-use of by non-lawyer
LA 16 (1922)
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-name of attorney on
LA 16 (1922)
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CAL 1993-129, CAL 1986-90
LA 123 (1939)
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LA 404 (1983)
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CAL 1981-61
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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]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
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People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
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to prospective clients
-announcement of law office opening
LA 128 (1940)
-mass mailing to income property owners
SF 1979-1
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Mail announcement [See Advertising, announcement. Law office, opening. Partnership.]
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CAL 1985-86, LA 281 (1963)
mailing of bulletins or briefs discussing laws or decisions
LA 494 (1998)
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LA(I) 1970-4, SF 1970-2
Management consulting company run by attorney
LA 446 (1987)
Military service
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LA 161 (1946)
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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
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CAL 1997-148
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
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In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
disclaimer regarding the relationship between specially appearing attorneys and the clints of the attorney who hires the specially appearing attorney
CAL 2004-165
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Business and Professions Code section 6157
Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
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CAL 2004-167,
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CAL 2004-167,
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charitable organization
-offering free will service
LA 428 (1984)
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Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
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LA 354 (1976)
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Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1173
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Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172-1173
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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)
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CAL 1986-90, CAL 1985-86, LA 247 (1957)
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LA 331 (1973)
Potential members of class action
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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]
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Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
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CAL 1997-148
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CAL 1995-143
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]
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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, 383
Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
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)
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-biographical
LA(I) 1947-4
-organization
--fraternal
LA 184 (1951)
--trade, business, etc.
LA 345 (1975)
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LA 244 (1957), LA(I) 1948-5, LA(I) 1948-4
-pamphlets
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--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(I) 1955-4
newsletter
-charitable organization
--offering free will service
LA 428 (1984)
newspaper
LA 45 (1927)
-legal
LA(I) 1976-8
-trade and business
LA(I) 1955-4
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LA 124 (1939)
pamphlet
-attorney as author of
LA 307 (1968)
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LA 349 (1975), SD 1973-4
prospectus
-name of counsel giving opinion with regards to tax benefits required by Corporations Commission
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-experience
LA 319 (1970)
-expertise
LA 319 (1970)
-inclusion in list of "approved" practitioners
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Radio or television
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-answering questions on law
LA 299 (1966)
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LA 299 (1966)
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LA 161 (1946), LA 156 (1945)
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LA 494 (1998)
Share office space with attorneys
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CAL 1997-150, CAL 1986-90, SD 1985-1
Sign
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branch office
LA(I) 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)
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(I) 1972-13
bar
CAL 1981-61, LA 156 (1945), LA(I) 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)
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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
Target mail solicitation
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]
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]
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]
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LA 494 (1998)
Telephone directory
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79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)
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CAL 1967-7, SD 1975-9
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LA(I) 1948-6
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LA(I) 1963-7, LA(I) 1956-3
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LA(I) 1963-7
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LA(I) 1956-3
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CAL 1967-7
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-members or associates listed individually
SD 1975-9

patent agent
-employed by law firm
CAL 1970-20
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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
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Trade name
practice law under by attorney or law firm
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CAL 1982-66, LA 413 (1983)
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

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]
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Paonessa v. State Bar (1954) 43 Cal.2d 222, 223-227 [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]
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Hoffman v. Municipal Court (1970) 3 Cal.App.3d 621, 628-629 [83 Cal.Rptr. 747]
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Advocating civil disobedience
CAL 2003-162
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
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
For confidential assistance, contact:
Center for Human Resources/West
Telephone: (415) 502-7290
For information about program, contact:
Office of Professional Competence, Planning & Development
Telephone: (415) 538-2107

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY
Can be of assistance where California has not spoken
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
Paul E. Iacono Structural Engineering, Inc. v. Humphrey (9th Cir. 1983) 722 F.2d 435, 438
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]
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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
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
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State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
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CAL 1983-71, LA 512 (2004), LA 504 (2000), OR 99-002, OR 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
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State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
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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
Assigned counsel
contract for private employment
SD 1969-9
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LA 504 (2000)
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LA 379 (1979)
Attorney-client relationship
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Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
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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
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Business and Professions Code sections 6068(h)
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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]
court's refusal to appoint indigent defendant's chosen attorney at his retrial is not abuse of discretion
People v. Robinson (1997) 53 Cal.App.4th 270 [61 Cal.Rptr.2d 587]
defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. (Arizona) 2003) 339 F.3d 915
defense attorney
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
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In re Rodriguez (1973) 34 Cal.App.3d 510 [110 Cal.Rptr. 56]
indigent defendants entitled to effective pro bono assistance
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*People v. Moore (1968) 69 Cal.2d 674 [72 Cal.Rptr. 800]
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
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In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609
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In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
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In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
LA 504 (2000)
Fees
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Good cause to relieve counsel appointed for a minor
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Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
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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
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-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
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-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
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Member of partnership is arbitrator when client of firm is party
LA(I) 1967-10
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ASSIGNED COUNSEL
Capital cases
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U.S. v. Waggoner (9th Cir. (Arizona) 2003) 339 F.3d 915
Contract for private employment
SD 1969-9
Duty with respect to costs and expenses
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LA(I) 1961-2
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Lottery ticket to attorney
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City council member's practice by
CAL 1977-46, LA(I) 1975-4
Conducts employer's practice during employer's disability or absence
LA 348 (1975)
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Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Rule 1-100(B)(4), Rules of Professional Conduct
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]
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LA 511 (2003)
Duty to represent a client competently
LA 383 (1979)
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LA 348 (1975)
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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]
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Practice by employer of when associate is prosecutor
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LA 183 (1951)
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Of assets of another lawyer's client when learned of assets during unrelated representation
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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. Cassiday (9th Cir. 2003) 320 F.3d 906
by attorneys who represented each other in recovery of contingent fee due under retainer agreement
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*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
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Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
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outside counsel for a corporation
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
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*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
Attorney as witness
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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]
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Attorney entitled to reasonable value of services rendered, quantum meruit
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216
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]
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People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
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court's advice to defendant that he follow his attorney's advice did not impair defendant's ability to waive his right to testify
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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
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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
Strasbourger, 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
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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]
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Attorney-client have co-existing interests
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-counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
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LA 504 (2000)
-to enforce minor client's parental rights
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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
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Business dealings with client must be fair and reasonable
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People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
Client assistance to counsel
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Client has right to discharge
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
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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
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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
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LA 125 (1940)
Client's rights may not be deprived because of attorney neglect
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automatic vicarious disqualification of a firm would reduce the right of the client to choose an attorney
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Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
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*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
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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]
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between attorney and inmate client
-prison officials opening mail
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*Civil Code section 2235 (repealed 7/1/87)
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wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest
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Consultation with, prima facie case of existence of
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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
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-dealing with constituents of an organization
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
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contract formality is not required
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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
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duty of confidentiality 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]
LA 506 (2001)
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
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
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 relationship" between attorney and client based on periodic visits by client to the attorney's office seeking legal assistance
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attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement
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Corporation as client
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
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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
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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
Strasbourger, 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
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
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Defendant must make knowing and intelligent waiver of counsel
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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
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Defined
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-specially appearing attorney owes a duty of care to the litigant
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to make files available to client on withdrawal
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]
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to represent client zealously
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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]
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*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
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Executors
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Fee payment as evidence of existence of relationship
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Fiduciary duty
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-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
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Fiduciary relationship
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
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-results in dismissal of criminal accused's case
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-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
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-regarding subject in controversy
LA 14 (1922)
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*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
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-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
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Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
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LA 246 (1957)
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People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
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]
witness
Trujillo v. Superior Court (1983) 148 Cal.App.3d 368
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County counsel
Conservatorship of Early (1983) 35 Cal.3d 244, 255
Mize v. Crail (1973) 29 Cal.App.3d 797 [106 Cal.Rptr. 34]
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Conservatorship of Early (1983) 35 Cal.3d 244, 255
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80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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
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Madera v. Grendron (1963) 59 Cal.2d 798 [31 Cal.Rptr. 302]
CAL 1979-51
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People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, 531-532
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75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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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]
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People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
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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]
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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
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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. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr 476, 561 P.2d 1164]
-Penal Code section 1424
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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]
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In re Martin (1983) 150 Cal.App.3d 148, 169
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*People v. Eubanks (1996) 14 Cal.4th 580
People v. Conner (1983) 34 Cal.3d 141, 148
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*People v. Eubanks (1996) 14 Cal.4th 580
holder of privilege with regard to material seized from office occupied by a deputy district attorney
People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]
immunity from § 1983 claims
-county district attorney may not be entitled to qualify 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
-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
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People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
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Rauber v. Herman (1991) 229 Cal.App.3d 942
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*People v. Eubanks (1996) 14 Cal.4th 580
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
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-Penal Code section 1424
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SD 1997-2
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Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
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]
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
Notice of motion to disqualify a district attorney
Penal Code section 1424
Outside counsel
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]
(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
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
Probable cause
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LA 429 (1984)
Prosecutorial misconduct
denial of attorney's fees to plaintiffs where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in a bad faith
U.S. v. Manchester Farming Partnership (2003) 315 F.3d 1176
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
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
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168
Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923
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]
Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578
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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]
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75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
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LA 429 (1984)
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People ex rel. Lockyer v. Superior Court (Pfingst) (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
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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
qualified immunity may not be available for executing search warrant against criminal defense attorney
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Price v. Superior Court (1982) 30 Cal.3d 537
In re Bloom (1977) 19 Cal.3d 175
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Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]; mod. at 31 Cal.App.4th 746f
Public defender
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
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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]
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Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
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-representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
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Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102
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Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
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Briggs v. Lawrence (1991) 230 Cal.App.3d 605 [281 Cal.Rptr. 578]
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Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]
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79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
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Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
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ATTORNEY'S LIEN [See Fee, unpaid. Lien.]
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Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]
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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
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Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
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
OR 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
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Cain v. State Bar (1978) 21 Cal.3d 523, 525 [146 Cal.Rptr. 737, 579 P.2d 1053]
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Client's papers
LA 48 (1927), SD 1977-3
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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]
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Created by contract
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Gostin v. State Farm Ins. Co. (1964) 224 Cal.App.2d 319 [36 Cal.Rptr. 596]
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Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
LA 496 (1998)
Holding client's funds
coerce fee payment
-without lien or proper authority
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Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]
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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
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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]
attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so
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Possessory
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Wagner v. Sariotti (1943) 56 Cal.App.2d 693 [133 P.2d 430]
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-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]
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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
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Donate legal services through
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Acknowledge satisfaction of judgment
after judgment, upon payment of money claimed in action
Code of Civil Procedure section 283
After substitution
appearance carries presumption
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Rule 2-100, Rules of Professional Conduct (operative as of May 27, 1989)
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Fresno v. Baboian (1975) 52 Cal.App.3d 753, 757 [125 Cal.Rptr. 332]
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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]
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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
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Attorney plays greater role for making fundamental choices for client once court has raised competency of criminal defendant
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*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]
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LA 502 (1999)
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Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
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Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
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-attorney may file notice of appeal on behalf of decedent
Code of Civil Procedure section 903
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-on settlement check without authorization
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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
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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]
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-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
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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
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
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
Verification
Probate Code section 21350 et. seq.
Attorney's use of pre-signed verification forms
Drociak v. State Bar (1991) 52 Cal.3d 1085
Client's signature on blank
LA 174 (1950)
AUTOMOBILE ACCIDENT CASE
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(I) 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)
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's fees
In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29
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 (9th Cir. BAP 1989) 101 B.R. 185
attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract
In re LCO Enterprises, Inc. (9th Cir. 1995) 180 B.R. 567 [27 BankrCt.Dec. 201]
-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 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 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 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]

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'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
-automatic stay
In re Hines (9th Cir. BAP 1998) 198 B.R. 769 [36 Collier Bankr.CAS2d 577]
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
-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]
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
-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]
-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 o 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 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 o 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 Zapanta (9th Cir. 1997) 204 B.R. 762
Bankruptcy of Biggar (9th Cir. 1997) 110 F.3d 685
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
creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nevada) 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
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 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
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
open book account attorneys fees claim not barred by statute of limitations
In re Roberts Farms (9th Cir. 1992) 980 F.2d 1248
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
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
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 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 [36 Collier Bankr.CAS2d 577]
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
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
represent
-bankrupt/creditor
LA 50 (1927)
-receiver
--party in divorce and
LA 51 (1927)
-receiver/general creditor
LA 74 (1934)
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 BankrCt.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 Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302
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

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 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
Hedges v. Resolution Trust Corp. (9th Cir. 1994) 32 F.3d 1360
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
In re DeVille (9th Cir. BAP 2002) 280 B.R. 483
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
for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
sanctions appropriate where attorney asserted baseless claims that a competent attorney would have not asserted
In re Brooks-Hamilton (9th Cir. BAP 2005) 329 B.R. 270
six-month suspension from practice before the bankruptcy court deemed appropriate for attorney for signing and filing pleadings without legal support
In re Brooks-Hamilton (9th Cir. BAP 2005) 329 B.R. 270
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
standing to sue corporate attorneys of "sham" corporation for malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

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(I) 1966-9
-answer questions of law
LA(I) 1970-1, LA(I) 1969-7, LA(I) 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(I) 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(I) 1966-1
counsel for indemnity company represents assured in defense of bond
LA(I) 1966-1

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(I) 1965-4
employment of
SD 1974-17
partnership with
LA(I) 1959-5, SD 1974-17
share office with
LA(I) 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(I) 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(I) 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)
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(I) 1971-12, LA(I) 1967-7, LA(I) 1965-6, LA(I) 1965-3, LA(I) 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
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(I) 1965-18
Insurance
LA 285 (1964), LA 227 (1955), LA 215 (1953), LA 142 (1943)
SD 1974-18
Investment counsel
LA(I) 1963-2
Legal document
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 forms sold
LA(I) 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(I) 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 wth non-attorney broker
SF 1973-23
recommend own attorney to client
LA(I) 1976-9, LA(I) 1971-16
represent customers of own
LA 205 (1953), LA(I) 1975-2, LA(I) 1976-9
Referring clients to doctor for medical services for compensation prohibited
LA 443 (1988)
School to teach how to obtain government loans
LA(I) 1976-5
Stenography
LA 214 (1953)
Tax opinion letter about tax shelter prospective
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Tax work
LA 236 (1956)
SD 1975-2
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
§ 6002.1
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

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purpose of address requirement
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§ 6007(b)(3)
Walker v. State Bar (1989) 49 Cal.3d 1107, 1119
Newton v. State Bar (1983) 33 Cal.3d 480, 483-484
Ballard v. State Bar (1983) 35 Cal.a3d 274, 289
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§ 6007(c)
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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)
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)
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§ 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]
§ 6049
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§ 6049.1
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In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
§ 6050
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§ 6051.1
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
§ 6060(b)
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
§ 6062(b)
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§ 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)
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LA 394 (1982)
"life story" fee agreements, waiver of attorney-client privilege
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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
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LA 502 (1999)
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88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
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In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
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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 the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
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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
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]
no discipline for factual statements unless the State Bar proves that such statements are false
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CAL 1989-111, CAL 1972-30
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making repeated misrepresentations of both law and facts of the case and contentions that no reasonable attorney would have raised
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subdivision (e) [See Confidences of client.]
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--court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
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§ 6200 [See Fee arbitration.]
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
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]
OR 99-002
§ 6202
LA 498 (1999)
§ 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.
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
LA 502 (1999)
§ 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 pratice 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 Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
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(I) 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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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
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
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
OR 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]
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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.]
Third-party funding of lawsuit in exchange for interest in proceeds distinguished from buying a claim
LA 500 (1999)

CHILD CUSTODY
Disclosure to court of conflict between client and child
suggest appointment of separate counsel to court
CAL 1976-37
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)

CHILD SUPPORT
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
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

CHOSES OF ACTION
Buying of
with intent to bring suit on
Business and Professions Code section 6129
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]
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
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 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]
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
for securities class action suits should be based on individual case risk
In re Quantum Health Resourcs, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
lodestar multiplier method
-adjustment based on benefit conferred on class by class counsel
Wininger 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]
-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
settlement shall not include attorney fees as portion of common fund established for benefit of class
Staton v. Boeing Co. (9th Cir (Washington) 2003) 327 F.3d 938
should be adequate to promote
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
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]
Attorney acting as class action claws
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
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(I) 1966-7, LA(I) 1974-2
Conflict of interest
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
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
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]
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]
Duty to communicate with members of class to correct erroneous impression
LA(I) 1966-13
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
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]
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, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F. 3d 566
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.]
Defined
Evidence Code section 951
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
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]
Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648

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 Jaurequi (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

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]
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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]
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
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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
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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 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]
-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 fails to answer client inquiries
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 667, 709 P.2d 480]
-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
-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 loose 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
Alberton 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
T & R Foods,Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Katz v. Workers' Comp. Appeals Bd. (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]
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]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
distinguished from retainer fee
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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]
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)
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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]
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
SF 1980-1
Attachment of
Finance Code section 17410
Authorized withdrawal of client funds and subsequent revocation of consent
LA(I) 1980-3
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, mod. at 1 Cal.App.4th 417a
CAL 1996-147
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
"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 clients 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
OR 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 1009A
Porter v. State Bar (1990) 52 Cal.3d 518
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
Bowles v. State Bar (1989) 48 Cal.3d 100 [256 Cal.Rptr. 381, 768 P.2d 1058]
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
-advanced fee payment is distinguished from true retainer fee
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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]
SF 1980-1
-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]

-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 Tamir Oheb (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 697
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]
--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
--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 [121Cal.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 on-going 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 1009A
--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 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]
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]
-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]
-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]
-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]
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, 607-612 [2 Cal.Rptr. 461, 349 P.2d 67]
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
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976
Alberton v. State Bar (1984) 37 Cal.3d 1, 13
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]
Internal Revenue Code section 6050(I)
-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
In the Matter of Curtis (2003) 4 Cal. State Bar Ct. Rptr. 601
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Duty
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
attorney's authority to sign client's name in retainer agreement
Howard v. State Bar (1990) 51 Cal.3d 215 [793 P.2d 62]
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
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
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 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 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
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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
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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

Fixed rate for legal fees
SF 1980-1

Flat rate for legal fees
SF 1980-1

Garnishment
counsel discloses his possession of client's money in a garnishment proceeding
LA(I) 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
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
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
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), SF 1970-3, LA(I) 1961-7
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]
Levy on
Finance Code section 17410
Lay employee on
Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
CAL 1988-97
LA 488 (1996) (1996), LA 454 (1988)
use of rubber stamp of attorney's signature
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
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
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Harford v. State Bar (1990) 52 Cal.3d 93
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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
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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]
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Jackson v. State Bar (1975) 15 Cal.3d 372, 375-381 [124 Cal.Rptr. 185, 540 P.2d 25]
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In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
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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 Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
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]
attorney's wife uses client funds for personal use
Burns v. State Bar (1955) 45 Cal.2d 296,302 [288 P.2d 514]

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
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]
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
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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 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]
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In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
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-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
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
-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]
-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]
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 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]
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]
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-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
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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]
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In re Abbott (1977) 19 Cal.3d 249, 253-254 [137 Cal.Rptr. 195, 561 P.2d 285]
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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]
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Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
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-public reproval
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-suspension
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Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472-475 [169 Cal.Rptr. 581, 619 P.2d 1005]
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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]
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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]
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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
-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
-failure to use advanced funds to purchase hearing transcript
In the Matter of Nunez (Review Dept.1992) 2 Cal. State Bar Ct. Rptr. 196
-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]
-funds retained to pay medical liens
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
-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
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SD 1976-5
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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
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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
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LA 484 (1995)
Mishandling of client funds
Lawhorn v. State Bar (1987) 43 Cal.3d 1357
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In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
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Non-refundable retainer
defined
Rule 3-700 (D)(2), Rules of Professional Conduct
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In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
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SF 1980-1
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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
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LA 407 (1982)
Overdraft protection
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]
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) (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]
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
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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 CONDUCT, CALIFORNIA [The full text of 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
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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)
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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
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)
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)
Lending name of attorney to non-lawyer
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(I) 1968-3
form letter
-signed by lawyer
LA 338 (1973)
Letterhead
attorney letterhead used
CAL 1982-68
used by client
LA(I) 1968-3
Misleading debtor by letters
LA 19 (1922)
Seek payment by
curtailing debtor's banking privileges
LA 373 (1978)
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(I) 1972-23
Estate
executor shares with lay person
-from the sale of property
LA 317 (1970)
Real estate transaction
SD 1992-1, CAL 1982-69, LA 317 (1970)
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)
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]
Lyydikainen 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)
About suit in "regular" court if small claims suit is not dropped
SD 1978-6
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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]
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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]
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Authorized by law
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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
State Compensation Insurance Fund v. WPS, Inc. (entitled to the privilege of that fact1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
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(I) 1966-16
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)
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Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
Child custody and support
LA(I) 1958-3
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City council member
CAL 1977-43
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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
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Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
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Atari v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
Client negotiating directly with opposing party
CAL 1993-131, SF(I) 1985-1, LA 375 (1978)
Client of adverse party when party is counsel of said client
LA 213 (1954)
Communicate written settlement offer to client
Business and Professions Code section 6103.5
Rule 5-105, Rules of Professional Conduct
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 of employer required
LA 389 (1981)
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
at client's direction
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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(I) 1958-3
Copy of letter to counsel of adverse party sent to opposing party
LA 490 (1997), LA 350 (1975), LA(I) 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
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
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-by government informant
United States v. Kenny (9th Cir. 1980) 645 F.2d 1323
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-grand jury witness initiated communication with Assistant U.S. Attorney
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Civil Code section 1788.14(c)
false representation that person is attorney
Civil Code section 1788.13(b)
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Civil Code section 1788.13(c)
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Civil Code section 1788.13(c)
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LA 365 (1977)
Disqualification of attorney from the action as proper sanction
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Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
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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 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 may disqualify counsel from futher participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct
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Effect of violation of rule 7-103
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CAL 1991-125
LA 410 (1983), LA 389 (1981), LA 369 (1977), LA 234 (1956), LA(I) 1976-1, LA(I) 1966-6
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current director
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CAL 1991-125
former employee
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former secretary of opposing party
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443
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non-managing employee
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LA 369 (1977), SD 1984-5
under ABA Model Rule 4.2
Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nevada) 2003) 338 F.3d 981
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
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Employer of adverse counsel
LA 339 (1973)
Employer of adverse party
LA 410 (1983), LA 411 (1983)
Entrapment purposes
LA 315 (1970)
Exclusion of information acquired by violation of rule 7-103, Rules of Professional Conduct, as proper remedy
U.S. v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
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LA 472 (1993)
other possible sanctions for violation of the rule
court may disqualify counsel from futher participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct
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Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
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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]
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Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537
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LA 389 (1981)
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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]
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LA 339 (1973)
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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
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
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Government official
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61 Minn. L.Rev. 1007 (1977)
Governmental unit
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Indirect
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CAL 1993-131
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]
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LA 350 (1975)
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LA 376 (1978)
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LA 315 (1970)
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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]
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]
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United States v. Talao (9th Cir. 2000) 222 F.3d 1133
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LA 508 (2002), LA 334 (1973)
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CAL 1996-145, LA 334 (1973)
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LA 369 (1977)
Party defined
Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
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
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Carpenter v. State Bar (1930) 210 Cal. 520, 521-523 [292 P. 450]
CAL 1979-49, SD 1972-5, SD 1968-2
exception
-public official
CAL 1977-43, SD 1978-3
insurer, even though not named a party
LA 442 (1988)
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]
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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]
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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
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Prior litigation where parties remain adverse
LA 411 (1983)
Purpose of the rule
Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
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]
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]
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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
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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
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Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220
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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]
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In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
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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
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Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
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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)
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SD 1978-3
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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
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without consent of counsel
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]
-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
-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
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-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
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Second attorney representing client against first attorney's motion to be removed as client's attorney of record
LA 416 (1983)
Settlement
LA 350 (1975), SD 1978-8
-by client
LA 375 (1978), SF 1973-25
-counsel fails to convey offer
LA 350 (1975)
-written offer to client
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CAL 1993-131, SD 1983-11
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investigator
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LA 315 (1970)
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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, 158-159 [222 P.2d 857]
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 741-742 [160 P.2d 825]
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CAL 1993-133, CAL 1979-49, LA 14 (1922), SD 1976-14
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]
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18 A.L.R.2d 1410; 1 A.L.R.2d 1115
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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)
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, 240-241 [188 Cal.Rptr. 441]
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Olquin v. State Bar (1980) 28 Cal.3d 195, 198
Inniss 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]
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Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
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In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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 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
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In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
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]
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
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 Personal Assistance Program of the State Bar of California
for confidential assistance, contact:
Center for Human Resources/West
Telephone: (415) 502-7290
for information about program, contact:
Office of Professional Competence, Planning & Development
Telephone: (415) 538-2107
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 spoilation 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
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Hartford v. State Bar (1990) 50 Cal.3d 1139
Layton v. State Bar (1990) 50 Cal.3d 889
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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 Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Hinden (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 2003-163, LA 497 (1999)
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
inattention to the needs of a client and a failure to communicate are proper grounds for discipline
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Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
representation of a minor
LA 504 (2000)
Criminal matter
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In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
malpractice
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]
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]
three strikes
*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
SD 1995-1
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]
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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
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People v. Diggs (1986) 177 Cal.App.3d 958
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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
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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 to advise client of reasonably apparent legal problems outside the scope of representation
LA 502 (1999)
Duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation
LA 497 (1999)
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
adequate office procedures and staff training
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
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In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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
-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
public defender's supervision of separate alternate public defender office
CAL 2002-158
specially appearing attorney
CAL 2004-165
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 Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
CAL 1997-150
Failure to advise client of other claims
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]
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. (Nevada) 2003) 322 F.3d 1198
Failure to advise/misadvise about the immigration consequences of guilty plea
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
Failure to argue for reversal of judgment
In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
Failure to appear at hearing to mitigate prejudice caused by attorney
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to cite case law or authorities in opposition brief
In the Matter of Alvin Gilbert 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 the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

Failure to conduct discovery
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
Failure to cooperate with discovery
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Failure to deliver trust amendment to trustee before death of settlor
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Failure to file timely notice of appeal
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-inadvertent disclosure absent client's waiver does not destroy privilege
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-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, 92 Cal.App.4th 1016A [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
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
-not found
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
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 advise it received
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
-patent case
McCormick-Morgan, Inc. v. Teledyne Industries, Inc. (N.D. Cal. 1991) 765 F.Supp. 611
-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 including non-litigation work
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, 92 Cal.App.4th 1016A [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
Electro Scientific Industries v. General Scanning (1997) 175 F.R.D. 539
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
McMorgan & Co. v. First California Mortgage Co. (N.D. CA 1997) 931 F.Supp. 703
Admiral Insurance v. U.S. District Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
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]
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-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 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]
-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
-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]
-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]
Psychotherapist-patient privilege
Roe v. Superior Court (1991) 229 Cal.App.3d 832 [280 Cal.Rptr. 380]
Public record 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
report prepared by police officers in the performance of their duties are public record are not privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
LA 386
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
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Related matter
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
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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
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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]
Secret of client
duty of lawyer to preserve
Business and Professions Code section 6068(e)
CAL 1988-96, CAL 1986-87, CAL 1981-58, p. 2, CAL 1980-52
LA 456, LA 452 (1988), LA 436 (1985), LA 409 (1983), LA 386 (1980)
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. (Oregon) 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)
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 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
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LA 449 (1988)
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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, 128-129 [230 P.2d 617]
Use of
following disqualification due to a conflict of interest
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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]

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]
Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]
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in action to collect fee involving client
LA 452 (1988), LA 159 (1945), LA(I) 1961-3
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LA 506 (2001), LA 366 (1977)
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LA 409 (1983)
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CAL 1989-111, LA(I) 1931-2
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]
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).]
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)
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
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)
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]
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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)
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absolute prohibition
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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
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-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's dual capacity as attorney and real estate broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
LA 470 (1992)
attorney enters into partnership with client
Kapelus v. State Bar (1987) 44 Cal.3d 179
-finder's fee
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
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-security for fees
LA 407 (1982), LA 398 (1982)
-selling information regarding case to entertainment industry
LA 409 (1983)
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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
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-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
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Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
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-burden of proof on attorney that dealings fair and reasonable
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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
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-fee financing plan
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OR 93-002
-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
-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]
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BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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business transaction with former client from fund which resulted from representation, attorney-client relationship exists even if representation has otherwise ended
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LA 317 (1970)
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Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
Hunniecutt v. State Bar (1988) 44 Cal.3d 362
estate attorney charging personal representative personally for services performed
LA 470 (1992), LA 347 (1975)
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LA 416 (1983)
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Dixon v. State Bar (1982) 32 Cal.3d 728, 733
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In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
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lien against recovery in unrelated matter to secure fees owed not subject to CRPC 3-300
LA 496 (1998)
no duty to recommend specific lawyer
Maltaman v. State Bar (1987) 43 Cal.3d 924
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
note and deed of trust for personal gain
Lee v. State Bar (1970) 2 Cal.3d 927
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 1009A
Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
LA 492 (1998)
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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, 528 P.2d 1157]
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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
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Anderson v. Eaton (1930) 211 Cal. 113, 116-117 [293 P. 788]
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Actual or potential conflict
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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(I) 1958-6
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Civil Code section 225(m)
Adoption
Civil Code section 225(m)
LA 407 (1982)
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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 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]
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Lee v. State Bar (1970) 2 Cal.3d 927 [88 Cal.Rptr. 361, 472 P.2d 449]
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30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
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Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
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executor hiring attorney
Estate of Effron (1981) 117 Cal.App.3d 915, 928 [173 Cal.Rptr. 93]
financial interest in the subject matter of the representation
-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 form 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]
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]
in 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, 759 [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]
pecuniary interests adverse to client
-subject to CRPC 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]
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
when trustee is also creditor
Vivitar Corporation v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]
Adverse party
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]
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]
previously consulted attorney on another matter
CAL 1984-84, LA 406 (1982)
relationship with opposing counsel not considered a relationship with adverse party
SD 1989-4, SD 1976-12, CAL 1984-83
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
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)
-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
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
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 repre`sentation 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]
All affected clients' consent
applies to current not former clients
LA 463 (1990)
Appeal
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
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]
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]
Appearance of impropriety
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740

In re Georgetown Park Apartments (9th Cir. BAP 1992) 143 B.R. 557
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1467
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]
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]
standard has never been used by a California court as the sole basis for disqualification
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
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
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(I) 1961-2
Associate
city attorney's
-practice by
LA(I) 1975-4
city council member's, practice by
CAL 1977-46
LA(I) 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
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]
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
-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
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
-former client
--exists when transaction involves funds obtained by representation
Hunniecutt 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 [36 Collier Bankr.CAS2d 577]
attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Banbkr.Ct.Dec. 1229]
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]
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
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]
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
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]
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
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
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]
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
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
Hunniecutt 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 Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
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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
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
moral turpitude found
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 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
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
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
Hunniecutt 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)
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, 148
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)
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
-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 as attorney of government agency under contract with that agency
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
-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
SD 1976-12, LA(I) 1975-4
-represent tort claimants against city
CAL 1981-63
-represents
--civil litigants
CAL 1977-46
--criminal defendants
CAL 1977-46
--in ordinance violations
SD 1969-1, LA 273 (1962)
--in traffic cases
SD 1969-1
fee, contingency contract with government agency
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)

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(I) 1972-15
SD 1976-10
-in related matter
LA 448 (1987), LA(I) 1974-13, LA(I) 1971-7
-in unrelated matter
LA 266 (1959), LA(I) 1975-2, LA(I) 1971-7, LA(I) 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)
of associate
-represent client in claim against
CAL 1981-57
SD 1972-15
-witness
--against present client
CAL 1980-52
former
-act against
LA(I) 1972-5
--in related matter
LA(I) 1977-1, LA(I) 1972-7, LA(I) 1971-7, LA(I) 1969-2
SD 1970-2
--in unrelated matter
LA(I) 1971-7, LA(I) 1969-2, LA(I) 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
represent
-despite client malpractice suit against attorney's former law corporation
SD 1978-10
-self and
LA 39 (1927)
Class action
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]
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]
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]
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]
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]
Cone of silence
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Condemnation
assist governmental body, former employer, when clients of partnership involved in the matter
LA 246 (1957)
Confidential information
People ex rel.Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
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]
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 1976-37
LA 435 (1985), LA 418 (1983)
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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
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]
"Chinese wall"
-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
Visa U.S.A. Inc. v. First Data Corp. (N.D.Cal. 2003) (2003) 241 F.Supp.2d 1100
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
-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]
-elements of
Bankruptcy of Mortgage & Realty Trust (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
-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
-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
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Armstrong v. McAlpin (2nd Cir. 1980) 625 F.2d 433
-vicarious disqualification not required
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
-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
-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 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
-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]
-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]
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]
disclosure of, based on prior relationship with former client now opposing party
Allen v. Academic Games League (1993) 831 F.Supp. 785
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
Cornish v. Superior Court (1989) 209 Cal.App.3d 467
Allegaert v. Perot (9th Cir. 1977) 565 F.2d 246
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 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
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 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]
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
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
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]
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
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 (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]
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
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
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)
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In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495
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]
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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
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]
-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]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
-rebuttable presumption of shared confidential information when 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]
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
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)
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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]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
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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]
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
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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]
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CAL 1998-152, LA 363 (1976), LA(I) 1962-2
-associate switches sides
LA 363 (1976)
-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
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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
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Conflicting offices
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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)
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LA 363 (1976)
attorney/arbitrator hiring counsel of party appearing before him requires written consent to continue arbitration
LA 415 (1983)
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Ames v. State Bar (1973) 8 Cal.3d 910, 915 [106 Cal.Rptr. 489, 506 P.2d 625]
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OR 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
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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
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
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]
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-must withdraw
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In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
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Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
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-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
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)
-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]
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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]
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-after disclosure of former representation of adverse party
LA 406 (1982)
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CAL 1987-93
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--in unrelated action
LA 6 (1918)
LA 406 (1982)
-witness is former colleague of attorney
CAL 1987-93
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Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 705 [61 Cal.Rptr. 386]
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60 Ops. Cal. Atty. Gen. 206 (7/7/77; No. CV 76-14)
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--of multiple parties
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61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)
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CAL 1989-112, LA 450 (1988), OR 95-002, SD 1978-1, SF 1999-2
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-for both parties
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-for own son and other party
SF 1973-26

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CAL 1989-116
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*Matter of Jennings (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
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CAL 1968-13
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LA 74 (1934)
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attorney (employee) sues employer/client
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
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]
-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
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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
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CAL 1989-113
representation of corporation and board of directors in derivative action
LA 397 (1982)
representation of corporation and corporate director as co-defendants
CAL 1999-153, LA 471 (1992)
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 of 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
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]
stockholder
-director of corporation represents stockholder against corporation
LA(I) 1955-2
County counsel
attorney for governmental entity advises constituents with antagonistic positions
CAL 2001-156
collective bargaining by government attorneys
Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525
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
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]
giving advice to independent board of retirement
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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 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
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]
Creditor
counsel for represents debtor in resolving financial problems of
LA(I) 1969-5
counsel for uses assets of debtor in his possession to satisfy creditor's claim
LA(I) 1969-5
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. (Oregon) 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
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
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
CAL 1979-49
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
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
Schell v. Witek (9th Cir. 2000) 218 F.3d 1017
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]
-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]
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) 13d 829 [213 Cal.Rptr. 521]
defense counpsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
defense counsel married to bailiff
CAL 1987-93
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 testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
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
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
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
CAL 1980-52
-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
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
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
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
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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 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]
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U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818
waiver of
-by defendant
Alocer v. Superior Court (1988) 206 Cal.App.3d 951
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]
--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. 173]
-no valid waiver found
People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
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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
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. 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
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-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
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People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
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)
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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]
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34 Santa Clara L. Rev. 1157 (1994)
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Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
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People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
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
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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]
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)
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-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)

-insurance cases
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-witness is former colleague of attorney
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-in child custody proceedings
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-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]
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LA 6 (1918)
Disqualification of counsel
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]
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-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]
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A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
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]
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-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]
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Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
attorney-client relationship
-associate who worked on plaintiff's case is brother-in-law to presiding judge
Mangini v. U.S. (9th Cir. (Montana) 2003) 314 F.3d 1158
-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
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
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In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
-disqualification not proper unless an attorney-client relationship existed
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]
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Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]
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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
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Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
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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]
"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]
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*People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714, 716-720 [138 Cal.Rptr. 235]
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-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)

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]
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]
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]
criminal proceeding
CAL 1980-52, CAL 1979-49
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]
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]
discussion with party concerned fees only
Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]
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 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
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
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 where client never imparted confidential information to attorney -- now representing adverse party in same matter
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
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 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]
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 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
-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. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
-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. 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. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
People v. Merritt (1993) 19 Cal.App.4th 1573
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
-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
duty of loyalty requires
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
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]
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
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
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
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)
-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]
-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
-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
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]
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
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]
Strasbourger, 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
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]
"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
non-lawyer employee "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
not required when only "blue sky" work done by underwriter's counsel, no attorney-client relationship created
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
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]
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]
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
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
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
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Trone v. Smith (9th Cir. 1980) 621 F.2d 994
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499
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 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]
-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]
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
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]
-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
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]
timeliness of motion to disqualify
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
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
Visa U.S.A. Inc. v. First Data Corp. (N.D.Cal. 2003) 241 F.Supp.2d 1100
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]
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]
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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
trial court's power
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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]
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
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

vicarious 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]
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 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
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
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. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
former
-represents
--in criminal matters
Business and Professions Code section 6131
LA(I) 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. 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. 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]
-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
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]
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
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]
Ishmael 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 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]
lobbyist and legal counsel for a state agency may be permissible
78 Opns. 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
absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]
attorney acts as both advocate and advisor to decision maker
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
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. (Montana) 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
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]
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
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
consent to potential conflict
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]
corporation and board of directors in derivative suit
LA 397 (1982)
corporation and director of corporation as co-defendants
CAL 1999-153, LA 471 (1992)
corporation and directors
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
corporation and officers
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
franchisee law firms of franchisor group representing multiple clients
LA 471 (1992), LA 423 (1983)
insurance company
-and 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 424 (1984), LA 352 (1976)
-and 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
minor and guardian
CAL 1988-96
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)
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
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
Duty of loyalty
Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
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]
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
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
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 2003-163
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'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. (Montana) 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]
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. (Montana) 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]
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 supercede 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]
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]
-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
duty to disclose self-involvement in trust
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P. 500]
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
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
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
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(I) 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 Effron (1981) 117 Cal.App.3d 915, 928-930 [173 Cal.Rptr. 93]
-represents
--administrator
--as contestant in probate
LA 193 (1952)
--as real estate broker for the sale of estate property
LA 470 (1992)
--as such and as heir
CAL 1976-41, LA 237 (1956), LA 193 (1952), LA 44 (1943), LA(I) 1967-6
--takes assignment of administrator's interest in estate to secure loan
LA 228 (1955)
--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)
attorney representing both heir hunter 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
Estate of Effron (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(I) 1961-6
--own partnership
LA 219 (1954)
--referral fee from broker listing estate property
SD 1989-2
--represents
---person in determination of heirship
LA(I) 1965-8
---reopened estate against
LA 269 (1960)
-beneficiary as
LA 219 (1954)
--beneficiaries in contest over heirship
LA(I) 1958-2
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 RPC 3-300
Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
conflict of interest
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
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]
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]
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. (Montana) 2005) 394 F.3d 725
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. (Montana) 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
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]
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
Fiduciary duty
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 (1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Morrison Knudsen Corp. v. Hancock, Rothert & 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]
CAL 1993-132
CAL 1981-63
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
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
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
-in litigation
LA 30 (1925)
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. 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
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]
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]
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)
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
-also deemed to represent minor
CAL 1988-96
-former represents against as counsel for wife of deceased ward
LA(I) 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. (Montana) 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
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
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
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]
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
Sheldon Appel Co. v. Albert & Oliker (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]
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 [235 Cal.Rptr. 34]
LA 501 (1999)
-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."
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
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)
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
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. Belgum (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]
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
-insurer's ability to recover from insured
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
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
-and criminal defendant against insured
SD 1972-2
-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
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
-the 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
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'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
-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]
CRPC 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
CAL 1989-108
Joint powers arrangement
Joint Powers Act
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 representation of clients in the same matter
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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
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
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
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]
CAL 1993-132
Mediator
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]
Multiple representation
Visa U.S.A. Inc. v. First Data Corp. (N.D.Cal. 2003) 241 F.Supp.2d 1100
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 1993-132, LA 471 (1992), LA 427 (1984), SF 1973-26, SF 1973-15
actual versus potential conflict
LA 471 (1992), LA 427 (1984)
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]
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
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
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
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 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]
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]
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
clients each demand the original file
LA 493 (1998)
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

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]
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
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]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
CAL 2003-163
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]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
+In the Matter of Aguiluz (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 1974-22
consultation with attorney, evidence of relationship
[See Attorney-Client Relationship, Consultation with, prima facia case of existence of.]
corporation and directors
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
corporation and officers
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153
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)
corporate director/attorney representing client in transaction with corporation
CAL 1993-132
corporation and board of directors on derivative suit
LA 397 (1982)
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
dependency proceeding
-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
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
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]
--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]
--and another party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
--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]
--withdrawal
LA 395 (1982), LA 344 (1974)
-and party adverse to insurer
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
-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 & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
LA 461 (1990)
minor and guardian
CAL 1988-96
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
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 Cliffton 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 of 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
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
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
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LA 510 (2003)
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
-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]
representation of both general and limited partners in partnership
Johnson v. Haberman & Kassoy (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
LA 219 (1954)
--member-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
Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 899 [142 Cal.Rptr. 509]
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 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
Public agency attorneys
attorney acts as both advocate and advisor to decision maker
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
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
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
-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
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
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
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
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

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
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(I) 1970-10
Recusal of district attorney
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]
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]
*Younger v. Superior Court (1978) 77 Cal.App.3d 592 [144 Cal.Rptr. 34]
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]
Related matter
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
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
Visa U.S.A. Inc. v. First Data Corp. (N.D.Cal. 2003) 241 F.Supp.2d 1100
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
LA 506 (2001), LA 333 (1973)
both guardian and minor
CAL 1988-96
both interests of child and state
-in welfare proceeding
CAL 1977-45
both sides
SF 1973-15
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
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]
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. (Montana) 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. (Montana) 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]
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 theorectical division of loyalty
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
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
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
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
SD 1985-1, LA 216 (1953)
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
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
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]
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]
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
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
laches
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
Substantial relationship
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
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]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
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]
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
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 under-writers disqualified firm from representing a party against corporate subsidiary
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

between representation of current client(s) and prior representation of opposing party
Damron v. Herzog (9th Cir. 1995) 67 F.3d 211
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Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
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]
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
In re Marriage of Zimmerman (1993) 16 Cal.App. 4th 556 [20 Cal.Rptr.2d 132]
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
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495
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]
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]
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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]
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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]
-presumption of the exchange of confidential information
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]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
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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]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
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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
factors considered by the court
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Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
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]
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]
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
no substantial relationship found
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
Merle Norman Cosmetics, Inc. v. United States District Court (9th Cir. 1988) 856 F.2d 98
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
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
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
Successive representation
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]
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
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Support action, represent wife, former client in divorce, after representing former husband in unrelated matter
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Tactical abuse of disqualification proceeding
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]
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
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
Plxweve 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 etc. Bank (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]
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, 153 [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
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
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) 148 Cal.App.3d 894
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]
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
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 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]
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
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]
Waiver of
both confidentiality and conflict of interest
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 1998-152, CAL 1989-115
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
-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
Estate of Effron (1981) 117 Cal.App.3d 915, 930
Will drafting
attorney as beneficiary under terms of 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, 374 P.2d 807]
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
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. (Nevada) 2005) 402 F.3d 912
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
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
---in criminal proceeding
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
--witness
---against present 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]
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]
defense attorney consults in confidence one defendant who becomes witness against other co-defendants
-attorney may not represent other co-defendants
LA 366 (1977)

CONSERVATORSHIP PROCEEDINGS
Attorney initiated conservatorship proceedings, absent client consent
CAL 1989-112, LA 450 (1988), OR 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
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]
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 CRPC 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

CONSULTATION WITH CLIENT [See Attorney-client relationship.]

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)
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)
With treating physician of opposing party
CAL 1975-33
SD 1983-9

CONTEMPT OF COURT
Code of Civil Procedure sections 178, 1209
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 (2002) 294 F.3d 1075
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 ina 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]

CONTINGENT 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(I) 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. Daugue (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
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]
Business and Professions Code section 6147
attorney abandonment of case
-quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
--between city and private attorney
People ex rel.Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
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]
city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
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]
discharged attorney limited to quantum meruit, premise
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216 [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 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)
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
offset recovery not actually received by client
LA 458
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
voidable at option of client if Business and Professions Code section 6147(b) not complied with
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 may pay litigation costs for clients if representing on a charitable basis
SF 1974-4
lenders to attorneys for percentage of settlement
SF 1981-1
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
Costs
recovery of
LA 495 (1998)
Court award rebate to client
LA 447 (1987)
Court not bound by contract for
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]
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)
Health care provider
representing person seeking damages against
Business and Professions Code section 6146
Hybrid, hourly and contingent
SF 1999-1
Hybrid, reverse contingency
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Insist upon
LA(I) 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
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
-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
Barris v. County of Los Angeles (1997) 60 Cal.App.4th 471 [70 Cal.Rptr.2d 281]
Waters v. Bourhis (1985) 40 Cal.3d 424
*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]
Minors' compromise
Probate Code sections 3500 et seq., 3600 et seq.
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]
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)
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
Quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206 [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
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 206, 216-217 [204 Cal.Rptr. 531]
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]
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
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]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465

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 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]
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]
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)
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]
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
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

CONTRACT ATTORNEY
Compensation paid to non-employee attorney hired to render services to firm's client
CAL 1994-138, LA 473 (1993), LA 503 (2000)
Costs
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
Non-lawyers compensated for placing "temporary" attorneys with law firm
CAL 1992-126
Use of contract attorney, disclosure to client
CAL 1994-138, LA 473 (1993)

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)
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
Spires v. American Bus Lines (1984) 158 Cal.App.3d 206, 216-217 [204 Cal.Rptr. 531]
Agency relationship
Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
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 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
-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 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]
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
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 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 [36 Collier Bankr.CAS2d 577]
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]
Contingent attorney's fee
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 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
LA 499 (1999)
to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
void as against public policy
SF 1971-1
-divorce case
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
-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)
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]
Costs
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
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, opn. mod. 1 Cal.App. 4th 417a
LA 479, LA 473
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
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]
unconscionable contract
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
OR 99-001
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
OR 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]
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]
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, opn. mod. 1 Cal.App.4th 417a
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)
must be in writing
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]
Oral agreements
Thomson v. Casaudoumecq (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]
discretion of trial court
Kendrick v. Gould (1921) 51 Cal.App. 712 [197 P. 681]
reasonable value of services rendered
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
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
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]
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]
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)
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
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
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)
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]
Use of "Contract Attorney Services"
CAL 2004-165
Void if consideration is unlawful
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
Voidable
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)
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
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
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)
Upjohn v. U.S. (1981) 449 U.S. 383 [101 S.Ct. 677]
LA 389 (1981), LA 185 (1955)
Agent for, attorney acting as, to solicit athletic contracts
CAL 1968-13
Counsel for
brings suit against shareholder in unrelated matter
SD 1978-11
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
communicates with general counsel when suing subsidiary represented by local counsel
SD 1968-2
discloses unlawful act of officers or executives
LA 353 (1976)
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 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
rendering legal services to corporation employees
SD 1975-18
role of attorney as
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shareholder derivative suit
LA 397 (1982)
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
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Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
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displaced managers in merger may not assert the privilege over the wishes of current managers
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
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2,022 Ranch, LLCL.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
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later represent against one incorporator
SD 1974-13
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LA 397 (1982)
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Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
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In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
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First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
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Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
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  - 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
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  - 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 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 Tamir Oheb (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 697
- 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 Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
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  - In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
  - In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231
  - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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- lack of candor in disciplinary proceeding
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  - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
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  - 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
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  - In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

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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-client privilege may be waived if client fails to assert it at a disciplinary hearing
Calvert v. State Bar (1991) 54 Cal.3d 765
Attorney entitled to procedural due process
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In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
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Attorney must be afforded a fair and reasonable opportunity to be heard
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Authority of State Bar
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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 prejudgment 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
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A
Hartford v. State Bar (1990) 50 Cal.3d 1139
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]
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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
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California Professional Responsibility Examination
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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
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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
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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, 665-671 [211 Cal.Rptr. 847]
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
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
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Conduct warranting discipline
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In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
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Confidentiality of disciplinary investigations
Business and Professional Code section 6086.1(b)
Contempt of court as basis for
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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
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Costs
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In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
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In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
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
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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 Prantil (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 the Matter of Bouyer (Review Dept. 1998) 3 Cal.State Bar Ct. Rpt. 888
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In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
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In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
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Default, no relief despite technical errors
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Default by respondent attorney
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*In the Matter of Marsh (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291
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
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
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Defendants' burden of proof
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Defense
attorney has right to argue ethical obligations establish a bona fide legal representation defense
United States v. Kellington (9th Cir. (Oregon) 2000) 217 F.3d 1084
Defenses and mitigating circumstances
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Description of the attorney disciplinary system in California
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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 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
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In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
Disbarment for misappropriation of clients' identity
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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
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In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]
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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
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-attorney disbarred for misappropriating funds during breakup of firm
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` In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Disbarment necessary when attorney was previously disbarred for serious misconduct
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Disbarred or disciplined attorney
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Rule 9.20, California Rules of Court
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Disciplinary proceedings are neither civil nor criminal in character; they are administrative and of their own nature
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Disciplinary proceedings before State Bar
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In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
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In the Matter of Glasser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163
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In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
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In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
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+In the Matter of John Henry Hunter (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81; mod. at 3 Cal. State Bar Ct. Rptr. 89
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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 Reproval 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
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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
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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
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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
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Restitution
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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]
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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]
inherent power to discipline for conduct in or outside the profession
In re Scott (1991) 52 Cal.3d 968
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]
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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]
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Substantial discipline
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Finch v. State Bar (1981) 28 Cal.3d 659, 665 [170 Cal.Rptr. 629, 621 P.2d 253]
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Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
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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 (2003) 4 Cal. State Bar Ct. Rptr. 601
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Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney
Hustedt v. Workers' Comp. Appeals Bd. (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)
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 Rule of Court 955
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]
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]
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"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
"Willfulness" of violations
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.3d921, 932
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
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(I) 1965-16
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-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
Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]
Strasbourger, 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
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]
Authority of court
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
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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
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]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
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
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Confidences of adversary
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
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Strasbourger, Pearson, Tulcin, Wolff, Inc., et al. v Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Confidences of the client
actual possession need not be proven -- test
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
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]
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 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]
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. 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]
entire office
Penal Code section 1424
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. 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]
People v. Conner (1983) 34 Cal.3d 141, 148-149
Williams v. Superior Court (1988) 198 Cal.App.3d 960
Expert witness
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]
Examine circumstances of each case
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
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In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
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Former client ordinarily must be the moving party to seek disqualification based on a conflict of interest
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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
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]
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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]
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DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Non-client litigant must establish a personal stake in a motion to disqualify
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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]
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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
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*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
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Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
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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
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Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]
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Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [204 Cal.Rptr. 531]
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paid to attorney for executor from broker listing estate property
SD 1989-2
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LA 443 (1988)
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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
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CAL 1994-138, LA 473 (1993)
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
lender to attorney of percentage of settlement
SF 1981-1
living trust marketers
CAL 1997-148
management company
LA 488 (1996) (1996)
medical-legal consulting service
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
medical liaison
CAL 1995-143
membership organization
LA 401 (1982)
non-profit referring organization
SF 1976-2, 1973-27
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)
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) 121Cal.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 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)
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 447 (1987)
fee sharing agreement unenforceable under doctrine of illegality of contract
McIntosh v. Mills (2004) 121Cal.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]
living trust marketer
CAL 1997-148
management company
LA 488 (1996) (1996)
medical-legal consulting services
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
CAL 1984-79
medical liaison
CAL 1995-143
organized lender
SF 1981-1
paralegal
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
LA 391, LA 457
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(I) 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 the Matter of Tamir Oheb (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 697
service exchange
CAL 1981-60, CAL 1977-44, LA(I) 1965-18
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 attorneys 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(I) 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(I) 1971-8
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, 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(I) 1968-8
other spouse previously
SD 1984-2
party in and receiver
LA 51 (1927)
successive wives of same husband
LA(I) 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(I) 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 1983-71
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
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]
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]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
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]
-acceptance of ministerial function invokes a duty
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
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)
Advise client of settlement and liability exposure
Garris v. Severson, Merson, Berke & Melchior (1988) 205 Cal.App.3d 301
Advise client of significant developments in case
Business and Professions Code section 6068(m)
Rule 3-500, Rules of Professional Conduct
Advise court of material fact
Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]
OR 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]
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]
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
Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
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
dishonesty to court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
distortions of record
Amstar Corp. v. Envirotech Corp. (C.A. Fed 1984) 730 F.2d 1476
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
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]
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
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
U.S. v. Leonti (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 the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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 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 Hinden (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 2003-163
basis for calculating fees
OR 99-001
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]
discovery sanctions against the attorney and client may be a significant development which should be communicated to the client
CAL 1997-151
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 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
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
may supercede 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, 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)
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 the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
use of specially appearing attorney
CAL 2004-165

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)
obligation to anticipate reasonably foreseeable risks
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Comply with State Bar reporting requirements
Business and Professions Code section 6068(j)
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
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)
duty to preserve client confidence and trust in attorney
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 1981-58, CAL 1987-93, CAL 1987-92
LA 506 (2001)
duty to protect client confidences and secrets
-after death of client
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
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)
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
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
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
Dominguez 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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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
representation of a minor client
LA 504 (2000)
Depositions, representing client at
instructions not to answer sanctionable
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)
District attorney
In re Martin (1983) 150 Cal.App.3d 148, 169 [197 Cal.Rptr. 655]
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 1987-93, CAL 1987-92
Duty to report impropriety of another attorney
Business and Professions Code section 6100 et seq.
SD 1992-2, LA 440 (1986)
SF 1977-1
Employ means consistent with truth
Business and Professions Code section 6068(d)
Rule 5-200, Rules of Professional Conduct
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 Effron (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)
Failure to communicate status of case to client
In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
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 perform duties
Rossman 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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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
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
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]
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)
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
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
Anderson v. Eaton (1930) 211 Cal. 113
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
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009A
Hartford v. State Bar (1990) 50 Cal.3d 1139
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]
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
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]
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
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
-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
breach of duty to a former client
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]
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]
Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)

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
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
standard for the relationship
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
statute of limitations
Stoll v. Superior Court (1992) 9 Cal.App.4th 1362
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]
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]
Honesty
deception and concealment amounting to moral turpitude
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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
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
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
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]
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]
Investigate financial affairs of clients
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
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
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. (Oregon) 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
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)
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)
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 does not protect attorney's alleged fraudulent statement about insurance coverage
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]
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]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
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
Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]
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
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
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]
may supercede 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
may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OR 95-001
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]
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
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]
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]
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
Business and Professions Code section 6068(d)
Rule 5-200(B), Rules of Professional Conduct
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
OR 95-001
duty to report possible violation of court order
LA 394 (1982)
No constitutional right to every defense
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
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
disregard of order by a workers' compensation judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
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
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]
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]
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
LA 300 (1967)
dishonesty to
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Opposing party
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
-is absolute and protects attorney from tort actions based on misleading statements made to opposing side
--dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
--settlement negotiation
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
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
-protects attorney conduct which is communicative in nature
Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
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]
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)
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
does not dissolve when attorney is discharged
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
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
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]
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]
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 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)
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. 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. 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
In the Matter of Curtis (2003) 4 Cal. State Bar Ct. Rptr. 601
Internal Revenue Code section 6050(I)
to the State Bar
-address of attorney
Business and Professions Code section 6002.1
-civil judgement 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)
-imposition of discipline
Business and Professions Code section 6068(o)(6)
-indictment of information charging a felony
Business and Professions Code section 6068(o)(4)
-judgment against attorney for moral turpitude
Business and Professions Code section 6068(o)(2)
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
Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
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 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 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. Pangelina (1984) 153 Cal.App.3d 1
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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
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
SD 1997-1, SD 1984-3, SD 1977-3, SF 1996-1, SF 1984-1
Return records mistakenly delivered to sender
SD 1987-3
Reveal
United States v. Kellington (9th Cir. (Oregon) 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
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
OR 99-002
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]
LA 488 (1996) (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 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 Hinden (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 488 (1996), OR 94-002
attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
In the Matter of Hinden (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
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
OR 94-002
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)
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
Silberg v. Anderson (1990) 50 Cal.3d 205
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
November 13, 2006 v. Weingarten (2004) 124 Cal.App.4th 304
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]
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]
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 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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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
CAL 1983-77
-basis for calculating fees
OR 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 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]
Boranian 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 & Bunshoft, 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'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]
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 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]
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]
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)
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)
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.]
reasonable steps to avoid reasonably foreseeable prejudice to client's rights
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
Vangsness 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
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]
CAL 1972-29
LA 321 (1971), LA 286 (1965), LA 221 (1954), LA(I)1973-8
SD 1974-21, SD 1974-16, SD 1969-8, SD 1969-6
ELECTIONS [See Political activity.]
ELECTRONIC SURVEILLANCE [See Recording.]
EMBEZZLEMENT [See Client trust fund, misappropriation. Misappropriation. Misconduct.]
EMINENT DOMAIN [See Condemnation.]
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
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(I) 1977-2, LA(I) 1976-9, LA(I) 1976-7
group of property owners
LA 257 (1959)
lay person or entity to serve customers of
LA 327 (1972), LA(I) 1969-4, LA(I) 1963-5
SD 1974-20
-employees of
SD 1972-3
members of client association
LA(I) 1974-14, LA(I) 1947-8
participants in educational activity
CAL 1972-29
party when criticized work of counsel of
LA 313 (1969)
pro bono clients
LA(I) 1975-6
viewers of television program
LA 318 (1970)
Accept when
selected from list prepared by insurance agent
LA(I) 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(I) 1955-6
returns client's deposit after discovery that client was fraudulently induced into agreement
LA(I) 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)
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(I) 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]
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(I) 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
LA 470 (1992)
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 470 (1992), LA 317 (1970)
fee for doing executor's work
LA 382 (1979), 347 (1975)
Probate Code sections 10804 and 15687
offers to prepare claims of creditors of estate for fee
LA(I) 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(I) 1965-8
-re-opened estate against
LA 269 (1960)
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
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
Partnership
represents
-member-executor
LA 219 (1954)
-member-trustee
LA 219 (1954)
Personal representative
attorney for heir bills for services covered by statutory fees to be paid from estate
LA(I) 1956-7
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]
Trustee
as beneficiary
LA 219 (1954)
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]
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]
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)

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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. (Oregon) 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]
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
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
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
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)
“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 clause in retainer agreement
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Binding contract provision
CAL 1981-56
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's fee guarantor entitled to arbitrate fee dispute
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
Client waiver of arbitration rights
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
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]
OR 99-002
dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Public policy
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
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)
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 uncontemplated 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(I) 1966-4, SF 1974-4
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]
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
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]
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 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, OR 99-001
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
LA 261 (1959), LA 226 (1955)
evaluated at time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
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(I) 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, 131 [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]
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
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Oregon) 2005) 430 F.3d 1032
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) 43 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.
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
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]
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
CAL 1981-56
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]
fee guarantor entitled to arbitrate fee dispute
Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
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]
OR 99-002
public policy
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
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]iver of due to filing of affirmative relief pleading
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587
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
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
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
--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, 215-216 [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, 481-482 [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, 545-548 [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 Alcala (9th Cir. 1990) 918 F.2d 99
quantum meruit
-attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
reasonable value of services
-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]
-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]
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's fees agreed to by contract
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's fees should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271
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
Authority of arbitrator
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
Authority of court to compensate counsel
court may appoint counsel, but may not compensate without statutory authoization
San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
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]
Award of attorney's 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]
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
-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
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
after dismissal of complaint
Parrott v. Mooring Townhomes Ass'n Inc. (2003) 112 Cal.App.4th 873 [6 Cal.Rptr.3d 116]
against government
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
-under Brown Act
--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 Equal Access to Justice Act
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 Hyde Amendment (18 U.S.C. § 3006A)
U.S. v. Manchester Farming Partnership (2003) 315 F.3d 1176
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]
"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]
-"third-party tort" exception
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
statutory authority for
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
Americans with Disabilities Act
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
appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Oregon) 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
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
-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]
-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
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
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]
-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]
-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]
-prevailing party
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]
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
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]
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]
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 denied without court authorization
In re Monument Auto Detail, Inc. (9th Circ. 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
-automatic stay of proceedings
In re Stinson (9th Cir. BAP 2003) 295 B.R. 109
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. 767 [36 Collier Bankr. CAS2d 577]
-award of fees is void when underlying claim is in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
-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 Banbkr.Ct.Dec. 1229]
-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 (Nevada) 2003) 293 B.R. 227
-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
-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
-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 & Spiegal-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
In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567 [27 BankrCt.Dec. 201]
-in accordance with state law
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
-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 attorneys fees claim not barred by statute of limitations
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
-"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
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693-694
-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
based on bad faith actions
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541
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]
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]
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
--limits zealous advocacy
Lone Ranger Television v. Program Radio Corp. (9th Cir. 1984) 740 F.2d 718, 727
-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 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
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]
-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, 70-71; Cert. denied 425 U.S. 951 [96 S.Ct. 1726]
-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, 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]
-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
basis of computation
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Jones v. Espy (1993) 10 F.3d 690
City of Burlington v. Daugue (1992) 505 U.S. 557 [112 S.Ct. 2638]
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
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
Boccato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804, 811-812 [204 Cal.Rptr. 727]
-court must articulate factors used to calculate award
Wininger 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

Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
-extent of plaintiff's success
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Cinevision Corp. v. City of Burbank (9th Cir. 1984) 745 F.2d 560, 581
-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
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
-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
-in Title VII action
Maldonado v. Lehman (9th Cir. 1987) 811 F.2d 1341
-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 for 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)
-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 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]
-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]
"benchmark" fee calculation
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Brown Act
-defendant must show that special circumstances exist to make award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
civil rights cases
Trevino v. Gates (1995) 888 F.Supp. 1509
Stewart v. Gates (1993) 987 F.2d 1450
Texas State Teachers Association v. Garland Independent School District (1989) 489 U.S. 782 [109 S.Ct. 1486]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
-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
-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
-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
-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]
-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
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Sneede v. Coye (1994) 856 F.Supp. 526
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Morganstein v. Esber (1991) 768 F.Supp. 725
LA 445 (1987)
-extra award allowed lawyer who creates common fund
Paul v. Graulty (9th Cir. 1989) 886 F.2d 268
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 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 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
-awarded pursuant to Civil Code section 1717
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
-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]
-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
-lodestar multiplier method
--adjustment based on benefit conferred on class by class counsel
Wininger 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]
--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
-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
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F. 3d 566
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]
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
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]
-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. et al., (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]
contingency fee, court not limited to
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
contract for
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]
-basis for
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
-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
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]
-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
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
California Teachers Assn. v. Governor's Board of the Simi Valley Unified School District (1984) 161 Cal.App.3d 393 [207 Cal.Rtpr. 659]
-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]
-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]
-attorney 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
-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 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]
-claim for attorney's fees on a breach of contract action must be based on a specific right agreed to by the contracting parties
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
-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]
-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
-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
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
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]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
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]
-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 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]
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 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
-award on contract claims in accordance with Civil Code § 1717
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]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
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
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
--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
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
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]
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Mesa Forest Products, Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324
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Harvard Investment Co. v. Gap Stores, Inc. (1984) 156 Cal.App.3d 704, 712-714 [202 Cal.Rptr. 891]
-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)
-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]
-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]
-prevailing party entitled to attorney's fees under Civil Code section 1717 if opposing party has sought attorney's fees under it
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
cost of litigation includes attorney fees and expert witness fees for purposes of applying automatic stay provisions
Pecsok v. Black (1992) 7 Cal.App.4th 456 [9 Cal.Rptr.2d 12]
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
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

criminal law
-under Penal Code § 1202.4(f)(3), allows restitution only for that portion of attorney fees attributable to the victim's recovery of economic damages
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
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
Exxess Electronixx v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
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discretion of arbitrator to award fees
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-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
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Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
-court may appoint counsel, but may not compensate without statutory authoization
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]
-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]
-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]
-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
Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
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-trial judge's discretion to issue a fee reduction
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-trial judge in best position to evaluate value of attorney's services in courtroom
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
-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
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elder abuse cases
-value of an estate is a factor in setting fees
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entitlement
-based on contract or statute
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 judgement 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
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
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
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
-award denied
Gray v. Secretary, Health and Human Services (1993) 983 F.2d 954
-applies to contested petitions for naturalization
Abela v. Gustafson (9th Cir. 1989) 888 F.2d 1258
-award should encompass fees incurred in subsequent litigation to protect that fee award
Spurlock v. Sullivan (1992) 790 F.Supp. 979; 783 F.Supp 474
Byrnes v. Riles (1984) 157 Cal.App.3d 1170 [204 Cal.Rptr. 100]
-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
-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. CA 1997) 123 F.3d 1275
excessive
attorney fee award not excessive
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
expert witness fees cannot be included as attorney fees or recovered as Anecessary expenseA 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]
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-bankruptcy court has exclusive jurisdiction in determining whether family law matters are excepted from the automatic bankruptcy stay
In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
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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
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
fee award for appeal proper after paternity adjudication
Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]
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
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]
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In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693
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
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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
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]
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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
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In re Levander (9th Cir. 1999) 180 F.3d 1114
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]
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Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
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labor management dispute
-denial of fees where district court erred in remanding case to state court
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"lodestar" multiplier method of fee calculation
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Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
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-court must articulate factors used to calculate award
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
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-reduction in fees
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-corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
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-court instructions not necessary
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-court may award attorneys' fees in excess of $25,000 jurisdictional amount
Stokus v. Marsh (1990) 217 Cal.App.3d 647
"more favorable judgement" 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]
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-district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
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-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
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no recovery of attorney's fees unless they are specifically authorized by contract, statute, or law
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-attorney's fees not subject to
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-calculation for
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-discovery may be allowed by the trial court
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-effect of Budget Act on
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-entitled to fees because action resulted in enforcement of an important right affecting the public interest
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-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
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-jurisdiction of trial court is retained to award costs and fees despite filing of compromise agreement by the parties
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-unnamed member of putative class who defeats class certification
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-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
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-fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust
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-includes work reasonably performed by attorney to establish and defend own fee claim
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-trial court may not require reimbursement for attorneys' fees as a condition of probation
People v. Faatiliga (1992) 10 Cal.App. 4th 1276 [13 Cal.Rptr.2d 190]
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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
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Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193
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-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 (2003) 315 F.3d 1176
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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]
-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)
-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
-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
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Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
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Aspen International Capital Corporation v. Marsch (1991) 235 Cal.App.3d 1199
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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
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-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
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
-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]
-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
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
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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]
-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]
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]
-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]
-the fact that the settlement offer did not specify a particular amount of fees did not render it unenforceable
Elite Show Services Inc., v. Staffpro Inc. et al. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
SLAPP action
-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
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
-despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
social security
-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
special hearing required under FOIA
Church of Scientology v. U.S. Postal Service (9th Cir. 1983) 700 F.2d 486, 494
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In re Marriage of Joseph (1989) 215 Cal.App.3d 416
Paduano v. Paduano (1989) 215 Cal.App.3d 346
statutory authority for
Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 20-21 [206 Cal.Rptr. 303]
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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
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
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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]
-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]
-SLAPP action
Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
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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]
-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]
-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)
--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]
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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
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]
stipulations and settlements are controlling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281, 283
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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
-entitled to attorney fees based on workman's compensation lien amount
Raisola v. Flower Street, Ltd. (1988) 205 Cal.App.3d 1004
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]
third-party tortfeasor doctrine
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]
to prevailing party
-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]
-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
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]
-ADEA matter
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
-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]
--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]
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
--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]
--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]
-attorney 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
-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]
-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
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]
-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
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
--district court presiding over settlement fund had equitable power to award attorneys 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
-Clean Water Act matter
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
-constitutional right to free exercise of religion at issue
Friend v. Kolodzieczak (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)
-defendant prevails in Title VII action brought by EEOC
Equal Employment Opportunity Commission v. Bruno's Restaurant (9th Cir. 1992) 976 F.2d 521

-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 entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
-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. (Nevada) 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
-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]
-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
--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
-ERISA matter
--under 29 U.S.C. 1123(g)(1)
McElwaine v. US West, Inc. (9th Cir. (Arizona) 1999) 176 F.3d 1167
Cann v. Carpenters' Pension Trust Fund for Northern California (1993) 989 F.2d 313
Bogue v. Ampex Corporation (9th Cir. 1992) 976 F.2d 1319
Downey Community Hospital v. Wilson (9th Cir. 1992) 977 F.2d 470
-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]
-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 awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the mertis and motion was found to be meritless
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
-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
-FEHA matter
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
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]
Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
-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
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
-Government Code section 6259(c)
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
-Government Code section 6259(d)
Belth v. Garamendi (1991) 232 Cal.App.3d 896 [283 Cal.Rptr. 829]
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Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
-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
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
-Labor Code § 98.2
--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 judgement" 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
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]
-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
-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
-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such 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
-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 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]
-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]
-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]
-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
-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
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
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
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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]
-under Civil Code section 798.85
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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]
-under Civil Code section 1942.4
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
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--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]
-under Code of Civil Procedure section 1021.5
--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]
-under Endangered Species Act
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
-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]
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-unsuccessful plaintiff
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-award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
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In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
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Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
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-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
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-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 (2003) 315 F.3d 1176
under 28 U.S.C. § 1447(c)
Moore v. Permanente Medical Group, Inc. (9th Cir. 1992) 981 F.2d 443
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. § 2412(d)
Jones v. Espy (1993) 10 F.3d 690
Oregon Natural Resources Council v. Madigan (9th Cir. 1992) 980 F.2d 1330
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 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 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. (Oregon) 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 42 U.S.C. § 1988
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
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
CAL 1994-136
-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]
-standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F. 3d 566
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. (Nevada) 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
under California Public Records Act
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 1717
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]
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
Exxess Electronixx 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]
Hsu v. Abbara (1995) 9 Cal.4th 863 [39 Cal.Rptr.2d 824]
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]
-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 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
-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 attorneys fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
-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)
-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]
under Civil Code section 1780
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
under Civil Code section 1794
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 rights statute
-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
-lodestar calculation
Beaty 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]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
-partial success of prevailing attorneys may reduce amount of fee awarded
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
-waiver or limitation of attorney fees in section 1983 case must be clear and unambiguous
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
-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 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. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
under Code of Civil Procedure section 425.16
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
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]
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 Code of Civil Procedure section 998
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Elite Show Services Inc., v. Staffpro Inc. et al., (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]
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]
settlement offer silent as to right to recover 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]
under Code of Civil Procedure section 1021.5
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]
Cabrera v. Martin (9th Cir. 1992) 973 F.2d 735
California Labor Federation AFL-CIO v. California Occupational Safety and Health Standards Board (1992) 221 Cal.App.3d 1547
-administrative appeal
Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
-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]
-time limit
Battorney's fees incurred in post-judgment proceedings not time barred by rule 3.1702, California Rules of Court
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 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 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 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]
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 Family Code section 2030
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
under Government Code section 6250
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 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 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
-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 §§ 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 write of review
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
under Probate Code section 10810
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
under Welfare and Institutions Code §§ 15600 et seq.
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]
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
void
-in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
will not be disturbed absent abuse of discretion
-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
-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 write of review indisputably lacked merit
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
-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]
Award of compensation for law clerk and paralegal time reasonably spent on plaintiff's case
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Bankruptcy
attorney award of fees and costs for bad faith
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
attorney employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
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 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 (1999 BAP) 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 denied without court authorization
In re Monument Auto Detail, Inc. (9th Circ. 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
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 [36 Collier Bankr.CAS2d 577]
awarding interim fees to attorney in bankruptcy action
In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322
award of fees is void when underlying claim is in violation of stay
In re Miller (9th Cir. (Montana) 2005) 397 F.3d 726
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 Banbkr.Ct.Dec. 1229]
bankruptcy court has jurisdiction to approve post-petition attorney fees
In re Knudsen Corporation (1988) 84 B.R. 668
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
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 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]
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
delay in bankruptcy court's approval of payment does not entitle enchanced attorneys 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 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
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
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]
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 for wife's attorney in dissolution dischargeable in bankruptcy
In re Gibson (1989) 103 B.R. 218
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]
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
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]
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
Billing
billing service, use of
LA 423 (1983), LA 374 (1978)
clients must understand and consent to billing practices
CAL 1996-147, OR 99-001
"double billing"
CAL 1996-147, OR 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]
"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
OR 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
services of law clerks, legal assistants (paralegal), and secretaries
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
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, mod. at 1 Cal.App.4th 417a
LA 479

services of law clerks, legal assistants (paralegal), and secretaries
LA 391 (1981)
use of block billing rather than listing separately time expended to perform each task
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
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LA 457
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 support
Boutte v. Nears (1996) 50 Cal.App.4th 162 [57 Cal.Rptr.2d 655]
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]
Civil Code section 1717
attorney 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
attorney litigating in propria persona
-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]
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]
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]
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
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]
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 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
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
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 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]
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
"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]
settlement shall not include attorney fees as portion of common fund established for benefit of class
Staton v. Boeing Co. (9th Cir (Washington) 2003) 327 F.3d 938
standing to appeal awards of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142
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]
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 Circ. 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 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
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
no recovery of attorney's fees where attorney engaged in conflicting representation without obtaining informed written consent
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Conflict of interest, fees paid by co-defendant
U.S. v. Wells (9th Cir. (Montana) 2005) 394 F.3d 725
Conflict of interest, fees paid by third party
Strolrow v. Strolrow, Inc. (9th Cir. 1987) 813 F.2d 997
CAL 1975-35
Conservatorship
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
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]
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]
no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
under Civil Code § 1717
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
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
-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]
-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
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
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]
Court has discretion to award under Criminal Justice Act
Matter of Baker (9th Cir. 1982) 693 F.2d 925
Court must consider relevant guidelines in setting fees
Fitzharris v. Wolff (9th Cir. 1983) 702 F.2d 836
Delay of client's matter to collect [See Unpaid fee.]
Business and Professions Code section 6128
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when court awards none
LA(I) 1962-4
Demand from third party
LA 226 (1955)
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]
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Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
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First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
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-in divorce
LA 226 (1955)
by statute and contract
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charge less than
-allowed by court
LA 65 (1931)
-schedule, custom, or statute
LA 102 (1937)
charge more than allowed by court
LA(I) 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, opn. mod. at 1 Cal.App.4th 417a
LA 479
-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, 12 [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]
Dispute
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 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]
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]
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]
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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
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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
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In re Marriage of Jovel (1996) 49 Cal.App.4th 575 [56 Cal.Rptr.2d 740]
In re Marriage of Munguia (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
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 Marriage of Askren (1984) 157 Cal.App.3d 205, 212 [203 Cal.Rptr. 606]
District court
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In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Jeff D. v. Evans (9th Cir. 1984) 743 F.2d 648, 650-651
Division of, when partnership dissolves
Fox v. Abrams (1985) 163 Cal.App.3d 610 [21 Cal.Rptr. 260]
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*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
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]
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LA 309 (1969)
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LA 330 (1972), LA(I) 1970-6
SD 1977-3, SF 1973-12
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LA 438 (1985)
Division of, between attorneys or law firms associated on a particular matter
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
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]
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LA 434 (1984)
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LA 428 (1984)
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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
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Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509
Elder Abuse and Dependent Adult Civil Protection Act
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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
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-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
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-standard for awarding attorney's fees under Equal Access to Justice Act
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-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
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value of plaintiff's assets determined
United States v. 88.88 Acres of Land (9th Cir. 1990) 907 F.2d 106
Error in awarding fees
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]
Estate
administrator's attorney's fee for representing administrator as heir
LA 237 (1956)
attorney for personal representative bills heir for services for which estate is liable
LA(I) 1956-7
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)
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Houghton v. Coberly (1962) 201 Cal.App.2d 820 [20 Cal.Rptr. 489]
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
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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]
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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]
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In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
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
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In re Marriage of Sprague & Spiegal-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]
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LA 308 (1968)
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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
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. (Nevada) 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
Government
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]
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]
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]
Gross overcharge
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Bushman v. State Bar (1974) 11 Cal.3d 558, 563 [113 Cal.Rptr. 904]
Group legal services
LA(I) 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
Hybrid, hourly and contingent
OR 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 Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
LA 466, OR 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]
Immigration cases
Equal Access to Justice Act
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
Improper billing
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), OR 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]
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]
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]
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
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)
-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
-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
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]
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]
insurer's ability to recover attorney fees from insured
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
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SF 1970-1
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]
Invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
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
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)
Lien
as security for
CAL 1981-62
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]
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]
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]
physician's
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LA 368 (1977), LA 357 (1976)

priority of attorney liens
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, 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]
settlement check issued only to client, but delivered to attorney who has a lien
OR 99-002
"Lodestar" multiplier method of fee calculation
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]
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]
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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]
Malpractice action
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
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
no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
Medical malpractice
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]
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Minors' compromise
Probate Code sections 3500 et seq., 3600 et seq.
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]
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 (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]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
Mutuality of remedies
Smith v. Krueger (1983) 150 Cal.App.3d 752, 757 [198 Cal.Rptr. 174]
No attorney's fees as obligatee 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
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
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
Leamon v. Krajkiewcz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
No recovery of attorney's fees where attorney voluntarily withdraws without cause
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Nominal fee
printed upon professional card
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None charged
charitable, educational, and religious organizations
SD 1974-19
for referrals from health plan
LA(I) 1931-3
for will
-leaving money for cause
LA 314 (1970), LA 196 (1952)
-to bank's customers
SD 1974-21 1/2
-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
-lawyer declines to perform further services
SD 1973-3, LA 32 (1925)
Non-statutory award of attorney's fees
reasonable lodestar/risk factor
Beaty 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 CRPC 3-300
SF 1997-1
Out-of-state attorney's
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
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Paid by others
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LA(I) 1964-1
by corporation to minority shareholder's attorney
Strolrow v. Strolrow, 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 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]
-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
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, OR 93-002
head of criminal organization
-to represent subordinate
CAL 1975-35
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 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 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
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]
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
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 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
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]
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
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]
anti-SLAPP motion
-fees awarded to plaintiff where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
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]
-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
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
-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]
-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]
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
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
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
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
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]
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. (Nevada) 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]
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 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
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]
legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
may seek attorney's fees notwithstandign 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 prevailing party status
Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Escobar v. Bowen (9th Cir. 1988) 857 F.2d 644
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
-voluntary dismissal
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
-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]
party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such 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 party in preliminary injunction entitled to attorney fees
Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092
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]
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
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 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
under Code of Civil Procedure section 405.38
-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 Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
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]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
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
Exxess Electronixx 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
-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 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
-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]
-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]
under Clean Water Act
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-catalyst theory applied
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
under Equal Access to Justice Act
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
under Labor Code § 98.2
-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 judgement" 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 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. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
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
Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
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
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]
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
attorney's fees can only be recovered against opposing parties
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
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]
Boccato v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
criteria for awarding
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 when no important right or interest was vindicated by the plaintiff's action
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
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]
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]
fee award improper where de minimus public benefit
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 granted for action that served to vindicate an important right
-factors considered under CCP § 1021.5
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]
State of California v. County of Santa Clara (1983) 142 Cal.App.3d 608, 614-616 [191 Cal.Rptr. 204]
--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]
-fee awarded under CCP § 1021.5 -- rationale for award
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]
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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.3d97,102-103 [228 Cal.Rptr. 847]
--award of fees improper when plaintiff has personal interest or individual stake in the matter
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
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
-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
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601-602, mod. 150 Cal.App.3d 1141c
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]
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
Rosenaur 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

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when attorney knows pro bono client has sufficient funds to pay legal fees
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Probate
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 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]
ordinary/extraordinary fees distinguished
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
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]
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]
Probate fee, statutory scale
See Probate Code section 10800
Estate of Hilton v. Conrad N. Hilton (1996) 44 Cal.App.4th 890 [52 Cal.Rptr.2d 491]
See 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]
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
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 substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (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
attorney's fees paid by losing party in
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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]
-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]
Quantum meruit
attorney's lien not payable in circumvention of the Bankruptcy Code
In re Monument Auto Detail, Inc. (9th Circ. 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
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Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
In the Matter of Respondent H (Review Dept.1992) 2 Cal. State Bar Ct. Rptr.234
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 206, 216-217 [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) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
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
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]
under contingent fee contract, discharged attorney limited to quantum meruit recovery
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211, 215-216 [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 because it was not in writing
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
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
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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
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approach factors considered
Association of California Water Agencies -+ (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 (Nevada) 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
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]
Werchkull v. United California Bank (1978) 85 Cal.App.3d 981, 1005 [149 Cal.Rptr. 829]
-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]
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]
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Fed Mart Corp. v. Pell Enterprises, Inc. (1980) 111 Cal.App.3d 215, 224 [168 Cal.Rptr. 525]
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]
-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]
-family law court fee awards must be reasonable and based on factual showings
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
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Berry v. Chaplin (1946) 74 Cal.App.2d 669, 678 [169 P.2d 453]
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Moore v. Maryland Casualty Co. (1929) 100 Cal.App. 658, 666 [280 P. 1008]
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]
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 lawyer's fee
LA 311 (1969)
partition proceeding
Watson v. Sutro (1894) 103 Cal. 169, 171 [37 P. 201]
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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 Bexpert 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
-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]
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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
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In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 560 [206 Cal.Rptr. 641]
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Crocker v. Crocker First National Bank of San Francisco (1943) 60 Cal.App.2d 725, 730 [141 P.2d 482]
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Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817; 152 L.Ed.2d 996]
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Horn v. Swoap (1974) 41 Cal.App.3d 375, 384 [116 Cal.Rptr. 113]
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SD 1975-4
Reduced to match award
Chromalloy American Corp. v. Fischmann (9th Cir. 1983) 716 F.2d 683
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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
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
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]
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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
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
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]
-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]
Security for
LA 492 (1998), LA 407 (1982), LA 398 (1982), LA(I) 1975-8, LA(I) 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
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
-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]
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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]

trust deed
LA(I) 1975-8, LA(I) 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
condition settlement on plaintiff's attorney waiving fees
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
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
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]
structured settlement, use of
CAL 1987-94
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
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
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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]
Splitting [See Division of fees.]
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SD 1969-2
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LA 423 (1983)
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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
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
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
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Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
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
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]
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
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
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
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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]
under Code of Civil Procedure section 405.38
-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]
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People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
Statutory limits for litigation of prison lawsuits
limitations for services performed before and after effective date of Prison Litigation Reform Act
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Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]
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]
Stipulated attorneys' fees
Workers' Compensation matter
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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]
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
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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(I) 1966-10
Suit to recover
LA 362 (1976), LA 212 (1953)
claim in bankruptcy proceeding
In re Marguam 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)
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
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]
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]
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
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CAL 1996-147
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Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402
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OR 93-002
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Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
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Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
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LA 458
"over-billing"
preparation of false and misleading billing statements involves moral turpitude
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OR 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
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LA 507 (2001)
unconscionable fee found to violate rule 4-200, Rules of Professional Conduct
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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 at Faretta hearing, not valid when court did not clarify the possible maximum penalty that defendant faced
United States v. Erskine (9th Cir. 2004) 355 F.3d 1161
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Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
LA 502 (1999), LA 483 (1995)
Non-attorney in 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
Right to self-representation
People v. Dent (2003) 30 Cal.4th 213 [132 Cal.Rptr.2d 52]
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, 976 [85 Cal.Rptr.2d 203]

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Business and Professions Code sections 6003(b), 6005-6007, 6126
Bound by State Bar Act in California
LA(I) 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
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INDIGENT PERSONS [See Fee, indigent. Legal aid. Withdrawal.]
CAL 1981-64
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Appointment of pro bono counsel
Bradshaw v. U.S. District Court for Southern District of California (9th Cir. 1984) 742 F.2d 515
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]
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LA 358 (1976)
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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]
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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
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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
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INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES
[See Prosecutorial misconduct.]
California Constitution Art. I, § 15
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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]
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People v. Murphy (1982) 127 Cal.App.3d 743, 749 [179 Cal.Rptr. 732]
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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]
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Advising client to reject plea bargain
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Aguilar v. Alexander (9th Cir. 1997) 125 F.3d 815
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People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]
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Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
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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]
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-issue may be raised on habeas corpus
Leavitt v. Arave (9th Cir. 2004) 383 F.3d 809
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]
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
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
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]
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U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956
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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]
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People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
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
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Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
Bizarre closing argument prejudicial to defendant and co-defendant
People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]
Burden on client defendant to prove
Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
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]
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People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
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. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
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right dependent on constitutional right to counsel
Miller v. Keeney (9th Cir. 1989) 882 F.2d 1428
Client's claim lacks merit
United States v. Fredman (9th Cir. 2004) 390 F.3d 1153
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
client cannot show that attorney's representation fell below objective standard of reasonableness
United States v. Freeny (9th Cir. 1988) 841 F.2d 1000
"confessions & 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
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
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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. (Montana) 2005) 394 F.3d 725
complete breakdown in communication with defendant
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
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]
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Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
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
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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
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 alleged racial epithets were not used to describe appellant and did not affect representation
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
no ineffective assistance of cournsel unless attorney's performance was adversely affected by the conflict of interest
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
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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
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
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Maxwell v. Superior Court (1982) 30 Cal.3d 606, 612 [180 Cal.Rptr. 177, 639 P.2d 248]
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
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People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
Conflict of interest not found
*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878
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]
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
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Cumulative effect of errors results in prejudice
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
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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
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U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
*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
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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
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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]

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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
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*People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]
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People v. Rhines (1982) 131 Cal.App.3d 498 [182 Cal.Rptr. 478]
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*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
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People v. Cropper (1979) 89 Cal.App.3d 716 [152 Cal.Rptr. 555]
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Failure to adequately prepare for criminal trial
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Failure to adequately research relevant law
*People v. McDowell (1968) 69 Cal.2d 737 [71 Cal.Rptr. 1]
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Failure to advise client in immigration matters
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
Failure to advise client that making false statements on rental property application did not support conviction for making falsified financial statement
People v. Maguire (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/misadvise regarding immigration consequences of guilty plea
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
People v. Bautista (2004) 115 Cal.App.4th 229 [8 Cal.Rptr.3d 862]

Failure to advise of consequences of guilty plea, record does not provide ecidence of whether attorney was ineffective or not
United States v. Jeronimo (9th Cir. 2005) 398 F.3d 1149, 1155
Failure to advise or inform client whether to accept plea bargain
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 appeal
In re Anthony J. (2004) 117 Cal.App.4th 718 [11 Cal.Rptr.3d 865]
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. 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 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 certain witnesses
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
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
People v. Mayfield (1993) 5 Cal.4th 142
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 583 [179 Cal.Rptr. 674]
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 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
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 fingerprint expert
Schell v. Witek (1999) 181 F.3d 1094
Failure to consult with client about whether to appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
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 Cudjo (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 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 disclose parole consequences of a guilty plea
Doganiere v. United States (9th Cir. 1990) 914 F.2d 165
Failure to enter pleas of not guilty by reason of insanity
In re Kubler (1975) 53 Cal.App.3d 799 [126 Cal.Rptr. 25]
Failure to examine court file on defendants prior conviction
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
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 timely notice of appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
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]
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
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
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]
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. (Washington) 2000) 207 F.3d 557
Failure to investigate/research
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
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
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
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
People v. Steger (1976) 16 Cal.3d 539, 551 [128 Cal.Rptr. 161]
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 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 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 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
People v. Hinds (2003) 108 Cal.App.4th 897,[134 Cal.Rptr. 196]
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. Turner (1992) 7 Cal.App.4th 913
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 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 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]
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 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
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. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]
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 prejudicial remarks during closing argument
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
Failure to object to prosecutor's questions to defendant
People v. Foster (9th Cir. 2003) 333 F.3d 982
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 service of juror not ineffective assistance of counsel
Kimes v. United States (9th Cir. 1991) 939 F.2d 776
Failure to object to the shackling of defendant during the trial
*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]
Failure to obtain blood test
People v. Ackerman (1991) 230 Cal.App.3d 1 [280 Cal.Rptr. 887]
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 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 present and explain to jury the significance of all mitigating evidence
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]
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
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Wallace v. Stewart (9th Cir. 1999) 184 F.3d 1112
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
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]
People v. Diaz (1992) 2 Cal.App.4th 1275
In re Jackson (1992) 4 Cal.App.4th 1107
In re Marquez (1992) 1 Cal.App.4th 584
Mak v. Blodgett (9th Cir. 1992) 970 F.2d 614
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
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]
halfhearted mitigation only
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
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
People v. Romero (1992) 15 Cal.App.4th 1519 [13 Cal.Rptr.2d 332]
Failure to present diminished capacity defense
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
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Failure to present evidence of mental instability
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. (Arizona) 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
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 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
Bonin v. Calderon (9th Cir. 1996) 77 F.3d 1155
*Bonin v. Calderon (9th Cir. 1995) 59 F.3d 815
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 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]
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]
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]
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]
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]
Failure to raise statute of limitations argument on appeal
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McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
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(I) 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]
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.]
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 State Bar Ct. Rptr. 888
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
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]
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
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]
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]
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]

LABOR UNION
Emblem of on law firm letterhead
CAL 1971-24
Lawyer as member of
LA 337 (1973)
government employee
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.
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
defined
Business and Professions Code section 6160
director
-must be licensed person
Business and Professions Code section 6165
-shareholder
--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
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: (415) 538-2140

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(I) 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(I) 1970-2
sale of partnership interests
LA 199 (1952)
school that teaches how to obtain government loans
LA(I) 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(I) 1968-1
bail company
SD 1974-23
business
LA 199 (1952)
entrance with
-bail business
SD 1974-23
investigator
SD 1974-23
foreign attorney
LA 99 (1936)
insurance business
LA 215 (1953)
investigator
LA(I) 1963-8
SD 1974-23
land developer
LA(I) 1968-1
real estate business
LA (I) 1970-2
reception room
-investigator
SD 1974-23
suspended lawyer
LA (I) 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
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]
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)
Emmons, et. al. v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]
Duty to advise referred persons that counsel will divide fee with service
SD 1973-12
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 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
LAWYER'S PERSONAL ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA
For confidential assistance with chemical dependency, substance abuse, and emotional distress, contact:
Center for Human Resources/West
(415) 502-7290
For information about program, contact:
Office of Professional Competence, Planning & Development
(415) 538-2107
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
CAL 1979-50
Employed by several law firms
CAL 1980-50
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, 122 [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, 542-543 [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(I) 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(I) 1966-18
accountant
LA(I) 1959-5
SD 1974-17

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, referrals, referral panel, definition of fee generating case
SD 1976-7
advertising or solicitation by
SD 1974-9
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(I) 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(I) 1972-24
Public defender
offers to represent indigent before arraignment
LA(I) 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
Partnership with non-lawyer shareholder
LA 444 (1987)
Referral fees
Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]

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) 538-2100
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
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
SD 1972-16, LA 289 (1965), LA 185 (1951), LA 173 (1950), LA 164 (1947), LA 43 (1927), LA(I) 1965-17, LA(I) 1965-15

"Of counsel" on
Rule 1-400, std. 8, Rules of Professional Conduct
CAL 1993-129, CAL 1986-88
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(I) 1961-1
-specialities
LA 230 (1955),LA 168 (1948),LA(I) 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(I) 1968-3
collection supervisor
SD 1978-4

LIEN [See Attorney's lien. Fees, collection of.]
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
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 Circ. 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
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)
Notice
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708
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. Zerin (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
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(I)
LA 478 (1994), LA 368 (1977), LA 357 (1976)
Priority of
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, 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]
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 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]

Third party
Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708
attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with of this statute
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
duty of attorney
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Farmers Insurance Exchange v. Zerin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]
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In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
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]
-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
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-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with of this statute
People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

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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)
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
Silberg v. Anderson (1990) 50 Cal.3d 205, 211-216
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
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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]
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]
Public official's authority with respect to initiating
LA(I) 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.]
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*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]
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-against defendant attorney improper
--dissolve protective order limiting use of financial information to lawsuit
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Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
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]
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]
By attorney
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-dismissal of cross-complaint or counter claim by client in action to recover attorneys' fees
Minasian v. Sapse (1978) 80 Cal.App.3d 823 [145 Cal.Rptr. 829]

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-where prohibited by statute
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Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
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law firm liable for malicious prosecution based on acts of principal
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*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]
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inferring malice from lack of probable cause
Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461
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]
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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
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Probable cause element
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
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]
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]
Requires favorable termination reflecting the merits of the underlying action
Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 484 [197 Cal.Rptr. 768]
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Ray, as Receiver v. First Federal Bank of California (1998) 61 Cal.App.4th 315 [71 Cal.Rptr.2d 436]
Sanctions
Winick v. County of Sanitation District No. 2 of Los Angeles County (1986) 185 Cal.App.3d 1170, 1176 [230 Cal.Rptr. 289]
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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
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Action against public entity under California Tort Claims Act (Government Code section 900 et seq.)
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Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
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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]
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statute not applicable to malpractice claim based on attorney's breach of loyalty
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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]
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bankruptcy estate representative pursing 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
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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
Austin v. Superior Court (1999) 72 Cal.App.4th 1126 [85 Cal.Rptr.2d 644]
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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
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Burden of proof
attorney charged with spoilation 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
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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
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By partner
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"Case within a case" methodology must be used when legal malpractice involves negligence in the prosecution or defense of a legal claim
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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
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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
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Duty to advise client of prior attorney's malpractice
no duty found
LA 390 (1981)
Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
Emotional distress damages may not be recovered as a result of negligent legal malpractice
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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
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
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Firm not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
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attorney's deadline to report malpractice claim to insurance carrier equitably tolled
Root v. American Equity Specialty Insurance Co (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.631]
firm's insurance doesn't cover attorney's alleged malpractice occurring outside conduct of firm's business
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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 & Belgum (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]
Jurisdiction of California federal court over Florida matter
Sher v. Johnson (9th Cir. 1990) 911 F.2d 1357
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
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Legal negligence
plaintiff must prove "but for" alleged malpractice, the resulting contract would have been more favorable
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Malpractice actions tolled while attorney continues to represent client
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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]
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Malpractice by itself does not prove violation of Rule 3-110(A) of Rules of Professional Conduct
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-against former physician client
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statute of limitations 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]
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 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
Professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
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. Lieff, Cabraser, Heimann & Bernstein (2003) 30 Cal.4th 1037 [135 Cal.Rptr.2d 46]
Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953
Jackson v. Johnson (1992) 5 Cal.App.4th 1350
Right to jury trial
Piscitelli v. Friedenberg (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. Friedenberg (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]

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]
Spoilation of evidence
Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
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]
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
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]
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
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]
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]
does not begin to run until client suffers actual harm
Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
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]
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Fantazia v. County of Stanislaus (1996) 41 Cal.App.4th 1444 [49 Cal.Rptr.2d 177]
Adams v. Paul (1995) 11 Cal.4th 583 [46 Cal.Rptr.2d 594]
*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 (1994) 9 Cal.4th 245 [36 Cal.Rptr.2d 552]
Laird v. Blacker (1994) 2 Cal.4th 606
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 & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
Robinson v. McGinn (1987) 195 Cal.App.3d
doctrine of "equitable tolling" applies to legal malpractice limitation period
Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [247 Cal.Rptr. 296]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
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began to run when client was first forced to take legal action to rectify prior attorney's error
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]
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CCP 340.6
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]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
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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]
-definition of "continuous representation" for purposes of
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
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-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
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]
-tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission
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 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]
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Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
Third-party non-clients, liability to
Waggoner v. Snow, Becker, Kroll, Klaris and Kraus (1993) 991 F.2d 1501
Boranian v. Clark (2004)123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
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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]
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Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
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Active steps to prejudice client's rights
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Advocating overthrow of government by force, violence or other unconstitutional means
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Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
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State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]
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Client reliance on attorney
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In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848, 659 P.2d 1137]
Corruption
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Counsel's basis for reversal of judgment in judicial proceeding
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failure to take action to set aside
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Defense in criminal action aiding, promoting, or advising where partner is district attorney or public prosecutor
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-with view to attorney's gain
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Segretti v. State Bar (1976) 15 Cal.3d 878 [126 Cal.Rptr. 793]
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Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
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District attorney
advises, takes part in, or receives valuable consideration in criminal defense
-where prosecuted action
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Driving under influence of alcohol, conviction for
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Duty to report violation of Rules of Professional Conduct and/or related statutes
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judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
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Failing to maintain respect due courts
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Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
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False or fraudulent insurance claim
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Fee split with non-lawyer
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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
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-forging names of
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Grand theft
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Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
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Illegal drug transactions
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Inadequate supervision of associate by attorney
duty to supervise
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basis for reversal of judgment in judicial proceeding
-report by clerk to State Bar
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Issuing checks with insufficient funds in account
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Lending name to non-attorney to be used as attorney
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Misappropriation of client funds
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Misappropriation of law partnership funds
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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)
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
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Misdemeanor involving moral turpitude
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Misrepresentation
concealing terms of an insurance policy during settlement negotiation
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of counsel
-basis for reversal of judgment in judicial proceeding
--report by clerk to State Bar
Business and Professions Code section 6086.7
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
borrowing money without intent to repay it
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Business and Professions Code sections 6101, 6106
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honest and reasonable belief, though mistaken, precludes a finding of moral turpitude
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judge systematically and routinely sold his office and his public trust
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Negligent legal representation by itself does not prove misconduct
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Oath of attorney, violation of
Business and Professions Code sections 6067, 6103
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Obstruction of justice
attorney has right to argue ethical obligations establish a bona fide legal representation defense
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Offensive personality
Business and Professions Code section 6068(f)
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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)
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judge solicited the commission of perjury in a federal investigation
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Prejudicial intimations may not amount to the advancement of prejudicial facts
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Presentation of false or fraudulent insurance claims
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Prior to admission to the State Bar
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Pro bono client, ignoring
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Pro hac vice attorney
censure for failure to follow local court rules
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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
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Reckless misstatements of fact and law coupled with an improper purpose
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Recording a conversation (Penal Code section 632)
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Reversal of judgment
based upon counsel's
-mandatory report by clerk to State Bar
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Settling a case without authority
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Suspended attorney
appearing as plaintiff on own behalf where action assigned to attorney subsequent to order of suspension
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Willful failure of suspended attorney to comply with California Rule of Court 955
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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
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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]
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) l2 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]
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Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]
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Willful violation of oath and duties as attorney
failure to notify client of change of address, telephone number
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practicing law while suspended
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
tendering checks without sufficient funds
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Willful violation of oath and duties of attorney in court of law
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Willful violation of Rules of Professional Conduct
established by showing attorney acted or omitted to act purposely
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judge granted without adequate information to help a friend
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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
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Abortion, procuring
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Accepting a bribe
In re Bar Association of San Francisco (1921) 185 Cal. 621, 636 [dismissal] [198 P.7]
Accepting fees without performing work [See Fees.]
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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]
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
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Breach of fiduciary duty
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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]
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Checks issued with insufficient funds in client trust account
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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]
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Confidential settlement disclosed
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
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Contributory negligence of client
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Conversion of client trust account funds
Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]
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no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
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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]
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]
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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
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Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301]
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
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endorsing the draft and fabricating a "loan agreement" intending to deceive the bank
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misappropriated money received for posting of cash bond and funds delivered for use in settlement negotiations
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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
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
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repeatedly misrepresented facts to clients and made statements about their lawsuits which he knew were false
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*Schullman v. State Bar (1973) 10 Cal.3d 526, 528 [111 Cal.Rptr. 161, 516 P.2d 865]
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-post-dissolution profits from unfinished partnership business
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Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]
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-not admitted in California
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Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 867]
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-city attorney
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LA 219 (1954)
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-when associate is
--prosecutor
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-when member is
--city attorney
LA 242 (1957), LA(I) 1975-4
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LA(I) 1975-4
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LA 377 (1978)
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LA(I) 1956-8
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-before joining acted for other side
LA 363 (1976)
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-before joining acted for other side
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LA 96 (1936)
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LA 444 (1987)
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SD 1983-4
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Consumer affairs agency
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LA(I) 1963-9
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LA 372 (1978)
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Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
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Incurred by or for a client
Isrin v. Superior Court (1965) 63 Cal.2d 153, 164 [45 Cal.Rptr. 320, 403 P.2d 728]

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PERSONAL INJURY ACTION [See Automobile accident case.]
PHYSICIAN [See Malicious prosecution.]
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common fund doctrine does not apply to contractual medical lien holders in personal injury matters
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City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117
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Business and Professions Code sections 6146, 6147
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Opposing party's treating physician
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CAL 1975-33
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Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
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LA 335 (1973)
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LA 443 (1988)
POLITICAL ACTIVITY [See Letterhead, use for. Public office.]
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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
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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
Rule of Court 983.2
Certification of law students
under 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) 538-2100
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
For the full 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) 538-2100
Text available through State Bar's home page:
http://www.calbar.ca.gov
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]
Special Committee on
Contact:
Practical Training of Law Students
Office of Certification
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2175
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)

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Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
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Associate changing firms
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
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LA 363 (1976)
Associate discovers malpractice of partner
LA 383 (1979)
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LA 359 (1976)
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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
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
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In re Glad (9th Cir. 1989) 98 B.R. 976
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Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542
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OR 94-002, SD 1983-4, SD 1983-7, LA 195
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-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
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-tax specialist
LA 86 (1935)
Donation of legal services [See Fees.]
Dual occupation/profession [See Commission, fees.]
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85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
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Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. Of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
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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)
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SD 1974-18
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-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)
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LA 510 (2003)
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--accepting employment in criminal defense case
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Labor Code section 2650, et seq.
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between departing partner and firm
-found to violate Rules of Professional Conduct
Champion v. Superior Court (1988) 201 Cal.App.3d 777
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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
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]
Franchise legal network
LA 423 (1983)
Goodwill of
Rule 2-300, Rules of Professional Conduct (operative as of May 27, 1989)
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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 [7 Cal.Rptr.2d 867]
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 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]
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-to heirs of deceased partners
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
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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)
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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
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
Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
Rosenfeld, Meyer & 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]
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
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LA 10 (1921)
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Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]

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-where employed by client
LA 67 (1932)
Law firm liable for malicious prosecution based on acts of principal
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LA 104 (1936)
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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
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CAL 1971-24
Liability of firm for legal malpractice of partner
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Lottery ticket
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-to attorney
LA 115 (1937)
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-by attorney
LA 115 (1937)
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Non-payment of fee
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-notice to client
LA 125 (1940)
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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]
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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
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LA 477
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LA 114 (1937)
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In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
Preparation of petition to be presented by client in propria persona in other state improper
LA 218 (1953)
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Professional courtesy
circulating names of attorneys who fail to extend professional courtesies
LA 364 (1976)
Public interest law firm
LA 339
Referral of legal business [See Referral of legal business.]
Sale of
Alpers v. Hunt (1890) 86 Cal. 78, 88-90 [24 P. 846]
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LA 361 (1976)
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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]
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-defined
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*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
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CAL 1997-150, CAL 1986-90, CAL 1979-50
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LA 216 (1953), LA(I) 1972-15
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SD 1972-7, LA 215 (1953)
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LA(I) 1963-8
SD 1974-23
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LA(I) 1968-1
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LA 446 (1987)
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LA 446 (1987)
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LA 384 (1980), LA 140 (1942)
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-where no office
LA 134 (1940)
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LA 105 (1936)
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Holding out as
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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]
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Statutory service on attorney and employees
National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
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-to assist in advising client
LA 86 (1935)
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*In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
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PRIVILEGED COMMUNICATIONS [See Confidences of the client, privilege]
Evidence Code section 950 et seq.
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]
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]
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]
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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. (Montana) 2002) 287 F.3d 811
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
Electronic communication technologies, utilization of
OR 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'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. (Montana) 2002) 287 F.3d 811
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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 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]
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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]
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Microsoft Corp. v. Yokohama Telcom Corp. (1998) 993 F.Supp. 782
Sixth Amendment's Confrontation Clause vs. attorney-client privilege
defendant barred from using purportedly exculpatory letter written by government witness to counsel deprived defendant of his constitutional right to cross-examination
Murdoch v. Castro (9th Cir. 2004) 365 F.3d 699
Under Civil Code section 47
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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
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
Slight mitigating credit for pro bono service which was not great and was remote in time
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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
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Accrual of causes of action and limitation in malpractice action against attorneys
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-arbitration clause in attorney-client retainer agreement
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CAL 1977-47
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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
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-prima facie evidence of existence of
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attorney charged with spoilation 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]
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
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
Co-counsel not liable for other counsel's fees due to his own malpractice which reduced or eliminated fees of other counsel
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Evans v. Pillsbury, Madison & Sutro (1998) 65 Cal.App.4th 599 [76 Cal.Rptr.2d 679]
Continued representation of clients regarding the specific subject matter in which alleged wrongful act or omission occurred
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Continuous representation tolls statutes
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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
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*Smith v. Lewis (1975) 13 Cal.3d 349, 361 [118 Cal.Rptr. 621]
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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
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Duty of attorney
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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]
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counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
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First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
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-cannot prohibit the filing of State Bar complaint
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-no duty to exonerate clients from fault in public eye
--no liability to counsel
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-no duty allowed
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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]
-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]
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]

-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]
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Schick v. Bach et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
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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]
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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]
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Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
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Heliotis v. Schuman (1986) 181 Cal.App.3d 646 [226 Cal.Rptr. 509]
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]
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Boranian v. Clark (2004)123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
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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]
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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]
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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]
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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)
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Armstrong v. Adams (1929) 102 Cal.App. 677 [283 P. 871]
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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]
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Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
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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]
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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]
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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. Pachl (1993) 8 F.3d 1341
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attorney accused of conspiracy with a judge not entitled to federal law immunity
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
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]
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Root v. American Equity Specialty Ins. Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]
Invited error of defendant
Kessler v. Gray (1977) 77 Cal.App.3d 284 [143 Cal.Rptr. 496]
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California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
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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
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]
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
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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]
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Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
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Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
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-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]
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-doctrine of “equitable tolling” applies to legal malpractice limitation period
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Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176, 190 [98 Cal.Rptr. 837]
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Alter v. Michael (1966) 64 Cal.2d 480 [50 Cal.Rptr. 553]
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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
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]
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Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
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-doctrine of "equitable tolling" applies to legal malpractice limitation period
Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
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Code of Civil Procedure section 340.6
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Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
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Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]
-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]
-duty of attorney to advise client of imminent running of
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
tolled for bringing legal malpractice action while attorney still represents client on related matters, even if client knows of attorney's negligence
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]
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]
Transactional matters
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Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
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
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Civil Code section 43.7
Peer review committees
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Civil Code section 43.7
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Civil Code section 43.7

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
trust or deed of trust gives power of sale to trustee
-attorney for trustee may conduct sale
Civil Code section 2924a
-auctioneer
--attorney may act as
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)
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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
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-between state and child
--disclosure to court
CAL 1977-45
Legal advice
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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
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.
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People v. Kelley (1984) 158 Cal.App.3d 1085, 1097
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People v. Fondron (1984) 157 Cal.App.3d 390
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People v. Geiger (1984) 35 Cal.3d 510, 530
Breach of plea bargain agreement
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Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025
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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]
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People v. Torres (1982) 133 Cal.App.3d 265, 281 [184 Cal.Rptr. 39]
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People v. Simington (1993) 19 Cal.App.4th 1374
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People v. Dontanville (1970) 10 Cal.App.3d 783, 795 [89 Cal.Rptr. 172]
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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]
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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]
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People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
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People v. Schindler (1980) 114 Cal.App.3d 178, 187 [170 Cal.Rptr. 461]
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Reynolds v. Superior Court (1974) 12 Cal.3d 834 [117 Cal.Rptr. 437, 528 P.2d 45] and disap in People v. Beagle (1972) 6 Cal.3d 441 [99 Cal.Rptr. 313, 442 P.2d 1]
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People v. Coy (1981) 119 Cal.App.3d 254, 278-279 [173 Cal.Rptr. 889]
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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]
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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]
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People v. Martin (1980) 101 Cal.App.3d 1000, 1008-1009 [162 Cal.Rptr. 133]

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People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]
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People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
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People v. Jones (1970) 10 Cal.App.3d 237, 293 [88 Cal.Rptr. 871].
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-indirectly commenting of defendant's failure to testify
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
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-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]
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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 986d
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People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
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People v. Najera (1979) 88 Cal.App.3d 930, 933-935 [152 Cal.Rptr. 124]
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*People v. Allums (1975) 47 Cal.App.3d 654, 661 [121 Cal.Rptr. 62]
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-of character of witnesses
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*People v. Benton (1979) 100 Cal.App.3d 92, 97 [161 Cal.Rptr. 12]
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*People v. Wiley (1976) 57 Cal.App.3d 149, 162-63 [129 Cal.Rptr. 13]
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]
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*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
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People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
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*People v. Perry (1972) 7 Cal.3d 756,789-91 [103 Cal.Rptr. 161, 499 P.2d 129]
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*People v. Smith (1973) 33 Cal.App.3d 51, 70-71 [108 Cal.Rptr. 698]
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*People v. Ramos (1982) 30 Cal.3d 553, 574-575 [180 Cal.Rptr. 266, 639 P.2d 908]
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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
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]
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]
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 (9th Cir. 2003) 333 F.3d 982
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 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 [65 L.Ed.2d 222, 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
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
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]
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
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. (Oregon) 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 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
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
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
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. Vallerga (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
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]
knowingly presenting false evidence
Hayes v. Brown (9th Cir. 2005) 399 F.3d 972
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]
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]
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 defendent where such facts were not in evidence and could not be established independently
*People v. Chojnacky (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 prosecutrix 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. Mazoras (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. Mazoras (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]
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; 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. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]
Failure to disclose exculpatory evidence
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Failure to honor plea bargain
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 use diligence in obtaining evidence
People v. Rodriquez (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 (2003) 315 F.3d 1176
Goading a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409
Harmless misconduct
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
no egregious pattern of misconduct
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Immunity
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 qualify 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
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
Improper argument
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People v. Batts (2003) 30 Cal.4th 660 [134 Cal.Rptr.2d 67]
Interference with attorney-client relationship
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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

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prosecutor's discriminatory use of peremptory challenges
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
Misstatement of law inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
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 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] ovrld. 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
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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]
use by prosecutor of allegedly "inflammatory" words, descriptions
People v. Hayes (1971) 19 Cal.App.3d 459, 469-70 [96 Cal.Rptr. 879]
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jurors, communication with
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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]
Prejudice to defendant
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]
Preliminary hearing
alleged use of perjured testimony
People v. Brice (1982) 130 Cal.App.3d 201 [181 Cal.Rptr. 518]
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
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
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

lineup by district attorney without notifying the attorney of record
People v. Sharp (1983) 150 Cal.App.3d 13, 18
Questions which are sufficient for reversal
People v. Barr (1984) 159 Cal.App.3d 1129, 1160
Recusal
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]
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]
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
People v. Rand (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]
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 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]
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]
pretrial suppression does not bar retrial
Sons v. Superior Court (2004) 125 Cal.App.4th 110 [22Cal.Rptr.3d 647]
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
Trial conduct
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]
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 on conduct on verdict
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]
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 defendatnt'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. Chojnacky (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 on-going prosecution of defendant
People v. Jones (1970) 10 Cal.App.3d 237, 245 [88 Cal.Rptr. 871]
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

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, 30-31 [171 Cal.Rptr. 652, 623 P.2d 213]
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]
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
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
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
Robert Lee Morrow v. Superior Court (1994) 30 Cal.App. 4th 1252 [36 Cal.Rptr.2d 210]
Vindictiveness
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. Luckett (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]
prosecutor's peremptory challenge of sole black juror not a showing of group bias
People v. Christopher (1991) 1 Cal.App.4th 666 [2 Cal.Rptr.2d 69]
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]
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]
Vouching
United States v. Edwards (9th Cir. 1998) 154 F.3d 915
United States v. Molina (9th Cir. 1991) 934 F.2d 1440
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
Witness's absence not improperly effected by prosecutor
Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581
Witness credibility
expression of personal opinion
U.S. v. Kerr (1992) 981 F.2d 1050
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
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(I) 1975-4
former associate or partner refers clients to former firm
CAL 1967-10
partner
-practice by
LA(I) 1975-4
partner represents
-in criminal matters
LA 242 (1957), LA(I) 1975-4
partnership with
-practice by
--associate of
LA(I) 1975-4
City council member
associate, practice by
CAL 1977-46
LA(I) 1975-4
communication with
Rule 2-100, Rules of Professional Conduct
CAL 1977-43
partner
-practice by
CAL 1977-46, LA(I) 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)
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
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
Book
about case
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]
Silver v. State Bar (1974) 13 Cal.3d 134, 137-142 [117 Cal.Rptr. 821, 528 P.2d 1157]
Lee v. State Bar (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]
Eschwig v. State Bar (1969) 1 Cal.3d 8, 11-19 [81 Cal.Rptr. 352, 459 P.2d 904]
Marlowe v. State Bar (1965) 63 Cal.2d 304, 305-311 [46 Cal.Rptr. 326, 405 P.2d 150]
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 980
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 the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
telephone
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
CAL 1966-5, LA 272 (1962), LA 182 (1951)
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)
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
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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
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
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
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
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
Jonesi 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
With disciplinary charges pending
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
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)
Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]
CAL 1988-104, LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990), LA 445 (1987)
Business and Professions Code section 16602, applicability
Howard v. Babcock (1993) 6 Cal.4th 409
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
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
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
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:
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RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA
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West's Annotated California Codes, Court Rules, vol. 23, pt 3
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San Francisco, California 94105
Telephone: (415) 538-2030
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 262 [dismissal]
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
Rule 270(c) [disclosure of private reproval]
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
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 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 Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
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
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
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
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
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, 311, fn.4 [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]

CURRENT RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989)

Rule 1-100 Rules of Professional Conduct, In General.
Bankruptcy of Mortgage & Realty Trust (1996) 196 B.R. 740
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
CAL 2001-155, CAL 1998-152, CAL 1996-145, CAL 1997-149, CAL 1997-148
LA 504 (2000), LA 470 (1992)
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 1993-128, CAL 1992-126
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 White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
CAL 2001-155
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 510 (2003), LA 488 (1996)
Rule 1-311 Employment of Disbarred, Suspended, Resigned, or Voluntary Inactive Member
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In the Matter of Tamir Oheb (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 697
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) 121Cal.App.4th 333 [17 Cal.Rptr.3d 66]
In the Matter of Tamir Oheb (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 697
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 515 (2005), LA 510 (2003), LA 488 (1996), LA 461, LA 457, SD 1989-2
Rule 1-400 Advertising and Solicitation.
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Rubin v. Green (1993) 4 Cal.4th 1187
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
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In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
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LA 494 (1998) LA 474, SD 1996-1, SD 1992-3, OR 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 8
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Standard 9
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 the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990)
Rule 1-600 Legal Service Programs.
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 1-700 Member as Candidate for Judicial Office
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
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 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
Rule 2-200 Financial Arrangements Among Lawyers.
Huskinson & Brown v. Wolf (2004) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
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 503 (2000), LA 486, LA 473 (1993), LA 470 (1992), LA 467 (1992)
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]
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) 43 Cal.4th 453 [9 Cal.Rptr.3d 693]
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]
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
CAL 2005-168, CAL 2003-161
Rule 3-110 Failing to Act Competently
Oliveros v. County of Los Angeles (2004) 120 Cal.App.4th 1389 [16 Cal.Rptr.3d 638]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In the Matter of Alvin Gilbert 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 Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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 Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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 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 Hinden (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 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 512 (2004), LA 504 (2000), LA 502 (1999), LA 488 (1996), LA 471 (1992)
SD 1997-2
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
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 3-200 Prohibited Objectives of Employment.
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]
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 502 (1999)
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 2003-162, CAL 1996-146
LA 502 (1999)
SD 1993-1
Rule 3-300 Avoiding Adverse Interests.
In re Tallant (9th Cir. 1998) 218 B.R. 58
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

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]
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In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
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In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
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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 507 (2001), LA 496 (1998), LA 492 (1998), LA 477
OR 93-002
SD 1992-1, SD 1989-2, SF 1997-1

Rule 3-310 Avoiding the Representation of Adverse Interests.
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180, fn. 4 [33 Bankr.Ct.Dec. 258, 2 Cal.Bankr.Ct.Rep. 43]
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
Bankruptcy of Mortgage & Realty Trust (1996) 195 B.R. 740
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
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]
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Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
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Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
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In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
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In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
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Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
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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]
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
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
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80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
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 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
OR 95-002, OR 94-003
SD 1997-2, SD 1990-3, SD 1989-4
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 (F)
LA 510 (2003)

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.
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CAL 1992-127, CAL 1989-116
LA 502 (1999), LA 489(1997), LA 471 (1992)

Rule 3-500 Communication.
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
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In the Matter of Alvin Gilbert 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 Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
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CAL 2004-165, CAL 2003-163, CAL 2003-161, CAL 1998-152, CAL 1997-151, CAL 1994-135, LA 506 (2001), LA 473 (1993), SD 2004-1, SD 2001-1
Rule 3-510 Communication of Settlement Offer.
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
CAL 1994-136, CAL1994-135, LA 512 (2004)
Rule 3-600 Organization as Client
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
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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
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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
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Rule 3-700 Termination of Employment
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
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]
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In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
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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
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disclosure of confidences at motion for withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
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.
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In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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Rule 4-200 Fees for Legal Services
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
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In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
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elder abuse cases
-W & I Code § 15657.1 incorporates Rule 4-200 by reference
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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
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LA 499 (1999), LA 495 (1998)
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Rule 4-300 Purchasing Property at a Foreclosure or a Sale Subject to Judicial Review.
LA 455
Rule 4-400 Gifts From Client.
LA 462
Rule 5-100 Threatening Criminal, Administrative, or Disciplinary Charges.
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
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In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
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Rule 5-110 Performing the Duty of Member in Government Service.
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CAL 1991-24(I)
Rule 5-120 Trial Publicity (operative October 1, 1995).
Rule 5-200 Trial Conduct.
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In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
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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
LA 504 (2000), LA 502 (1999), LA 497 (1999), LA 482 (1995), LA 464 (1991)
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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 (1996) 195 B.R. 740
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
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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
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LA 497 (1999), LA 466 (1991)
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), OR 94-001
Rule 5-310 Prohibited Contact With Witnesses.
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PRIOR RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975 until May 26, 1989)

Rule 1-100 Rules of Professional Conduct, In General. [See Admission to the bar.]
CAL 1975-33
LA 342 (1973)
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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 Effron (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]
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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.]
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CAL 1982-65
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Kirsch v. Duryea (1978) 21 Cal.3d 303, 310-311 [146 Cal.Rptr. 218]
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Reich v. Club Universe (1981) 125 Cal.App.3d 965, 972 [178 Cal.Rptr. 473]
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*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
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district attorney called as witness
*People v. Superior Court (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
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In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
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Rule 3-103 Forming a Partnership With a Non-lawyer [See Business activity, partnership. Misconduct, partnership. Partner, non-lawyer.]
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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
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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
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LA 408 (1982), LA 394 (1982)
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CAL 1988-100, CAL 1987-95, CAL 1976-39
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CAL 1983-74
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CAL 1984-79
Rule 7-108 Contact With Officials. [See Contact with officials. Judges.]
LA 387 (1981), LA 343 (1974)
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CAL 1984-78
LA 451 (1988)
Rule 8-101 Preserving Identity of Funds and Property of a Client. [See Client trust account.]
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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
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SF 1984-1

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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.)
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LA 349 (1975), LA 346 (1975), LA 328 (1972), LA 327 (1972), LA 316 (1970), LA 307 (1968)
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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)
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Rule 2-104 Recommendation for Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)
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Rule 2-106 Specialization. (Repealed by order of Supreme Court, effective April 1, 1979.)
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Rule 2 (Advertising and Solicitation)
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CAL 1981-62
LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959), LA 228 (1955)
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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)
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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)
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SD 1978-8, SD 1968-2
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LA 208 (1953)
Rule 14 (Disclosure to Public Body of Professional Capacity)
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Rule 16 (Communicating with Judge not in Open Court, in Absence of Opposing Counsel)
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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)
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Rule 19 (Employment of Unlicensed Person to Appear on Behalf of Member before a Board or Agency
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Business and Professions Code section 6151(b)
Defined
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Falsification of medical reports and bills
In re Gross (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
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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
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SALE OR PURCHASE OF A LAW PRACTICE
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Valuation of law practice may require deduction of operating costs
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SANCTIONS [See Acceptance of employment.]
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Abuse of discovery
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Abuse of discretion in imposing
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
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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
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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 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
Agreement regarding allocation of future sanction payments may be ethical with adequate disclosure to the client
CAL 1997-151
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
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frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding
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Authority of court
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 828-829
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available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
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Code of Civil Procedure section 128.5
-inherent authority of appellate court
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-award of "reasonable expenses" as sanction under CCP § 437c does not include authority to include attorney's fees
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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]
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]
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belong to client unless express attorney-client agreement or court order to contrary
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Bankruptcy court
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
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Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
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discovery sanctions against attorney may be a significant development and should be communicated to the client
CAL 1997-151
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Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162
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signature -- for purposes of Rule 11, "signature" is more than a typewritten name
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Primus Automotive Financial Services, Inc. v. Batarse (9th Cir. 1997) 115 F.3d 644
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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]
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
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
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]
Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
For contempt of court
inclusion of contemptuous statements ina 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]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
For default
Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
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In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
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Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
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Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
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Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]
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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
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
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]
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
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
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
Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]
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]
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Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
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Bank of California v. Varakin (1990) 216 Cal.App.3d 1630

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In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
and for 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]
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]
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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 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
court did not err in considering attorney's prior conduct in other cases in determining what sanction was appropriate to deter attorney from further frivolous filings
In re Brooks-Hamilton (9th Cir. BAP 2005) 329 B.R. 270
six-month suspension from practice before the bankruptcy court deemed appropriate for attorney for signing and filing pleadings without legal support
In re Brooks-Hamilton (9th Cir. BAP 2005) 329 B.R. 270
For frivolous motion
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
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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]
fees awarded to plaintiff in anti-SLAPP motion where plaintiff showed aq probability of prevailing on the merits and motion was found to be frivolous and without merit
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
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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]
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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 vexatiously under 28 U.S.C. section 1927
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 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 § 8086.13
In re Taggart (2001) 249 F.3d 987
Inability to pay
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
available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
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Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
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duty to report monetary sanctions over $1,000 except for discovery sanctions
Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422
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Law firm has standing to appeal monetary sanction on firm attorney
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May not be imposed without hearing
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Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
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Goodstone v. Southwest Airlines (1998) 63 Cal.App.4th 406 [73 Cal.Rptr.2d 655]
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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
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Estate of Meeker (1993) 13 Cal.App.4th 1099 [16 Cal.Rptr. 825]
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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]
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Tenderloin Housing Clinic, Inc. v. Sparks (1992) 8 Cal App. 4th 299
Trial court award of attorney fees
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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
Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]
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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
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Vexatious litigant
attorney appearing for client is not a litigant
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United States v. Mittleman (1993) 999 F.2d 440
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SEMINARS
LA 286 (1965), LA 221 (1954)
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SETTLEMENT
Acceptance of settlement offers
subsequent rejection
Gray v. Stewart (20`02) 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]

Authority of attorney
Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170
Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]
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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
OR 99-002
Class action
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
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
Staton v. Boeing Co. (9th Cir. (Washington) 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
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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
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Confidential settlement agreement
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Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
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LA 512 (2003)
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Condition settlement on plaintiff's attorney waiving fees
Venegas v. Mitchell (1990) 110 S.Ct. 1679
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Conflicting instructions from insurance company and assured
LA 344 (1974)
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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
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 attoney 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]
Judgment call
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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]
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
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Cassin v. Financial Ind. Co. (1958) 160 Cal.App.2d 631 [325 P.2d 228]
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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]
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Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
Oral acceptance of settlement offers
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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]
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Scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
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Stop payment of check for
LA(I) 1966-5
Structured settlement, use of
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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)
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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]
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CAL 1994-135, LA 441 (1987)
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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]
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Hildebrand v. State Bar (1950) 36 Cal.2d 504, 510 [225 P.2d 508]
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Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
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LA 342 (1973)
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LA 419 (1983)
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By adjustment of fees
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-in return for guaranteed additional work
LA 322 (1971)
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of attorney
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of clients
-engaged in dual occupation
--real estate business
CAL 1981-61
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By attorney at hospital
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By attorney's investigator
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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)
By lay employee
LA 381 (1979)
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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)
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LA(I) 1975-1, SD 1974-20
contract to acquire tax title to property
-involving referral to lawyer for compensation
LA 135 (1941)
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LA 257 (1959)
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LA 140 (1942)
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LA 140 (1942)
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LA 314 (1970), LA 158 (1945), LA 155 (1945), LA 148 (1944), LA(I) 1934-1
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LA 301 (1967)
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Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
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-advising of claims of which unaware
--offering to represent on percentage basis
LA 122 (1939)
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Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
target mail
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In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
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CAL 1995-142, CAL 1988-105
SD 1992-3, OR 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)
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-describing qualifications
LA 29 (1925)
-offering to represent in other jurisdictions
LA 71 (1933)
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CAL 1981-61, SF 1970-2
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LA 404 (1983), LA 62 (1930)
By mail [See supra, by letter.]
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-designation of specialized legal services
LA 127 (1940)
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-statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
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-opening law office, announcing
LA 128 (1940)
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LA 128 (1940)
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Adams v. Attorney Registration, et al. (D.C. ILL 1985) 617 F.Supp. 449
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-prior to certification
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
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LA 96 (1936)
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44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
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Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
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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]
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LA 135 (1941)
Endorsement of commercial product
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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]
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United Mine Workers v. Illinois State Bar Association (1967) 389 U.S. 217 [19 L.Ed.2d 426, 88 S.Ct. 353]
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In newspaper
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LA 93 (1936)
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LA 96 (1936)
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LA 124 (1939)
In social setting
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-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]
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Internet advertising
a website is neither delivered in person nor by telephone and is not prohibited solicitation
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In-person by attorney
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Law lists
cards, professional may be inserted in
-if approved by court
LA 90 (1935)
Litigation privilege
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Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]
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Shapero v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
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Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
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Of claims against corporation
by non-lawyer
-who will receive part of recovery
--acceptance of employment by lawyer
LA 93 (1936)
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Public defender, exemption for
Business and Professions Code section 6152(d)
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LA 446 (1987)
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-in radio or television programs
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--answering questions on law submitted by listeners
LA 299 (1966)
--identification of name of lawyer
LA 299 (1966)
--televised trial
LA 404 (1983)
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LA 419 (1983)
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LA 313 (1969), LA 216 (1953)
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by lay entity
-religious organization members, referred to attorney employed by
LA 298 (1966)
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-no charge
LA 73 (1934)
Referral, reciprocal agreement with lawyer
LA(I) 1959-3
Remuneration of third party
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attorney agrees to use and compensate for services
Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
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attorney supplies “capper” with list of potential clients
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LA 474 (1993)
contract secured by is void
-use of
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Hildebrand v. State Bar (1950) 36 Cal.2d 504, 506 [225 P.2d 508]
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Education Code section 94361
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Penal Code section 13825
Revenue and Taxation Code section 2374(d)
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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. Ortiz (1989) 210 Cal.App.3d 833 [258 Cal.Rptr. 581]
-right to discharge retained counsel
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
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]
Scheduling conflict
People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]
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(I) 1965-16

THIRD PARTY [See Client Trust Account. Conflict of Interest, Fee, paid by third party. Duties of attorney. Liens. Professional liability.]

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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)
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]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
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LA 5 (1918)
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LA 469 (1992)
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Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]
Public prosecutor
CAL 1989-106, SF 1975-6
Statement that "all available legal remedies will be pursued" may not be improper
CAL 1991-124
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TRADE NAME [See Advertising, fictitious name. Practice of law, fictitious name.]
Business and Professions Code section 6164]

TRIAL CONDUCT
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Rules 5-200, 5-320, 5-310, and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
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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]
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money sanctions for violation of lawful court order not applicable to
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Lebbos v. State Bar (1991) 53 Cal.3d 37
Altering evidence in criminal trial
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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]
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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]
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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]
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Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]
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Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
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-prosecutor effectively calling defense attorney a liar
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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]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
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Reznik v. State Bar (1969) 1 Cal.3d 198, 203 [81 Cal.Rptr. 769, 460 P.2d 969]
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In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
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-in admission proceedings
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-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
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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
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Little v. Kern County Superior Court (2002) 294 F.3d 1075
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-client's prior criminal conviction
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-attorney cannot assume extension of time to answer without communication from opposing counsel
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Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]
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-no civil liability
Rens v. Woods (1987) 193 Cal.App.3d 1134
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-attorney knowingly allows
Business and Professions Code section 6068(d)
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-no duty to
Business and Professions Code section 6068(d)
Falsely maligning judge
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Sears v. Starbird (1888) 75 Cal. 91 [16 P. 531]
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In re Philbrook (1895) 105 Cal. 471, 477 [38 P. 511, 38 P. 884]
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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
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-trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
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In re Wharton (1896) 114 Cal. 367 [46 P. 172]
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Spearz v. State Bar (1930) 211 Cal. 183, 187 [294 P. 697]
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Nakano v. United States (9th Cir. 1983) 698 F.2d 1059, 1060
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Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
Gentile v. State Bar of Nevada (1991) 498 U.S. 1023 [111 S.Ct. 669; 111 S.Ct. 2720]
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--denied where plaintiff had probable cause to sue defendant
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-dismissal of defamation action against law firm justified
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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
Vexatious litigant
attorney appearing for client is not litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
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
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
Withdraw when client commits perjury
LA(I) 1974-7
Withdraw when client intends to commit perjury
CAL 1983-74, LA 362 (1976)
Yield to rulings of court
Business and Professions Code section 6103
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whether right or wrong
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]
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Rule 5-120, Rules of Professional Conduct (operative October 1, 1995).
TRUST ACCOUNT [See Client's trust account.]
TRUSTEE [See Assignment. Bankruptcy. Estate, trustee.]
Action brought by beneficiary against attorney for trustee
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]
Attorney as trustee, client as beneficiary
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Probate Code sections 15687 and 16004(c)
In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
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Attorney-client privilege
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Attorney-client relationship does not extend to beneficiaries
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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(I) 1966-2

Escrow holder
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Legatee for testamentary trust
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Non-attorney trustee who represents trust in action to protect trust property engages in unauthorized practice of law
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Receiver entitled to attorney-client privilege
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Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
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successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
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Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
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Business and Professions Code section 6127
lawyer disbarred or under suspension
Business and Professions Code section 6126
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Business and Professions Code section 6126
non-lawyers
Business and Professions Code section 6127(b)
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-independent contractor for
LA 327 (1972)
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LA 402 (1982)
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-advising agent concerning legality of
--being negotiated by agent for fee
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corporation provides paid legal services
-for employees
--directs employees to one attorney
LA 292 (1965)
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LA 372 (1978)
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LA 426 (1984)
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The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Florida 1992) 613 So.2d 426
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-renting office to
--where public might be misled to believe person admitted in California
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Assuming and acting as attorney without authority
contempt of court
Business and Professions Code section 6127(a)
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People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]
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--where public might be led to believe person admitted in California
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Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]
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People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
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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
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11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry (BPP)
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Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
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Complaints about
Contact: Unauthorized Practice of Law
Office of Complaint Intake
State Bar of California
1149 South Hill Street
Los Angeles, CA 90015-2299
Telephone: (213) 765-1000
Questions regarding research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
Office of Professional Competence, Planning & Development
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)
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Business and Professions Code section 6127(a)
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76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
OR 94-002

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"Do-it-yourself"
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In re Poole (9th Cir. BAP 2000) 222 F.3d 618
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Federal district judge's request for attorney fees in action to amend a local rule
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must be licensed at time services performed to recover
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-pro hac vice
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99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
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Hernandez v. Atlantic Finance Co. (1980) 105 Cal.App.3d 65 [164 Cal.Rptr. 279]
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Rule 9.44, California Rules of Court
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Business and Professions Code section 6127
contempt of court
Business and Professions Code section 6127(b)
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]
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LA 444 (1987)
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CAL 1969-18
Licensed attorneys who are not active members of the State Bar of California
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*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
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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]
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11 ALR3d 907
19 Stanf.L.Rev. 856
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40 So.Cal. L.Rev. 569
11 ALR 907
19 Stanf.L.Rev. 856
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LA 286 (1965)
as partner in agency conducting small claims court actions
SD 1983-4
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LA 99 (1936)
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Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
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People v. Cooks (1983) 141 Cal.App.3d 224 [190 Cal.Rptr. 211]
Questions about research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
Office of Professional Competence, Planning & Development
180 Howard Street
San Francisco, CA 94105
(415) 538-2150
(800) 238-4427 (within CA)
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]

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-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]
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Business and Professions Code section 17200
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Clean Air Transport Systems v. San Mateo County Transit District (1988) 243 Cal.Rptr. 799
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Business and Professions Code section 6068(h)
UNREPRESENTED PERSON [See Communication, Not represented by counsel.]
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Counsel for organization drafts for those leaving money to it
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SD 1990-3
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Attorney-client relationship not established
LA(I) 1968-7
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LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
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Cannot provide level of advocacy required by rule 6-101
People v. Munoz (1974) 411 Cal.App.3d 62 [115 Cal.Rptr. 726]
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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
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LA 441 (1987), LA(I) 1958-1
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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
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-where client's interests become adverse
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
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In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
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LA 371 (1977)
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Counsel who represented defendant at preliminary examination only was not required to file formal motion to withdraw
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following impeachment of a prosecution witness by prosecutor's own testimony
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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]
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In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609
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LA 504 (2000)
Determination whether to grant or deny motion to withdraw as counsel of record lies within wound discretion of trail court
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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
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McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
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COMPENDIUM UPDATE CASE LIST

Publisher's note: For your convenience, below is an alphabetical list of the cases added to this 2007 update of the *California Compendium on Professional Responsibility*. Cases added in this update are from January 2005 to December 2005. Ethics opinions and cases from prior years have been added to this update as well.

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