



The State Bar *of California*

California Compendium on Professional Responsibility Index

2025

COMPENDIUM UPDATE CASE LIST

Publisher's Note: For your convenience, below is an alphabetical list of the cases added to the *2025 California Compendium on Professional Responsibility* index. This list consists of cases decided from January 2024 to December 2024. Recently published state and county bar ethics opinions and some cases from prior years have also been added to this update.

2024 Cases

Atkinson v. Dept. of Motor Vehicles (2024) 102 Cal.App.5th 997 [322 Cal.Rptr.3d 198]
Byers v. Superior Court (2024) 101 Cal.App.5th 1003 [320 Cal.Rptr.3d 748]
CAL 2024-209
CLA 2023-1
Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]
Edmo v. Corizon, Inc. (9th Cir. 2024) 97 F.4th 1165
Grizell v. San Elijo Elementary School (9th Cir. 2024) 110 F.4th 1177
Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]
In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
In the Matter of Respondent CC (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 36
In the Matter of Respondent DD (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 90
In the Matter of Thibault (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 64
Masimo Corporation v. The Vanderpool Law Firm, Inc. (2024) 101 Cal.App.5th 902 [320 Cal.Rptr.3d 704]
Pell v. Nuñez (9th Cir. 2024) 99 F.4th 1128
People v. Ferenz (2024) 99 Cal.App.5th 1032 [318 Cal.Rptr.3d 301]
Sanchez v. Superior Court of San Bernardino County (2024) 106 Cal.App.5th 617 [327 Cal.Rptr.3d 225]
Simers v. Los Angeles Times Communications LLC (2024) 104 Cal.App.5th 940 [325 Cal.Rptr.3d 113]
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Sundholm v. Hollywood Foreign Press Association (2024) 99 Cal.App.5th 1330 [318 Cal.Rptr.3d 669]
Syre v. Douglas (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]

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

CITATIONS

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

- ** SPECIAL NOTE **:**
- **CASES PRECEDED BY AN ASTERISK (*) SHOULD BE CAREFULLY SHEPARDIZED, AS THEY ARE SUBJECT TO REVIEW (AT THE TIME OF PUBLICATION OF THIS COMPENDIUM UPDATE), OR HAVE BEEN OVERRULED OR DISAPPROVED EITHER WHOLLY OR IN PART BY THE SUPREME COURT OF CALIFORNIA.**
 - **CASES PRECEDED BY A CROSS SYMBOL (+) ARE STATE BAR COURT REVIEW DEPARTMENT DECISIONS WHICH ARE EITHER TEMPORARILY OR PERMANENTLY DEPUBLISHED DUE TO A PETITION FOR REVIEW BY THE CALIFORNIA SUPREME COURT. (SEE RULE 310, RULES OF PROCEDURE FOR STATE BAR COURT PROCEEDINGS (EFF. JANUARY 1, 1995).) PLEASE CHECK THE STATUS OF THE DECISION BEFORE CITING THE CASE AS AUTHORITY. (SEE "HOW TO USE" AND "TABLE OF CASES AND SUBSEQUENT HISTORY" SECTIONS, CALIFORNIA STATE BAR COURT REPORTER.)**

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

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

HOW TO USE THIS INDEX (Cont'd.)

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

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

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

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

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

KEY TO SYMBOLS

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

READER PARTICIPATION

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

CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY
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CALIFORNIA COMPENDIUM ON PROFESSIONAL RESPONSIBILITY INDEX

ABA [See AMERICAN BAR ASSOCIATION.]

ABANDONMENT OF CLIENT [See Competence, substitution of counsel. Moral turpitude. Neglect. Substitution of counsel. Termination of attorney-client relationship. Withdrawal.]

Business and Professions Code section 6067

ABUSE OF PROCESS [See Malicious prosecution.]

ACADEMIC DEGREES [See Advertising, use of.]

Use of

LA 349 (1975), LA 331 (1973), LA 113 (1937)

SD 1974-10, SD 1972-8, SD 1970-1, SD 1969-5, SD 1968-1

SF 1973-7

ACCEPTANCE OF EMPLOYMENT [See Attorney-client relationship. Conflict of interest.]

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

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

Adverse

to former client

[Gendron v. State Bar](#) (1983) 35 Cal.3d 409, 411

-representation of corporation against officers and directors

--formerly associated with firm representing officers and directors

LA 139 (1941)

Adverse interest

to former client

-in related matter

LA 136 (1941)

Adverse to client

guardianship for client

-institution of proceedings for appointment of

--by attorney

LA 138 (1941)

Appointment of counsel to serve as advisor to criminal defendant refusal to accept

[Chaleff v. Superior Court](#) (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

Attorney must decline representation where attorney lacks time and resources to pursue client's case with reasonable diligence in both paid and pro bono representations

[Segal v. State Bar](#) (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Bad faith appeal

[Danziger v. Peebler](#) (1948) 88 Cal.App.2d 307, 312 [198 P.2d 719]

By attorney

clients

-of real estate business

--associated with attorney

LA 140 (1942)

--operated by attorney

LA 140 (1942)

Duty to counsel or maintain only legal or just actions

[Canatella v. California](#) (9th Cir. 2002) 304 F.3d 843

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

[In the Matter of Scott](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

[CAL](#) 2019-198

Duty to decline to file pleading which advances totally meritless and frivolous positions

LA 464 (1991)

Frivolous appeal

Business and Professions Code section 6068(c)

Code of Civil Procedure section 907

Rule 8.272, California Rules of Court

civil proceeding

-attorney fees awarded at discretion of trial court; absent clear abuse appeal of award is frivolous [See Sanctions.]

--mortgage foreclosure

[Huber v. Shedaudy](#) (1919) 180 Cal. 311

--spousal support action

[Marriage of Millet](#) (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]

-attorney has responsibility not to pursue a client's frivolous appeal because client demands

[Cosenza v. Kramer](#) (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr. 18]

-definition of frivolous appeal

[In re Marriage of Flaherty](#) (1982) 31 Cal.3d 637

[Olsen v. Harbison](#) (2005) 134 Cal.App.4th 278 [35 Cal.Rptr.3d 909]

[Johnson v. Lewis](#) (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]

[Padres L.P. v. Henderson](#) (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]

[Pollock v. University of Southern California](#) (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]

[Dawson v. Toledano](#) (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]

[DeRose v. Heurlin](#) (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

[Guardianship of Pankey](#) (1974) 38 Cal.App.3d 919 [113 Cal.Rptr. 539]

-delay in filing briefs caused unreasonable delay

[Estate of Walters](#) (1950) 99 Cal.App.2d 552 [222 P.2d 100]

-delay is frivolous if motive is to outlive the other party through appeals

[Hendricks v. Pappas](#) (1947) 82 Cal.App.2d 774 [187 P.2d 436]

-divorce actions

--alimony

[Taliaferro v. Taliaferro](#) (1960) 180 Cal.App.2d 44 [4 Cal.Rptr. 693]

--appeal for refusal to pay court ordered payments is meritless

[Ballas v. Ballas](#) (1963) 217 Cal.App.2d 129 [31 Cal.Rptr. 584]

[Muller v. Muller](#) (1959) 174 Cal.App.2d 517 [345 P.2d 29]

--award of attorney's fee not appealable absent clear abuse

[Marriage of Millet](#) (1974) 41 Cal.App.3d 729 [116 Cal.Rptr. 390]

--bifurcated action is complicated so appeal is not frivolous

[Marriage of Fink](#) (1976) 54 Cal.App.3d 357 [126 Cal.Rptr. 626]

--full faith and credit to out-of-state divorce decree

[Toohey v. Toohey](#) (1950) 97 Cal.App.2d 84 [217 P.2d 108]

--repeated appeals

[Howarth v. Howarth](#) (1956) 148 Cal.App.2d 694 [304 P.2d 147]

-evidentiary appeals

--complaint deemed sufficient in first appeal so second appeal on sufficiency is frivolous

[Sipe v. McKenna](#) (1951) 105 Cal.App.2d 373 [233 P.2d 615]

--conflicting evidence is not appealable if trial court makes a determination

[Kruckow v. Lesser](#) (1952) 111 Cal.App.2d 198 [244 P.2d 19]

[Helcomb v. Breitkreutz](#) (1919) 180 Cal. 17

--more cursory inspection of evidence required so appeal was not meritless

[Crook v. Crook](#) (1960) 184 Cal.App.2d 745 [7 Cal.Rptr. 892]

--new trial based on insufficient evidence will not be distributed by appellate court

[Hall v. Murphy](#) (1980) 187 Cal.App.2d 296 [9 Cal.Rptr. 547]

ACCEPTANCE OF EMPLOYMENT

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

- Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
- solely for delay
 - Ainsworth v. State Bar (1988) 46 Cal.3d 1218
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - spite as a motive is frivolous
 - Rule 2-110, Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 3-200, Rules of Professional Conduct (operative as of May 27, 1989)
 - In re Stephens (1890) 84 Cal. 77, 81
 - suit with no questions of law or fact remaining
 - libel
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - Katz v. Rosen (1975) 48 Cal.App.3d 1032 [121 Cal.Rptr. 853]
 - real estate commission action
 - Towle v. Lewis (1969) 274 Cal.App.2d 376 [79 Cal.Rptr. 58]
 - Supreme Court adjudication is law of the case; so further appeal on same matter is meritless and improper
 - Maple Properties v. Harris (1984) 158 Cal.App.3d 997 [205 Cal.Rptr. 532]
 - waiver of right to appeal in settlement makes the appeal frivolous for delay
 - McConnell v. Merrill Lynch (1985) 176 Cal.App.3d 480
 - wholly inadequate appeal is frivolous
 - McCosker v. McCosker (1954) 122 Cal.App.2d 498 [265 P.2d 21]
 - will contest is personal; so an appeal may not be frivolous
 - Estate of Bloom (1980) 107 Cal.App.3d 195 [165 Cal.Rptr. 591]
 - writ of execution on sale of property is quashed by trial court at its discretion; appeal therefore is frivolous
 - Wellborn v. Wellborn (1945) 67 Cal.App.2d 545 [155 P.2d 99]
 - criminal proceeding
 - appeal on jurisdiction and legality of the proceedings where no error existed is meritless
 - People v. Wallace (1963) 217 Cal.App.2d 440 [31 Cal.Rptr. 697]
 - death penalty appeals exhausted; re-appeal on same issues is frivolous
 - People v. Smith (1933) 218 Cal. 484, 489
 - dismissal of frivolous appeals should be used sparingly in criminal matters
 - People v. Sumner (1968) 262 Cal.App.2d 409, 414-415 [69 Cal.Rptr. 15]
 - limited review of errors of fact or factual disputes; appeal was frivolous
 - Edwards v. People (1950) 99 Cal.App.2d 216 [221 P.2d 336]
 - facts not known or available to defendant at the time of the verdict
 - People v. Malone (1950) 96 Cal.App.2d 270 [215 P.2d 109]
 - withdrawal
 - attorney may include brief to support
 - McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
 - Frivolous motion
 - In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
 - In propria persona litigant
 - LA 502 (1999)
 - Malicious prosecution
 - attorney is jointly liable with client for malicious prosecution
 - Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
 - Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
 - Tool Research & Engineering v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]
 - attorney may be held liable for continued prosecution of a case that lacks probable cause
 - Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
 - Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
 - Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]
 - Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
 - burden of proof on plaintiff to show "want of probable cause" necessary for a malicious prosecution action
 - Grant v. Moore (1866) 29 Cal. 644, 648
 - client must fully disclose all necessary facts to attorney before defense of "advice of counsel" is allowed
 - Siffert v. McDowell (1951) 103 Cal.App.2d 373, 378 [229 P.2d 388]
 - Walker v. Jensen (1949) 95 Cal.App.2d 269 [212 P.2d 569]
 - evidence of self-defense kept from district attorney who then prosecutes, destroys probable cause defense
 - Starkweather v. Eddy (1930) 210 Cal. 483
 - defendant entitled to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant
 - County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
 - defendant has burden of proving action taken in good faith
 - Masterson v. Pig-N-Whistle Corp. (1958) 161 Cal.App.2d 323 [326 P.2d 918]
 - discrepancies of fact not enough for court to find "want of probable cause"
 - Lee v. Levinson (1916) 173 Cal. 166
 - dismissal of action by negotiation is not "want of probable cause," but may be used as evidence
 - Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
 - evidence of misappropriation of money enough for probable cause, even though acquitted
 - Haydel v. Morton (1935) 8 Cal.App.2d 730
 - felony grand theft evidence is disputed; enough to show probable cause
 - Richter v. Neilson (1936) 11 Cal.App.2d 503
 - felony of grand theft acquittal was malicious prosecution because defendant had an "honest" belief that goods were plaintiff's
 - Singleton v. Singleton (1945) 68 Cal.App.2d 681 [157 P.2d 886]
 - good faith belief in action is a defense to malicious prosecution
 - Kassan v. Bledsoe (1967) 252 Cal.App.2d 810 [60 Cal.Rptr. 799]
 - malice does not exist if client acted in good faith on attorney advice
 - Brinkley v. Appeley (1969) 276 Cal.App.2d 244 [80 Cal.Rptr. 244]
 - negligence or failure of attorney to conduct factual research and lack of probable cause do not support an inference of malice, an element of malicious prosecution
 - Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
 - probable cause exists even where plaintiff in first action claimed only a small portion
 - Murdock v. Gerth (1944) 65 Cal.App.2d 170
 - reliance of attorney on client's distorted facts in filing an action creates a want of probable cause
 - Albertson v. Raboff (1960) 185 Cal.App.2d 372 [8 Cal.Rptr. 398]
 - Prior counsel terminated
 - CAL 1994-134, SD 1972-17
 - Prohibited employment
 - CAL 2019-198

ACCOUNTANT

appeal

- prosecute solely for delay
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

- take solely for delay
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

litigation

- claim/defense not warranted under existing law
Rule 2-110(B), Rules of Professional Conduct Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

- good faith exception
Rule 2-110(B), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)
Rule 2-110(C), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

malicious injury to a person

- bringing action, conducting defense or asserting position in litigation
Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

- harassing a person by bringing action, conducting defense, or asserting position in litigation
Rule 2-110(A), Rules of Professional Conduct (operative until May 26, 1989)
[Rule 3-200](#), Rules of Professional Conduct (operative as of May 27, 1989)

- spite, prosecute, or defend action solely out of
[Sorensen v. State Bar](#) (1991) 52 Cal.3d 1036

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

- [Streit v. Covington & Crowe](#) (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- [In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

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

ACCOUNTING [See Business Activity and Practice of Law.]

[See Clients' trust account, accounting.]

ADDRESS [See Advertising. Solicitation.]

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

- Business and Professions Code section 6002.1
- [Bowles v. State Bar](#) (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]
- [Lyden v. State Bar](#) (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]
- [In the Matter of Respondent AA](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
- [In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- [In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- [In the Matter of Lilley](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476

ADJUSTER [See Lay employee.]

- Act for employer; later represent against in same matter as lawyer
LA 216 (1953)
- Former acts against former employer
LA 216 (1953)
- Settlement negotiated with or by
SD 1978-8

ADMINISTRATIVE AGENCY [See Public office.]

Federal

foreign attorney appears before
LA 168 (1948), LA 156 (1945)

Foreign attorney practices before
LA 168 (1948), LA 156 (1945)

Law student appears before
SD 1974-1, SD 1973-9

Lay person appears before

- [Benninghoff v. Superior Court](#) (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- LA 195 (1952), LA 143 (1943)
- SD 1974-1, SD 1973-9

ADMISSION TO THE BAR [See Candor. Moral Turpitude.]

Business and Professions Code section 6060 et seq.

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

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

Admission denied

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

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

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

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

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

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

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

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

Admission granted

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

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

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

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

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

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

Admission of undocumented immigrants

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

Admission revoked

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

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

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

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

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

Admission to Practice, Rules Regulating

Text is located in:

- Deerings Annotated California Codes, Court Rules, vol. 2, and in
- West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 232

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Admission to the federal bar

federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court

[In re North](#) (9th Cir. 2004) 383 F.3d 871

Americans with Disabilities Act, accommodations for use of computer programs for legally blind applicant so as to best ensure that the exam results accurately reflect aptitude rather than disabilities

Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153

Authority of Committee of Bar Examiners

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

Craig v. State Bar (9th Cir. 1998) 141 F.3d 1353

McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062

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

Greene v. Zank (1984) 158 Cal.App.3d 497, 506-513 [204 Cal.Rptr. 770]

Bar examination

accommodations for use of computer programs for legally blind applicant, likely to be successful under Americans with Disabilities Act

Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153

disbarment for taking Bar Examination for another

In re Lamb (1990) 49 Cal.3d 239 [260 Cal.Rptr. 856]

unsuccessful bar examinee has no breach of contract action against preparer of multistate bar exam

McEldowney, Jr. v. National Conference of Bar Examiners (1993) 837 F.Supp. 1062

Business and Professions Code sections 6060-6067

§ 6064(b)

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

In the Matter of Applicant D (Review Dept. 2023) 2023 WL 6035733

oath of attorney

Business and Professions Code section 6067

Certification of Law Students [See Practical Training of Law Students.]

Committee of Bar Examiners of The State Bar of California. [See Addresses, supra.]

criminal defendant's rights and privileges restored upon a pardon by the governor may not operate to usurp the authority of the rules relating to admission

In re Lavine (1935) 2 Cal.2d 324

determines that an applicant possesses the good moral character required of an officer of the court

Klarfeld v. United States (9th Cir. 1991) 944 F.2d 583

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

may initiate investigation of criminal charges against applicant but may not "re-try" applicant

Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661; P.2d 160]

Correspondence law schools

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

Eleventh amendment immunity prevents applicant from suing the State Bar of California in federal court through the Americans with Disabilities Act for failing to provide him with certain test-taking accommodations

Kohn v. State Bar of California (9th Cir. 2023) 87 F.4th 1021

First Year Law Student Exam

Pell v. Nuñez (9th Cir. 2024) 99 F.4th 1128

Misappropriation

attorney's petition for reinstatement, after disbarment for misappropriation, is denied

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

Misconduct prior to admission

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

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

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

In the Matter of Applicant D (Review Dept. 2023) 2023 WL 6035733

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

*In the Matter of Respondent Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318

In the Matter of Ike (1996) 3 Cal. State Bar Ct. Rptr. 483

In the Matter of Lybbert (1994 Review Dept.) 2 Cal. State Bar Ct. Rptr. 297

Moral character proceedings (governed by Rules Proc. of State Bar, Rule 5.460 et seq.)

dismissal with prejudice due to obstructing discovery

In the Matter of Applicant C (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 989

Moral character proceedings (governed by Rules Proc. of State Bar, Rule 680 et seq.)

In the Matter of Applicant D (Review Dept. 2023) 2023 WL 6035733

burden of proof

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

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

In re Menna (1995) 11 Cal.4th 975

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

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

Hightower v. State Bar (1983) 34 Cal.3d 150

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

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

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

In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318

discovery

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

quasi-judicial immunity of the State Bar and the Committee of Bar Examiners

Greene v. Zank (1984) 158 Cal.App.3d 497

Oath

district court lacks subject matter jurisdiction in reviewing applicant's request to take an amended oath because of religious conflicts

Craig v. State Bar of California (9th Cir. 1998) 141 F.3d 1353

Privilege to practice law

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

Pro hac vice

Rule 9.40, California Rules of Court

Ninth Circuit Civ. L.R. 83.3(c)(5) [S.D.Cal.]

Leis v. Flynt (1979) 439 U.S. 438 [99 S.Ct. 698]

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

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

Paciulan v. George (9th Cir. 2000) 229 F.3d 1226

Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]

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

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

People v. Cooks (1983) 141 Cal.App.3d 224, 290 [190 Cal.Rptr. 211]

Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer

Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857

attorney not entitled to fees for work done prior to admission

pro hac vice

Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857

Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]

ADOPTION

attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case

Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034

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

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

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

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

Property right

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

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

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

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

Reciprocity admission

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

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

Rehabilitation

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

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

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

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

Reinstatement

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

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

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

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

Residency requirements

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

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

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

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

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

Undocumented immigrant, admission to the Bar

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

Unqualified person

lawyer furthering the application of

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

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

ADOPTION

Family Code section 8800

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

Act for both parties

Civil Code section 225(m)

LA 284 (1964)

Award of attorney's fees

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

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

Independent adoption

Penal Code section 273

Represent

one party in, after advising the other

LA(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

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

SD 2019-3

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

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

Bond

attorney acting as guarantor of client's cost

CAL 1981-55

premium for absent guardian of minor

LA(I) 1954-5

By client

status as trust funds

SF 1980-1, SF 1973-14

-advance deposit

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

-advance payment retainer distinguished from true retainer

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

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

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

-of costs

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

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

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

-of legal fees to attorney

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

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

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

Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 -retainer fee
 [Rule](#) 3-700(D)
 Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
 In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
 T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 SF 1980-1

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

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

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

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

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

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

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

Reimbursement
 from client's fund
 LA 48 (1927)

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

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

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

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

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

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

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

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

Biography of lawyer
 OC 2022-01
 sale of book
 SD 1973-4

Blogging by attorney
[CAL](#) 2016-196

ADVERTISING

Books relating to practice of law

LA 446 (1987)

Broadcasting

educational television

LA(I) 1970-8

program on law

[CAL](#) 1972-29

LA 318 (1970), LA 186 (1957), LA(I) 1975-7, LA(I) 1970-12,

LA(I) 1964-7

radio or television, use of

Belli v. State Bar (1974) 10 Cal.3d 824, 832-833 [112

Cal.Rptr. 527, 519 P.2d 575]

Committee on Professional Ethics and Conduct v.

Humphrey (1986) 377 N.W.2d 643

televised trial

LA 404 (1983)

Brochures, random distribution of

LA 419 (1983)

Business activity

LA 446 (1987), LA 335 (1973), LA 214 (1953), LA(I) 1976-5,

LA(I) 1931-4, SD 1975-2

blogging by attorney

[CAL](#) 2016-196

business, acquainting public with services offered by lawyers

In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]

Bates v. State Bar of Arizona (1977) 433 U.S. 350

investment/portfolio manager

[CAL](#) 1999-154

lawyer or judge identified on

LA 286 (1965)

lawyer-officer identified on

LA 286 (1965), LA 256 (1959), LA 241 (1957)

management consulting company run by attorney

LA 446 (1987)

tax work

Libarian v. State Bar (1944) 25 Cal.2d 314, 315 [153 P.2d 739]

use of terms "accountants" and "accounting"

Moore v. California State Board of Accountancy (1990)

222 Cal.App.3d 919 [272 Cal.Rptr. 108]

Business and Professions Code section 6157

blogging by attorney

[CAL](#) 2016-196

By bar association

for lawyers to serve as guardians of minors

SD 1975-8

Card, professional

LA 419 (1983)

deceased partner

-use of name of

LA 123 (1939)

degrees on

[CAL](#) 1999-154, SD 1969-5

delivered to accident victim at scene of accident

SD 2000-1

lay employee noted on

Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 122]

LA 381 (1979)

limitation of practice noted on

LA 168 (1948)

published in newspaper

-periodical

--mail

LA 404 (1982)

--random distribution

LA 419 (1983)

Change in the form of practice

LA(I) 1971-11

Chat room

[CAL](#) 2004-166

Check, profession shown on

LA(I) 1970-3

Class action

communication with potential class members prior to certification

Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]

In re McKesson HBCO, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239

Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]

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

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

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

Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]

Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]

-scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)

Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]

Client's

counsel identified on

LA 286 (1965), LA 241 (1957), LA(I) 1971-1, SD 1973-5

Communication and solicitation distinguished

[CAL](#) 2012-186, SD 2000-1

Communications concerning the availability for professional employment

blogging by attorney

[CAL](#) 2016-196

LA 494 (1998)

SD 2006-1, SD 2000-1

Controversial cause, espousal of

LA(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, OC 93-001

Dissolution of law firm

[CAL](#) 2020-201, [CAL](#) 1985-86

"Do-it-yourself" clinics

Howard v. Superior Court (1975) 52 Cal.App.3d 722

Donation of legal services as prize

LA 434 (1984)

Donation of legal services contingent upon bequest to certain organization

[CAL](#) 1982-65

Dramatization

[Rule](#) 1-400, std. 13, California Rules of Professional Conduct (operative May 11, 1994)

Dual practice/occupation

[CAL](#) 1982-69

LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1926), LA 349 (1925)

Educational activity

[CAL](#) 1972-29

LA 221 (1954)

SD 1974-21

Electronic media

[CAL](#) 2019-199, [CAL](#) 2001-155

SD 1977-4

Employment offered

SD 1975-8, SD 1975-5

Employment wanted
 LA 319 (1970), LA(I) 1972-13
 corporate counsel
 LA 319 (1970)

Endorsement [See Political activity.]
[Rule](#) 1-400, std. 2, Rules of Professional Conduct (operative September 14, 1992)
 commercial product
[Valentine v. Chrestensen](#) (1942) 316 U.S. 52
 constitutional analysis versus State Bar policy
[Belli v. State Bar](#) (1974) 10 Cal.3d 824, 840 [112 Cal.Rptr. 527]

Facsimile transmissions
 Business & Professions Code section 17538.4

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

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

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

First Amendment protections
[Milavetz v. United States](#) (2010) 559 U.S. 229 [130 S.Ct. 1324]
[44 Liquormart Inc. v. Rhode Island Liquor Stores Assn.](#) (1996) 517 U.S. 484 [116 S.Ct. 1495]
[Florida Bar v. Went for It, Inc.](#) (1995) 515 U.S. 618 [115 S.Ct. 2371]
[Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy](#) (1994) 512 U.S. 136 [114 S.Ct. 2084]
[Edenfield v. Fane](#) (1993) 507 U.S. 761 [113 S.Ct. 1792]
[In re R.M.J.](#) (1982) 455 U.S. 191 [102 S.Ct. 929]
[Central Hudson Gas & Electric v. Public Service Comm. of New York](#) (1980) 447 U.S. 557 [100 S.Ct. 2343]
[Bates v. State Bar of Arizona](#) (1977) 433 U.S. 350
[Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council](#) (1976) 425 U.S. 748 [96 S.Ct. 1817]
[Rubin v. Green](#) (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]
[Belli v. State Bar](#) (1974) 10 Cal.3d 824, 833 [112 Cal.Rptr. 527]
[Steiner v. Superior Court](#) (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 LA 494 (1998), LA 474 (1993)
 blogging by attorney
[CAL](#) 2016-196

court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
[Hassell v. Bird](#) (2018) 5 Cal.5th 522 [234 Cal.Rptr.3d 867]
 court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights
[Steiner v. Superior Court](#) (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
 scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
[Simpson Strong-Tie Company Inc. v. Gore](#) (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
[Healthsmart Pacific v. Kabateck](#) (2017) 7 Cal.App.5th 416 [212 Cal.Rptr.3d 589]
[Argentieri v. Zuckerberg](#) (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

Foreign attorney
 LA 156 (1945)

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

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

Guardians, for lawyers to serve as
 SD 1975-8

In-person delivery of business card
 SD 2000-1

Insurance company
 in-house law division
[CAL](#) 1987-91

Internet
[Barton v. U.S. Dist. Court for Central Dist. of Cal.](#) (9th Cir. 2005) 410 F.3d 110
[Ramirez v. Trans Union, LLC](#) (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
[Parris v. Superior Court](#) (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
[CAL](#) 2019-199, [CAL](#) 2005-168, [CAL](#) 2001-155
 blogging by attorney
[CAL](#) 2016-196
 chatroom
[CAL](#) 2004-166
 court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
[Hassell v. Bird](#) (2018) 5 Cal.5th 522 [234 Cal.Rptr.3d 867]
 court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights
[Steiner v. Superior Court](#) (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
 social media
[CAL](#) 2012-186, SD 2018-1
 third-party directories
[CAL](#) 2019-199
 website biography
 OC 2022-01

Intrusion/duress
[CAL](#) 2004-166

ADVERTISING

Laudatory reference
 journal advertisement
 LA 25 (1923)
 newspaper
 -series of articles on tax problems written by attorney
 LA 87 (1935)
 statements
 Bushman v. State Bar (1974) 11 Cal.3d 558, 568
 Belli v. State Bar (1974) 10 Cal.3d 824, 837 [112 Cal.Rptr. 527]
 Johnson v. State Bar (1935) 4 Cal.2d 744, 752
 CAL 1972-29
 Law
 name of partnership
 LA 310 (1969)
 Law practice
 deceased partner
 -use of name of
 LA 123 (1939), SD 1969-4
 former partner
 -use of name of
 CAL 1986-90, LA 530 (2018)
 withdrawal of attorney from firm
 Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
 CAL 2020-201, CAL 1985-86
 Lawyer referral service
 Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565
 SD 2021-1, SD 2019-2
 referral occurs when an entity engages in the act of directing or sending a potential client to an attorney for purposes of Business and Professions Code section 6155
 Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]
 Lawyers to serve as guardians of minors
 SD 1975-8
 Lectures
 LA 286 (1965), LA(I) 1964-7
 announcement
 Belli v. State Bar (1974) 10 Cal.3d 824, 835 [112 Cal.Rptr. 527, 519 P.2d 575]
 -degrees listed on
 LA 349 (1925)
 cable television
 CAL 1972-29
 law to non-lawyers
 CAL 1967-12
 Legal aid agency
 SD 1974-9
 Legal document [See Publication.]
 annual report of business
 LA(I) 1971-1
 business prospectus
 CAL 1969-19, LA(I) 1971-1
 stockholder's report
 LA(I) 1971-1
 Legal services connected with senior citizen membership
 SD 1976-11
 Legal work for lawyers
 LA 65 (1931)
 Legal work from bar
 LA 167 (1948)
 Letter
 In re Primus (1977) 436 U.S. 412, 422
 Belli v. State Bar (1974) 10 Cal.3d 824, 838 [112 Cal.Rptr. 527, 519 P.2d 575]
 Johnson v. State Bar (1935) 4 Cal.2d 746, 747
 CAL 1982-67, CAL 1981-61, CAL 1980-54
 LA 404 (1982), SD 1983-5, SF 1979-1

advising creditors of claims when creditors are unaware of existence
 -offering to represent on percentage basis
 LA 122 (1939)
 honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law
 In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
 CAL 1999-154
 other attorneys
 -describing qualifications
 CAL 1981-61
 -offering to represent in other jurisdictions
 CAL 1981-61
 -requesting referrals
 SF 1970-2
 target, direct mail solicitation to particular potential clients allowed
 Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
 Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 CAL 1995-142, CAL 1988-105
 OC 93-001
 SD 1992-3
 Letterhead
 affiliation with an out-of-state law firm
 LA 392 (1983)
 affiliation with "correspondent firm" in another county
 LA 430 (1984)
 attorney
 -use of by non-lawyer
 LA 16 (1922)
 corporation
 -name of attorney on
 LA 16 (1922)
 deceased partner and/or former partner
 -use of name of
 CAL 1993-129, CAL 1986-90
 LA 123 (1939)
 distinguish partners from non-partners
 SF 1973-18
 "of counsel" on
 People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 CAL 1993-129, LA 516 (2006), LA 421 (1983)
 other jurisdictions
 -address of offices in
 SD 1975-16
 Mail [See Solicitation.]
 CAL 1983-75, LA 404 (1983)
 general guidelines
 SD 1983-5
 lawyers
 CAL 1981-61
 other attorneys
 -requesting referrals
 CAL 1981-61
 owners
 SF 1979-1
 target, direct mail solicitation to particular potential clients allowed
 Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
 Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
[CAL](#) 1995-142, [CAL](#) 1988-105
 SD 1992-3, OC 93-001
 -using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
 to non-clients
 SD 1983-5
 to prospective clients
 -announcement of law office opening
 LA 128 (1940)
 -mass mailing to income property owners
 SF 1979-1
 to realtors by mass mailing
[CAL](#) 1983-75
 Mail announcement [See Advertising, announcement. Law office, opening. Partnership.]
 clients of former partner or employer
[CAL](#) 2020-201, [CAL](#) 1985-86, LA 281 (1963)
 mailing of bulletins or briefs discussing laws or decisions
 LA 494 (1998)
 to members of the bar concerning availability for employment
 LA(l) 1970-4, SF 1970-2
 Management consulting company run by attorney
 LA 446 (1987)
 Military service
 exit from
 LA 161 (1946)
 Misleading
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 381
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
[CAL](#) 1997-148, LA 530 (2018)
 allegation of misleading advertisement not found
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
 attorneys not partners nor associates share office space
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
[CAL](#) 1997-150, [CAL](#) 1986-90
 class action
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
 -class commercial as opposed to a professional announcement
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 criminal offense of conspiracy to defraud by false pretenses or false promises is subject to three-year statute of limitations
People v. Milstein (2012) 211 Cal.App.4th 1158 [150 Cal.Rptr.3d 290]
 disclaimer regarding the relationship between specially appearing attorneys and the clients of the attorney who hires the specially appearing attorney
[CAL](#) 2004-165
 fees, costs
 Business and Professions Code section 6157
Leoni v. State Bar (1985) 39 Cal.3d 609 [217 Cal.Rptr. 423]
 honorific title in firm name or trade name may be misleading
[CAL](#) 2004-167
 reference to current or past relationship with governmental agency in firm name, letterhead or business card
[CAL](#) 2004-167

website biography
 OC 2022-01
 Newsletter
 charitable organization
 -offering free will service
 LA 428 (1984)
 Newspaper
Zauderer v. Office of Disciplinary Counsel of the Supreme Court of Ohio (1985) 471 U.S. 626 [105 S.Ct. 2265]
In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
Bates v. State Bar of Arizona (1977) 433 U.S. 350, 354
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 LA 8 (1917)
 article
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364 [138 Cal.Rptr. 7]
 articles on tax problems, series of
 LA 87 (1935)
 legal column
 LA 354 (1976)
 misleading to the public
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1173
 scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
 specialization – approval of
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172-1173
 Non-legal services
[CAL](#) 1999-154
 “Of Counsel”
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
[CAL](#) 1993-129, [CAL](#) 1986-88, LA 516 (2006), LA 421 (1983)
 other jurisdictions
 -address of offices in
 SD 1975-16
 Pamphlets relating to the practice of law
 LA 419 (1983)
 distribution to clients
[CAL](#) 1967-10
 Partnership
 attorney as partner or employee of two law firms
 LA 511 (2003)
 changes in personnel
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
[CAL](#) 2020-201, [CAL](#) 1986-90, [CAL](#) 1985-86, LA 247 (1957)
 formation of
 LA 331 (1973)
 Potential members of class action
 prior to class certification
Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
Howard Guntz Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]

ADVERTISING

Presentation

- use of a living trust marketer to solicit clients for the attorney
[CAL](#) 1997-148
- use of a medical liaison to give a presentation containing promotional messages to a group of doctors who might recommend patients to the lawyer
[CAL](#) 1995-143

Profiles on third-party directories

- [CAL](#) 2019-199, SD 2021-1
- duty to correct false and/or misleading information
[CAL](#) 2019-199

Prohibited forms

- 44 Liquormart Inc. v. Rhode Island Liquor Stores Assn. (1996) 517 U.S. 484 [116 S.Ct. 1495]
- Florida Bar v. Went For It, Inc. (1995) 515 U.S. 618 [115 S.Ct. 2371]
- Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]
- Edenfield v. Fane (1993) 507 U.S. 761 [113 S.Ct. 1792]
- In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
- Central Hudson Gas & Electric Corp. v. Public Service Comm. of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
- Bates v. State Bar of Arizona (1977) 433 U.S. 350, 383
- Virginia Bd. Of Pharmacy v. Virginia Citizens Consumer Council (1976) 425 U.S. 748 [96 S.Ct. 1817]
- Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]
- LA 494 (1998), SD 2000-1
- management consulting firm incorporated by attorney to act as agent in solicitation of legal business
LA 446 (1987)

Publication [See Advertising, newspaper; journal.]

- books relating to practice of law
LA 446 (1987)
- charitable or religious body or organization
LA 256 (1959)
- directory
 - biographical
LA(I) 1947-4
 - organization
 - fraternal
LA 184 (1951)
 - State Bar website listing
SD 2006-1
 - trade, business, etc.
LA 345 (1975)

distribution of

- LA 244 (1957), LA(I) 1948-5, LA(I) 1948-4
- pamphlets
Palmquist v. State Bar (1954) 43 Cal.2d 428
- published by State Bar
[CAL](#) 1967-10

experiences of lawyer

- as public interest story
SD 1975-3

journal

- legal
LA 247 (1957), LA 156 (1945)
- trade
LA 158 (1945), LA(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

notice of specialized service

- LA 124 (1939)

pamphlet

- attorney as author of
LA 307 (1968)

promotion of

- LA 349 (1975), SD 1973-4

prospectus

- name of counsel giving opinion with regards to tax benefits required by Corporations Commission
[CAL](#) 1969-19

quality

- experience
LA 319 (1970)
- expertise
LA 319 (1970)
- inclusion in list of "approved" practitioners
LA(I) 1964-3
- self-laudatory advertisement
SD 1977-4

Qualifications

- [CAL](#) 1982-67, [CAL](#) 1981-61

Radio or television

- Belli v. State Bar (1974) 10 Cal.3d 824, 835
- Committee on Professional Ethics and Conduct v. Humphrey (1986) 377 N.W.2d 643

participation by attorney in radio program

- answering questions on law
LA 299 (1966)
- identification as lawyer
LA 299 (1966)

Random solicitation

- LA 419 (1983)

Return to practice [See Inactive lawyers.]

- LA 161 (1946), LA 156 (1945)

Routine services, fees

- In re R.M.J. (1982) 455 U.S. 191 [102 S.Ct. 929]
- Bates v. State Bar of Arizona (1977) 433 U.S. 350
- [CAL](#) 1982-67

Seminars

- LA 494 (1998)

Share office space with attorneys

- People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
- [CAL](#) 1997-150, [CAL](#) 1986-90, SD 1985-1

Sign

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

Social media

- [CAL](#) 2012-186, SD 2018-1

Specialization

- [Rule](#) 1-400(E), standard no. 11, Rules of Professional Conduct (operative until May 31, 1997)
- [Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
- absolute prohibition may violate constitutional rights
Peel v. Attorney Reg. & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]

application

- In the Matter of Mudge (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 536
- LA(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)

public

LA 168 (1948), LA 45 (1927)

Standards

standard 3, potential client who does not have requisite emotional or mental state to make a reasonable judgment about retaining counsel

CAL 2004-166

standard 6, reference to relationship with governmental agency in firm name, letterhead or business card

CAL 2004-167

Target mail solicitation

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

In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620] Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

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

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

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

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

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

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

Telephone

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

CAL 1988-105

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

SD 2018-2

offer to conduct seminars

LA 494 (1998)

Telephone directory

listing in

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

-another city

CAL 1967-7, SD 1975-9

-State Bar website

SD 2006-1

more than one line

LA(I) 1948-6

multiple listings

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

-under spelling variations

LA(I) 1963-7

name changed

LA(I) 1956-3

out-of-town

CAL 1967-7

partnership

-members or associates listed individually

SD 1975-9

patent agent

-employed by law firm

CAL 1970-20

patent attorney

CAL 1970-20

seminars conducted for existing clients

SD 1969-8

Workers' Compensation

Labor Code sections 5430-5434

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

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

Testimonial

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

CAL 2019-199, CAL 2012-186

Third-party directories

CAL 2019-199, SD 2021-1

Trade name

practice law under by attorney or law firm

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

CAL 1982-66, LA 413 (1983)

Workers' Compensation

Labor Code sections 5430-5434

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

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

ADVISING INQUIRERS THROUGH MEDIA

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

Generally

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

Newspaper

tax problems

-series of articles on, authored by attorney

LA 87 (1935)

Radio show

attorney answers legal questions submitted by listeners

LA 299 (1966)

attorney participating in

-audience may talk with attorney over airwaves

CAL 1969-17

Tax problems

series of articles on, in newspaper

LA 87 (1935)

ADVISING VIOLATION OF LAW

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

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

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

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

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

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

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

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

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

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

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

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

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

LA 527 (2015)

Advocating civil disobedience

CAL 2003-162

Bankruptcy

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

Collections

LA 522 (2009)

Conflict between state and federal law

LA 527 (2015)

Judge solicited the commission of perjury in a federal investigation

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

ALCOHOL ABUSE

Medical marijuana

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

[CAL](#) 2020-202, LA 527, SF 2015-1

Negotiation of private agreement not to prosecute a crime

[CAL](#) 1986-89

Negotiation of private agreement to compromise civil claim arising from crime

[CAL](#) 1986-89

ALCOHOL ABUSE

Alcohol and drug addiction brought under control

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

For confidential assistance, contact:

State Bar of California Lawyer Assistance Program (LAP)

Telephone: (877) LAP 4 HELP, (877) 527-4435

Email: LAP@calbar.ca.gov

Website: <http://calbar.ca.gov/LAP>

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

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

AMERICAN BAR ASSOCIATION MODEL CODE OF PROFESSIONAL RESPONSIBILITY

Can be of assistance where California has not spoken

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

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

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

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

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

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

AMERICAN BAR ASSOCIATION MODEL RULES OF PROFESSIONAL CONDUCT

Can be of assistance where California has not spoken

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

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

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

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

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

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

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

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

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

Inadvertent disclosure of confidential information

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

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

Model Rules serve as collateral source for guidance on proper professional conduct for attorneys in California

[Hassett v. Olson](#) (2022) 78 Cal.App.5th 866 [293 Cal.Rptr.3d 802]

Not binding in California

[In re AFI Holding, Inc.](#) (9th Cir. BAP 2006) 355 B.R.139

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

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

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

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

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

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

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

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

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

Business and Professions Code section 6068(h)

Standard 5.10 and standard 10.21, Standards of Judicial Administration

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

Abuse of discretion

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

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

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

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

Assigned counsel

contract for private employment

SD 1969-9

duty to maintain inviolate client's confidence and secrets

LA 504 (2000)

duty with respect to costs and expenses

LA 379 (1979)

Attorney-client relationship

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

Civil proceedings

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

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

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

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

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

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

Coercive appointment

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

Conservatorship proceedings

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

attorney initiated conservatorship proceedings, absent client consent

[CAL](#) 1989-112, OC 95-002

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

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

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

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

Criminal and quasi-criminal proceedings

Business and Professions Code sections 6068(h)

[Penal Code section 1473.7](#)

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

immigration custody or defendant is indigent and in federal custody
People v. Fryhaat (2019) 35 Cal.App.5th 969 [248 Cal.Rptr.3d 39]
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
CAL 1970-23
abandonment by appellate counsel was good cause for substantial delay in filing of habeas petition
In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
abuse of discretion when court removed and refused to reappoint the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
adequacy of appointed counsel
People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]
appointment of additional
-defendant not entitled to second court-appointed counsel when death penalty not sought
U.S. v. Waggoner (9th Cir. 2008) 339 F.3d 915
-denied
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
-public defender may be appointed standby or advisory counsel for defendant who chooses to represent himself
Brookner v. Superior Court (1998) 64 Cal.App.4th 1390
court's refusal to appoint indigent defendant's chosen attorney at resentencing did not violate due process
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006
court's refusal to appoint indigent defendant's chosen attorney at retrial is not abuse of discretion
People v. Robinson (1997) 53 Cal.App.4th 270 [61 Cal.Rptr.2d 587]
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
defense attorney
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
freeing minor from parental custody
In re Rodriguez (1973) 34 Cal.App.3d 510 [110 Cal.Rptr. 56]
indigent defendants does not have the right to select court-appointed attorney
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
indigent defendants entitled to effective pro bono assistance
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
Mower v. Superior Court (1984) 156 Cal.App.3d 462, 472-473
narcotics commitment hearing
*People v. Moore (1968) 69 Cal.2d 674 [72 Cal.Rptr. 800]
Defendant's ability to afford private counsel
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Dependency proceedings
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
attorney appointed for a dependent minor under California Rule of Court 5.660 may also function as the independent guardian ad litem
In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]

representation of a minor client
In re Charles T. (2002) 102 Cal.App.4th 869 [125 Cal.Rptr.2d 868]
LA 504 (2000)
-attorney acting as guardian ad litem is holder of psychotherapist-patient privilege for minor client
In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]
-no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
sanctions imposed against attorney for bringing frivolous conflict motions
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
Duties of appointed counsel
authority to bind conservatee-client who requests not to be present at hearing
In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]
conservatorship proceedings
-duty of counsel to perform in an effective and professional manner is implicit in statute (Welf. & Inst. Code § 5365)
providing for appointment of attorney for proposed conservatee
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
Fees
Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
Good cause to relieve counsel appointed for a minor
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
Inadvertent disclosure of confidential information
city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
No absolute Sixth Amendment right to both pro bono counsel and assistance of counsel
United States v. Condo (9th Cir. 1984) 741 F.2d 238
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
Preservation of constitutional rights
United States v. Condo (9th Cir. 1984) 741 F.2d 238
Pro bono publico service
Business and Professions Code sections 6068(h), 6103
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
Payne v. Superior Court (1976) 17 Cal.3d 908, 924
Lamont v. Solano County (1874) 49 Cal. 158, 159
Rowe v. Yuba County (1860) 17 Cal. 60, 63
Waltz v. Zumwalt (1985) 167 Cal.App.3d 835, 837 [213 Cal.Rptr. 529]
County of Los Angeles v. Superior Court (1980) 102 Cal.App.3d 926, 931 [162 Cal.Rptr. 636]
County of Fresno v. Superior Court (1978) 82 Cal.App.3d 191, 194-196 [146 Cal.Rptr. 880]
Protect interests of party
Estate of Bodger (1954) 128 Cal.App.2d 710 [276 P.2d 83]
Right to counsel
defendant has choice when retaining counsel, but not for appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]

ARBITRATION

juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed

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

may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded

U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049

King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

may not be forfeited without defendant's voluntary, knowing and intelligent waiver

McCormick v. Adams (9th Cir. 2010) 621 F.3d 970

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

waiver of right must be knowing and intelligent

U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

ARBITRATION

Agreement with client to arbitrate claims brought by client

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

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

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

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

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

CAL 1977-47

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

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

malpractice claims

CAL 1989-116, LA 489 (1997)

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

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

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

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

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

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

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

Arbitrator

Code of Civil Procedure section 1141.18

Code of Civil Procedure section 1284

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

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

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

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

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

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

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

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

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

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

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

appointment of law office associate as

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

arbitral immunity

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

arbitrator's decision not subject to judicial interference standard

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

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

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

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

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

LA 415 (1983)

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

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

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

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

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

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

disclosure of public censure while previously serving as judge not required

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

disclosure required under Code of Civil Procedure section 1281.9

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-failure of arbitrator to disclose prior arbitration involving a lawyer from the same firm did not require vacatur of arbitration award

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

-failure to disclose nature of professional responsibility practice

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

-requires raising issue in timely manner

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

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

failure of arbitrator to disclose grounds for disqualification as the basis for civil liability

-arbitral immunity protects arbitrator from civil liability; vacation award proper remedy

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

failure of arbitrator to disclose grounds for disqualification as the basis to vacate interim award

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

Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]

failure of arbitrator to disclose that his wife had worked for law firm that represents party to arbitration more than 2 years before firm represented that party, does not require vacatur of award

Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062

failure to timely disclose a conflict arising from prior service as a mediator for one of the parties

Fininen v. Barlow (2006) 142 Cal.App.4th 185 [47 Cal.Rptr.3d 687]

federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements

Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]

judiciary is precluded from vacating an arbitration award on the basis of purported error of fact or law

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

neutral arbitrators must be held to the same ethical standards of impartiality as the judiciary in order to promote public confidence in the arbitration system

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

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

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

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

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

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

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

no duty on arbitrator to disclose religion or family background when such facts do not cause a reasonable person to entertain a doubt regarding his ability to be impartial

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

parties may enter into an agreement that authorizes arbitrator to determine existence of an attorney-client relationship

Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]

standards for neutral arbitrators adopted by the Judicial Council

Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]

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

Attachment prior to

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 110 [212 Cal.Rptr. 830]

Attorney as arbitrator

Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)

LA 415 (1983)

while representing client on other matters

CAL 1984-80

Attorney conflict or breach of duty of loyalty may justify vacating an arbitration award

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

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

Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]

Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]

Attorney fees

arbitration award corrections

Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]

arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award

Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

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

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

arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

ARBITRATION

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 arbitrator's determination of prevailing party is not subject to appellate review
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
 arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
 authority of arbitrator to award fees under the terms of the controlling arbitration
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]
 -pursuant to Civil Code section 1717
Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
 binding at county bar level
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Reisman v. Shahverdian (1984) 153 Cal.App.3d 1074, 1088
 binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenon (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
 enforceable arbitration agreement is contained in an illegal contract, a party may avoid arbitration altogether
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
 failure to comply with 6201(a) does not compel court to dismiss action
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
 in other states
Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 95
 law firm obligated to pay attorney fees to its "of counsel" attorney for representation in fee dispute with client
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 notice of client's right to arbitrate a dispute must be given after dispute has arisen
Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]
 LA 521, OC 99-002
 prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
 trial court procedures
 Civil Code of Procedure section 1285 et seq.
 trial de novo
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041
Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]
 Attorney's associate as arbitrator in case in which attorney represents client
 LA 302 (1968)

Authority of arbitration
Pacific Motor Trucking v. Automotive Machinists (9th Cir. 1983) 702 F.2d 176
Moncharsh v. Heily & Blase (1997) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]
Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
California Faculty Association v. Superior Court (1998) 63 Cal.App.4th 935 [75 Cal.Rptr.2d 1]
Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
 arbitration award need not be vacated when judge who ordered arbitration should have been disqualified
Rossco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
 binding agreement
 -arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
 Authority of attorney to unilaterally bind client to binding arbitration with opposing party
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Toal v. Tardif (2009) 178 Cal.App.4th 1183 [101 Cal.Rptr.3d 109]
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
 Binding clause in law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
 Binding clause in retainer agreement
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
Law Offices of Ian Herzog v. Law Offices of Joseph M. Fredrics (1998) 61 Cal.App.4th 672 [71 Cal.Rptr.2d 771]
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
Mayhew v. Benninghoff, III (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]
CAL 1989-116, CAL 1981-56
 LA 489 (1997)
 binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenon (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

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

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

Mandatory Fee Arbitration Act does not impliedly repeal California Arbitration Act

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

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

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

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

Certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4

Code of Civil Procedure section 1286.6 (authority to amend or correct a final award)

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

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

paragraph (a)(4)

-arbitrator exceeded his power by awarding statutory attorney's fees to defendant employer for prevailing on meal and rest claims in violation of public policy

Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]

paragraph (a)(5)

-court properly corrected award and remanded to arbitrator to determine reasonable fees and costs

Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]

Costs

law firm required to pay arbitration cost of former clients who sued firm, where client is of limited economic means

Roldan v. Callahan & Blaine (2013) 219 Cal.App.4th 87 [161 Cal.Rptr.3d 493]

County bar association as arbitrator

immune from suit arising from arbitration of attorney-client dispute

Olney v. Sacramento County Bar Association (1989) 212 Cal.App.3d 807 [260 Cal.Rptr. 842]

Disqualification of arbitrator, grounds

Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]

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

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

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

Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]

Ceriale v. AMCO Insurance Company (1996) 48 Cal.App.4th 500 [55 Cal.Rptr.2d 685]

Betz v. Pankow (1995) 31 Cal.App.4th 1503 [38 Cal.Rptr.2d 107]

Betz v. Pankow (1993) 16 Cal.App.4th 931

Betz v. Pankow (1993) 16 Cal.App.4th 919

Banwait v. Hernandez (1988) 205 Cal.App.3d 823

definition of “professional relationship” for purposes of statutory disclosure of information that could affect the arbitrator's neutrality

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

Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]

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

denied when arbitrator fails to disclose a prior connection to attorney defendant of which arbitrator was not aware of

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

failure of arbitrator to disclose that his wife had worked for law firm that represents party to arbitration more than 2 years before firm represented that party, does not require vacatur of award

Johnson v. Gruma Corporation (9th Cir. 2010) 614 F.3d 1062

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

Honeycutt v. JPMorgan Chase Bank, N.A. (2018) 25 Cal.App.5th 909 [236 Cal.Rptr.3d 255]

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

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

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

Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]

-actual bias in an arbitrator is not required to trigger disclosure requirements; rather, the arbitrator's duty to disclose is measured by an objective, reasonable person standard

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

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

-arbitration award should have been vacated by trial court when arbitrator failed to disclose that he had numerous matters with one of the parties' law firm during pendency of an arbitration

Honeycutt v. JPMorgan Chase Bank, N.A. (2018) 25 Cal.App.5th 909 [236 Cal.Rptr.3d 255]

-arbitrator's failure to disclose that his resume listed one of the firm's partners as a reference required vacation of arbitration award

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

-failure to disclose nature of professional responsibility practice

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

federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements

Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]

no right of parties to seek arbitrator's disqualification based on disclosure that was not statutorily required (CCP § 1281.9 et seq.)

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

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

nominee for service as a neutral arbitrator must disclose any matter that could cast doubt on his or her ability to be impartial

Bock et al., v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

ARBITRATION

- disclosure of public censure while previously serving as judge not required
Haworth v. Superior Court (2010) 50 Cal.4th 372 [112 Cal.Rptr.3d 853]
- not available when motion to disqualify is brought after ruling by arbitrator on any contested matter
Advantage Medical Services, LLC v. Hoffman (2008) 160 Cal.App.4th 806 [72 Cal.Rptr.3d 935]
- requires raising issue in a timely manner
United Health Centers of the San Joaquin Valley Inc. v. Superior Court (2014) 229 Cal.App.4th 63 [177 Cal.Rptr.3d 214]
Dornbier v. Kaiser Foundation Health Inc. (2008) 166 Cal.App.4th 831 [83 Cal.Rptr.3d 116]
- vacatur of arbitration award denied where arbitrator's voluntary disclosure of his membership in the same professional organization as the expert witness as such disclosure was not required by law (CCP § 1281.9 et seq.)
Luce, Forward, Hamilton & Scripps, LLP v. Koch et al. (2008) 162 Cal.App.4th 720 [75 Cal.Rptr.3d 869]
- Employment contract between associate and law firm contains an arbitration agreement as to all disputes
merged law firm, a non-signatory defendant, may enforce an agreement between plaintiff and original firm that they acquired
Jenks v. DLA Piper Rudnick Gray Cary U.S. LLP (2015) 243 Cal.App.4th 1 [196 Cal.Rptr.3d 237]
- Enforcement of an arbitration award
Code of Civil Procedure 1286.2(a)(5) provides a safety valve in private arbitration by permitting courts to intercede when an arbitrator has prevented a party from fairly presenting his or her case
Hoso Foods, Inc. v. Columbus Club, Inc. (2010) 190 Cal.App.4th 881 [118 Cal.Rptr.3d 594]
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
- prevailing party seeking to enforce an arbitration award must petition the court to confirm the award (CCP §§ 1285 et seq.)
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence
Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]
- Fee arbitration [See Fee. Professional liability.]
Business and Professions Code section 6200 et seq.
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165
OC 99-002
affirmative duty of prior counsel to seek arbitration or judicial determination of attorney fee
CAL 2009-177
- amount of money in controversy, determined by plaintiff's claim
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
- arbitration award becomes binding 30 days after notice of award
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]
- filing of claim in small claims court is effective rejection of award
Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]
- arbitration award corrections
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
- arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- arbitrator's authority to determine own jurisdiction
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]
National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718
- attorney's debt to client is dischargeable in personal bankruptcy
Scheer v. State Bar of California (9th Cir. 2016) 819 F.3d 1209
- binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over
Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
Greenberg Glusker Fields Claman & Machiting LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]
- binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes
*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]
- client waiver of arbitration rights
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
- client waives right to arbitration under Mandatory Fee Arbitration Act (MFAA) by failing to request arbitration within the required 30 days
Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]
- dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]
Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
Richards, Watson & Gershon v. King (1995) 39 Cal.App.4th 1176 [46 Cal.Rptr.2d 169]
- initiation of a State Bar-sponsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute
Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718

Mandatory Fee Arbitration Act does not impliedly repeal California Arbitration Act

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

notice of claim against client's fee guarantor

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

public policy

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

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

trial de novo after award of fees by arbitrator not preserved by client's filing of a malpractice claim

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

waiver due to filing of pleading for affirmative relief

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

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587

Insurance cases

Civil Code section 2860(c)

-defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer

Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]

Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

-disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

-insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute

Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]

-no right to arbitration where no determination of whether insurer has duty to defend

Interquelf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]

-remedy for insurer's failure to participate in mandatory arbitration is a petition to compel arbitration

Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]

Cumis counsel

-insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder

Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185

Member of partnership is arbitrator when client of firm is party

LA(I) 1967-10

Misleading conduct by party to settlement negotiation waives contractual right to compel arbitration

Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]

Preemption

federal securities law preempts California Standards Code rules on arbitrator disclosure and disqualification for persons serving as neutral arbitrators under contractual arbitration agreements

Jevne v. Superior Court (2005) 35 Cal.4th 935 [28 Cal.Rptr.3d 685]

Res judicata and collateral estoppel, effect of

Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]

Restrictive covenant in law firm's employment contract disputed by a departing attorney

courts may not vacate an arbitration award except for statute

Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1 [10 Cal.Rptr.2d 183]

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

Standards for neutral arbitrators adopted by the Judicial Council

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

Unlicensed practice of law does not completely invalidate an agreement pursuant to which firm attorneys also engaged in the licensed practice of law, thereby rendering the agreement enforceable

Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]

ASSIGNED COUNSEL

Capital cases

defendant not entitled to second court-appointed counsel when death penalty not sought

U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915

Contract for private employment

SD 1969-9

Duty with respect to costs and expenses

LA 379 (1979)

ASSIGNMENT [See Trustee.]

Assignee

represent against former client's assignee in matter in which acted for client

LA(I) 1961-2

Assignee, lawyer

claim and client's accounts for purpose of collection

LA 7 (1918)

client's interest in estate to secure loan

LA 228 (1955)

Assignor

(1937) 13 LABB 67

Attorney-client relationship between assignor and attorney for assignee

Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]

Buying an interest in the judgment against one's client from former client's opponent

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

Debt

where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129

Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]

Fees

right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

ASSOCIATE

Legal malpractice claims are not assignable under California law and public policy

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]

bankruptcy estate representative pursuing claim for the estate is not an assignee

Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders

McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]

Lottery ticket to attorney

LA 115 (1937)

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

LA 500 (1999)

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

CAL 2020-204

Tort claims for personal injuries are not assignable under California law

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

ASSOCIATE

City council member's practice by

CAL 1977-46, LA(I) 1975-4

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

LA 348 (1975)

Definition

Rule 1-100(B)(4), Rules of Professional Conduct

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

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200

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

Division of fees

attorney as partner or employee of two law firms

LA 511 (2003)

Duty to represent a client competently

LA 383 (1979)

Duty with respect to disabled employer's practice

LA 348 (1975)

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

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

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

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

Form for listing on announcements

SF 1973-18

Practice by employer of when associate is prosecutor

LA 377 (1978)

Represented other side

LA 363 (1976)

ASSOCIATE COUNSEL

Division of fees

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

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

outsourcing legal services

LA 518 (2006)

Employment as subject to approval of other attorney

LA 183 (1951)

Employment as, subject to approval of client

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

LA 518 (2006), LA 473 (1993)

SD 1974-2

Outsourcing legal services

LA 518 (2006)

Succession planning

CAL 2024-209

ATTACHMENT [See Fee, unpaid.]

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

LA(I) 1963-1

ATTORNEY-ATTORNEY RELATIONSHIP

Business and Professions Code section 6068(f)

Civil Code section 47(2)

Rules 2-100, 2-200, 2-300, and 2-400, Rules of Professional Conduct

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

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

Attorney as agent of another

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

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

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

Attorney as independent contractor

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

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

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

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

Attorney as partner or employee of two law firms

LA 511 (2003)

Communications with the State Bar are privileged

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

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

SD 1996-1

Division of fees

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

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

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

Farmers Insurance Exchange v. Law Offices of Conrado

Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

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

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

post-dissolution profits from unfinished partnership business
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]

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

requires written disclosure to client and client's written consent
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

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

CAL 2008-175

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

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

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

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

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

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

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

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

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

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

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

LA 364 (1976)

Indemnity claim between attorneys not barred

[Musser v. Provencher](#) (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

[Seltzer v. Barnes](#) (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]

[Novak v. Low, Ball & Lynch](#) (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Law firm's attorneys shared a mutual obligation to assure that an oral argument appearance would be covered despite one attorney's resignation from the firm

[In re Aguilar and Kent](#) (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

Lying to opposing counsel

[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Obligation to return telephone calls of other lawyers

LA(l) 1972-11

Opposing counsel may not be deposed in preparation for good faith settlement hearing

[Spectra-Physics, Inc. v. Superior Court](#) (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney

[Holland v. Thacher](#) (1988) 199 Cal.App.3d 924 [245 Cal.Rptr. 247]

Representation of attorney-client against former attorney-client

LA 418 (1983)

Sanctions against attorney attempting to depose opposing counsel as a litigation tactic

[Estate of Ruchti](#) (1993) 12 Cal.App.4th 1593

Sanctions appropriate when attorney schedules depositions and serves subpoenas during time period of opposing counsel's known trips out of state and out of the country

[Tenderloin Housing Clinic v. Sparks](#) (1992) 8 Cal.App.4th 299 [10 Cal.Rptr.2d 371]

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

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

Specially appearing attorney undertakes a limited association with the litigant's attorney of record

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

Subpoena

grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship

[U.S. v. Bergeson](#) (9th Cir. (Or.) 2005) 425 F.3d 1221

Termination of employer-employee relationship

former attorney-employees acted unlawfully and unethically when they engaged in campaign to disrupt employer's business

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

former attorney-employees liable for intentional interference with at-will employment relation by engaging in unlawful and unethical conduct and causing personnel to terminate their at-will employment contracts

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

former attorney-employees liable for Violation of Uniform Trade Secrets Act (Civil Code § 3426 et seq.) if found to have misappropriated employer's protected trade secret client list

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

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

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289, 95 P.3d 513]

Threat to opposing counsel

[Standing Committee on Discipline of United States v. Ross](#) (9th Cir. 1984) 735 F.2d 1168, 1171

ATTORNEY-CLIENT RELATIONSHIP [See Acceptance of employment. Appointment of attorney by court. Authority of attorney. Confidences of the client, disclosure. Contract for employment. Corporations. Substitution. Termination of attorney-client relationship. Withdrawal.]

[Olson v. Superior Court](#) (1984) 157 Cal.App.3d 780

Abstract

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

Accusing opposing counsel of misrepresentation may be moral turpitude when done with gross neglect

[In the Matter of Moriarty](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

Acts constituting malpractice

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

Acts in role other than as an attorney

[Aetna Casualty & Surety Co. v. Superior Court](#) (1984) 153 Cal.App.3d 467, 475-476

Acts of client

concurrency in or conspiracy with client's acts not inferred from the existence of attorney-client relationship itself

[Contreras v. Dowling](#) (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

Advance fees and costs [See Fees, advance.]

Adverse interest

[In the Matter of Silverton](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

LA 492 (1998), LA 418 (1983)

Advise client of disability of attorney; associate's duty

LA 348 (1975)

Advise client of potential malpractice claims against oneself

[CAL](#) 2019-197, [CAL](#) 2009-178

Advise client of prior attorney's malpractice

LA 390 (1981)

Agency

exception – attorney neglect is punitive misconduct

[Rosenthal v. Garner](#) (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

normally client bound by acts of attorney agent, however, where gross negligence amounts to abandonment, client entitled to relief

[Mackey v. Hoffman](#) (9th Cir. 2012) 682 F.3d 1247

ATTORNEY-CLIENT RELATIONSHIP

Allocation of authority

lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal acts in manner that is professionally unreasonable

In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

Appellate counsel for minor

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

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

Appointment of attorney for indigent

Bailey v. Lawford (1993) 835 F.Supp. 550

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12 Cal.Rptr.2d 55]

Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586 [192 Cal.Rptr. 49]

Appointment of succeeding attorney

Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

As bank's director, bank attorney

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042

Association for particular case

Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]

Brunn v. Lucas, Pino & Luco (1959) 172 Cal.App.2d 450 [342 P.2d 508]

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

limited scope of representation as "appearance attorney" in an immigration proceeding is improper

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

special appearing attorney undertakes a limited association with the litigant's attorney of record

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

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule 2-200](#)

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

Attorney as agent

C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 6]

Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]

Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

agent is also a wrongdoer when the principal is a wrongdoer

Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590

-concurrence in or conspiracy with client's acts not inferred from the existence of attorney-client relationship itself

Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

client has right and power to discharge at any time

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

dissolves on suspension of attorney

Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]

exception when attorney has a present and co-existing interest in the object of representation

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

imputation of agency relationship

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

-neglect imputed to client

Elston v. Turlock (1983) 148 Cal.App.3d 23

notice to attorney

-agent imputed to client

Lovato v. Santa Fe Internat. Corp. (1984) 151 Cal.App.3d 549 [198 Cal.Rptr. 838]

outside counsel for a corporation

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Attorney as employee

Casselman v. Hartford etc. Co. (1940) 36 Cal.App.2d 700 [98 P.2d 539]

[CAL](#) 1993-132

Attorney as independent contractor

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

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

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

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

LA 473 (1992)

outside counsel for a corporation

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

outsourcing legal services

LA 518 (2006)

Attorney as trustee, client as beneficiary

Probate Code sections 16002 and 16004

Probate Code section 15687

*Civil Code section 2235 (repealed 7/1/87)

LA 496 (1998)

Attorney as witness

Lopez v. Lopez (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

Reich v. Club Universe (1981) 125 Cal.App.3d 965, 970 [178 Cal.Rptr. 473]

Attorney assumes personal obligation of reasonable care

Palomo v. State Bar (1984) 36 Cal.3d 785, 795

special appearing attorney owes a duty of care to the litigant

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

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

Attorney entitled to reasonable value of services rendered, quantum meruit

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211

Attorney need not blindly follow desire of client

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

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

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

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]

Shepard v. Superior Court (1986) 180 Cal.App.3d 23

Wolfrich Corp. v. United Services Automobile Assn. (1983) 149 Cal.App.3d 1206, 1211

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

counsel has a professional responsibility not to pursue an appeal that is frivolous or taken for the purpose of delay just because client instructs him to do so

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

court's advice to defendant that he follow his attorney's advice did not impair defendant's ability to waive his right to testify

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

Attorney neglect must be excused to avoid imputation to client

Griffis v. S.S. Kresge (1984) 150 Cal.App.3d 491

Attorney not liable to insured when insurer, under consent clause of policy, settles claim without consulting insured

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Attorney of record

Singh v. Immigration and Naturalization Service (2003) 315 F.3d 1186

Fox v. Pollack (1986) 181 Cal.App.3d 954

formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

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

specially appearing attorney forms an attorney-client relationship with the litigant

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

Attorney's partner or employee

Little v. Caldwell (1894) 101 Cal. 553 [36 P.2d 107]

Raskin v. Superior Court (1934) 138 Cal.App. 668 [33 P.2d 35]

Attorney-client have co-existing interests

SD 1983-11

Authority of attorney

Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]

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

Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]

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

Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

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

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

Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]

Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]

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

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

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

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

CAL 2002-160, SF 2023-1

client with diminished capacity

CAL 2021-207

commitment proceedings

-counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections

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

general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney

Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

representation of a minor client in a dependency proceeding
LA 504 (2000)

-to enforce minor client's parental rights

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

to bind client

Code of Civil Procedure section 283

to settle lawsuit when client cannot be located

LA 441 (1987)

to settle lawsuit without client's consent

LA 505 (2000)

Board of education

may only appoint outside counsel, in addition to in-house counsel, for "special services"

86 Ops. Cal. Atty. Gen. 57 (4/25/03; No. 02-1005)

Borrowing from client on oral loan without complying with duties

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

Burden to prove rests on client

Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]

Business dealings with client must be fair and reasonable

Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]

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

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

all dealings between attorney and client that are beneficial to the attorney will be closely scrutinized with the utmost strictness for any unfairness

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

entire attorney-client business relationship was tainted by the attorney's failure to fully disclose to the client material terms of their transactions and to obtain the client's written consent

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

Business transaction with former client

no violation of [rule](#) 3-300 found in disciplinary action where attorney did not comply with rule re the transaction

In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198

with funds obtained by the representation

Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]

In re Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297

Client acts in reliance on advice of attorney

Melorch Builders, Inc. v. Superior Court (1984) 160 Cal.App.3d 931, 936-937

Client as beneficiary, attorney as trustee

Probate Code sections 16002 and 16004

Probate Code section 15687

*Civil Code section 2235 (repealed 7/1/87)

LA 496 (1998)

Client as co-counsel

People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]

Client assistance to counsel

People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

payment to client

LA 437 (1985)

Client has right to discharge

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

ATTORNEY-CLIENT RELATIONSHIP

- absolute right with or without cause in California
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
- exception when attorney has a present and co-existing interest in the object of the representation
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
should not be tied to attorney after losing faith
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
- Client's non-payment of fee [See Fee.]
withdrawal
Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
-notice to client
LA 125 (1940)
-protect client's position in litigation
LA 125 (1940)
- Client's rights may not be deprived because of attorney neglect
County of San Diego v. Magri (1984) 156 Cal.App.3d 641
pro bono client
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Client's right to choice of counsel
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
CAL 2020-201
automatic vicarious disqualification of a firm would reduce the right of the client to choose an attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- class actions
-right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
- client's interests are paramount in any consideration of the relationship between attorney and client
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]
- conservatorship proceedings
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
- criminal defendant enjoys right to discharge retained counsel for any reason unless denial compelled by fair, efficient and orderly administration of justice
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
- defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
- defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
- indigent defendants does not have the right to select court-appointed attorney
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
- must yield to considerations of ethics
Comden v. Superior Court (1978) 20 Cal.3d 906, 915 [145 Cal.Rptr. 9, 576 P.2d 971]
- Client suffering from a mental disorder
client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
- Communications
between attorney and inmate client
-prison officials opening mail
Wolff v. McDonnell (1974) 418 U.S. 539 [94 S.Ct. 2963]
Mann v. Adams (9th Cir. 1988) 846 F.2d 589
with a minor client in ways consistent with minor's age, language skills, intelligence, experience, maturity, and mental condition
LA 504 (2000)
- Competence of the client
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
People v. Davis (1984) 161 Cal.App.3d 796, 801-803
LA 509 (2002)
- Competent representation at time of representation
Aloy v. Mash (1983) 144 Cal.App.3d 768 [192 Cal.Rptr. 818]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
In re Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- Condominium associations
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- Confidence of client in attorney
CAL 1987-93, CAL 1984-83
- Confidential in character
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Plxweve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 2016-195
- Confidential in nature
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Conflict of interest
based on relationship between class action counsel and class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
buying an interest in the judgment against one's client from former client's opponent
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
client as beneficiary, attorney as trustee
Probate Code sections 16002 and 16004
Probate Code section 15687
*Civil Code section 2235 (repealed 7/1/87)
LA 496 (1998)
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

disqualification of counsel and firm

W.L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1466-1467

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

none exists when trustee is also creditor

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

wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

Conservatorship proceedings

attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2

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

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

reestablishing conservatorship by stipulation filed by conservatee's attorney

In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]

right of prospective conservatee to effective assistance of counsel

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

Consultation with, prima facie case of existence of

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

United States v. Rowe (9th Cir. 1996) 96 F.3d 1294

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

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

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

CAL 1984-84, LA 465 (1991), SD 2006-1, SD 1977-6

attorney's duty to communicate includes the duty to advise people who reasonably believe they are clients that they are, in fact, not clients

Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr. 499]

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

CAL 2005-168, CAL 2003-161

-dealing with constituents of an organization

Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

burden rests on client to prove existence of

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

Ferrara v. LaSalla (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]

constructive attorney-client relationship not formed between a conservatee and her conservator's designated attorney

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

contract formality is not required

Gulf Insurance Co. v. Berger, Kahn, et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

district attorney assigned to enforce a child support order did not establish attorney-client relationship re a malpractice action brought by the parent entitled to payment

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

duty of confidentiality extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result

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

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

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

LA 506 (2001)

-attorney-client privilege does not extend to communications after attorney declines representation

People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]

-no duty based on receipt of private information from potential client via unsolicited email

SD 2006-1

established by contract

Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result

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

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

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

no duty to advise rejected client of limitations period in contemplated suit targeting attorney's existing client

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

"on-going" or continuing relationship not found where, aside from assisting the post-substitution transition from attorney to subsequent attorney, there was no evidence the attorney had taken any steps on behalf of the client

Shaoming City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

"on-going relationship" between attorney and client based on periodic visits by client to the attorney's office seeking legal assistance

In re Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

relationship with individual attorney not with firm in general based on client's direct dealings with the individual attorney

Bernstein v. State Bar (1990) 50 Cal.3d 221

Contract for contingency fees

Waters v. Bourhis (1983) 142 Cal.App.3d 235 [190 Cal.Rptr. 833]

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

compliance with Business and Professions Code section 6147 required

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

ATTORNEY-CLIENT RELATIONSHIP

- Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- Contract for employment
attorney agrees to waive specified fees if client agrees not to accept a confidentiality clause in any settlement
LA 505 (2000)
attorney requires inclusion of substitution of attorney clause
LA 371 (1977)
compliance with Rules of Professional Conduct 3-300
CAL 2006-170
- Contract limits fees
Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397, 664 P.2d 542]
- Contractual
Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- Corporation as client
against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
attorney for corporation does not represent shareholders
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- court appointed counsel
In re Joyleaf W. (1984) 150 Cal.App.3d 865, 868
In re Jay R. (1983) 150 Cal.App.3d 251, 262
- directors have no power as individuals
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- dual purpose communication
In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
employee not entitled to personal claim of attorney-client privilege to protect his communications with corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons used by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- parent/subsidiary considered single entity for conflict purposes
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113, OC 2012-1
- prima facie case of fraud required to waive relationship
Dickerson v. Superior Court (1982) 135 Cal.App.3d 93
relationship between corporate employees and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
- shareholders derivative action
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
- Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
-attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
-in bringing the derivative action, shareholder's attorney is acting against the corporation's wishes because the corporation refuses to pursue the claim
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
totality of circumstances test used to determine whether manager employees are clients
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
unincorporated organization
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Court appointed attorney for bankruptcy trustee may not be removed by spouse of bankrupt party
Matter of Fonoiller (9th Cir. 1983) 707 F.2d 441, 442
Court appointed attorney to coordinate discovery in complex litigation
no interference to parties' right to counsel of choice
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9 [267 Cal.Rptr. 896]
Court appointed for criminal defendant for a civil action
Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 395
- Creation of relationship
United States v. Rowe (9th Cir. 1996) 96 F.3d 1294
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]
Fox v. Pollack (1986) 181 Cal.App.3d 954
SD 2006-1
attorney-client relationship may exist when an attorney provides a legal service, including investigative fact-finding, without also providing advice
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
law firms act through individual attorneys, and when a client retains an attorney, he or she retains the entire firm
Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d 301]
mere "blue sky" work in offering does not create attorney-client relationship between underwriter's counsel and issuing company
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
no relationship based on receipt of private information from potential client via unsolicited email
SD 2006-1

no relationship with third party absent an intent by attorney and client to benefit third party

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

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

remote work

CAL 2023-208

specially appearing attorney forms an attorney-client relationship with the litigant

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

statement that attorney represented client is sufficient to support a finding of an attorney-client relationship also, work performed to obtain loan supports finding

Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]

subjective belief that an attorney-client relationship exists cannot create such a relationship; instead, the parties' intent and conduct determine whether such a relationship has been created

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

under the implied contract theory (Civil Code § 1621)

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

Defendant must make knowing and intelligent waiver of counsel

McCormick v. Adams (9th Cir. 2010) 621 F.3d 970

U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Mellor (1984) 161 Cal.App.3d 32

right to counsel may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded

King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

Defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

Defendant's right to substitute attorneys of his choice, even after defendant was made aware that chosen counsel did not meet standards for appointed counsel and offer to defendant to consult with independent counsel was declined

People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

Defined

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

Definition of attorney

Evidence Code section 950

Definition of client

Evidence Code section 951

Dependency proceeding

representation of a minor client

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597] LA 504 (2000)

Discharge of attorney, rights and obligations of client

Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9

Disqualification of attorney

attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of

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

former personal involvement with opposing party

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

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]

hardship to client

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

party of moving for disqualification of counsel absent an attorney-client relationship generally does not have standing to assert conflict of interest

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

-no vicarious standing among members of entity in non-derivative suit

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

-vicarious standing among members of Limited Liability Company

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Disqualification of firm

presumption of shared confidences in a law firm

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-rebuttable

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

District attorney

no attorney-client relationship is created between district attorney and parent in support enforcement actions

In re Marriage of Ward (1994) 29 Cal.App.4th 1452 [35 Cal.Rptr.2d 32]

Donation of legal services [See Auction.]

Dual occupation

dual purpose communication (involving both legal and non-legal advice) defined

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

Duty of attorney [See Duties of attorney.]

not to offer false testimony

Business and Professions Code section 6068(d)

Penal Code section 127

Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

In re Branch (1969) 70 Cal.2d 200, 210 [138 Cal.Rptr. 620]

People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. Lucas (1969) 1 Cal.App.3d 637, 643 [81 Cal.Rptr. 840]

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

outlast employment

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

LA 389 (1981)

representation of a minor client in a dependency proceeding

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

LA 504 (2000)

to client

Palomo v. State Bar (1984) 36 Cal.3d 785

ATTORNEY-CLIENT RELATIONSHIP

- 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 make files available to client on withdrawal
 - CAL 2007-174, CAL 1994-134
 - LA 493 (1998), SD 1997-1
 - SD 1984-3, SD 1977-3
 - SF 1996-1
- to represent client until withdrawal or substitution
 - In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
 - In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- to represent client zealously
 - *People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
- to take all actions necessary to protect his client's rights may not be sanctioned
 - *Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [91 Cal.Rptr. 735]
- to take reasonable measures to determine law at time of actions
 - *Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
- Effect on communication with opposing party on attorney-client relationship
 - People v. Sharp (1983) 150 Cal.App.3d 13, 18
- Established by contract
 - Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
- Established by inquirers calling attorney telephone hotline for advice
 - LA 449 (1988)
- Estoppel
 - attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
 - Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
- Executors
 - existence of relationship for purposes of privilege
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986
- Existence of, prima facie case
 - Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
- Extended attorney-client privilege to lay persons
 - Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [191 Cal.Rptr. 919, 661 P.2d 1073]
- Extent of privileged communications
 - People v. Chapman (1984) 36 Cal.3d 98, 110
 - Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 - In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to communicate with clients
 - Butler v. State Bar (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
 - Smith v. State Bar (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
 - Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d 137]
 - In the Matter of Isola (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 911
 - In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- Failure to disclose legal authority in the controlling jurisdiction adverse to client
 - breach of duty
 - Southern Pacific Transp. v. P.U.C. of State of California (9th Cir. 1983) 716 F.2d 1285, 1291
- Fee payment as evidence of existence of relationship
 - Hicks v. Drew (1897) 117 Cal. 305
- Fiduciary duty
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Kruseska v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]
- In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
- absent attorney-client relationship
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 - Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
 - Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
 - Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
 - Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
 - Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 - American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 - plaintiff and alleged beneficiary of a testamentary instrument may have no standing to bring malpractice action against attorney-defendant
 - Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
- does not extend to co-counsel
 - Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
 - Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)
- no duty owed to non-client potential beneficiary absent testator's express intent to benefit non-client
 - Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
- Fiduciary relationship
 - Kearns v. Fred Lavery Porsche Audi Co. (Fed. Cir. 1984) 745 F.2d 600, 603-605
 - Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384
 - *GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
 - Metropolis etc. Sav. Bank v. Monnier (1915) 169 Cal. 592, 598 [147 P. 265]
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 - Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- Formal substitution ordinarily ends the attorney/client relationship. However, the relationship can continue—withstanding the withdrawal and substitution—if objective evidence shows that the attorney continues to provide legal advice or services.
 - Shaoming City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
- Former client
 - business transaction with former client
 - no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule re the transaction
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - using funds obtained by the representation
 - Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297

buying an interest in the judgment against one's client from former client's opponent

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

"Framework" contract, where attorney and client provide a structure for future "as requested" representation does not create a current attorney client relationship

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Banning Ranch distinguished

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Friends require the same strict adherence to professional rules and record keeping as regular clients

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

Gifts to attorney

Rule 4-400, Rules of Professional Conduct (operative as of May 27, 1989)

Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]

McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]

attorney/beneficiary drafts gift instrument

Probate Code sections 15687, 21350 et seq.

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]

inducing client to offer of free use of client's vacation property

CAL 2011-180

Good faith of defendant client

People v. Yackee (1984) 161 Cal.App.3d 843, 849

Governmental entities

Brown Act (CCP § 54956.9)

-board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation

Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]

Guardian ad litem

Torres v. Friedman (1985) 169 Cal.App.3d 880, 887 [215 Cal.Rptr. 604]

SD 2017-2

Imputation of knowledge

Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]

Mossman v. Superior Court (1972) 22 Cal.App.3d 706 [99 Cal.Rptr. 638]

Savoy Club v. Los Angeles County (1970) 12 Cal.App.3d 1034 [91 Cal.Rptr. 198]

presumption of shared confidences in a law firm

-rebuttable

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

Imputed to client

Elston v. Turlock (1983) 148 Cal.App.3d 23

In propria persona client and advisor counsel share handling of case

Johnson, York, O'Connor & Caudill v. Board of County Commissioners for the County of Fremont (1994) 868 F.Supp. 1226

People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr 669]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]

LA 502 (1999), LA 483 (1995), LA 432 (1984)

attorney as "ghost writer"

Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988

LA 502 (1999)

capital inmates represented by counsel have no right to personally supplement or supersede counsel's briefs and arguments to the Supreme Court

In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]

Incompetent client

attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2

duty of confidentiality compared with duty to be truthful to the court

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

Insurance company

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

Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070

Unigard Ins. Group v. O'Flaherty & Belgium (1997) 38 Cal.App.4th 1229

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59

American Mutual Liability Ins. Co. v. Superior Court (1974) 38 Cal.App.3d 579

Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]

"monitoring counsel" distinguished from "Cumis counsel"

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

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

Intent and conduct of the parties are important factors to be considered

Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]

Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]

Interference with

by third party (district attorney and sheriff)

-results in dismissal of criminal accused's case

Boulas v. Superior Court (1987) 187 Cal.App.3d 356

government attorney improperly interfered with defendant's attorney-client relationship by obtaining tape recordings of informant's conversations with defendant on privileged matters

U.S. v. Danielson (9th Cir. (Or.) 2003) 325 F.3d 1054

Interference with economic advantage

Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]

Rosenfeld, Meyer & Sussman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]

Intervention by lay entity

attorney employed by religious organization

-performs legal services for members of

LA 298 (1966)

Joinder of attorney and client in an action when neither can show joinder was manifestly prejudicial

United States v. Rogers (9th Cir. 1983) 649 F.2d 1117, Rev. 103 S.C. 2132

Joint defense agreements

U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974

ATTORNEY-CLIENT RELATIONSHIP

- advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
- considered a non-waiver doctrine under CA attorney-client privilege and work product doctrines
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- establishes an implied attorney-client relationship with the co-defendant
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- Joint venturers
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
- fiduciary duties exist even absent attorney-client relationship
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
LA 412 (1983)
- Juvenile delinquency proceedings
indigent juvenile delinquent has right to appointed counsel on a first appeal
In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]
- ineffective assistance of counsel for minor
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
- Litigious client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515
- Loan to client
Dixon v. State Bar (1982) 32 Cal.3d 728, 733
Bradpiece v. State Bar (1974) 10 Cal.3d 742 [111 Cal.Rptr. 905, 518 P.2d 337]
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- Malpractice actions tolled while attorney continues to represent client
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
Baright v. Willis (1984) 151 Cal.App.3d 303 [198 Cal.Rptr. 510]
test for whether attorney continues to represent client in same matter
Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488
- Malpractice claims are not assignable under California law and public policy
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
- shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- May not relinquish substantial right of client
exception: best discretion
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
- Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
CAL 2020-202, LA 527, SF 2015-1
- Minor as client
In re Steven H. (2001) 86 Cal.App.4th 1023 [103 Cal.Rptr.2d 649]
LA 504 (2000)
- delinquency proceeding
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- dependency proceeding
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
-actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
-appellate counsel for a minor client has the authority to dismiss the child's appeal based on appellate counsel's assessment of minor's best interest only with approval of guardian ad litem
In re Josiah Z. (2005) 36 Cal.4th 664 [31 Cal.Rptr.3d 472]
-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
-no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
- Minor must have independent counsel in hearing for emancipation from parental custody and control
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
- Mismanagement of funds
client
-administrator
--report to court
LA 132 (1940)
--restitution
LA 132 (1940)
- Misrepresentation to client regarding status of case
Butler v. State Bar (1986) 42 Cal.3d 323 [228 Cal.Rptr. 499]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
- Negligent attorney may not shift liability to another through indemnification
Munoz v. Davis (1983) 141 Cal.App.3d 420 [190 Cal.Rptr. 400]
- Non-client
duty to a nonclient third party (son and grandchildren) only if the client's intent to benefit them is clear, but no duty exists when a client changes their will to favor someone else (wife), despite claims of malpractice by the nonclient third party
Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]

Non-payment of fees by client [See Fees, unpaid.]
 lawyer declines to perform further legal services
 LA 371, LA 32 (1925)

Not recoverable unless the contract or statute provides
 Glynn v. Marquette (1984) 152 Cal.App.3d 277, 280

Obligation of attorney to protect client's interest
 Kirsch v. Duryea (1978) 21 Cal.3d 303, 309 [146 Cal.Rptr. 218, 578 P.2d 935, 6 A.L.R. 4th 334]
 CAL 2019-198
 LA 504 (2000)
 no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
 In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
 specially appearing attorney owes a duty of care to the litigant
 Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Of record, party may only act through
 McMunn v. Lehrke (1915) 29 Cal.App. 298, 308

Outsourcing legal services
 LA 518 (2006)

Partnership
 Sky Valley Ltd. Partnership & Tang Industries v. ATX Sky Valley Ltd. (1993) 150 F.R.D 648
 PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
 attorney represents all partners as to partnership matters
 Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]

Party defined, corporate context
 Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 LA 410 (1983), LA 369 (1977)

Party represented by counsel
 communicating with
 -regarding counsel's neglect of matter
 LA 14 (1922)
 -regarding subject in controversy
 LA 14 (1922)

Personal liability to client
 Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879, 883

Power to compel client's acts
 Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 78 [203 Cal.Rptr. 524]

Preparing pleadings for in propria persona litigant
 Ricotta v. State Bar of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
 LA 502 (1999), LA 483 (1995), LA 432 (1984)

Prison officials may not read mail, only open it
 People v. Poe (1983) 145 Cal.App.3d 574 [193 Cal.Rptr. 479]

Private attorney under contract to government agency
 County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
 People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
 Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
 Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]

Privilege [See Confidences of the Client, privilege]
 Evidence Code section 958
 CLA 2022-1
 Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
 Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
 People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
 Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
 State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
 CAL 2016-195, LA 519 (2006), SF 2014-1
 admissibility of evidence when attorney discloses client's confidential information to police
 People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
 Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
 Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
 does not extend to otherwise unprivileged subject matter that has been communicated to attorney
 2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
 SD 2006-1
 does not protect third party information unless third party is an agent of client
 Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]
 Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
 In re Polos (1984) 154 Cal.App.3d 448, 456 [200 Cal.Rptr. 749]
 extends to all communication relating to a client's matter or interests among and between multiple attorneys who are representing client
 Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
 extends to communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
 Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city
 City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
 extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
 Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 former trustee was not entitled to withhold communications with trust's former counsel on ground of attorney-client privilege to successor trustee
 Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

ATTORNEY-CLIENT RELATIONSHIP

government has burden of justifying withholding documents under any exemptions under the Freedom of Information Act (FOIA) 5USCA 552(b)

American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473

in camera review of communications to determine privilege
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

may apply when no waiver of privilege, despite waiver of attorney-client relationship

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

predecessor trustee failed to establish that they communicated with counsel in their personal capacity

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

survives client's death

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

survives corporate merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy

Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]

Protection of

Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577

Milton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]

Publishing book [See Conflict of interest, literary rights.] attorney

-concerning representation of criminal defendant

Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177]
LA 287 (1965)

third party

-attorney furnishes information and material

--relating to representation of criminal defendant
LA 287 (1965)

Purchaser of client's assets

LA 433 (1984)

Purpose

intention of confidentiality

Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]

Reasonable measures must be taken to determine the law at time of actions

*Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]

Receivers

existence of relationship for purposes of privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986

Refusal to execute substitution works hardship on client

Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

Reimbursement of client

for damages recovered by defendant in action

LA 76 (1934)

reliance on attorney's advice is only one single factor in determining whether a trustee has breached a fiduciary duty

Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234

Reliance on attorney

not good cause for filing late tax return

Sarto v. United States (N.D. Cal. 1983) 563 F.Supp. 476, 478

Reliance on counsel's advice is only one single factor in determining whether a trustee has breached a fiduciary duty

Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226

Reliance on party's opinion that he is represented by counsel

Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220

CAL 1996-145

Remedies of former clients

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042

Represent client zealously

*People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]

Representation of minor in juvenile delinquency proceedings

ineffective assistance of counsel for minor

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

right to appointed counsel

-juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed

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

-juvenile delinquency proceeding is sufficiently similar in substance and import to criminal prosecution that indigent juveniles are entitled to Fourteenth Amendment protections

In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]

Representation on previous charges

United States v. Masuolo (2nd Cir. 1973) 489 F.2d 217, 223

Respective roles

People v. Davis (1984) 161 Cal.App.3d 796, 801-804

Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189

Retention of out-of-state law firm by California resident

Vorys, Sater, Seymour & Pease v. Ryan (1984) 153 Cal.App.3d 91, 94-95

Right of a party to select counsel

Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576

automatic vicarious disqualification of a firm would reduce the right

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

criminal defendant not entitled to second court-appointed counsel when death penalty not sought

U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915

Right of defendant

People v. Davis (1984) 161 Cal.App.3d 796, 802

to counsel of choice

People v. Trapps (1984) 158 Cal.App.3d 265, 272-273

-defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

Right to appointed counsel

ineffective assistance of counsel for minor

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

juvenile delinquency proceeding is sufficiently similar in substance and import to criminal prosecution that indigent juveniles are entitled to Fourteenth Amendment protections

In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]

Right to counsel of choice

Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703

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

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
People v. Stevens (1984) 156 Cal.App.3d 1119, 1128
 applies to retained counsel, not appointed counsel
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
 automatic disqualification of a firm would reduce the right
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
 class actions
 -right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
 conservatorship proceedings
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
 court did not abuse discretion in denying motion to substitute in retained counsel; waiver was based on an inadequate conflict waiver
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
 court has discretion to overrule defendant's choice of counsel in order to eliminate potential conflicts, ensure adequate representation or prevent substantial impairment of court proceedings
People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
 court has latitude to remove counsel where potential conflict exists, over objection of defendant
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
 -improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 criminal defendant's right to discharge retained counsel
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]
 -court may deny untimely request to discharge retained counsel
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
 -criminal defendant enjoys right to discharge retained counsel for any reason unless denial compelled by fair, efficient and orderly administration of justice
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
 defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be reappointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
 includes criminal defendant's Sixth Amendment right to use her own "innocent" assets (those not traceable to a criminal offense) to pay a reasonable fee for the assistance of counsel
Luis v. United States (2016) ___ U.S. ___ [136 S.Ct. 1083]
 juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

may be forfeited by defendant's conduct towards counsel only after a full due process proceeding is afforded
King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]
 may not be forfeited without defendant's voluntary, knowing and intelligent waiver
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 public defender not required to represent indigent person on appeal
Erwin v. Appellate Department (1983) 146 Cal.App.3d 715
 waiver not effective if defendant must choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 Sanctions may not be levied against attorney for taking all actions necessary to protect his clients
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
 Scope of representation
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Maxwell v. Cooltech (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
 LA 502 (1999), LA 483 (1995), LA 476 (1995)
 class action
 -counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
 -counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
 -counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
 defendant's right to counsel of choice includes right to enter into legitimate financial arrangements with retained counsel, including retaining counsel only through preliminary examination
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
 factors demonstrating ongoing attorney-client relationship for concurrent representation conflict purposes
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
 firm's representation terminated when firm emailed client that it "must withdraw" as client's attorney, that its "attorney-client relationship with client is terminated forthwith," and that it "no longer represents client with regard to any matters."
GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]
 malicious prosecution
 -an associated attorney whose name is on filings cannot avoid liability by claiming ignorance facts that may lead to malicious prosecution claim
Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]
 specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
 triable issue of material fact as to whether client has discharged lawyer or consented to withdrawal
Wang v. Nesse (2022) 81 Cal.App.5th 428 [297 Cal.Rptr.3d 149]
 Settlement
 general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement

ATTORNEYS OF GOVERNMENTAL AGENCIES

agreement distinguished where the authorized corporate representative is an in-house attorney
Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

Sexual harassment of client
McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Sexual relations with client
Rule 3-120, Rules of Professional Conduct
 Business and Professions Code section 6106.9
CAL 1987-92
 OC 2003-02

Special appearances
CAL 2004-165
 LA 483 (1995)
 specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Statutory reduction of defendant's control of the case
People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2

Substantial previous relationship
Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]

Substantial right of client may not be relinquished: exception – best discretion
Blanton v. Womancare (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

Substitution of attorney clause in retainer agreement
 LA 371 (1977)

Substitution when conflicts of interest occur based on obligations to clients in different proceedings
Leversen v. Superior Court (1983) 34 Cal.3d 530

Telephone “hotline” run by attorney
 LA 449 (1988)

Termination of employment
Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

Threat to
Phaksuan v. United States (9th Cir. 1984) 722, F.2d 591, 594 mere threat of malpractice suit against criminal defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154

Trustees
 existence of relationship for purposes of privilege
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
 -trust may not allow a former trustee to withhold from successor trustee all communications between that former trustee and the trust's legal counsel
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

Unauthorized appearance by mistake
Omega Video Inc. v. Superior Court (1983) 146 Cal.App.3d 470

Unauthorized representation
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Undue influence
Estate of Witt (1926) 198 Cal. 407, 419 [245 P.2d 197]

Violation of probation by client
 leaving jurisdiction
 -disclosure in letter
 --privilege
 LA 82 (1935)

Willful failure to perform and communicate
Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]

Wills
 Probate Code section 21350 et seq.
 -attorney's failure to comply with provisions of Probate Code § 21350 could be grounds for discipline
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
 -liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
 person who must sign a will is a client regardless of who has sought out and employed the attorney
 SD 1990-3

Withdrawal
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
CAL 1983-74
 inability to provide competent legal services because of disagreement with a minor client
 LA 504 (2000)

Work product
 client's right to
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 276-277 [218 Cal.Rptr. 205]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 SD 2004-1
 SD 1997-1
 SF 1990-1
 -law firm's right to
Ellis v. Superior Court (Nelson) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]

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

Business and Professions Code section 6131(a)
Rule 7-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 5-110, Rules of Professional Conduct (operative as of May 27, 1989)

Administrative agency attorneys
 Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

Assistants' actions do not create official policy
Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923

ATTORNEYS OF GOVERNMENTAL AGENCIES

Attorney general

People v. Brown (1981) 29 Cal.3d 150 [172 Cal.Rptr. 478]
D'Amico v. Board of Medical Examiners (1974) 11 Cal.3d 1 [112 Cal.Rptr. 786]
People v. Birch Securities Co. (1948) 86 Cal.App.2d 703 [196 P.2d 143]

authority under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

deputy attorney general may not represent clients in private action absent consent of the Office of the Attorney General

Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920

duty to investigate violations of Ethics in Government Act
Dellums v. Smith (N.D. Cal. 1984) 577 F.Supp. 1449, 1451-1452

opinions are not merely advisory but are statements to be regarded as having a quasi-judicial character and are entitled to great weight by the courts

Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]

Attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict

State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

Attorney-client relationship not formed between prosecutor enforcing child support & parent entitled to payment

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

Authority of court to sanction

People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5

Bonus program tied to savings by public agency
SD 1997-2

Child support modification and enforcement activities do not create an attorney-client relationship with any parent

Jager v. County of Alameda (1992) 8 Cal.App.4th 294

City attorney

People v. Rhodes (1974) 12 Cal.3d 180 [115 Cal.Rptr. 235]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]

Tri-Cor v. Hawthorne (1970) 8 Cal.App.3d 134 [87 Cal.Rptr. 311]

CAL 2001-156

acts as both advocate of city's position and advisor to neutral decision maker

Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]

anti-discrimination suit against city attorney's employer is not entitled to First Amendment protection

Rendish v. City of Tacoma (W.D. (Wash.) 1997) 123 F.3d 1216

assigned to represent constituent agency

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration

Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

disqualified from representing city in matter related to prior representation of private company

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

recording a conversation per Penal Code section 633 while prosecuting misdemeanor cases

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

vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective

City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]

Closed-session meetings pursuant to the Brown Act (CCP § 54956.9)

board of a non-profit corporation created by city to assist in eminent domain litigation could not meet in closed session with legal counsel for the city's redevelopment agency because the board was not a party to the litigation

Shapiro v. Board of Directors of Centre City Development Corp. (2005) 134 Cal.App.4th 170 [35 Cal.Rptr.3d 826]

Confidences

inadvertent disclosure

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

Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]

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

-city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

Conflict of interest

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

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

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

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

advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]

attorney acts as both advocate and advisor to decision maker

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]

-Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case

Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]

city attorney disqualified from representing city in matter related to prior representation of private company

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

common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

county counsel giving advice to independent board of retirement

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

district court must make specific factual findings that show the U.S. Attorney's Office continued representation would result in a clear legal or ethical violation

U.S. v. Williams (9th Cir. 2023) 68 F.4th 564

financial interest

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

SD 1997-2

ATTORNEYS OF GOVERNMENTAL AGENCIES

former client, now witness against current client, no prejudice found where Public Defender is able to impeach witness with other convictions

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
former government attorney now associate in law firm
LA 246 (1957)

limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6

Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]

prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

prosecutor's entire office recused

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

public law office

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

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

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

CAL 2002-158

screening measures

Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960

-burden on public law office to show that effective screening measures were taken to protect and maintain client confidences

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

state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation

86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)

vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective

City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]

vicarious disqualification of public law office

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

witness

Trujillo v. Superior Court (1983) 148 Cal.App.3d 368

CAL 2001-156

County counsel

Conservatorship of Early (1983) 35 Cal.3d 244, 255

Mize v. Crail (1973) 29 Cal.App.3d 797 [106 Cal.Rptr. 34]

combined public offices assumed by attorneys

Conservatorship of Early (1983) 35 Cal.3d 244, 255

dual representation of county tax assessor and appeals board does not violate Due Process as long as attorney advising the board is screened from any inappropriate contact with advocate for the assessor

Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960

giving advice to independent board of retirement

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

limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6

Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]

may serve simultaneously as a city council member

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

CAL 2001-156

County prosecuting attorneys and investigators had absolute immunity from civil suits when duties carried out in preparation for prosecutor's case

Freeman on Behalf of the Sanctuary v. Hittle (9th Cir. 1983) 708 F.2d 442

Distinguish public officials from government employees

Cleland v. Superior Court (1942) 52 Cal.App.2d 530

District attorney

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

Madera v. Grendron (1963) 59 Cal.2d 798 [31 Cal.Rptr. 302]

CAL 1979-51

authority of

People v. Casa Blanca Convalescent Homes, Inc. (1984) 159 Cal.App.3d 509, 531-532

Ciaccio v. Superior Court (1984) 156 Cal.App.3d 130, 133

authorized by law to communicate with parties represented by counsel

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

conflict of interest

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

-district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

-recusal of entire office

-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

defense attorney changes to prosecutor's office

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

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

determines the control of prosecution of criminal cases

People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569

discharge of prosecutor for challenge to superior in election is not First Amendment violation

Fazio v. City and County of San Francisco (9th Cir. 1997) 125 F.3d 1328

discretionary charging authority

Davis v. Municipal Court (1984) 154 Cal.App.3d 996, 1003 [disqualification, conflict of interest]

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

-Penal Code section 1424

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

--abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

-disqualification not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

-recusal of entire office

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

dual representation

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

duties

In re Ferguson (1971) 5 Cal.3d 525, 531

In re Martin (1983) 150 Cal.App.3d 148, 169 OC 94-003

-acts on behalf of the state when training personnel and developing policy regarding prosecution and the

preparation for prosecution of criminal violations of state law

Pitts v. Kern (1988) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

-of prosecutor

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

*People v. Eubanks (1996) 14 Cal.4th 580

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

financial assistance to prosecutor's office disqualified district attorney

*People v. Eubanks (1996) 14 Cal.4th 580

held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state

People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

holder of privilege with regard to material seized from office occupied by a deputy district attorney

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

immunity from § 1983 claims

-county district attorney may not be entitled to qualified immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct

Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168

-county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech

Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062

-district attorney acted as state official when deciding whether to prosecute individual for criminal defense

Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025

-fabricating evidence, filing false crime report, comments made to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

-may not apply when prosecutor is acting in an investigative or administrative capacity

Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]

-prosecutors afforded absolute immunity for parole recommendations

Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747

impartiality subject to private party influence

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

may represent county in an action even if county has a county counsel

Rauber v. Herman (1991) 229 Cal.App.3d 942

office employees are immune from liability for acts taken during investigations

County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

prosecutor deliberately altered an interrogation transcript

In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party

ATTORNEYS OF GOVERNMENTAL AGENCIES

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

recusal of entire staff, conflict of interest

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

*People v. Eubanks (1996) 14 Cal.4th 580

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573

People v. Lopez (1984) 155 Cal.App.3d 813, 824-825

-Penal Code section 1424

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

-erroneous denial of recusal motion is harmless error if it does not involve due process violation

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-recusal not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

recusal of the prosecutor not required when victim pays for prosecutorial expenses

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

representation of same parties in different actions

Kain v. State Bar (1982) 130 Cal.App.3d 499, 504

role distinguished from prosecutor's role

Hoines v. Barney's Club Inc. (1980) 28 Cal.3d 603

Duties

competence

SD 1997-2

disclose identity of informants to defendant

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]

loyalty

SD 1997-2

maintain contact with informants

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]

Education

county board of education and the superintendent of schools of the same county shall appoint the same legal counsel

Education Code section 35041.5

Ethics walls and screening procedures found sufficient to ensure due process

Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960

Immune from tort liability arising out of conduct about civil cases

Custom Craft Carpets, Inc. v. Miller (1983) 137 Cal.App.3d 120 [187 Cal.Rptr. 78]

Immunity

private attorney hire by the city acting as government agent

Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069

private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials

Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]

under the Noerr-Pennington doctrine

-attorney sued for allegedly aiding and abetting in human trafficking scheme may not appeal denial of immunity

Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136

-sham litigation exception

-law firm, as agent for school district in an eminent domain petition, may not be immune from liability if found to have engaged in represented misrepresentations and to have suppressed information relevant to the dispute

Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638

Judge's right to hire private counsel when county counsel has conflict of interest

Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29

Limitations on authority

Feminist Women's Health Center, Inc. v. Philibosian (1984) 157 Cal.App.3d 1076

Moral turpitude

prosecutor deliberately altered an interrogation transcript

In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

Notice of motion to disqualify a district attorney

Penal Code section 1424

Outside counsel

immunity from § 1983 claims

-private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials

Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]

private counsel retained by a city to assist in an investigation of alleged employee wrongdoing is entitled to the same protection of qualified immunity as city employees and officials

Filarsky v. Delia (2012) 566 U.S. 377 [132 S.Ct. 1657]

those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues

Delia v. City of Rialto (9th Cir. 2010) 621 F.3d 1069

Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]

Outside counsel retained by county in civil rights action not entitled to qualified immunity when defending own suit for violating plaintiff's constitutional rights

Gonzales v. Spencer (2003) 336 F.3d 832

Private attorney under contract to government agency

County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]

Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]

Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]

People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900

Privilege against self-incrimination

Gwillim v. City of San Jose (9th Cir. 1991) 929 F.2d 465

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

Probable cause

duty of attorney when charges not supported

LA 429 (1984)

Prosecutorial misconduct

denial of attorney's fees to plaintiffs where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in a bad faith

U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

trial conduct

-use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury

People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]

Prosecutors

absolute immunity does not protect prosecutor for comments made to the media

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

absolute immunity for actions taken in the normal prosecutorial role

Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]

Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168

Doubleday v. Ruh (1993) 149 F.R.D. 601

absolute immunity for acts performed in scope of judicial process; qualified immunity for investigative or administrative acts

Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]

Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062

Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168

Weinstein v. Mueller (N.D. Cal. 1983) 563 F.Supp. 923

absolute immunity for parole recommendations

Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747

absolute immunity from liability for decision not to prosecute police officer cases

Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578

absolute immunity may not be available against being sued for supervising or participating in investigations

Buckley v. Fitzsimmons (1993) 509 U.S. 259 [113 S.Ct. Rptr. 2606]

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062

Roe v. City and County of San Francisco (9th Cir. 1997) 109 F.3d 578

Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

Pitts v. County of Kern (1996) 49 Cal.App.4th 1430 [57 Cal.Rptr.2d 471]

absolute immunity may not be available when alleged false statements were made in application for search warrant

*Fletcher v. Kalina (9th Cir. 1996) 93 F.3d 653

absolute immunity may not be available where prosecutor gives advice to the police

Burns v. Reed (1991) 500 U.S. 478 [111 S.Ct.1934]

Pitts v. Kern (1998) 17 Cal.4th 340 [70 Cal.Rptr.2d 823]

absolute immunity, scope of

Van de Kamp v. Goldstein (2009) 555 U.S. 335 [129 S.Ct. 855]

authorized by law to communicate with parties represented by counsel

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

communication with the media

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

conduct when he/she does not believe in case

LA 429 (1984)

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (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

Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr. 60]

duty to seek justice not convictions

People v. Rutherford (1975) 14 Cal.3d 399 [121 Cal.Rptr. 357]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Dena (1972) 25 Cal.App.3d 1001 [102 Cal.Rptr. 357]

In re Ferguson (1971) 5 Cal.3d 525

for purposes of section 1983 claim, California county district attorney acted as state official when deciding whether to prosecute individual for criminal defense

Weiner v. San Diego County (9th Cir. 2000) 210 F.3d 1025

held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state

People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute

Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

qualified immunity may not be available for executing search warrant against criminal defense attorney

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

recusal of entire office

-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

State Bar has authority and jurisdiction to discipline

Price v. Superior Court (1982) 30 Cal.3d 537

In re Bloom (1977) 19 Cal.3d 175

OC 94-003

strong public policy advising against interference by a bankruptcy court in the decisions of state prosecutors to pursue charges therefore prevents a bankruptcy court from granting sanctions against the district attorney

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments

People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]

suppression of evidence, no prejudice to defendant found

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

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

Public defender

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

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

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

ATTORNEY OF RECORD

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

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

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

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

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

conflict of interest

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

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

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

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

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

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

--one investigator shared among 12 contract defenders

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

-court orders public defender's office to assign a new attorney from its office to represent defendant in his criminal proceedings due to racial statements made by prior attorney

Sanchez v. Superior Court of San Bernardino County (2024) 106 Cal.App.5th 617 [327 Cal.Rptr.3d 225]

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

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

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

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

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

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

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

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

CAL 2002-158

-three strikes cases

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

delinquency proceeding

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

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

dependency proceeding

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

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

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

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

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

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

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

in-person contact with arrested person permissible

CAL 1977-42

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

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

not independent contractors for purposes of a government tort claim

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

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

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

Public employees

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

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

Recording a conversation

city attorney recording a conversation pursuant to Penal Code section 633 while prosecuting misdemeanor cases
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

Release dismissal agreements

CAL 1989-106

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

LA 453

Retaining private counsel for special services

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

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

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

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

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

Rules of Professional Conduct, applicability to government attorneys

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

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

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

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

CAL 2002-158

When an attorney leaves employment of one firm

side switching

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

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

LA 501

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

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

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

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

Bankruptcy action

attorney's lien not payable in circumvention of the Bankruptcy Code

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

Charging lien

common law

-not recognized in California

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

Jones v. Martin (1953) 41 Cal.2d 23 [256 P.2d 905]

Ex parte Kyle (1850) 1 Cal. 331

contract

Weiss v. Marcus (1975) 51 Cal.App.3d 590, 598 [124 Cal.Rptr. 297]

CAL 2006-170

requires compliance with rule 3-300 when included in hourly fee agreement

Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]

-contingency fee agreements distinguished

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170

tax consequences to plaintiff in contingent fee agreement with attorney

Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Client settlement

check issued only to client, but delivered to attorney who has a lien

OC 99-002

failure of subsequent counsel to honor

-liability for interference with prospective economic advantage

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

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp.16 [158 Cal.Rptr. 762]

Client's award

improper

Cain v. State Bar (1978) 21 Cal.3d 523, 525 [146 Cal.Rptr. 737, 579 P.2d 1053]

Client's funds

LA(I) 1970-1

Client's papers

LA 48 (1927), SD 1977-3

no right to

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

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

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

SF 1975-4

Common law liens

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

Created by contract

Haupt v. Charlie's Kosher Market (1941) 17 Cal.2d 843 [121 P.2d 627]

Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]

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

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

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

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

Gostin v. State Farm Ins. Co. (1964) 224 Cal.App.2d 319 [36 Cal.Rptr. 596]

Bartlett v. Pac. Nat. Bank (1952) 110 Cal.App.2d 683 [244 P.2d 91]

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

Tracy v. Ringole (1927) 87 Cal.App. 549 [262 P. 73]

In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

CAL 2009-177, CAL 2006-170

OC 99-002

attorney lien in relation to medical lien in contingency fee case

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

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

Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]

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

nature and effect

Cetenko v. United California Bank (1982) 30 Cal.3d 528 [179 Cal.Rptr. 902, 638 P.2d 1299]

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

Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]

LA 496 (1998)

Enforcement of attorney lien in probate matter

Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]

Equitable lien for fees

County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

Family law attorney's real property lien

family law court has jurisdiction to resolve disputes over the propriety of existing FLARPLs whenever they may arise under Family Code section 2034(c)

In re Marriage of Bittenson (2019) 41 Cal.App.5th 333 [254 Cal.Rptr.3d 209]

lien expunged

In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]

Holding client's funds

coerce fee payment

-without lien or proper authority

McGrath v. State Bar (1943) 21 Cal.2d 737 [135 P.2d 1]

Independent action required to establish existence and amount of lien

Aresh v. Marin-Morales (2022) 92 Cal.App.5th 296 [309 Cal.Rptr.3d 48]

Moitahedi v. Vargas (2014) 228 Cal.App.4th 974 [176 Cal.Rptr.3d 313]

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

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

Valenta v. Regents of University of California (1991) 231 Cal.App.3d 1465 [282 Cal.Rptr. 812]

CAL 2009-177

nature and effect

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

right of attorney to intervene in the underlying matter to enforce his lien is limited to those actions in which client specifically gives attorney interest in the subject matter of the action by way of their fee contract

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

No duty of successor counsel to hold money in client trust account to honor prior attorney's lien

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Notice of lien

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

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

AUCTION

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

CAL 2009-177, CAL 2008-175

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

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

Possessory

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

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

Ex parte Kyle (1850) 1 Cal. 331

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

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

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

client's files or papers

-no right to

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51

Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

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

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

SF 1975-4

Priority of

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statutory liens

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

AUCTION

Donate legal services through

CAL 1982-65, SD 1974-19

AUTHORITY OF ATTORNEY [See Substitution of counsel.]

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

Acknowledge satisfaction of judgment

after judgment, upon payment of money claimed in action

Code of Civil Procedure section 283

Advanced consent

client with diminished capacity

CAL 2021-207

After substitution

appearance carries presumption

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

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

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

Agency

authority covers all ordinary procedural steps to bind client

Code of Civil Procedure section 283

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

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

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

Agency basis

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

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

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

Preston v. Hill (1875) 50 Cal. 43

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

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

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

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

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

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

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

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

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

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

CAL 1989-111

Apparent authority as to procedural or tactical matters

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

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

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

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

LA 502 (1999)

Appeal

attorney cannot appeal without client's consent

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

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

attorney may file notice of appeal on behalf of deceased client

Code of Civil Procedure section 903

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

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

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

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

Attorney of record must take legal steps

Epley v. Califro (1958) 49 Cal.2d 849, 854 [323 P.2d 91]
Goetz v. Superior Court (1958) 49 Cal.2d 784, 786 [322 P.2d 217]
People v. Merkouris (1956) 46 Cal.2d 540, 554
Boca etc. R.R. Co. v. Superior Court (1907) 150 Cal. 153, 157 [88 P. 718]
Toy v. Haskell (1900) 128 Cal. 558, 560 [61 P. 89]
Wylie v. Sierra Gold Co. (1898) 120 Cal. 485, 487
Elec. Utilities Co. v. Smallpage (1934) 137 Cal.App. 640 [31 P.2d 142]
Anglo California Trust Co. v. Kelly (1928) 95 Cal.App. 390 [272 P. 1080]
Koehler v. D. Ferrari & Co. (1916) 29 Cal.App. 487

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

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

Bind client

Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Carroll v. Abbott Laboratories, Inc. (1982) 32 Cal.3d 892, 898-900 [187 Cal.Rptr. 592, 654 P.2d 775]
Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
Toal v. Tardif (2009) 178 Cal.App.4th 1183 [101 Cal.Rptr.3d 109]
Knabe v. Brister (2007) 154 Cal.App.4th 1316 [65 Cal.Rptr.3d 493]
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
People v. Sims (1984) 158 Cal.App.3d 469, 483
*Ford v. State of California (1981) 116 Cal.App.3d 507, 516 [172 Cal.Rptr. 162]
Buchanan v. Buchanan (1979) 99 Cal.App.3d 587, 595 [160 Cal.Rptr. 577]
People v. Hy-Lond Enterprises, Inc. (1979) 93 Cal.App.3d 734 [155 Cal.Rptr. 880]
Kaslavage v. West Kern County Water District (1978) 84 Cal.App.3d 529, 536-537 [148 Cal.Rptr. 729]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
CAL 2002-160, SF 2023-1

advise attorney for in propria persona litigant

LA 502 (1999)

client with diminished capacity

CAL 2021-207

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

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

to stipulation without consent

Corcoran v. Arouh (1994) 24 Cal.App.4th 310 [29 Cal.Rptr.2d 326]
In re Marriage of Helsel (1988) 198 Cal.App.3d 332 [243 Cal.Rptr. 657]

Bind client in action or proceeding

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

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

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

by agreement filed with clerk of court

Code of Civil Procedure section 283, par. 1

client with diminished capacity

CAL 2021-207

entered upon minutes of court

Code of Civil Procedure section 283, par. 1

to arbitration agreement

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

to stipulation without consent

Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
In re Marriage of Helsel (1988) 198 Cal.App. 332 [243 Cal.Rptr. 657]

Client

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

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

CAL 2021-207

cannot be located

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

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

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

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

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

criminal defendants instructions cannot reduce an attorney's professional obligations

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

death of

-attorney may file notice of appeal on behalf of decedent

Code of Civil Procedure section 903

decides matters that affect substantive rights

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]
Blanton v. Womancare, Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]

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

LA 502 (1999)

diminished capacity

CAL 2021-207

endorse client's name

-on settlement check without authorization

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

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

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

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

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

insane or incompetent clients may lack authority over substantive issues

LA 509 (2002)

-commitment proceedings under Penal Code section 1026.5(b)

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

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

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

LA 505 (2000)

Client's instructions intentionally ignored

People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]

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

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

AUTHORITY OF ATTORNEY

- In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
CAL 2002-160
client with diminished capacity
CAL 2021-207
settlement decisions belong to client
Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]
Client suffering from a mental disorder
client, previously found not guilty by reason of insanity, must act through counsel who may properly waive, over client's objections, a jury trial in a proceeding to extend commitment
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
Compelling client to follow advice
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 77-78 [203 Cal.Rptr. 524]
Control of case
by client
Linsk v. Linsk (1969) 70 Cal.2d 272, 276 [74 Cal.Rptr. 544]
cross examination, manner in which attorney conducts, is within control of counsel
Gdowski v. Gdowski (2009) 175 Cal.App.4th 128 [95 Cal.Rptr.3d 799]
statutory reduction of client's control
People v. Davis (1984) 161 Cal.App.3d 796, 802 fn. 2
-commitment proceedings under Penal Code section 1026.5(b)
--counsel for client found to be insane and dangerous to others may render informed tactical decisions over client's objections
People v. Powell (2004) 114 Cal.App.4th 1153 [8 Cal.Rptr.3d 441]
Control of litigation [See Trial conduct.]
People v. Sims (1984) 158 Cal.App.3d 469
Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]
Lovret v. Seyfarth (1972) 22 Cal.App.3d 841 [100 Cal.Rptr. 143]
Diamond Springs Lime Co. v. American River Constructors (1971) 16 Cal.App.3d 581 [94 Cal.Rptr. 200]
acts contrary to law, court rule or public policy
San Francisco Lumber Co. v. Bibb (1903) 139 Cal. 325 [73 P. 864]
Oakland Raiders v. Berkeley (1977) 65 Cal.App.3d 623 [137 Cal.Rptr. 648]
Burrows v. California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]
Robinson v. Sacramento County School Dist. (1966) 245 Cal.App.2d 278 [53 Cal.Rptr. 781]
Valdez v. Taylor Auto. Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]
Berry v. Chaplin (1946) 74 Cal.App.2d 652 [169 P.2d 442]
Los Angeles v. Harper (1935) 8 Cal.App.2d 552 [48 P.2d 75]
advise attorney for in propria persona litigant
LA 502 (1999)
after judgment
Knowlton v. Mackenzie (1895) 110 Cal. 183 [42 P. 580]
Wherry v. Rambo (1950) 97 Cal.App.2d 569 [218 P.2d 142]
Davis v. Robinson (1942) 50 Cal.App.2d 700 [123 P.2d 894]
Spenser v. Barnes (1935) 6 Cal.App.2d 35 [43 P.2d 847]
Ely v. Liscomb (1914) 24 Cal.App. 224 [140 P.2d 1086]
apparent authority
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Diamond Springs Lime Co. v. Am. River Constructors (1971) 16 Cal.App.3d 581, 607 [94 Cal.Rptr. 200]
Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780, 788 [24 Cal.Rptr. 161]
Bemer v. Bemer (1957) 152 Cal.App.2d 766, 771 [314 P.2d 114]
Redsted v. Weiss (1945) 71 Cal.App.2d 660, 663 [163 P.2d 105]
People v. Hanna (1939) 36 Cal.App.2d 333, 336 [97 P.2d 847]
Armstrong v. Brown (1936) 12 Cal.App.2d 22, 28 [54 P.2d 1118]
Johnson v. Johnson (1931) 117 Cal.App. 145 [3 P.2d 587]
-of advice attorney for in propria persona litigant
LA 502 (1999)
arguments raised at trial
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
criminal defense counsel can make all but a few fundamental decisions for defendant
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
People v. Carpenter (1997) 15 Cal.4th 312, 376
dismissal entered by fraudulent attorney
Business and Professions Code section 6140.5
Whittier Union High School District v. Superior Court (1977) 66 Cal.App.3d 504 [136 Cal.Rptr. 86]
freedom from client's control
Zurich G.A. & L. Ins. Co. v. Knisler (1938) 12 Cal.2d 98, 105 [81 P.2d 913]
Associated Indemnity Corp. v. Ind. Acc. Com. (1943) 56 Cal.App.2d 804, 808 [133 P.2d 698]
giving up right to hearing
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
giving up substantive defense
Tomerlin v. Canadian Ind. Co. (1964) 61 Cal.2d 638 [39 Cal.Rptr. 731, 394 P.2d 571]
Merrit v. Wilcox (1877) 52 Cal. 238
Duffy v. Griffith Co. (1967) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
Ross v. Ross (1953) 120 Cal.App.2d 70 [260 P.2d 652]
Fresno City High School District v. Dillon (1939) 34 Cal.App.2d 636 [94 P.2d 86]
Price v. McComish (1937) 22 Cal.App.2d 92 [76 P.2d 978]
Los Angeles v. Harper (1935) 8 Cal.App.2d 552 [48 P.2d 75]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
-settlement decisions belong to client
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
giving up substantive right
Linsk v. Linsk (1969) 70 Cal.2d 272 [74 Cal.Rptr. 544, 449 P.2d 760]
Woerner v. Woerner (1915) 171 Cal. 298, 299 [152 P.2d 919]
Borkheim v. No. British etc. Ins. Co. (1869) 38 Cal. 623, 628
CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
Blanton v. Womancare Inc. (1985) 38 Cal.3d 396 [212 Cal.Rptr. 151]
Fresno v. Baboain (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]
Yanchor v. Kagan (1971) 22 Cal.App.3d 544 [99 Cal.Rptr. 367]
Harness v. Pac. Curtainwall Co. (1965) 235 Cal.App.2d 485 [45 Cal.Rptr. 454]
Fidelity & Cas. Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
Broecker v. Moxley (1934) 136 Cal.App. 248 [28 P.2d 409]
CAL 2002-160, LA 393 (1981), SF 2023-1

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

AUTHORITY OF ATTORNEY

Representation of a minor client in a dependency proceeding
minors have the absolute right to make decisions concerning
their parental rights

In re Steven H. (2001) 86 Cal.App.4th 1023 [103
Cal.Rptr.2d 649]
LA 504 (2000)

Satisfaction of judgment, acknowledge
after judgment

Code of Civil Procedure section 283, par. 2

upon payment of money claimed in action

Code of Civil Procedure section 283, par. 2

Settlement

Mallott & Peterson v. Director, Office of Workers'
Compensation Program (9th Cir. 1996) 98 F.3d 1170

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

Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56
Cal.Rptr.2d 569]

Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d
878]

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

CAL 2002-160, SF 2023-1

attorney may not sue client who decides on a "walk away"
settlement, even when client promised to take case to trial or
settlement to ensure attorney is paid for legal representation,
because client cannot be constrained to pursue a lawsuit he
wishes to abandon

Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125
Cal.Rptr.3d 502]

negotiations by advice attorney for in propria persona litigant
LA 502 (1999)

plaintiff's counsel in personal injury action may not enter into
an agreement to defend and indemnify defendants against an
action brought against them by third parties

LA 532 (2019)

threat to withdraw if client refuses settlement

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Settlement negotiated by clients enforceable despite lack of
attorney approval

In re Marriage of Hasso (1991) 229 Cal.App.3d 1174 [280
Cal.Rptr. 919]

agreement providing that attorney waives specified fees if
client agrees not to accept a confidentiality clause in any
settlement permitted if client retains the authority to settle the
case without the lawyer's consent

LA 505 (2000)

Stipulations

SF 2023-1

attorney may bind client

-court found that stipulation re probable cause to arrest
was valid after plaintiff's counsel signed it on plaintiff's
behalf and in the plaintiff's presence

Salazar v. Upland Police Department (2004) 116
Cal.App.4th 934 [11 Cal.Rptr.3d 22]

-if it does not affect issues central to the dispute

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

-when waiver or compromise of a fundamental right is not
involved

In re Marriage of Crook (1991) 235 Cal.App.3d 30

construction and relief

-special rules applicable

Ukiah v. Fones (1966) 64 Cal.2d 104, 107 [48 Cal.Rptr.
865, 410 P.2d 369]

Buckley v. Roche (1931) 214 Cal. 241 [4 P.2d 929]

Jackson v. Puget Sound Lumber Co. (1898) 123 Cal.
97, 100 [55 P.2d 788]

Burrows v. California (1968) 260 Cal.App.2d 29, 33 [66
Cal.Rptr. 868]

People v. Nolan (1917) 33 Cal.App. 493, 495 [165 P.
715]

-withdrawal or rescission

Palmer v. Longbeach (1948) 33 Cal.2d 134 [199 P.2d
952]

Moffitt v. Jordan (1900) 127 Cal. 628 [60 P. 175]

Raymond v. McMullen (1891) 90 Cal. 122 [27 P. 21]

Troxell v. Troxell (1965) 237 Cal.App.2d 147 [46
Cal.Rptr. 723]

L.A. City School District v. Landier Inv. Co. (1960) 177
Cal.App.2d 744 [2 Cal.Rptr. 662]

Loomis v. Loomis (1948) 89 Cal.App.2d 232 [201 P.2d
33]

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

Brown v. Superior Court (1935) 10 Cal.App.2d 365 [52
P.2d 256]

construction and rules

-contract rules

Jackson v. Puget Sound Lumber Co. (1898) 123 Cal.
97 [55 P. 788]

Harris v. Spinali Auto Sales, Inc. (1962) 202 Cal.App.2d
215 [20 Cal.Rptr. 586]

L.A. City School District v. Landier Inv. Co. (1960) 177
Cal.App.2d 744 [2 Cal.Rptr. 662]

Estate of Howe (1948) 88 Cal.App.2d 454 [199 P.2d
59]

dismissal of cause of action

Bowden v. Green (1982) 128 Cal.App.3d 65 [180 Cal.Rptr.
90]

effects

Code of Civil Procedure section 283

Estate of Stickelbaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7,
353 P.2d 719]

Palmer v. Long Beach (1948) 33 Cal.2d 134 [199 P.2d
952]

Palmer v. Oakland (1978) 86 Cal.App.3d 39 [150 Cal.Rptr.
41]

Japan Food Corp. v. Sacramento (1976) 58 Cal.App.3d
891 [130 Cal.Rptr. 392]

Estate of Burson (1975) 51 Cal.App.3d 300 [124 Cal.Rptr.
105]

Leonard v. Los Angeles (1973) 31 Cal.App.3d 473 [107
Cal.Rptr. 378]

In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97
Cal.Rptr. 274]

People ex rel. Dept. Pub. Wks. v. Busick (1968) 259
Cal.App.2d 744 [66 Cal.Rptr. 532]

Estate of Schmelz (1968) 259 Cal.App.2d 440, 442-446
[66 Cal.Rptr. 480]

Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447 [49
Cal.Rptr. 610]

Green v. Linn (1962) 210 Cal.App.2d 762, 767-769 [26
Cal.Rptr. 889]

Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d
125, 127-129 [5 Cal.Rptr. 900]

Estate of Howe (1948) 88 Cal.App.2d 454 [199 P.2d 59]

Capital National Bank v. Smith (1944) 62 Cal.App.2d 328,
342-343 [144 P.2d 665]

Henning v. Wuest (1920) 48 Cal.App. 147 [191 P. 713]

-in subsequent proceedings

Leonard v. City of Los Angeles (1973) 31 Cal.App.3d
473 [107 Cal.Rptr. 378]

formal

Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]

Harrold v. Harrold (1950) 100 Cal.App.2d 601 [224 P.2d
66]

Fresno City High School v. Dillon (1939) 34 Cal.App.2d
636 [94 P.2d 86]

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

informal

Waybright v. Anderson (1927) 200 Cal. 374, 378 [253 P.
148]

Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]

- Fidelity Casualty Co. v. Abraham (1945) 70 Cal.App.2d 776 [161 P.2d 689]
Witaschek v. Witaschek (1942) 56 Cal.App.2d 277 [132 P.2d 600]
Continental Bldg. etc. Assn v. Woolf (1910) 12 Cal.App. 725 [108 P. 729]
- matters subject to stipulation
- evidence or facts
 - Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
 - McGuire v. Baird (1937) 9 Cal.2d 353 [70 P.2d 915]
 - Haese v. Heitzeg (1911) 159 Cal. 569 [114 P. 816]
 - Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
 - Estate of Schmelz (1968) 259 Cal.App.2d 440 [66 Cal.Rptr. 480]
 - Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
 - Warburton v. Kieferle (1955) 135 Cal.App.2d 278, 285-286 [287 P.2d 1]
 - Hart v. Richardson (1955) 134 Cal.App.2d 242 [285 P.2d 685]
 - Exley v. Exley (1951) 101 Cal.App.2d 831, 836 [226 P.2d 662]
 - Sterling Drug Inc. v. Benatar (1950) 99 Cal.App.2d 393 [221 P.2d 965]
 - Asher v. Johnson (1938) 26 Cal.App.2d 403 [79 P.2d 457]
 - Wilson v. Mattei (1927) 84 Cal.App. 567 [258 P.2d 453]
 - Lawson v. Steinbeck (1919) 44 Cal.App. 685 [186 P. 842]
 - issues
 - Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
 - Williams v. Gen. Ins. Co. (1936) 8 Cal.2d 1 [63 P.2d 289]
 - Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
 - Michelin Tire Co. v. Coleman and Bentel Co. (1919) 179 Cal. 598 [178 P.2d 507]
 - Hehr v. Swendseid (1966) 243 Cal.App.2d 142 [52 Cal.Rptr. 107]
 - Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
 - Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
 - Bemer v. Bemer (1957) 152 Cal.App.2d 766 [314 P.2d 114]
 - Steele v. Steele (1955) 132 Cal.App.2d 301 [282 P.2d 171]
 - Abalian v. Townsend Social Center, Inc. (1952) 112 Cal.App.2d 441 [246 P.2d 965]
 - Spahn v. Spahn (1945) 70 Cal.App.2d 791 [162 P.2d 53]
 - Collins v. Welsh (1934) 2 Cal.App.2d 103 [37 P.2d 505]
 - judgment
 - Johnston, Baker and Palmer v. Record Machine and Tool Co. (1960) 183 Cal.App.2d 200, 206 [6 Cal.Rptr. 847]
 - Los Angeles School Dist. v. Landier Inv. Co. (1960) 177 Cal.App.2d 744, 748 [2 Cal.Rptr. 662]
 - Pac. Tel. and Tel. Co. v. Fink (1956) 141 Cal.App.2d 332, 338 [296 P.2d 843]
 - Faye v. Feldman (1954) 128 Cal.App.2d 319, 328 [275 P.2d 121]
 - Witaschek v. Witaschek (1942) 56 Cal.App.2d 277, 283 [132 P.2d 200]
 - Cathcart v. Gregory (1941) 45 Cal.App.2d 179, 186 [113 P.2d 894]
 - Morrow v. Morrow (1940) 40 Cal.App.2d 474, 485 [105 P.2d 129]
 - Faulkner v. Brooks (1932) 125 Cal.App. 137, 140 [13 P.2d 748]
- Morrow v. Learned (1926) 76 Cal.App. 538, 540 [235 P.2d 442]
McCord v. Martin (1920) 47 Cal.App. 717, 726 [191 P. 89]
Continental Bldg. etc. Assn v. Woolf (1910) 12 Cal.App. 725, 729 [108 P. 729]
- liability or damages
 - Gonzales v. Pacific Greyhound Lines (1950) 34 Cal.2d 749 [214 P.2d 809]
 - McGee v. City of Los Angeles (1936) 6 Cal.2d 390 [57 P.2d 925]
 - Valdez v. Taylor Auto Co. (1954) 129 Cal.App.2d 810 [278 P.2d 91]
 - Corbett v. Benioff (1932) 126 Cal.App. 772 [14 P.2d 1028]
 - City of Los Angeles v. Oliver (1929) 102 Cal.App. 299 [283 P.2d 298]
 - miscellaneous
 - City of Los Angeles v. Cole (1946) 28 Cal.2d 509, 515 [170 P.2d 928]
 - Estate of Kent (1936) 6 Cal.2d 154, 163 [57 P.2d 910]
 - Meagher v. Gagliardo (1868) 35 Cal. 602
 - People v. Busick (1968) 259 Cal.App.2d 744, 748 [66 Cal.Rptr. 532]
 - Phillips v. Beilsten (1958) 164 Cal.App.2d 450 [330 P.2d 912]
 - Estate of Doran (1956) 138 Cal.App.2d 541 [292 P.2d 655]
 - Gordon v. Kifer (1938) 26 Cal.App.2d 252 [79 P.2d 164]
 - First National Bank v. Stansbury (1931) 118 Cal.App. 80 [5 P.2d 13]
 - Johnson v. Johnson (1931) 117 Cal.App. 145 [3 P.2d 587]
 - pleadings and issues
 - Estate of Sticklebaut (1960) 54 Cal.2d 390 [6 Cal.Rptr. 7, 353 P.2d 719]
 - Williams v. Gen. Ins. Co. (1936) 8 Cal.2d 1 [63 P.2d 289]
 - Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]
 - Michelin Tire Co. v. Coleman and Bentel Co. (1919) 179 Cal. 598 [178 P.2d 507]
 - Hehr v. Swendseid (1966) 243 Cal.App.2d 142 [52 Cal.Rptr. 107]
 - Duffy v. Griffith Co. (1962) 206 Cal.App.2d 780 [24 Cal.Rptr. 161]
 - Fran-Well Heater Co. v. Robinson (1960) 182 Cal.App.2d 125 [5 Cal.Rptr. 900]
 - Bemer v. Bemer (1957) 152 Cal.App.2d 766 [314 P.2d 114]
 - Steele v. Steele (1955) 132 Cal.App.2d 301 [282 P.2d 171]
 - Abalian v. Townsend Social Center, Inc. (1952) 112 Cal.App.2d 441 [246 P.2d 965]
 - Spahn v. Spahn (1945) 70 Cal.App.2d 791 [162 P.2d 53]
 - Collins v. Welsh (1934) 2 Cal.App.2d 103 [37 P.2d 505]
 - subsequent proceedings
 - Fowlkes v. Ingraham (1947) 81 Cal.App.2d 745 [185 P.2d 379]
 - Estate of Cohn (1940) 36 Cal.App.2d 676 [98 P.2d 521]
 - Clay v. Clay (1937) 19 Cal.App.2d 589 [65 P.2d 1363]
 - Pacific States Savings and Loan Co. v. Roselli (1936) 17 Cal.App.2d 527 [62 P.2d 441]
 - Armstrong v. Brown (1936) 12 Cal.App.2d 22 [54 P.2d 1118]
 - Gibson v. Berryman (1910) 14 Cal.App. 330 [11 P. 926]
- probable cause stipulation admissible as an admission in plaintiff's action against police arising out of arrest
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]

AUTOMOBILE ACCIDENT CASE

-withdrawal and rescission

--plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation

Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]

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73 Am.Jur.2d, Stipulations, section 1

Palmer v. City of Long Beach (1948) 33 Cal.2d 134, 142 [199 P.2d 952]

Raymond v. McMullen (1891) 90 Cal. 122, 125 [27 P. 21]

Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447, 452 [49 Cal.Rptr. 610]

Los Angeles City School District v. Landier Inv. Co. (1960) 177 Cal.App.2d 744, 752 [2 Cal.Rptr. 662]

Morgenstern v. Bailey (1938) 29 Cal.App.2d 321 [84 P.2d 159]

oral stipulations not entered

Webster v. Webster (1932) 216 Cal. 485 [14 P.2d 522]

In re Marriage of Carter (1971) 19 Cal.App.3d 479 [97 Cal.Rptr. 274]

Harris v. Spinali Auto Sales (1966) 240 Cal.App.2d 447 [49 Cal.Rptr. 610]

Johnston, Baker and Palmer v. Record Machine and Tool Co. (1960) 183 Cal.App.2d 200 [6 Cal.Rptr. 847]

Exley v. Exley (1951) 101 Cal.App.2d 831 [226 P.2d 662]

Cathcart v. Gregory (1941) 45 Cal.App.2d 179 [113 P.2d 894]

Morrow v. Learned (1926) 76 Cal.App. 538 [235 P. 442]

Ward v. Goetz (1917) 33 Cal.App. 595 [165 P. 1022]

relief by interpretation or rescission

-formal stipulations

Palmer v. City of Long Beach (1948) 33 Cal.2d 134 [199 P.2d 952]

Ward v. Clay (1890) 82 Cal. 502 [23 P. 50]

Burrows v. State of California (1968) 260 Cal.App.2d 29 [66 Cal.Rptr. 868]

Petroleum Midway Co. v. Zahn (1944) 62 Cal.App.2d 645 [145 P.2d 371]

Sinnock v. Young (1943) 61 Cal.App.2d 130 [142 P.2d 256]

Brown v. Superior Court (1935) 10 Cal.App.2d 365 [52 P.2d 256]

Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]

-oral statements

People v. Church (1943) 57 Cal.App.2d Supp. 1032, 1038 [136 P.2d 139]

Back v. Farnsworth (1938) 25 Cal.App.2d 671 212, 219 [77 P.2d 295]

Theatrical Enterprises v. Ferron (1932) 119 Cal.App. 671 [7 P.2d 351]

Orr v. Ford (1929) 101 Cal.App. 694, 699 [282 P. 280]

-plaintiff cannot resort to subjective and unreasonable interpretation to circumvent the intent and meaning of the stipulation

Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]

Substitution

no independent pleading pursuant to Code of Civil Procedure section 284 need be filed before a complaint or other initial pleading is served

Baker v. Boxx (1991) 226 Cal.App.3d 1303

Test for, substantial rights

People v. Sumstine (1984) 36 Cal.3d 909, 922

Unauthorized representation

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172

Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]

In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

after substitution

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

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

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

"appearing" defined for purposes of Business and Professions Code section 6104

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

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

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In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

Verification

Probate Code section 21350 et seq.

attorney's use of pre-signed verification forms

Drociak v. State Bar (1991) 52 Cal.3d 1085 [278 Cal.Rptr. 86]

client's signature on blank

LA 174 (1950)

AUTOMOBILE ACCIDENT CASE

Receiving unsolicited information by email from non-client driver in multi-vehicle collision

SD 2006-1

Represent

daughter-passenger against her driver-husband after representing husband on traffic charge

SF 1973-6

owner-passenger against driver after representing both parties

LA(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)

In re Reynoso (9th Cir. 2007) 477 F.3d 1117

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]

Advice to "load up" on debt with the expectation of obtaining its discharge, conduct that is abusive per se

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

Attorney assisted debtor-client in concealing assets from trustees and his lack of experience in bankruptcy law is not a shield from criminal liability

U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967

Attorney fees and costs that creditor incurs in successfully prosecuting nondischargeability complaint, should be awarded as party of this nondischargeable debt, if such fees would be recoverable outside bankruptcy under state or federal law

Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775

Attorney's fees

In re Auto Parts Club, Inc. (9th Cir. BAP 1997) 211 B.R. 29
attorney fees and costs awarded against debtors for dragging proceedings for too long due to inaction

In re Starky (9th Cir. BAP 2014) 522 B.R. 220

attorney fees incurred during litigation after the confirmation of a Chapter 11 bankruptcy plan were discharged by that bankruptcy

In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

attorney's fees from discharge action are disallowed

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

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

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

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

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

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

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

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

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

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

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

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

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730 chapter 7 bankruptcy

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

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

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

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

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

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

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

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

-automatic stay

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

-must benefit the estate

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

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

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

-pre-petition attorney fee agreement may be dischargeable

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

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

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

-trustee expenses incurred in marketing & selling property & in defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co-owner of property

In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

BANKRUPTCY

-trustee may withhold non-debtor, co-owner's share of proceeds from the sale of property pending resolution of claims by co-owner relating to such sale
In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

chapter 9 (municipality bankruptcy)
-fee agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
-pre-petition attorney fee agreements may be dischargeable
Bankruptcy of Biggar (9th Cir. 1995) 185 B.R. 825
-pre-petition debt is dischargeable
Bankruptcy of Biggar (9th Cir. 1997) 110 F.3d 685
Bankruptcy of Zapanta (9th Cir. 1997) 204 B.R. 762

chapter 11 bankruptcy
-creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236]

chapter 13
In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592
-bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

contingent fee agreement
In re Reimers (9th Cir. 1992) 972 F.2d 1127
court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
In re Levander (9th Cir. 1999) 180 F.3d 1114
Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]

creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305
In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236

creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227
delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees
In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944

dischargeability of a contempt judgment
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490
disgorgement of attorney fees against firm not proper where law firm representation was approved by court
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

disgorgement of attorney fees for professional misconduct
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

disgorgement of attorney fees is allowed after violations of bankruptcy code and rules
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926
In re Peterson (1994) 163 B.R. 665

documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]

emergency nature of legal services provided before court appointment justifies fee award to former counsel
Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797
fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs
In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558
open book account attorney's fees claim not barred by statute of limitations
In re Roberts Farms (9th Cir. 1992) 980 F.2d 1248
prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

security retainer agreements require appropriate fee application made to the court
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
totality of circumstance test applied when awarding attorney's fee
Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701

Bankruptcy petition preparers
BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056
code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and privacy rights
In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]
disgorgement of excessive fees for services constituting the unauthorized practice of law
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
Taub v. Weber (9th Cir. 2004) 366 F.3d 966

Client Security Fund
payments and disciplinary costs arising from disbarred attorneys' obligation to reimburse the State Bar for payments made by the Client Security Fund to victims of that attorney's misconduct are not excluded from discharge under 11 U.S.C. § 523(a)(7)
Kassas v. State Bar of California (9th Cir. 2022) 49 F.4th 1158

Conflict of interest
attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
bankruptcy
In re Hines (9th Cir. BAP 1998) 198 B.R. 769

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

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

concurrent representation of clients with adverse interests

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

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

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

CAL 2014-191

represent

-bankrupt/creditor

LA 50 (1927)

-receiver

--party in divorce and

LA 51 (1927)

-receiver/general creditor

LA 74 (1934)

successive representation

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

Debt relief agencies

includes attorneys, as they provide assistance under BAPCAPA

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

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

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

Disciplinary action

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

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

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

Brookman v. State Bar (1988) 46 Cal.3d 1004

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

bankruptcy court has authority to impose its own sanctions and to refer the matter to the State Bar

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

bankruptcy court has inherent power to suspend or disbar an attorney for misconduct

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

payment of costs to State Bar under 2003 amendments to Business & Professions Code § 6086.10 are not dischargeable

In re Findley (9th Cir. 2010) 493 F.3d 1048

-intent of imposing attorney disciplinary costs was to promote rehabilitation and to protect the public and is not dischargeable

In re Findley (9th Cir. 2010) 493 F.3d 1048

payment of costs to State Bar under Business & Professions Code § 6086.10 are dischargeable while payment of monetary sanctions under § 6086.13 are not

In re Taggart (2001) 249 F.3d 987

proceeding by Arizona Bar to discipline an Arizona attorney is exempted from bankruptcy automatic stay provisions

In re Wade (9th Cir. 1991) 948 F.2d 1122

Legal malpractice claim brought by individual members dismissed because attorney was court appointed to represent the unsecured creditors' committee not the individual members

Schultze v. Chandler (9th Cir. 2014) 765 F.3d 945

Legal malpractice claims cannot be assigned by trustee of bankruptcy estate

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

bankruptcy estate representative pursuing claim for the estate is not an assignee

Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

Majority shareholder's attorney may represent debtor

In re Sidco (1993) 162 B.R. 299

Receiver entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Represent

bankrupt/creditor

LA 51 (1927)

Sanctions

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

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

Hedges v. Resolution Trust Corp. (9th Cir. 1994) 32 F.3d 1360

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

In re DeVille (9th Cir. BAP 2002) 280 B.R. 483

against attorney for failure to list asset on debtor's bankruptcy schedule

In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

bankruptcy court has inherent power to impose district-wide suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

bankruptcy court's inherent power allows it to sanction "bad faith" or "willful misconduct" by attorneys

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

consideration of ABA standards to categorize misconduct and to identify the appropriate sanction

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

for delay

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

for fraudulent transfers and misrepresentations by attorney debtor

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

for frivolous objection to creditor's claim

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

trustee lacked standing to appeal order awarding discovery sanctions against counsel

In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372

Trustee

attorney as bankruptcy trustee must file detailed proof of time spent in each role to receive fee award

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

attorney serving as trustee was removed due to an indirect relationship with the debtor that violated the requirement that a trustee be

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

BAR ASSOCIATION

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

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

standing to sue corporate attorneys of "sham" corporation for malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
trustee of a corporation has the power to waive the corporation's attorney-client privilege with respect to prebankruptcy communications

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

BAR ASSOCIATION [See Lay intermediaries.]

Ethics committee

answers legal questions in newspaper

LA 191 (1952)

arbitration committee, duty to submit fee dispute to in Los Angeles

LA 309 (1969)

legal advice

-answer questions about pending litigation

LA(l) 1966-9

-answer questions of law

LA(l) 1970-1, LA(l) 1969-7, LA(l) 1969-4

BAR EXAMINERS [See Admission to the bar.]

BARRATRY

Penal Code § 158

BARTER

Legal services for other goods

CAL 1981-60, CAL 1977-44

LA(l) 1965-18

BOND [See Conflict of interest, bond.]

Attorney acting as guarantor

CAL 1981-55

Fidelity

post for client

SF 1973-16

Guarantor of

clients' cost bond

-attorney acting as

CAL 1981-55

Indemnity

counsel for indemnity company acts against assured by way of subrogation

LA(l) 1966-1

counsel for indemnity company represents assured in defense of bond

LA(l) 1966-1

Statutory bond

prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800

West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

BONUS [See Division of fees. Fees, Bonus. Division of Fees, With Non-lawyers, bonus.]

BROADCASTING [See Advertising. Solicitation of business. Trial publicity.]

BUSINESS ACTIVITY [See Advertising. Broadcasting. Conflict of interest, business or financial transaction. Educational activity. Practice of law. Publication. Solicitation of business. Specialization. Unauthorized practice of law.]

Accountant

Ibanez v. Florida Dept. of Business and Prof. Regulation, Bd. of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]

LA 351 (1976), LA 225 (1955), LA(l) 1965-4

employment of

SD 1974-17

partnership with

LA(l) 1959-5, SD 1974-17

share office with

LA(l) 1968-1

shows both professions on card or letterhead

LA 224 (1955)

-on sign

LA 225

Adjusting

LA 216 (1953)

Adviser to radio and television scripts

LA(l) 1947-5

Agent, attorney acting as

for actors, theatrical agency

LA 84 (1935)

for corporation

CAL 1968-13

-to solicit athletic contracts

CAL 1968-13

Aviation consultants

law firm associates with

CAL 1969-18

Brokerage

LA(l) 1962-4

Business and Professions Code

§ 6068

LA 396 (1982)

§ 6068(e)

General Dynamics Corp. v. Superior Court (1994) 7

Cal.4th 1164 [876 P.2d 487]

CAL 1994-135

LA 403 (1982), LA 400 (1982), LA 389 (1981)

SD 2008-1

Business operated by lawyer

discontinues active practice of law

-competition with former client

LA 98 (1936)

not engaged in active practice of law

-handling local matters gratuitously

LA 98 (1936)

Client's business

promotion of

-by attorney

LA 91 (1936)

Client's participation or work in

LA 176 (1950)

Collection agency

attorney operation of

Business and Professions Code section 6077.5

-Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]

-undertake collections for other attorneys

LA 124 (1939)

-when acts as counsel under fictitious name

LA 124 (1939)

-while operates law office

LA 124 (1939)

by attorney's spouse

LA 120 (1938)

Collections

LA(l) 1971-12, LA(l) 1967-7, LA(l) 1965-6, LA(l) 1965-3,

LA(l) 1952-1

by inactive lawyer

LA 105 (1936)

Competition with former client

LA 98 (1936)

in non-legal business

-where lawyer ceased to engage in active law practice

LA 98 (1936)

Conform to professional standards of attorney

in whatever capacity

Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]

Jacobs v. State Bar (1933) 219 Cal. 59 [25 P.2d 401]

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

CAL 1968-13

Corporation
 agent for
 -to solicit athletic contracts
 [CAL](#) 1968-13
 Donation of legal services [See Auction.]
 Dual occupation
 [CAL](#) 1982-69, [CAL](#) 1968-13
 LA 477 (1994), LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975), SD 1992-1, SD 1969-2
 business advisor
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 -standard applied in dual purpose communications
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 Collection agency and law practice
 Business and Professions Code section 6077.5
 Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
 Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]
 LA 124 (1939)
 Escrow business
 LA 205 (1953)
 Exchange for professional services of others
 lawyer participates in
 [CAL](#) 1981-60, [CAL](#) 1977-44, LA(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 with 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
 SD 1984-1
 Tax work
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
 LA 236 (1956)
 SD 1975-2
 standard applied in dual purpose communications
 In re Grand Jury (9th Cir. 2021) 23 F.4th 1088
BUSINESS AND PROFESSIONS CODE [The entire text of the State Bar Act (Business and Professions Code sections 6000 et seq.) is reprinted at Part I A of this Compendium.]
 § 6000 et seq.
 [CAL](#) 1979-48
 § 6001.1
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
 § 6002.1
 In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
 In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110
 In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
 In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
 In the Matter of Clinton (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 63
 purpose of address requirement
 In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 § 6007(b)(3)
 Walker v. State Bar (1989) 49 Cal.3d 1107, 1119
 Ballard v. State Bar (1983) 35 Cal.3d 274, 289
 Newton v. State Bar (1983) 33 Cal.3d 480, 483-484

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- *In the Matter of Wolfgram (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 355
- § 6007(c)
Conway v. State Bar (1989) 47 Cal.3d 1107
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
In the Matter of Smith (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 261
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
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In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658
- § 6007(c)(4)
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
 credit for period of involuntary inactive enrollment towards period of actual suspension
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- § 6007(d)
In the Matter of Tiernan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 523
In the Matter of Broderick (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138
- § 6007(e)
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- § 6013
In the Matter of Thibault (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 64
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- § 6015
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- § 6018
Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]
- § 6043.5
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- § 6049
In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535
- § 6049.1
In the Matter of Fisher (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
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In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- § 6050
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
- § 6051.1
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
- § 6060
Enyart v. National Conference of Bar Examiners, Inc. (9th Cir. 2011) 630 F.3d 1153
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
- § 6060(b)
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6062(b)
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]

- In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6064
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
- § 6067 [See Oath of attorney.]
CAL 2003-162, CAL 1983-72, CAL 1979-51
 LA 497 (1999)
- § 6068
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
Bates v. State Bar (1990) 51 Cal.3d 1056
CAL 1983-74, CAL 1983-72
 LA 394 (1982)
 "life story" fee agreements, waiver of attorney-client privilege
Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]
- subdivision (a)
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Aronin v. State Bar (1990) 52 Cal.3d 276
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Lilley (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 476
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
CAL 2013-189, CAL 2009-176, CAL 2007-173, CAL 2003-162
 LA 527 (2015), LA 502 (1999)
 -attorney/real estate licensee who shares a commission with an unlicensed person may risk forfeiture of fees under Bus. & Prof. Code § 10137
 88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)
 -no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
- subdivision (b)
Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
- In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- CAL 2015-194, CAL 2009-176, LA 502 (1999)
- attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- attorney sanctioned for disregarding court's ruling at sidebar
- Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
- attorneys are officers of the court and as such, must respect and follow court orders whether they are right or wrong
- Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
- no discipline for factual statements unless the State Bar proves that such statements are false
- Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- no discipline for rhetorical hyperbole incapable of being proven true or false
- Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
- subdivision (c)
- Canatella v. California (9th Cir. 2002) 304 F.3d 843
- Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
- Sorensen v. State Bar (1991) 52 Cal.3d 1036
- *Datiq v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- In the Matter of Thomas (Review Dept. 2023) 5 Cal. State Bar Ct. Rptr. 944
- In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
- In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
- In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767
- CAL 2019-198, CAL 2015-194, CAL 2009-176, CAL 2003-162, LA 502 (1999)
- subdivision (d)
- Silberg v. Anderson (1990) 50 Cal.3d 205
- Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]
- Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
- Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
- Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- *Datiq v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
- In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
- In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- In the Matter of Katz (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 430
- In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
- In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- CAL 2019-198, CAL 2015-194, CAL 2008-175, CAL 1989-111, CAL 1972-30
- LA 522 (2009), LA 502 (1999) LA 497 (1999), LA 464 (1991)
- SD 2017-1, SD 2012-1, SD 2011-2, SD 2011-1
- OC 2011-01, OC 95-001
- SF 2011-1
- making repeated misrepresentations of both law and facts of the case and contentions that no reasonable attorney would have raised
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]p
- subdivision (e) [See Confidences of client.]
- In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
- City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [32 Cal.Rptr.2d 1]
- Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
- Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
- Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
- A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
- Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
- Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
- In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

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- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
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LA 529 (2017), LA 528 (2017), LA 525 (2012), LA 520 (2007), LA 519 (2006), LA 514 (2005), LA 513 (2005), LA 506 (2001), LA 504 (2000), LA 502 (1999) LA 500 (1999), LA 498 (1999), LA 493, LA 491, LA 466, LA 456, LA 389 (1981)
OC 2011-01, OC 2003-01, OC 95-001, OC 95-002
SD 2018-3, SD 2012-1, SD 2011-1, SD 2008-1, SD 2006-1, SD 2004-1, SD 1996-1, SD 1990-1
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CLA 2022-1
- subdivision (f)
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Ramirez v. State Bar (1980) 28 Cal.3d 402, 404, 406
Snyder v. State Bar (1976) 18 Cal.3d 286, 292
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
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Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179
-applies to advancement of prejudicial facts, but perhaps not prejudicial intimations
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
-unconstitutional vagueness of "offensive personality"
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- subdivision (g)
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- subdivision (i)
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In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
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- subdivision (j)
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
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- subdivision (k)
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
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In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884
- subdivision (l)
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- subdivision (m)
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
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In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
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 LA 528 (2017), LA 520 (2007), LA 518 (2006), LA 511 (2003), LA 506 (2001)
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 -does not address issue of whether an attorney communicates correct or incorrect legal advice
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In the Matter of Alvin Gilbert Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
 subdivision (o)(2)
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In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
 subdivision (o)(3)
Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991
Hill v. MacMillan/McGraw Hill School Company (9th Cir. 1996) 102 F.3d 422
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862
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In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
[CAL](#) 1997-151
 -improper to charge a violation where there is sufficient evidence of attorney's knowledge of final, binding sanctions order
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
 -reporting sanctions by the court
 --court neither required to report sanctionable conduct to the Bar nor to take action with other authorities
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 subdivision (o)(4)
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In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
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In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
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 § 6076
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[CAL](#) 1979-51
 § 6077 [See Oath, Attorney]
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R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]
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 § 6083
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 § 6085
In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219 [38 Bankr.Ct.Dec. 140]
 § 6086.1
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]
In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr.535
 § 6086.5
In the Matter of Respondent Q (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 18
 § 6086.7
In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
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In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
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- In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
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In re Findley (9th Cir. 2010) 493 F.3d 1048
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- § 6086.65
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- § 6087
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Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
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- § 6094
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- § 6100
trial courts don't have responsibility of directly enforcing rules of professional responsibility; disciplinary authority is lodged with Supreme Court, delegated to State Bar
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
- § 6101
In the Matter of Porche (Review Dept. 2023) 2023 WL 2569129
CAL 1972-30
attorney's conviction is conclusive proof of the elements of crime for the purposes of attorney discipline
In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965
attorney's conviction of a crime is conclusive evidence of guilt
In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
felony determination at the time plea of nolo contendere was made, for State Bar purposes, although crime reduced to misdemeanor at time of sentencing by trial judge
In the Matter of Jackson (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 610
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§ 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)

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Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

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SD 2012-1

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Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

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-by final notice before suit

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public

-partnership name when no partnership exists

CAL 1971-27

Misstatements

affirmative

-prohibited in any context

In re Kristovich (1976) 18 Cal.3d 468 [134 Cal.Rptr. 409, 556 P.2d 771]

To judge

attempt to deceive immigration judge

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

deceive about identity of client

Rule 7-105(2), Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

LA(l) 1965-11

distortions of record

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

expert witness testified falsely at deposition

SD 2023-1

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)

obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

quotations containing deletions

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

requesting or agreeing to trial date when attorney does not intend to commence trial on that date

CAL 1972-30

withdrawal from representation of a minor client

LA 504 (2000)

To opposing counsel

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787]

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

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

CAL 1967-11

deal honestly and fairly with opposing counsel

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

disclosure of death of client

-during settlement negotiation

In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

LA 300 (1967)

expert witness testified falsely at deposition

SD 2023-1

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]

obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

settlement negotiations

-disclosure of death of client

CAL 2015-194, LA 300 (1967)

To opposing party

advising opposing party of that party's mistake of law affecting settlement

LA 380 (1979)

of contribution to campaign committee of presiding judge in case

LA 387 (1981)

Volunteer facts

OC 95-001

failing to volunteer harmful facts

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

incumbent upon attorney, not criminal defendant personally

Crayton v. Superior Court (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]

settlement negotiations

CAL 2015-194

to opposing counsel

CAL 1967-11

CERTIFICATION

Of law corporations [See Law Corporations.]

Of law students [See Practical training of law students.]

Of legal specialists [See Legal Specialization.]

CHAMPERTY AND MAINTENANCE [See, Barratry. Choses of Action.]

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

Debt

where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129

Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]

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

LA 500 (1999)

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

CAL 2020-204

CHILD CUSTODY

Disclosure to court of conflict between client and child

suggest appointment of separate counsel to court

CAL 1976-37

Post-divorce child custody fee order requires trial court to first consider parties' relative circumstances

Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]

Referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process

In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]

Representation of a minor child in a dependency proceeding

LA 504 (2000)

actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

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

no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests

In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]

CHILD SUPPORT

Attorney's fees not classified as gross income in calculating child support obligations

M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]

Communicate with other party about

LA(I) 1958-3, SD 1972-5

Contingent fee for collecting

LA 275 (1963), LA 263 (1959), LA(I) 1969-1

Counsel for one party in divorce who holds trust fund executes against other's share for child support

LA(I) 1971-15

Failure of attorney to pay

Business and Professions Code section 6143.5

Overdue

CAL 1983-72

Priority of child support obligations ordered by family court over fees deposited in client trust account to retain criminal defense attorney

Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]

Stipulated order of foreign court does not modify prior California child support when modification issue not raised or ruled on

In re Marriage of Ward (1994) 29 Cal.App.4th 1452

CHOSES OF ACTION

Buying of

with intent to bring suit on

Business and Professions Code section 6129

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

—where attorney is owed a debt, client's assignment to attorney does not constitute "buying of claim" for purposes of Business and Professions Code § 6129

Martin v. Freeman (1963) 216 Cal.App.2d 639 [31 Cal.Rptr. 217]

CLASS ACTION

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]

Abuse of discretion by trial court

Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]

Advertising

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

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

Attorney fee awards in federal securities fraud actions must be reasonable in relation to the plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

Attorney's fees

attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

awarded pursuant to Civil Code section 1717

Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]

basis for court decision

-large fee reduction requires a relatively specific articulation of court's reasoning

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

basis of award to an unnamed member of putative class who defeats class certification

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

clear sailing agreements

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

denied

-shareholder's class action against corporation did not confer sufficient benefits under the substantial benefit doctrine to warrant an award of attorney's fees

Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]

dispute among class counsel

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

fee allocation among co-counsel subject to court approval

In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

for securities class action suits should be based on individual case risk

In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254

interest on award of attorney's fees

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

Iodestar multiplier method

-adjustment based on benefit conferred on class by class counsel

In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935

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]

-court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

-reduction is justified where amount of time attorney spent on case was unreasonable and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

-when risk was slight

In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the Iodestar method and applied a 1.5 multiplier for counsel's 100% success rate

Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

no abuse of discretion where trial court granted a temporary restraining order to prevent firm from distributing fees to itself without court approval

Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]

settlement shall not include attorney fees as portion of common fund established for benefit of class

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Staton v. Boeing Co. (9th Cir. (Wash.) 2003) 327 F.3d 938

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

should be adequate to promote consumer class action

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271 standing to appeal award of

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

-class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class

Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084

-objector has standing to appeal denial of own claim for fees even if objector did not submit a settlement claim

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

under Code of Civil Procedure section 916

-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal

Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]

Communication with potential members of class [See Advertising. Solicitation of business.]

Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]

In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239

Hernandez v. Vitamin Shoppe Industries, Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

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

Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]

- Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]
LA(l) 1966-7, LA(l) 1974-2
prior to certification
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
-scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)
Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
- Conflict of interest
Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
class certification in unnamed class member's case paired with evidence that unnamed class member would be a witness in concurrent class action sufficient for findings that firm represented unnamed class member for conflicts of purposes
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
class counsel offers to dismiss case if defendant makes multi-million dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service Inc. (1997) 52 Cal.App.4th 1
class representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
conflict of interest when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
defendant agrees to hire class counsel to monitor the proposed settlement agreement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234
disqualification is more likely in class action context because putative class counsel are subject to a 'heightened standard' which they must meet if they are to be allowed by the court to represent absent class members
Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
duty of class counsel runs to the class and, in the event of conflicts, withdrawal is the appropriate course to take
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
incentive agreement between class representatives and class counsel
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948
no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
Counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- Counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
Counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
Disclosure of putative class members' identity
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
Duty to communicate with members of class to correct erroneous impression
LA(l) 1966-13
Duty to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
Federal Rule of Procedure 23
LA 481
no per se rule that continued participation by previous class counsel, whose conflict of interest led to denial of class certification, constitutes inadequate representation
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
Former member who opted out of class is not class representative and has no right to the class action papers
LA 481
Organization of [See Solicitation of business, communicate information about claims or actions in law to parties; by lay entity, group representation.]
client solicits participation
LA(l) 1971-13
lawyer solicits participation
LA(l) 1966-7
Procedure for class action
LA 481
Right to lead plaintiff to select lead counsel under Private Securities Litigation Reform Act
Cohen v. United States District Court for the Northern District of California (9th Cir. 2009) 586 F.3d 703
Settlement
court must have sufficient information to make an informed evaluation on fairness
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Standard of care to class
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
Standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323
Standing to pursue an award of fees
attorney's lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
Unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

CLIENT

CLIENT [See Attorney-client relationship. Candor. Confidences of the client. Conflict of interest, client.]

Conflict of interest

Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interest

Loanvest v. Utrecht (2015) 235 Cal.App.4th 496 [185 Cal.Rptr.3d 385]

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

no automatic various disqualification of law firm when tainted attorney is properly screened

CLA 2021-1

Defined

Evidence Code section 951

Sky Valley Limited Partnership & Tang Industries v. ATX Sky Valley, Ltd. (1993) 150 F.R.D. 648

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

SD 2006-1

Disqualification

no automatic various disqualification of law firm when tainted attorney is properly screened

CLA 2021-1

Scope of defamation action under anti-SLAPP statute (Code of Civil Procedure 426.16)

Murray v. Tran (2020) 55 Cal.App.5th 10 [269 Cal.Rptr.3d 231]

CLIENT SECURITY FUND

Business and Professions Code section 6140.5

Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 483-484 [219 Cal.Rptr. 52]

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

In the Matter of Jauregui (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

Attorney must reimburse Client Security Fund prior to filing petition for reinstatement

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

Former licensed attorney is ordered by court to pay restitution after conviction of embezzlement by an employee and is not entitled to an offset for payment to victim from CSF

People v. Hume (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

Payments and disciplinary costs arising from disbarred attorneys' obligation to reimburse the State Bar for payments made by the Client Security Fund to victims of that attorney's misconduct are not excluded from discharge under 11 U.S.C. § 523(a)(7)

Kassas v. State Bar of California (9th Cir. 2022) 49 F.4th 1158

State Bar's subrogation rights

State Bar of California v. Statile (2008) 168 Cal.App.4th 650 [86 Cal.Rptr.3d 72]

CLIENTS' TRUST ACCOUNT

Business and Professions Code section 6210 et seq.

Code of Civil Procedure sections 283, par. 2, 1518

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

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

State Bar of California. Legal Services Trust Fund Program

[See also Handbook on Client Trust Accounting For California Attorneys]

Accounting

Business and Professions Code section 6091

failure to keep adequate records

Friedman v. State Bar (1990) 50 Cal.3d 235

Matthew v. State Bar (1989) 49 Cal.3d 784

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

failure to make to client

Friedman v. State Bar (1990) 50 Cal.3d 235

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Alberton v. State Bar (1987) 43 Cal.3d 638 [238 Cal.Rptr. 374]

Monroe v. State Bar (1961) 55 Cal.2d 145, 147-149 [10 Cal.Rptr. 257, 358 P.2d 529]

Egan v. State Bar (1956) 46 Cal.2d 370, 371-373 [294 P.2d 949]

Clark v. State Bar (1952) 39 Cal.2d 161, 169 [246 P.2d 1]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101

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

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

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

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

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

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

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

-attorney claims monies are non-refundable retainer

Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432, 702 P.2d 590]

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

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

-attorneys claims oral permission to invest client's funds

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

-client demand for an account is not required for finding a violation of rule 4-100(B)(3)

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

- duty to inform client that he has been named as a defendant due to attorney's accounting
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]
- failure to answer repeated client demands
Jackson v. State Bar (1979) 25 Cal.3d 398 [158 Cal.Rptr. 869, 600 P.2d 1326]
- failure to report and transmit to clients checks from insurance company
Most v. State Bar (1967) 67 Cal.2d 589 [63 Cal.Rptr. 265, 432 P.2d 953]
- funds collected with repeated failure to notify client
In re Smith (1967) 67 Cal.2d 460 [62 Cal.Rptr. 615, 432 P.2d 231]
- habitual failure to account to clients results in disbarment
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301, 479 P.2d 661]
- misappropriation and moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability
In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170
- misappropriation and moral turpitude found when attorney fails to answer client inquiries
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 667, 709 P.2d 480]
- obtaining and converting settlement proceeds without client's knowledge
Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921, 591 P.2d 19]
- prior violation's effect on petition to reinstate disbarred attorney
Tardiff v. State Bar (1980) 27 Cal.3d 395 [165 Cal.Rptr. 829, 612 P.2d 919]
- receipt of settlement check not reported to client
Phillips v. State Bar (1975) 14 Cal.3d 492 [121 Cal.Rptr. 605, 535 P.2d 733]
- restitution as appropriate sanction for failure to report receipt of settlement check
Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]
- sanctions
 - disbarment
Ridley v. State Bar (1972) 6 Cal.3d 551, 560-561 [99 Cal.Rptr. 873, 493 P.2d 105]
Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
Narlian v. State Bar (1943) 21 Cal.2d 876 [136 P.2d 553]
 - public reprimand
Black v. State Bar (1962) 57 Cal.2d 219 [18 Cal.Rptr. 518, 368 P.2d 118]
 - suspension
McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
Sunderlin v. State Bar (1944) 33 Cal.2d 785 [205 P.2d 382]
- services not performed for monies advanced
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873, 493 P.2d 105]
- timeliness of account when attorney's office is struck by a fire
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96
- trust account never established since attorney claims all monies as non-refundable retainer
Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
- trust accounts with no records kept as deemed a "sham"
Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]

- violation occurs when non-segregated funds lose their separate character
Black v. State Bar (1962) 57 Cal.2d 219
- warrants discipline even if no financial loss to client
McCray v. State Bar (1985) 38 Cal.3d 257 [211 Cal.Rptr. 691, 696 P.2d 83]
- fiduciary duty to inform client
Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- notice to client of receipt of funds on client's behalf
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
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 356 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163-164 [154 Cal.Rptr. 752, 593 P.2d 613]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
SF 2023-1
- advance payment retainer distinguished from true retainer
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- distinguished from retainer fee
In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 fn.4 [154 Cal.Rptr. 752, 593 P.2d 613]
Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
SF 1980-1
- failure to return unearned portion
Rule 2-111(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700(D)(2), Rules of Professional Conduct (operative as of May 27, 1989)
Matthew v. State Bar (1989) 49 Cal.3d 784
Pineda v. State Bar (1989) 49 Cal.3d 753
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
Finch v. State Bar (1981) 28 Cal.3d 659, 664 [170 Cal.Rptr. 629, 621 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 163 [154 Cal.Rptr. 752, 593 P.2d 613]
Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225, 551 P.2d 841]
Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

CLIENTS' TRUST ACCOUNT

- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
- In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
- SD 2019-3, SF 1980-1
- client entitled to a refund of entire advance fee amount because client received nothing of value
- In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
- Attachment of
 - Finance Code section 17410
- Authorized withdrawal of client funds and subsequent revocation of consent
 - LA(I) 1980-3
- Bank charges
 - deposit of \$121.00 of attorney's personal funds in client trust account for bank charges is not unreasonable
 - In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
 - permissible so long as the funds held bear a reasonable relationship to the bank service charges incurred for the general operation of the account and do not serve as a buffer against potential overdrafts
 - LA 485 (1995)
- Bank's action to improperly debit trust account
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Billing
 - clients must understand and consent to billing practices
 - Severson & Werson v. Bollinger (1991) 235 Cal.App.3d 1569
 - CAL 1996-147, SD 2013-3
 - clients should have an opportunity to review a bill before the attorney seeks authorization to make payment out of the client's recovery
 - In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
 - costs and expenses
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - SD 2013-3
 - "double billing"
 - CAL 1996-147
 - flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - improper billing and retention of funds out of a client's lien reduction involves moral turpitude
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - "over-billing"
 - In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
- Cashier's check
 - holding client's funds in
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 854 [100 Cal.Rptr. 713, 494 P.2d 1257]
 - Black v. State Bar (1962) 57 Cal.2d 219, 227 [18 Cal.Rptr. 518, 368 P.2d 118]
 - In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
- Check
 - profession shown on
 - LA(I) 1970-3
 - settlement check issued only to client, but delivered to attorney who has a lien
 - OC 99-002
- stop payment of settlement check
 - LA(I) 1966-5
- Checks issued with insufficient funds
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
 - Porter v. State Bar (1990) 52 Cal.3d 518
 - In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
 - In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
 - CAL 2005-169
 - overdraft protection
 - CAL 2005-169
- Client cannot be located
 - Code of Civil Procedure section 1518
 - attorney holding funds for the benefit of client
 - CAL 1975-36, LA(I) 1976-2
- Client's use and control of suspension
 - Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
- Commingling
 - Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009a
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
 - Bowles v. State Bar (1989) 48 Cal.3d 100 [256 Cal.Rptr. 381, 768 P.2d 1058]
 - In the Matter of Respondent DD (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 90
 - In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
 - In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
 - In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 - In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
 - In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
- attorney's unauthorized use or withholding of client's funds
 - alcoholic client requests funds be held by attorney and attorney claims a right to use such funds for own purposes
 - Tomlinson v. State Bar (1975) 13 Cal.3d 567, 570-572 [119 Cal.Rptr. 335, 531 P.2d 1119]
 - attorney claims funds are a loan from client but court determines funds are held in trust
 - Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
 - bar membership fees are paid by checks drawn upon client trust account
 - Hamilton v. State Bar (1979) 23 Cal.3d 868, 874-876 [153 Cal.Rptr. 602, 591 P.2d 1254]
 - collection agency receives funds on behalf of client but funds are used for attorney's benefit
 - McGregor v. State Bar (1944) 24 Cal.2d 283, 284-288 [148 P.2d 865]
 - failure to promptly disburse settlement funds from trust account
 - Blair v. State Bar (1980) 27 Cal.3d 407, 409-410 [165 Cal.Rptr. 834, 612 P.2d 924]
 - money collected on a promissory note is not turned over to client
 - Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729, 535 P.2d 1185]
 - right to retain funds pursuant to a fee agreement is disputed by client
 - Prime v. State Bar (1941) 18 Cal.2d 56, 59
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

- wife of attorney acts as bookkeeper and attorney tells her that personal use of trust funds is permissible
Burns v. State Bar (1955) 45 Cal.2d 296, 300
- willful commingling and conversion with no showing of mitigation can result in disbarment
Rogers v. State Bar (1980) 28 Cal.3d 654, 655-657 [170 Cal.Rptr. 482, 620 P.2d 1030]
- dangers of offense realized even if violation is technically not committed
Clark v. State Bar (1952) 39 Cal.2d 161, 168
- disbursement of funds held for client and adverse party
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- failure to keep attorney's and clients' funds separate
 - advance payment retainer distinguished from true retainer
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - advanced fee payment is distinguished from true retainer fee
Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn.4 [154 Cal.Rptr. 752]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
SF 1980-1
 - allowing a friend to use the account for business
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
 - an attorney who uses a single account for both personal and client funds is subject to discipline
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]
Seavey v. State Bar (1953) 4 Cal.2d 73, 74-77 [47 P.2d 281]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420
 - attorney's funds placed in trust account
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 - commingling occurs when an attorney opens a purported trust account but in fact uses it as a personal account
Brody v. State Bar (1974) 11 Cal.3d 347, 349 [113 Cal.Rptr. 371, 495 P.2d 1290]
In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753
 - employee's salary and other business expenses paid by checks drawn on the client trust account
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 - funds reasonable sufficient to pay bank charges
In the Matter of Respondent E (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
- client's funds placed in attorney's account
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- advanced costs improperly deposited in attorney's account
Aronin v. State Bar (1990) 52 Cal.3d 276
- attorney admits to commingling client's funds in personal checking account
Rock v. State Bar (1961) 55 Cal.2d 724 [12 Cal.Rptr. 808]
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- attorney deposit settlement check in his personal account
Chasteen v. State Bar (1985) 40 Cal.3d 586, 590 [220 Cal.Rptr. 842, 709 P.2d 861]
- attorney misleads clients into allowing client funds to be deposited into attorney's personal account
Bernstein v. State Bar (1972) 6 Cal.3d 909, 918 [101 Cal.Rptr. 369, 495 P.2d 1289]
- bankruptcy papers not filed and advanced funds not deposited in a trust account
Lavin v. State Bar (1975) 14 Cal.3d 581, 583 [121 Cal.Rptr. 729]
- client's corporation funds controlled by attorney who places them in personal account
Hatch v. State Bar (1961) 55 Cal.2d 127, 128-138 [9 Cal.Rptr. 808, 357 P.2d 1064]
- client's funds eventually misappropriated
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
- estate's distribution check to beneficiaries is deposited in attorney's payroll account
Palomo v. State Bar (1984) 36 Cal.3d 785, 790 [205 Cal.Rptr. 834]
- expert witness fees inadvertently kept in general account pending an ongoing fee dispute
In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716
- habitual practice of depositing client funds into personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 127-133 [338 P.2d 897]
- probate monies in an account under attorney's name
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]
- proceeds from sale of home placed with attorney's funds
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
- unilateral determination and deposit of attorney fees in personal account is a violation
Silver v. State Bar (1974) 13 Cal.3d 134, 142 [117 Cal.Rptr. 821]
- client transacts business with his attorney and attorney keeps transaction funds on his person with his own money
Bennett v. State Bar (1945) 27 Cal.2d 31, 35-36 [162 P.2d 5]
- disbarment upheld due to multiple offenses including failure to place advances for fees and costs in client trust account
In re Smith (1967) 67 Cal.2d 460, 463-464 [62 Cal.Rptr. 615, 432 P.2d 231]
- earned fees received from clients deposited in trust account
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
- failure to maintain funds in trust account when attorney is unable to pay doctor bills because doctor refuses payment
Vaughn v. State Bar (1972) 6 Cal.3d 847, 854-865 [100 Cal.Rptr. 713, 494 P.2d 1257]
- failure to maintain client funds in trust
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

CLIENTS' TRUST ACCOUNT

failure to promptly withdraw attorney funds once fees become fixed

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

failure to withdraw earned fees, after they become fixed, within reasonable time

CAL 2005-169

inadequate management of trust account

-aberrational failure of elaborate bookkeeping system

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

-allowing a friend to use the account for business

In the Matter of McKiernan (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 420

-checks issued to clients from commingled accounts with insufficient funds

Alkow v. State Bar (1952) 38 Cal.2d 257, 259-261 [239 P.2d 871]

CAL 2005-169

--overdraft protection

CAL 2005-169

-duty to deliver escrow funds to client before taking fees for services

Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]

-failure to establish and supervise a proper trust account procedure

Gassman v. State Bar (1976) 18 Cal.3d 125, 129-130 [132 Cal.Rptr. 675]

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

-failure to keep adequate records

Friedman v. State Bar (1990) 50 Cal.3d 235

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 694]

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

-failure to notify client of receipt of funds from insurance company

Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]

-failure to notify workers' compensation board that an advance of attorney's fees was received from a claimant

Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 353, 355 [178 Cal.Rptr. 815, 636 P.2d 1153]

-failure to oversee office manager's record keeping and control over clients' funds

Palomo v. State Bar (1984) 36 Cal.3d 785, 796 [205 Cal.Rptr. 834, 685 P.2d 185]

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

-layperson signatory okay if attorney ultimately responsible for integrity of account

CAL 1988-97

-negligent banking practices

Kelly v. State Bar (1991) 53 Cal.3d 509

-secretary blamed by attorney when clients' funds are deposited in attorney's office account

Wells v. State Bar (1975) 15 Cal.3d 367 [124 Cal.Rptr. 218, 540 P.2d 58]

-secretary's misdeposit of client's funds into attorney's operating account did not amount to misappropriation

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

-trust account established but attorney fails to use it

Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]

-where attorney uses personal account for clients' funds, mere bookkeeping entries will not be a sufficient protection of clients

Bernstein v. State Bar (1972) 6 Cal.3d 909, 917 [101 Cal.Rptr. 369, 495 P.2d 1289]

-wife of attorney acts as bookkeeper and is told personal use of clients' funds is okay

Burns v. State Bar (1955) 45 Cal.2d 296, 300 [288 P.2d 514]

mitigation and restitution efforts by attorney

-actual financial detriment to a client is not an element and neither good faith nor restitution is a defense to commingling

Heavey v. State Bar (1976) 17 Cal.3d 553, 559 [131 Cal.Rptr. 406, 551 P.2d 1238]

In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753

-little weight is given to an attorney's restitution of client funds when it is done under pressure and as a matter of expediency

Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]

-violation found even when all parties involved ultimately received every cent to which they were entitled

Ring v. State Bar (1933) 218 Cal. 747, 752 [24 P.2d 821]

moral turpitude

-abdication of responsibility for proper maintenance of client trust account

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

-moral turpitude not necessarily involved if client's money is always available and not endangered

Peck v. State Bar (1932) 217 Cal. 47, 51 [17 P.2d 112]

-recurring deficiencies in balances

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

-willful commingling not moral turpitude

Spindell v. State Bar (1975) 13 Cal.3d 253, 256 fn.1 [118 Cal.Rptr. 480, 530 P.2d 168]

negligent commingling

-found when attorney fails to transmit support funds to client's former wife

Schultz v. State Bar (1975) 15 Cal.3d 799, 802 [126 Cal.Rptr. 232, 543 P.2d 600]

sanctions

-disbarment

Resner v. State Bar (1960) 53 Cal.2d 615 [2 Cal.Rptr. 461, 349 P.2d 67]

Sturr v. State Bar (1959) 52 Cal.2d 125, 134 [338 P.2d 897]

McGregor v. State Bar (1944) 24 Cal.2d 283, 289 [148 P.2d 865]

-public reproval

In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753

suspension

Rock v. State Bar (1961) 55 Cal.2d 724, 727 [12 Cal.Rptr. 857, 361 P.2d 585]

Burns v. State Bar (1955) 45 Cal.2d 296, 303

Alkow v. State Bar (1952) 38 Cal.2d 257, 264

Bennett v. State Bar (1945) 27 Cal.2d 31 36-37

Griffith v. State Bar (1945) 26 Cal.2d 273, 278

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

trust account never established

-practice of designating accounts as "trust accounts" but not using them as such is a violation

Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]

trust account not established or maintained

Mrakich v. State Bar (1973) 8 Cal.3d 896, 899-902 [106 Cal.Rptr. 497, 506 P.2d 633]

violation found when attorney's procedure for disbursing client's funds does not utilize a client trust account
Resner v. State Bar (1960) 53 Cal.2d 605 [2 Cal.Rptr. 461]

Control may be given to non-members of the State Bar
 LA 454 (1988)

Costs advanced
 status as trust funds
Aronin v. State Bar (1990) 52 Cal.3d 276
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

Currency
 holding client's funds in
Monroe v. State Bar (1962) 55 Cal.2d 145, 152 [10 Cal.Rptr. 257, 358 P.2d 529]

Damages to a client is not necessary for a finding of commingling or a failure to manage trust funds
 Internal Revenue Code section 6050(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
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 976
Alberton v. State Bar (1984) 37 Cal.3d 1, 13
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
 identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Duty
 consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive without delay
CAL 2009-177
 of succeeding attorney
Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
 to co-counsel
 LA 454
 to keep accurate records
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr. 896, 667 P.2d 700]
 to supervise lay signatory on client trust account
CAL 1988-97

Embezzlement
 criminal proceeding against attorney
 -inadmissible as evidence
People v. Stein (1979) 94 Cal.App.3d 235

Endorsement of client check
Palomo v. State Bar (1984) 36 Cal.3d 785
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 attorney's authority to sign client's name in retainer agreement
Howard v. State Bar (1990) 51 Cal.3d 215 [793 P.2d 62]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 settlement check without authorization
Silver v. State Bar (1974) 13 Cal.3d 134, 144
Montalto v. State Bar (1974) 11 Cal.3d 231, 235
Himmel v. State Bar (1971) 4 Cal.3d 786, 798
Tardiff v. State Bar (1971) 3 Cal.3d 903, 904
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 successor attorney authorizes an employee to simulate the prior attorney's signature
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Entitlement of client to receive prompt receipt of settlement funds based upon client signing release
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

Escrow account
 compliance with rule 4-100 not required where funds to be used to pay attorney's fees are placed in escrow account and are never received or held by the lawyer
CAL 2002-159

Failure to disburse client funds promptly [upon request]
Dudugjian v. State Bar (1991) 52 Cal.3d 1092
Edwards v. State Bar (1990) 52 Cal.3d 28
Bates v. State Bar (1990) 51 Cal.3d 1056
Friedman v. State Bar (1990) 50 Cal.3d 235
Trousil v. State Bar (1985) 38 Cal.3d 337 [211 Cal.Rptr. 525]
Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
DeRose v. Heurilin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
CAL 2009-177, LA 438 (1985)

Failure to establish
Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]

Failure to notify clients of receipt of funds
McKnight v. State Bar (1991) 53 Cal.3d 1025
Chasteen v. State Bar (1985) 40 Cal.3d 586, 592
Murray v. State Bar (1985) 40 Cal.3d 575, 580-584 [220 Cal.Rptr. 677]
Bambic v. State Bar (1985) 40 Cal.3d 314
Dixon v. State Bar (1985) 39 Cal.3d 335 [216 Cal.Rptr. 432]
In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
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In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
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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]

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- In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
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In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
- Failure to properly manage trust account
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
- Failure to release client funds
Friedman v. State Bar (1990) 50 Cal.3d 235
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 752, 749 P.2d 1807]
Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
- Failure to return unearned advance fees
Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)
[Rule 4-100](#), Rules of Professional Conduct (operative as of May 27, 1989)
Cannon v. State Bar (1990) 51 Cal.3d 1103
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Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
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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]
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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 Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
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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
- 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
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In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676, 693
[CAL 2009-177](#)
- Fixed rate for legal fees
SF 1980-1
- Flat rate for legal fees
SD 2019-3, SF 1980-1
- Funds having trust account status
[CAL 2006-171](#)
- Funds properly withdrawn from a client trust account under [rule 4-100\(A\)\(2\)](#) and later disputed by the client neither retain nor regain their trust account status and do not need to be re-deposited into the trust account
[CAL 2006-171](#)
- Garnishment
counsel discloses his possession of client's money in a garnishment proceeding
LA(l) 1954-4
- Interest bearing accounts
compliance provisions for
-establishment of interest bearing trust account pursuant to Business and Professions Code section 6211 (a)
Business and Professions Code section 6212
duty of lawyer to place client funds in
Business and Professions Code section 6211
IOLTA interest income is private property of owner of principle for purposes of Takings Clause
Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
-no regulatory taking, no net loss to clients
Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406]
- nominal funds in
Business and Professions Code section 6211(a)
Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
- on deposit for a short period of time
Business and Professions Code section 6211(a)
Carroll v. State Bar (1985) 166 Cal.App.3d 1193 [213 Cal.Rptr. 305]
[CAL 1988-97](#)
- trustee savings versus trustee checking
SF 1970-3
- use of, and ownership of interest accrued
Business and Professions Code section 6211(a)-(b)
Greenbaum v. State Bar (1976) 15 Cal.3d 893 [126 Cal.Rptr. 675, 544 P.2d 721]
LA 388 (1981), LA(l) 1961-7, SF 1970-3

Issuing settlement checks to clients, before settlement proceeds received from defendant or defendant's insurance company
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Lay employee on
Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]
CAL 1988-97, LA 488 (1996), LA 454 (1988)
 bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds
Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]
 use of rubber stamp of attorney's signature
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

Levy on
 Finance Code section 17410

Maintain at an adequate level
Warner v. State Bar (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]

Maintained outside of California
 LA 454

Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672

Misappropriation
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Lipson v. State Bar (1991) 53 Cal.3d 1010
Brockway v. State Bar (1991) 53 Cal.3d 51
Grim v. State Bar (1991) 53 Cal.3d 21
Harford v. State Bar (1990) 52 Cal.3d 93
Edwards v. State Bar (1990) 52 Cal.3d 28
In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]
In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
Snyder v. State Bar (1990) 49 Cal.3d 1302
Walker v. State Bar (1989) 49 Cal.3d 1107
Baker v. State Bar (1989) 49 Cal.3d 804
Pineda v. State Bar (1989) 49 Cal.3d 753
Weller v. State Bar (1989) 49 Cal.3d 670
Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Athearn v. State Bar (1979) 22 Cal.3d 232, 234-235 [142 Cal.Rptr. 171, 571 P.2d 628]
Allen v. State Bar (1977) 20 Cal.3d 172, 175-178 [141 Cal.Rptr. 808, 570 P.2d 1226]
Jackson v. State Bar (1975) 15 Cal.3d 372, 375-381 [124 Cal.Rptr. 185, 540 P.2d 25]
Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]
Sevin v. State Bar (1973) 8 Cal.3d 641, 643-646 [105 Cal.Rptr. 513, 504 P.2d 449]
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In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

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In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Elliott (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 541
In the Matter of Spaith (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 511
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
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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
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
 advances for expenses in connection with a foreclosure proceeding re withdrawn by attorney but not used to pay expenses
Monroe v. State Bar (1969) 70 Cal.2d 301, 308-309 [74 Cal.Rptr. 733, 450 P.2d 53]
 assets collected for client are converted for attorney's personal benefit
Hatch v. State Bar (1961) 55 Cal.2d 127, 128 [9 Cal.Rptr. 808, 357 P.2d 1064]
 attorney as broker or financial advisor is held to professional standards and is subject to discipline for violations arising from such a relationship
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
 attorney as guardian commingles estate funds and makes improper investments
Simmons v. State Bar (1969) 70 Cal.2d 361, 365-366 [74 Cal.Rptr. 915, 450 P.2d 291]
Tatlow v. State Bar (1936) 5 Cal.2d 520, 521-524 [55 P.2d 214]
 attorney claims money is loan from client but court says money in trust cannot be used for personal benefit
Copren v. State Bar (1944) 25 Cal.2d 129, 131 [152 P.2d 729]
 attorney converts client money kept in a personal account
Sturr v. State Bar (1959) 52 Cal.2d 125, 129 [338 P.2d 897]
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
 attorney's petition for reinstatement, after disbarment for misappropriation, is denied
Tardiff v. State Bar (1980) 27 Cal.3d 395, 404-405 [165 Cal.Rptr. 829, 612 P.2d 919]
 attorney's repeated conversion of client money without client consent or knowledge
In re Urias (1966) 65 Cal.2d 258, 260-262
 attorney's wife uses client funds for personal use
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]

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bad faith and/or evil intent need not be shown

Murray v. State Bar (1985) 40 Cal.3d 575, 581-582 [220 Cal.Rptr. 677, 709 P.2d 480]

bad faith found when attorney fails to make restitution

Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]

Mack v. State Bar (1970) 2 Cal.3d 440 [85 Cal.Rptr. 625, 467 P.2d 225]

bail bond money entrusted to attorney by third party, non-client, is converted

Lefner v. State Bar (1966) 64 Cal.2d 189, 194-195 [49 Cal.Rptr. 296, 410 P.2d 832]

bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds

Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]

breach of fiduciary duty

Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]

checks issued with insufficient funds

Chasteen v. State Bar (1985) 40 Cal.3d 586, 588-589 [220 Cal.Rptr. 842]

In the Matter of Heiser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 47

CAL 2005-169

-overdraft protection

CAL 2005-169

client's name forged on draft and proceeds are converted

Demain v. State Bar (1970) 3 Cal.3d 381 [90 Cal.Rptr. 420, 475 P.2d 652]

combined with other misconduct

-deceit and overreaching of a client who had limited English-speaking ability

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

-false statements to bar aggravates misappropriation violations

Doyle v. State Bar (1982) 32 Cal.3d 12, 23 [184 Cal.Rptr. 720, 648 P.2d 942]

-forgery on settlement check and failure to return advances

Porter v. State Bar (1990) 52 Cal.3d 518
Montalto v. State Bar (1974) 11 Cal.3d 231, 232-235 [113 Cal.Rptr. 97, 520 P.2d 721]

-grand theft as crime of moral turpitude with misappropriation by deceit on client

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]

Ambrose v. State Bar (1982) 31 Cal.3d 184, 191 [181 Cal.Rptr. 903, 643 P.2d 486]

In re Abbot (1977) 19 Cal.3d 249, 251-252 [137 Cal.Rptr. 195, 561 P.2d 285]

-misappropriation of partnership funds

Kaplan v. State Bar (1991) 52 Cal.3d 1067

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

-misappropriation together with fraud, commingling, and grand theft

In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]

In re Wright (1973) 10 Cal.3d 374, 382 [110 Cal.Rptr. 348, 515 P.2d 292]

-moral turpitude

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

-moral turpitude merits disbarment

Kennedy v. State Bar (1989) 48 Cal.3d 610 [257 Cal.Rptr. 324, 770 P.2d 736]

Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]

Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

-refusal to make restitution

Grim v. State Bar (1991) 53 Cal.3d 21

-repeated and persistent misconduct in multiple cases

Gordon v. State Bar (1982) 31 Cal.3d 748, 758 [183 Cal.Rptr. 861, 647 P.2d 137]

-violation in numerous separate instances accompanied with other dishonest acts

Bambic v. State Bar (1985) 40 Cal.3d 314, 323-326 [219 Cal.Rptr. 489, 707 P.2d 862]

-violation of rule 7-103

Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]

continuing course of serious misconduct

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]

court orders attorney to reimburse client for legal expenses incurred in client's action to recover misappropriated funds

Cutler v. State Bar (1967) 66 Cal.2d 861, 862 [59 Cal.Rptr. 425, 428 P.2d 289]

disbarment warranted in absence of extenuating circumstances

Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]

discipline imposed even if no financial loss to client

Bernstein v. State Bar (1972) 6 Cal.3d 909, 919 [101 Cal.Rptr. 369, 495 P.2d 1289]

doctor refuses payment of medical bills and attorney puts funds to personal use

Vaughn v. State Bar (1972) 6 Cal.3d 847, 851

entire proceeds of client settlement is converted

Hyland v. State Bar (1963) 59 Cal.2d 765, 769

escrow funds unjustifiably withheld by attorney

Crooks v. State Bar (1970) 3 Cal.3d 346, 357-358 [90 Cal.Rptr. 600, 475 P.2d 872]

evil intent need not be shown for finding of moral turpitude

Lipson v. State Bar (1991) 53 Cal.3d 1010

failure to pay funds as designated by bankruptcy court

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

failure to properly dispose of fees in dispute by client

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302, 688 P.2d 911]

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

LA 484 (1995)

-attorney did not take appropriate steps to resolve competing claims

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

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

CAL 2009-177

failure to refund unearned funds advanced by client

Dixon v. State Bar (1985) 39 Cal.3d 335, 340-341 [216 Cal.Rptr. 432, 702 P.2d 590]

failure to use funds for designated purpose

Baca v. State Bar (1990) 52 Cal.3d 294

Copren v. State Bar (1944) 25 Cal.2d 129

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

fee agreement modification from hourly to contingent is raised as a defense but not supported by documentary evidence

In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

five separate counts of misappropriation is serious misconduct warranting disbarment

Finch v. State Bar (1981) 28 Cal.3d 659, 655

for personal use

Bernstein v. State Bar (1972) 6 Cal.3d 909, 917

funds designated for bail are converted to attorney's personal use

Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 81, [141 Cal.Rptr. 169, 569 P.2d 763]

grand theft

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Ambrose v. State Bar (1982) 31 Cal.App.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]

-estates

In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]

gravity of present violation shows unacceptable potential for future breach of trust

Rimel v. State Bar (1983) 34 Cal.3d 128, 132 [192 Cal.Rptr. 866, 665 P.2d 956]

gross negligence in the handling of client trust funds may involve moral turpitude

In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

habitual misuse of client's funds

Tardiff v. State Bar (1971) 3 Cal.3d 903, 904-908 [92 Cal.Rptr. 30, 479 P.2d 661]

improbable explanations and a failure to account for client funds is sufficient to find a violation

Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]

improper practice of depositing attorney funds in trust account and using the account for personal use

Jackson v. State Bar (1979) 25 Cal.3d 398, 404 [158 Cal.Rptr. 869, 600 P.2d 1326]

in level of account

Jackson v. State Bar (1979) 23 Cal.3d 509, 512 [153 Cal.Rptr. 24, 591 P.2d 47]

inadequate supervision by attorney

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

-attorney blames violation on a secretarial error

Sugarman v. State Bar (1990) 51 Cal.3d 609

Wells v. State Bar (1975) 15 Cal.3d 367, 369-370 [124 Cal.Rptr. 218, 540 P.2d 58]

-bank owed no duty of care to non-customer lawyer after law office manager opened accounts in lawyer's name to steal client trust funds

Rodriguez v. Bank Of The West (2008) 162 Cal.App.4th 454 [75 Cal.Rptr.3d 543]

-duty of attorney to supervise employee's control of trust account

Gassman v. State Bar (1976) 18 Cal.3d 125, 129 [132 Cal.Rptr. 785, 544 P.2d 58]

In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

-negligent, unintentional violation due to poor supervision of office and financial affairs

Waysman v. State Bar (1986) 41 Cal.3d 452, 458 [224 Cal.Rptr. 101, 714 P.2d 1239]

inference of intentional violation from attorney's willful failure to use a trust account

Walter v. State Bar (1970) 2 Cal.3d 880, 885-890 [87 Cal.Rptr. 833, 471 P.2d 481]

installments on client settlement converted

Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]

liability for acts of partner in law practice

Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194, 463 P.2d 418]

PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]

misappropriation is a grievous breach of trust and endangers public confidence

Rogers v. State Bar (1980) 28 Cal.3d 654, 658 [170 Cal.Rptr. 482, 620 P.2d 1030]

mitigation and restitution efforts by attorney

-absence of harm to attorney's client or others

Kelly v. State Bar (1991) 53 Cal.3d 509

-attorney's restitution began long before disciplinary proceeding was mitigating

Benson v. State Bar (1971) 5 Cal.3d 382, 387-388 [96 Cal.Rptr. 30, 486 P.2d 1230]

-cooperation and candor with State Bar undermined by failure to make restitution

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

-extenuating circumstances insufficient to lessen discipline

Smith v. State Bar (1984) 37 Cal.3d 17, 22-26 [206 Cal.Rptr. 545, 687 P.2d 259]

Grossman v. State Bar (1983) 34 Cal.3d 73, 79 [192 Cal.Rptr. 397, 664 P.2d 542]

-lack of intentional or premeditated conduct

Schultz v. State Bar (1975) 15 Cal.3d 799, 803-804 [126 Cal.Rptr. 232, 243 P.2d 600]

-lenient discipline imposed

Anderson v. State Bar (1941) 17 Cal.2d 375, 378 [110 P.2d 1]

-manic-depressive condition at time of improprieties

McKnight v. State Bar (1991) 53 Cal.3d 1025

-mitigation not found from mere fact that attorney did not lie

Edmondson v. State Bar (1981) 29 Cal.3d 339, 344 [172 Cal.Rptr. 899, 625 P.2d 812]

-no financial loss to client is asserted by attorney

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

-restitution in full is of no effect when made under pressure of litigation and discipline

In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]

Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]

-restitution works no special magic and the weight given is determined by actual attitude and financial ability of the attorney

In re Andreani (1939) 14 Cal.2d 736, 750 [97 P.2d 456]

-youth and inexperience not factors in favor of mitigation

Amante v. State Bar (1990) 50 Cal.3d 247

multiple unauthorized withdrawals

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

necessity and urgent financial difficulties is not a defense to a violation

Cane v. State Bar (1939) 14 Cal.2d 597, 601 [95 P.2d 934]

no violation found

-when attorney merely fails to supervise records regarding disbursement of settlement funds

Steiner v. State Bar (1968) 68 Cal.2d 707, 714 [68 Cal.Rptr. 729, 441 P.2d 289]

CLIENTS' TRUST ACCOUNT

- 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
 - Russell 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]
 - In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
 - office procedures inadequate
 - Lipson v. State Bar (1991) 53 Cal.3d 1010
 - trust account showing funds less than amount due to clients will support a violation
 - Black v. State Bar (1972) 7 Cal.3d 676, 691 [103 Cal.Rptr. 288, 499 P.2d 968]
 - violation by establishing trust account but using as general business account
 - Bradpiece v. State Bar (1974) 10 Cal.3d 742, 744 [111 Cal.Rptr. 905, 518 P.2d 337]
- repossession proceeds converted by attorney
 - Mrakich v. State Bar (1973) 8 Cal.3d 896 [106 Cal.Rptr. 497, 506 P.2d 633]
- sanctions
 - disbarment
 - Kaplan v. State Bar (1991) 52 Cal.3d 1067
 - Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
 - In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]
 - Bercovich v. State Bar (1990) 50 Cal.3d 116
 - Walker v. State Bar (1989) 49 Cal.3d 1107
 - Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]
 - Weber v. State Bar (1988) 47 Cal.3d 492
 - Kelly v. State Bar (1988) 45 Cal.3d 649 [247 Cal.Rptr. 608]
 - In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]
 - Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1307]
 - public reproof
 - Ambrose v. State Bar (1982) 31 Cal.3d 184, 192-196 [181 Cal.Rptr. 903, 643 P.2d 486]
 - Rogers v. State Bar (1980) 28 Cal.3d 654, 657-658 [170 Cal.Rptr. 482, 620 P.2d 1030]
 - Tardiff v. State Bar (1980) 27 Cal.3d 395, 403-405 [165 Cal.Rptr. 829, 612 P.2d 919]
 - Cain v. State Bar (1979) 25 Cal.3d 956, 961-962 [160 Cal.Rptr. 362, 603 P.2d 464]
 - Jackson v. State Bar (1979) 25 Cal.3d 398, 404-405 [158 Cal.Rptr. 869, 600 P.2d 1326]
 - Weir v. State Bar (1979) 23 Cal.3d 564, 574-577 [152 Cal.Rptr. 921, 591 P.2d 19]
 - Worth v. State Bar (1978) 22 Cal.3d 707, 710-711 [150 Cal.Rptr. 273, 586 P.2d 588]
 - Allen v. State Bar (1977) 20 Cal.3d 172, 179 [141 Cal.Rptr. 808, 570 P.2d 1226]
 - Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 86-89 [141 Cal.Rptr. 169, 569 P.2d 763]
 - In re Abbott (1977) 19 Cal.3d 249, 253-254 [137 Cal.Rptr. 195, 561 P.2d 285]
 - Tomlinson v. State Bar (1975) 13 Cal.3d 567, 575-580 [119 Cal.Rptr. 335, 531 P.2d 1119]
 - In re Wright (1973) 10 Cal.3d 374, 381-382 [110 Cal.Rptr. 348, 515 P.2d 292]
 - Sevin v. State Bar (1973) 8 Cal.3d 641, 646-647 [105 Cal.Rptr. 513, 504 P.2d 449]
 - Tardiff v. State Bar (1971) 3 Cal.3d 903, 908 [92 Cal.Rptr. 301, 479 P.2d 661]
 - Cutler v. State Bar (1969) 71 Cal.2d 241, 253-254 [78 Cal.Rptr. 172, 455 P.2d 108]
 - Monroe v. State Bar (1969) 70 Cal.2d 301, 309-310 [74 Cal.Rptr. 733, 450 P.2d 53]
 - Lefner v. State Bar (1966) 64 Cal.2d 189, 193-199 [49 Cal.Rptr. 296, 410 P.2d 832]
 - Hyland v. State Bar (1963) 59 Cal.2d 765, 774-775 [31 Cal.Rptr. 329, 382 P.2d 369]
 - Dreyfus v. State Bar (1960) 54 Cal.2d 799 [8 Cal.Rptr. 356 P.2d 213]
 - Resner v. State Bar (1960) 53 Cal.2d 605 [2 Cal.Rptr. 461, 349 P.2d 67]
 - Sturr v. State Bar (1959) 52 Cal.2d 125 [338 P.2d 897]
 - Egan v. State Bar (1956) 46 Cal.2d 370 [294 P.2d 949]
 - Pearlin v. State Bar (1941) 18 Cal.2d 682, 683-684 [117 P.2d 341]
 - In re Andreani (1939) 14 Cal.2d 736 [97 P.2d 456]
 - Cane v. State Bar (1939) 14 Cal.2d 597, 597-601 [95 P.2d 934]
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Sklar (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 602
 - suspension
 - Vaughn v. State Bar (1972) 6 Cal.3d 847, 858-859 [100 Cal.Rptr. 713, 494 P.2d 1257]
 - Crooks v. State Bar (1970) 3 Cal.3d 346, 358 [90 Cal.Rptr. 600, 475 P.2d 872]
 - Steiner v. State Bar (1968) 68 Cal.2d 707, 712-714 [68 Cal.Rptr. 729, 441 P.2d 289]
 - In the Matter of Martin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 753

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472-475 [169 Cal.Rptr. 581, 619 P.2d 1005]
Blair v. State Bar (1980) 27 Cal.3d 407, 411-413 [165 Cal.Rptr. 834, 612 P.2d 924]
Codiga v. State Bar (1978) 20 Cal.3d 788, 796-797 [144 Cal.Rptr. 404, 575 P.2d 1186]
Inniss v. State Bar (1978) 20 Cal.3d 552, 556-559 [143 Cal.Rptr. 408, 573 P.2d 852]
Athearn v. State Bar (1977) 20 Cal.3d 232, 237 [142 Cal.Rptr. 171, 571 P.2d 628]
Gassman v. State Bar (1976) 18 Cal.3d 125, 130-133 [132 Cal.Rptr. 675, 553 P.2d 1147]
Greenbaum v. State Bar (1976) 15 Cal.3d 893, 904-906 [126 Cal.Rptr. 785, 544 P.2d 921]
Schultz v. State Bar (1975) 15 Cal.3d 799, 803-805 [126 Cal.Rptr. 232, 543 P.2d 600]
Jackson v. State Bar (1975) 15 Cal.3d 372, 380-383 [124 Cal.Rptr. 185, 540 P.2d 25]
Wells v. State Bar (1975) 15 Cal.3d 367, 371 [124 Cal.Rptr. 218, 540 P.2d 58]
Magee v. State Bar (1975) 13 Cal.3d 700, 708-709 [119 Cal.Rptr. 485, 532 P.2d 133]
Oliver v. State Bar (1974) 12 Cal.3d 318, 321-322 [115 Cal.Rptr. 639, 525 P.2d 79]
Brody v. State Bar (1974) 11 Cal.3d 347, 350-351 [113 Cal.Rptr. 371, 521 P.2d 107]
Montalto v. State Bar (1974) 11 Cal.3d 231, 235-236 [113 Cal.Rptr. 97, 520 P.2d 721]
Bradpiece v. State Bar (1974) 10 Cal.3d 742, 747-749 [111 Cal.Rptr. 905, 518 P.2d 337]
Persion v. State Bar (1973) 9 Cal.3d 456, 462 [107 Cal.Rptr. 708, 509 P.2d 524]
Fielding v. State Bar (1973) 9 Cal.3d 446, 451-453 [107 Cal.Rptr. 561, 509 P.2d 193]
Himmel v. State Bar (1973) 9 Cal.3d 16, 22-23 [106 Cal.Rptr. 638, 506 P.2d 1014]
Mrakich v. State Bar (1973) 8 Cal.3d 896, 906-907 [106 Cal.Rptr. 497, 506 P.2d 633]
Black v. State Bar (1972) 7 Cal.3d 676, 694 [103 Cal.Rptr. 288, 499 P.2d 968]
Bernstein v. State Bar (1972) 6 Cal.3d 909, 918-919 [101 Cal.Rptr. 369, 495 P.2d 1289]
Benson v. State Bar (1971) 5 Cal.3d 382, 388 [96 Cal.Rptr. 30, 486 P.2d 1230]
Himmel v. State Bar (1971) 4 Cal.3d 786, 798-799 [94 Cal.Rptr. 825, 484 P.2d 993]
Demain v. State Bar (1970) 3 Cal.3d 381, 387-388 [90 Cal.Rptr. 420, 475 P.2d 652]
Walter v. State Bar (1970) 2 Cal.3d 880, 891 [87 Cal.Rptr. 833, 471 P.2d 481]
Mack v. State Bar (1970) 2 Cal.3d 440, 447 [85 Cal.Rptr. 625, 467 P.2d 225]
Simmons v. State Bar (1969) 70 Cal.2d 361, 366-368 [74 Cal.Rptr. 915, 450 P.2d 291]
Cutler v. State Bar (1967) 66 Cal.2d 861, 862-863 [59 Cal.Rptr. 425, 428 P.2d 289]
Simmons v. State Bar (1966) 65 Cal.2d 281, 287 [54 Cal.Rptr. 97, 419 P.2d 161]
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
Hatch v. State Bar (1961) 55 Cal.2d 127, 138 [9 Cal.Rptr. 808, 357 P.2d 1064]
Burns v. State Bar (1955) 45 Cal.2d 296 [288 P.2d 514]
Lowe v. State Bar (1953) 40 Cal.2d 564, 570-571 [254 P.2d 506]
Copren v. State Bar (1944) 25 Cal.2d 129 [152 P.2d 729]
Anderson v. State Bar (1941) 17 Cal.2d 375, 377-378 [110 P.2d 1]
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902
 -suspension/probation
Most v. State Bar (1967) 67 Cal.2d 589, [63 Cal.Rptr. 265, 432 P.2d 953]
In re Urias (1966) 65 Cal.2d 258 [53 Cal.Rptr. 881, 418 P.2d 849]
 settlement check cashed by attorney, clients do not receive their share
Simmons v. State Bar (1966) 65 Cal.2d 281, 286 [54 Cal.Rptr. 97, 410 P.2d 617]
 settlement of case and conversion of proceeds without client knowledge or consent
Weir v. State Bar (1979) 23 Cal.3d 564, 573 [152 Cal.Rptr. 921, 591 P.2d 19]
 settlement proceeds never transmitted to client
Worth v. State Bar (1978) 22 Cal.3d 707, 708-709 [150 Cal.Rptr. 273, 586 P.2d 588]
 settlement received for client is deposited in attorney's business account
Resner v. State Bar (1960) 53 Cal.2d 605, 608 [2 Cal.Rptr. 461, 349 P.2d 67]
 third parties involved
 -attorney for defendant delays in transmitting funds to plaintiff
Kelly v. State Bar (1991) 53 Cal.3d 509
Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
 -bank not paid as requested by client
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
 -by attorney's failure to pay client's medical lien
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
Guzzetta v. State Bar (1987) 43 Cal.3d 962, 979
In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Dyson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 280
 -conversion of funds belonging to others may be act of moral turpitude
Baca v. State Bar (1990) 52 Cal.3d 294
 -deliberate misuse of a client's funds to impress a prospective client warrants disbarment
Pearlin v. State Bar (1941) 18 Cal.2d 682, 683 [117 P.2d 341]
 -duty not to convert funds designated to pay prior attorney
Baca v. State Bar (1990) 52 Cal.3d 294
 -duty to not convert funds entrusted by non-client third parties
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
 LA 454
 -estate funds are loaned out to other clients
Cutler v. State Bar (1969) 71 Cal.2d 241, 244 [78 Cal.Rptr. 172, 455 P.2d 108]
 -failure to use advanced funds to purchase hearing transcript
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
 -funds retained to pay medical liens
In the Matter of Mapps (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 1
 -succeeding attorney's duty to prior attorney
CAL 2008-175

CLIENTS' TRUST ACCOUNT

- third parties' lien interest on a client's settlement is converted by attorney
 - Haley v. State Bar (1963) 60 Cal.2d 404, 405 [33 Cal.Rptr. 609, 385 P.2d 1]
- unauthorized settlement of case and conversion of proceeds
 - Bodisco v. State Bar (1962) 58 Cal.2d 495, 496-497 [24 Cal.Rptr. 835, 374 P.2d 803]
- to repay debt owed attorney by client
 - SD 1976-5
- unilateral determination of attorneys' fees
 - In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- agreement based on fixed hourly rate but provides for possible increase found valid
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- an attorney may not unilaterally determine fees without client knowledge or consent
 - Sternlieb v. State Bar (1990) 52 Cal.3d 317
 - Most v. State Bar (1967) 67 Cal.2d 589, 597 [63 Cal.Rptr. 265, 432 P.2d 953]
 - In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273
 - In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
 - In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 - In the Matter of Klein (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 1
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - LA 496 (1998)
- client's funds deposited in attorney's personal account and used for personal benefit claimed as fees
 - Greenbaum v. State Bar (1976) 15 Cal.3d 893, 899 [126 Cal.Rptr. 785, 544 P.2d 921]
- disputed fee may not be withdrawn without client consent or judicial determination
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - LA 438
- prohibited even if attorney is entitled to reimbursement for service already rendered
 - McKnight v. State Bar (1991) 53 Cal.3d 1025
 - Bates v. State Bar (1990) 51 Cal.3d 1056
 - Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
 - In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
- retaining funds without authority involves moral turpitude
 - Petersen v. State Bar (1943) 21 Cal.2d 866, 867-870 [136 P.2d 561]
- supports a finding of intentional conversion
 - Himmel v. State Bar (1973) 9 Cal.3d 16, 19 [106 Cal.Rptr. 638, 506 P.2d 1014]
- "willful" requirement
 - Brockway v. State Bar (1991) 53 Cal.3d 51
 - Dudugjian v. State Bar (1991) 52 Cal.3d 1092
- withdrawing funds held in trust to offset a personal loan debt owed by the client to the attorney
 - SD 1976-6
- withdrawing part of funds designated to pay creditor after creditor refuses payment
 - In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 652
- unilateral withholding of interest on a loan from client as security for fees improper
 - Warner v. State Bar (1983) 34 Cal.3d 36, 43 [192 Cal.Rptr. 244, 664 P.2d 148]
- violation for extended period
 - Cain v. State Bar (1979) 25 Cal.3d 956, 962 [160 Cal.Rptr. 362, 603 P.2d 464]
- willful failure to disburse client funds
 - Blair v. State Bar (1980) 27 Cal.3d 407, 410 [165 Cal.Rptr. 834, 612 P.2d 924]
 - LA 484 (1995)
- withdrawal of entrusted funds for personal use
 - In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- Mishandling of client funds
 - Lawhorn v. State Bar (1987) 43 Cal.3d 1357
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 - In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- Non-refundable retainer
 - defined
 - Rule 3-700 (D)(2), Rules of Professional Conduct
 - T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]
 - Securities and Exchange Commission v. Interlink Data Network of Los Angeles (9th Cir. 1996) 77 F.3d 1201
 - In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32
 - Baranowski v. State Bar (1979) 24 Cal.3d 153, 164 at fn.4 [154 Cal.Rptr.752]
 - In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - SF 1980-1
- Notice to client of fees collected on client's behalf
 - Browne v. State Bar (1955) 45 Cal.2d 165, 169 [287 P.2d 745]
 - Alkow v. State Bar (1952) 38 Cal.2d 257, 259, 261
 - Rohe v. State Bar (1941) 17 Cal.2d 445, 446-450
 - LA 407 (1982)
- Overdraft protection
 - In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
 - CAL 2005-169
- Partner
 - liability of
 - for misappropriation
 - Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560 [83 Cal.Rptr. 194, 463 P.2d 418]
 - PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Physician's liens
 - CAL 1988-101
 - LA 478 (1994), LA 368 (1977), LA 357 (1976)
- Restoration of funds wrongfully withdrawn from a trust account is not "commingling" of attorney and client funds
 - Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
 - CAL 2005-169
- Retainer
 - SF 1980-1, SF 1973-14
- Rule of Professional Conduct
 - Rule 8-101
 - [See 96 A.L.R.3d 830; 96 A.L.R.3d 739; 95 A.L.R.3d 738; 94 A.L.R.3d 854; 93 A.L.R.3d 1089; 91 A.L.R.3d 977; 80 A.L.R.3d 1260; 35 A.L.R.3d 674; 17 A.L.R.3d 835; 6 A.L.R.3d 1446; 1 A.L.R.2d 1116; 63 Ops. Cal. Atty. Gen. 12 (1/10/80; No. 79-902)]
- Supervise client trust account
 - LA 488 (1996)
 - allow client to use and control trust account to commit fraud
 - Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]

- Third party, receipt by attorney of funds on behalf of
Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
attorney not liable to insurance company for failing to turn over portions of third-party recoveries made on behalf of clients
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
child support obligations have priority over fees on funds from liquidated assets deposited in client trust account to retain criminal defense attorney
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
no duty to lender, where client owed no funds to the lender
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
- Unclaimed client funds
Code of Civil Procedure section 1518
client cannot be located
CAL 1989-111, CAL 1975-36
LA 441 (1987)
- Use of, and ownership of interest accrued
property of the clients and customers whose money is deposited into trust
Washington Legal Foundation v. Legal Foundation of Washington (9th Cir. 2001) 236 F.3d 1097
- Withdrawal of client funds to pay disputed fee
LA 438 (1985)
- Withdrawal of unrelated funds
Tarver v. State Bar (1984) 37 Cal.3d 122, 133-134 [207 Cal.Rptr. 302]
- Withholding funds of client
Inniss v. State Bar (1978) 20 Cal.3d 552, 555-556 [143 Cal.Rptr. 408, 573 P.2d 852]
McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1]
sanctions
-suspension
McGrath v. State Bar (1943) 21 Cal.2d 737, 741 [135 P.2d 1]
Withholding of client trust funds to satisfy attorney fees incurred in prior unrelated matters
Brody v. State Bar (1974) 11 Cal.3d 347, 350 fn.5 [113 Cal.Rptr. 371, 521 P.2d 107]
LA 496 (1998)
- CODE OF JUDICIAL ETHICS, CALIFORNIA** [The full text of the California Code of Judicial Ethics (formerly known as the California Code of Judicial Conduct) is reprinted in part IV B of this Compendium.]
- CODE OF PROFESSIONAL RESPONSIBILITY** [See American Bar Association Model Code of Professional Responsibility.]
- COLLECTIONS** [See Division of fees. Fees. Judgment.]
Business and Professions Code section 6077.5
Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection
Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]
- Advising creditors
of legal action
-offering to represent on percentage basis
LA 122 (1939)
- Agency
attorney operation of when acts as counsel
LA 124 (1939)
-as dummy corporation
LA 124 (1939)
-under fictitious name
LA 124 (1939)
-under nominal head
LA 124 (1939)
- mailing of attorney form letter may be an Unfair Collection Practice
Masuda v. Thomas Richards & Co. (1991) 759 F.Supp. 1456
operated by attorney's spouse
LA 120 (1938)
- As business
LA(I) 1971-12, LA(I) 1967-7, LA(I) 1966-11, LA(I) 1965-6, LA(I) 1965-3, LA(I) 1952-1
Assignment of clients' claims or accounts to lawyer for
LA 7 (1918)
- Billing service, use of
LA 413 (1983), LA 374 (1978)
- Collection agency, use of
LA 373 (1978)
- Collection letters
computer print collection letters, use of
LA 338 (1973)
- Conduct of debt collector
Civil Code sections 1788.10 et seq.
attorney as
Business & Professions Code section 6077.5
Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors
Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
- Confidences divulged in collection action
LA 452 (1988)
- Default
against client without consulting
LA 174 (1950)
notification to opposing counsel
SD 1969-3
- Division of fees
LA 35 (1927)
- Dual profession
operating law practice and licensed collection agency in same office
-cards, professional
LA 70 (1933)
- Fair Debt Collections Practice Act (FDCPA)
authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
prohibition against false or misleading representations not violated by special counsel's use of Attorney General's letterhead on debt collection letters at Attorney General's direction
Sheriff v. Gillie (2016) 578 U.S. 843 [136 S.Ct. 1594]
- Federal judgment
use of state procedure
In re Levander (9th Cir. 1999) 180 F.3d 1114
- Fee
CAL 1982-68
client keeps
LA(I) 1955-1
contingent
LA 275 (1963), LA 263 (1959), (1931) 7 LABB 13
contingent upon
-percentage of amount charged creditor
LA 4 (1917)
- Investigator
employed by attorney
-on contingent basis
-to collect judgments of creditors
LA 89 (1936)

COMMINGLING

Judgment

judgment creditor authorized to recover attorney fees incurred in enforcing underlying judgment against sureties

Rosen v. Legacy Quest (2014) 225 Cal.App.4th 375 [170 Cal.Rptr.3d 1]

notice of attorney's request for post judgment attorney fees must be given to former client

David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]

third-party who helped judgment debtor hide assets and evade enforcement liable to judgment creditor for attorney fees

Cardinale v. Miller (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]

Law firm

accused of commingling unlawful debt collection practices in violation of FDCPA allows consumer to proceed with its' civil action against them

Mashiri v. Epstein Grinnell & Howell (9th Cir. 2017) 845 F.3d 984

Lending name of attorney to non-lawyer

LA 522 (2009)

in collection of claims

CAL 1982-68, LA 61 (1930)

lay personnel, use of

LA 338 (1973)

Letter

computerized

LA 338 (1973)

counsel for corporation writes letters for

LA(l) 1968-3

91

form letter

-signed by lawyer

LA 338 (1973)

Letterhead

attorney letterhead used

CAL 1982-68

used by client

LA(l) 1968-3

Misleading debtor by letters

LA 19 (1922)

Seek payment by

curtailing debtor's banking privileges

LA 373 (1978)

firm's letter to consumer demanding payment within 35 days of date of letter possibly violated consumer's rights under FDCPA to dispute debt within 30 days of letter's receipt

Mashiri v. Epstein Grinnell & Howell (9th Cir. 2017) 845 F.3d 984

Solicitation

by letter

-advising potential clients of claims of which unaware

--offering to represent upon

LA 122 (1939)

COMMINGLING [See Clients' trust account.]

COMMISSION

Counsel for buyer or seller receives part of broker's

SD 1992-1, LA(l) 1972-23

Estate

executor shares with lay person

-from the sale of property

LA 317 (1970)

Real estate transaction

CAL 1982-69, LA 317 (1970), SD 1992-1

COMMUNICATE WRITTEN SETTLEMENT OFFER TO CLIENT

Business and Professions Code section 6103.5

Rule of Professional Conduct 5-105 (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

COMMUNICATION

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

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

violated where city attorney communicated directly with a represented police officer in an action against the city for harassment and retaliation

City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

Rule 4.2 Communication with a represented person

Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

Business and Professions Code § 6068(m)

In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564

Upjohn v. U.S. (1981) 449 U.S. 383, 393

Sturr v. State Bar (1959) 52 Cal.2d 125, 132-133 [338 P.2d 897]

Ex parte McDonough (1915) 170 Cal. 230 [149 P. 566]

Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]

Lydydikainen v. Ind. Acc. Com. (1939) 36 Cal.App.2d 298, 301 [97 P.2d 993]

McMunn v. Lehrke (1915) 29 Cal.App.298 [155 P. 473]

CAL 1965-3

LA 411 (1983)

SD 2005-1

About suit in "regular" court if small claims suit is not dropped

SD 1978-6

Advise on law

LA 350 (1975)

Advised

of possible malpractice by counsel of

LA 326 (1972)

After final decision on appeal

Carpenter v. State Bar (1930) 210 Cal. 520, 523 [292 P. 450]

After judgment

SD 1976-14

Agent of attorney, physician

City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]

Amicable solution suggested to

LA 334 (1973)

Attorney-client privilege [See Confidences of the client, privilege]

Attorney of record

McMunn v. Lehrke (1915) 29 Cal.App. 298, 308

Authorized by law

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252

authority of government prosecutors and investigators to conduct criminal investigations

75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)

-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

lawyer who receives attorney-client material that was inadvertently provided by another must notify the party

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

State Compensation Insurance Fund v. WPS, Inc. (entitled to the privilege of that fact1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]

CAL 2013-188, LA 531 (2019)

notice of rejection served directly on claimant's attorney is a permissible contract to Probate Code section 9250

Merrill v. Finberg (1992) 4 Cal.App.4th 1443 [6 Cal.Rptr.2d 434]

Bankruptcy trustee

CAL 1989-110

By client

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]

LA 375 (1978), LA(I) 1966-16

SD 2005-1, SD 1983-2

SF 1973-25

need not attempt to prevent client's effort to reach direct settlement with adverse party

CAL 1993-131, LA 375 (1978)

By employee of attorney

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]

Child custody and support

LA(I) 1958-3, SD 1972-5

City council member

CAL 1977-43

Civil liability

Wilhelm v. Pray, Price, Williams & Russell (1986) 186 Cal.App.3d 1324, 1333 fn. 5

Class action

court order prohibiting attorney for a named plaintiff in a class action from communicating with non-client class members regarding proposed class settlement was not an abuse of discretion

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

potential members

Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]

In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239

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

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

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

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

Howard Guntz Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]

Atari v. Superior Court (1985) 166 Cal.App.3d 867, 871-873 [212 Cal.Rptr. 773]

-conditional class certification triggers "no contact rule"

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

settlement notice to class action members

-counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure

Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]

Client negotiating directly with opposing party

CAL 1993-131, LA 375 (1978), SD 2005-1, SF(I) 1985-1

Client of adverse party when party is counsel of said client

LA 213 (1954)

Communicate written settlement offer to client

Rule 5-105, Rules of Professional Conduct
Business and Professions Code section 6103.5

Communication with opposing counsel through the unwitting acceptance of an ex parte "friend" request, on a social media website

SD 2011-2

Confidences learned cannot be unlearned

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]

Consent

implied

CAL 2011-181

Consent of employer required

LA 389 (1981)

SD 2011-2

Consultant

communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

Contact adverse party through client

Abeles v. State Bar (1973) 9 Cal.3d 603, 609 [108 Cal.Rptr. 359, 510 P.2d 719]

CAL 1993-131

SD 2005-1

at client's direction

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374, 658 P.2d 737]

settlement effected without consent

Turner v. State Bar (1950) 36 Cal.2d 155

Contact former expert witness of adverse party

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]

Copy of letter to adverse party sent to counsel of

LA(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

adequacy of appointed counsel

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

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

defendant interviewed by prosecutor

People v. Manson (1976) 61 Cal.App.3d 102, 164 [132 Cal.Rptr. 265]

plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

post-indictment

-by government informant

United States v. Kenny (9th Cir. 1980) 645 F.2d 1323

pre-indictment

U.S. v. Lemonakis (D.C. 1973) 485 F.2d 941, 955-956

-grand jury witness initiated communication with Assistant U.S. Attorney

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

-not at direction of U.S. attorney

United States v. Jamil (2nd Cir. 1983) 707 F.2d 638

qui tam action

U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252

Debt collection matters

debtor represented by party

Civil Code section 1788.14(c)

false representation that person is attorney

Civil Code section 1788.13(b)

in name of attorney

Civil Code section 1788.13(c)

on stationery of lawyer

Civil Code section 1788.13(c)

Debtor

SD 1978-4

Deception in initiating communication with a represented party

SD 2011-2

Direct

LA 365 (1977)

COMMUNICATION

Disqualification of attorney from the action as proper sanction
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
choice of counsel
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
no disqualification when opposing party is counsel of record in propria persona but has advisory counsel
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
no disqualification where separate counsel for officer of corporation has given permission for contact and where no confidential information was disclosed
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
other possible sanctions for violation of the rule
-court could not impose monetary sanctions
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
-court may disqualify counsel from further participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
District attorney's authority as prosecutor to conduct criminal investigations
75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
Effect of violation of [rule](#) 4.2
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
Effect of violation of [rule](#) 7-103
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
In re Marriage of Wickander (1986) 187 Cal.App.3d 1364
Noble v. Sears Roebuck & Co. (1973) 33 Cal.App.3d 654, 658 [109 Cal.Rptr. 269]
Electronic communication technologies, utilization of
[CAL](#) 2020-203, OC 97-002
remote work
[CAL](#) 2023-208
Employee
Upjohn v. U.S. (1981) 449 U.S. 383, 393 [101 S.Ct. 677]
Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nev.) 2003) 338 F.3d 981
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
[CAL](#) 1991-125
LA 410 (1983), LA 389 (1981), LA 369 (1977), LA 234 (1956), LA(I) 1976-1, LA(I) 1966-6
SD 2011-2, SD 1984-5

SF 1973-4
current director
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
LA 472 (1993), SD 2011-2
dissident director
[CAL](#) 1991-125
former employee
In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355, fn.7
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256
Bobele v. Superior Court (1988) 199 Cal.App.3d 708 [245 Cal.Rptr. 144]
former secretary of opposing party
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443
managing employees
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
non-managing employee
United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]
LA 369 (1977), SD 1984-5
-under ABA Model Rule 4.2
Palmer v. Pioneer Inn Associates, Ltd. (9th Cir. (Nev.) 2003) 338 F.3d 981
public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
statements of sales manager and production director could not be imputed to employer and thus neither employee was deemed to be a represented party under [rule](#) 2-100
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Employer in worker's compensation case
when employer is dismissed from the worker's compensation case by operation of law, whatever duties attorneys for employer's carrier owed to employer ended at that point in time, including the duty to communicate a settlement offer
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Employer of adverse counsel
LA 339 (1973)
Employer of adverse party
LA 410 (1983), LA 411 (1983)
SD 2011-2
Entrapment purposes
LA 315 (1970)
Exclusion of information acquired by violation of [rule](#) 2-100 (former rule 7-103)
U.S. v. Thomas (10th Cir. 1973) 474 F.2d 110, 112
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 603-608 [168 Cal.Rptr. 196]
LA 472 (1993)
other possible sanctions for violation of the rule
-court could not impose monetary sanctions
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
-court may disqualify counsel from further participation, may exclude improperly obtained evidence, and may take other appropriate measures to ameliorate effect of improper conduct
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Expert witness
Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [271 Cal.Rptr. 678]
LA 513 (2005)
communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
disqualification of counsel not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
DeLucca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

expert witness contacting opposing party
Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537

in violation of federal discovery regulations
Erickson v. Newmar Corp. (9th Cir. 1996) 87 F.3d 298
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
party moving to disqualify opposing counsel for improper contact with the moving party's expert must establish that the expert possesses confidential information materially related to the proceedings before the court
DeLucca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]

relevant limitations on lawyer's conduct
SD 2023-1
significant development in the representation
SD 2023-1

Failure to inform client of significant developments
In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852

Former attorney employee
LA 389 (1981)

Former employee
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
In re Coordinated Pre-Trial Proceedings (1981) 658 F.2d 1355
Continental Insurance Co. v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]

Nalian Truck Lines v. Nakano Warehouse and Transportation (1992) 6 Cal.App.4th 1256
Bobele v. Superior Court (1988) 199 Cal.App. 708 [245 Cal.Rptr. 144]

Funding agency of adverse counsel
LA 339 (1973)

Government attorney
United States v. Ferrara (D.D.C. 1993) 847 F.Supp. 964
United States v. Lopez (9th Cir. 1993) 4 F.3d 1455
Triple A Machine Shop v. State of California (1989) 213 Cal.App.3d 131 [261 Cal.Rptr.2d 493]
Kain v. Municipal Court (1982) 130 Cal.App.3d 499 [181 Cal.Rptr. 751]
CAL 1996-145, CAL 1979-49
city attorney's direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100
City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]
regulation which permitted government contact with employee of represented organization if that employee was not "controlling individual" was not authorized
U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Missouri 1999) 132 F.3d 1252
rule prohibiting ex parte communications does not bar pre-indictment discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Government official
CAL 1977-43
61 Minn. L.Rev. 1007 (1977)

Governmental unit
Cleland v. Superior Court (1942) 52 Cal.App.2d 530
CAL 1977-43, 61 Minn. L.Rev. 1007 (1977)
public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215

Implied consent
CAL 2011-181

Incapacitated lawyer
duty to communicate significant development
CAL 2021-206

Indirect
Lewis v. Telephone Employees Credit Union (9th Cir. 1996) 87 F.3d 1537
Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374, 658 P.2d 737]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
CAL 1993-131
SD 2005-1

Induce party to change law firms
Frazier, Dame, Doherty, Parrish & Hannawalt v. Boccardo, Blum, Lull, Niland, Terlink & Bell (1977) 70 Cal.App.3d 331, 337 [138 Cal.Rptr. 670]

Insurance coverage of with defendant insured
LA 350 (1975)

Insurer of
LA 508 (2002), LA 442 (1988), SD 1978-8
insurer's investigator contacts adverse party
LA 376 (1978)

Investigator, use of to contact adverse party
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]
LA 315 (1970)

COMMUNICATION

- criminal investigator
 - U.S. ex rel. O'Keefe v. McDonnell Douglas Corp. (8th Cir. Mo. 1999) 132 F.3d 1252
 - People v. Stevens (1990) 218 Cal.App.3d 575
 - People v. Sultana (1988) 204 Cal.App.3d 511
 - People v. Dickson (1985) 167 Cal.App.3d 1047
 - 75 Ops. Cal. Atty. Gen. 223 (10/8/92; No. 91-1205)
- Judge [See Judge, communication. Ex Parte Communication with Judge.]
- Jury [See Jury.]
- Lineup by district attorney without notifying attorney of record
 - People v. Sharp (1983) 150 Cal.App.3d 13, 18 [197 Cal.Rptr. 436]
- Matter of adverse interest, defined
 - Turner v. State Bar (1950) 36 Cal.2d 155, 158 [222 P.2d 857]
- Military commanding officer
 - SD 1978-9
- Minor client
 - duty to communicate in ways consistent with the minor's age, language skills, intelligence, experience, maturity, and mental condition
 - LA 504 (2000)
- Not a basis for imposition of civil liability in damages
 - Noble v. Sears, Roebuck & Co. (1973) 33 Cal.App.3d 654, 658-659 [109 Cal.Rptr. 269]
- Not applicable to witnesses in a criminal proceeding
 - Kain v. Municipal Court (1982) 130 Cal.App.3d 499, 503-505 [181 Cal.Rptr. 751]
 - grand jury witness initiated communication with Assistant U.S. Attorney
 - United States v. Talao (9th Cir. 2000) 222 F.3d 1133
- Not represented by counsel
 - CAL 1996-145
 - LA 508 (2002), LA 334 (1973)
 - duty on attorney to be scrupulously fair in all dealings
 - CAL 1996-145, LA 334 (1973)
 - in propria persona party is attorney of record but has advisory counsel
 - McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
 - instigating a conversation under false pretense
 - In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
- Officer of
 - LA 369 (1977)
- Party defined
 - Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
 - Mitton v. State Bar (1969) 71 Cal.2d 525, 527-534 [78 Cal.Rptr. 649, 455 P.2d 753]
 - Shaeffer v. State Bar (1945) 26 Cal.2d 739, 741-742
 - Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
 - Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
 - Kain v. State Bar (1982) 130 Cal.App.3d 499, 504
 - Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 599-603 [168 Cal.Rptr. 196]
 - In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
 - CAL 1996-145, LA 490 (1997)
- after appeal
 - Carpenter v. State Bar (1930) 210 Cal. 520 [292 P. 450]
 - CAL 1979-49, SD 1972-5, SD 1968-2
- attorney who is party may communicate on own behalf with adverse party who is represented by counsel
 - CAL 2009-178
- exception
 - public official
 - CAL 1977-43, SD 1978-3
- insurer, even though not named a party
 - LA 442 (1988)
- public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
 - Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862
- sales manager and production director not managing agents, thus they were not represented parties and opposing counsel was not prohibited from interviewing them
 - Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
- Party/attorney communicating on own behalf with a represented party
 - CAL 1989-110
- Physician of party
 - LA 490 (1997), SD 1983-9
 - attorney-client privilege extends to
 - City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234 [231 P.2d 26]
 - communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
 - County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
 - ex parte communications between defendants and plaintiff's treating physician should be limited to the statutorily mandated manner
 - Torres v. Superior Court (1990) 221 Cal.App.3d 181 [270 Cal.Rptr. 401]
 - opposing
 - CAL 1975-33, SD 1983-9
- Physician practicing in hospital when hospital is opposing party
 - SD 1983-9, SF 1973-4
- Physician-patient waiver
 - Evidence Code section 996
- Plaintiff's physician
 - communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
 - County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
 - CAL 1975-33
- Prior litigation where parties remain adverse
 - LA 411 (1983)
- Public body
 - exclusion of information acquired by violation of 2-100
 - U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
 - public officer exception to [rule](#) 2-100 not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation
 - U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215
- Purpose of the rule
 - Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
 - U.S. v. Lopez (N.D. Cal. 1991) 765 F.Supp. 1433
 - Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]
 - Mitton v. State Bar (1969) 71 Cal.2d 525, 534 [78 Cal.Rptr. 649, 455 P.2d 753]
 - Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]
 - Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
 - Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]
 - People v. Sharp (1984) 150 Cal.App.3d 13, 18
 - In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
 - In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 2011-181, CAL 1996-145, CAL 1993-131

LA 490, LA 472, LA 442

justifies an exception to prevent subornation of perjury

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

rule is not intended to prevent parties themselves from communicating about the subject matter of the representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Relating to matters previously litigated

LA 411 (1983)

Reliance on party's opinion that he has an attorney

Ewell v. State Bar (1934) 2 Cal.2d 209, 216, 220

under Insurance Code, notice of representation by counsel must be written notice

Pugh v. State Farm Insurance Co. (1991) 227 Cal.App.3d 816 [278 Cal.Rptr. 149]

Remote work

CAL 2023-208

ensure that the party they are communicating with is the actual client or someone with authority to act on the client's behalf

CAL 2023-208

Represented by counsel

Graham v. U.S. (9th Cir. 1996) 96 F.3d 446

Abeles v. State Bar (1973) 9 Cal.3d 603, 606-611 [108 Cal.Rptr. 359, 510 P.2d 719]

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 1996-145

LA 490 (1997)

SD 2011-2

actual vs. constructive knowledge of representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

CAL 1996-145

LA 508 (2002)

communication by plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

communications with former wife of the adversary do not provide a basis for disqualification

Jackson v. Ingersoll-Rand Co. (1996) 42 Cal.App.4th 1163 [50 Cal.Rptr.2d 66]

may not be improper when attorney had no actual knowledge of the representation

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

Truitt v. Superior Court (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 508 (2002)

on a pending unrelated matter

SD 1978-3

on previous charges

United States v. Masullo (2nd Cir. 1973) 489 F.2d 217, 223

plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

public officer exception to rule 2-100 not applicable where questions posed by attorney for opposing party to public

employees were designed to obtain evidence for use in litigation

Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215

service of paper may be made on the court clerk when an opposing party, who resides out of the state, has appeared and has no attorney in the action or proceeding

Code of Civil Procedure section 1015

without consent of counsel

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

In re Marriage of Wickander (1986) 187 Cal.App.3d 1364

-attorney-client privileged not violated where employee informed opposing counsel that her declaration was rewritten under employer's instructions

Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]

-city attorney's direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100

City of San Diego v. Superior Court (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

-court chooses not to speak on ethical issues

United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354

-exclusion of information obtained

United States v. Thomas (10th Cir. 1973) 474 F.2d 110, 112

-may not be improper when opposing party is counsel of record in propria persona but has advisory counsel

McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]

-permitted when a party is seeking to hire new counsel or obtain a second opinion

*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

-permitted when not representing a party in the matter for the sole purpose of advising person of the competence of representation

LA 487 (1996)

-plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

-rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

-permitted to prevent subornation of perjury

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

-standing to assert ethical violation

United States v. Partin (9th Cir. 1979) 601 F.2d 1000

-where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

Sanctions for violation

monetary sanctions

-court could not impose monetary sanctions

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

COMMUNICATION WITH A REPRESENTED PARTY

Second attorney representing client against first attorney's motion to be removed as client's attorney of record

LA 416 (1983)

Service of paper

service may be made on the court clerk when the opposing party, who resides out of state, has appeared and has not attorney in the action or proceeding

Code of Civil Procedure section 1015

where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

Settlement

LA 350 (1975), SD 1978-8

by client

LA 375 (1978), SF 1973-25

counsel fails to convey offer

LA 350 (1975)

offers which include fee-waiver provisions under fee shifting statutes

[CAL](#) 2009-176

written offer to client

[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

Social media website "friend" request to current employees of adverse party

SD 2011-2

Social relationships with opposing party by attorney

[Pepper v. Superior Court](#) (1977) 76 Cal.App.3d 252 [142 Cal.Rptr. 759]

Succession planning

[CAL](#) 2024-209

Technology

duty to communicate significant developments includes communication of advantages and disadvantages of using technology assisted review (TAR) of client documents

SD 2018-3

Third parties of debtor

Civil Code section 1788.12

Through client

[CAL](#) 1993-131, SD 2005-1, SD 1983-11

Through lay intermediaries

investigator

[Truitt v. Superior Court](#) (1997) 59 Cal.App.4th 1183 [69 Cal.Rptr.2d 558]

LA 315 (1970)

"Upon a subject of controversy" element of rule 7-103, Rules of Professional Conduct construed

[Crane v. State Bar](#) (1981) 30 Cal.3d 117, 122-123 [177 Cal.Rptr. 670, 635 P.2d 163]

[Abeles v. State Bar](#) (1973) 9 Cal.3d 603, 610-611 [108 Cal.Rptr. 359, 510 P.2d 719]

[Turner v. State Bar](#) (1950) 36 Cal.2d 155 [222 P.2d 857]

[Shaeffer v. State Bar](#) (1945) 26 Cal.2d 739 [160 P.2d 825]

[In the Matter of Twitty](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

[CAL](#) 1993-133, [CAL](#) 1979-49, LA 14 (1922), SD 1976-14

broader scope that a communication relevant to the issues in the representation, which determines admissibility at trial

SD 2011-2

social media "friend" request to current employees of adverse party

SD 2011-2

Violation of Rule of Professional Conduct is not a violation of a "court order"

[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

When client opines that he has an attorney

[Ewell v. State Bar](#) (1934) 2 Cal.2d 209, 216, 220

under Insurance Code, notice of representation by counsel must be written notice

[Pugh v. State Farm Insurance Co.](#) (1991) 227 Cal.App.3d 816

When counsel for adverse party does not respond

LA 350 (1975)

Without consent of counsel

[Levin v. State Bar](#) (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]

[Shalant v. State Bar](#) (1983) 33 Cal.3d 485 [198 Cal.Rptr. 374, 658 P.2d 737]

[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

[Bellm v. Bellia](#) (1984) 150 Cal.App.3d 1036

LA 487 (1996)

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133

where a party has an attorney, in the action or proceeding, the services of papers, must be upon the attorney instead of the party, except service of subpoenas, of writs, and other process issued in the suit, and of papers to bring the party into contempt

Code of Civil Procedure section 1015

With the media

absolute immunity does not protect prosecutors for comments made to the media

[Milstein v. Cooley](#) (9th Cir. 2001) 257 F.3d 1004

COMMUNICATION WITH A REPRESENTED PARTY

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

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

[Rule](#) 4.2, Rules of Professional Conduct (operative as of November 1, 2018)

[Doe v. Superior Court of San Diego County](#) (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

18 A.L.R.2d 1410; 1 A.L.R.2d 1115

City attorney

direct communication with a represented police officer in an action against the city for harassment and retaliation during internal investigation violated 2-100

[City of San Diego v. Superior Court](#) (2018) 30 Cal.App.5th 457 [241 Cal.Rptr.3d 604]

Public officer, board, committee or body exception

not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation that should have been pursued in discovery

[Guthrey v. California Department of Corrections and Rehabilitation](#) (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

[U.S. v. Sierra Pacific Industries](#) (E.D. Cal. 2011) 759 F.Supp.2d 1215

COMPETENCE [\[See\]](#) Abandonment. Attorney-client relationship. Ineffective assistance of counsel. Neglect. Professional liability. Prosecutorial misconduct. Trial conduct.]

Business and Professions Code section 6067

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

[In the Matter of Copren](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

[Calvert v. State Bar](#) (1991) 54 Cal.3d 765

[Conroy v. State Bar](#) (1991) 53 Cal.3d 495

[Martin v. State Bar](#) (1991) 52 Cal.3d 1055

[King v. State Bar](#) (1990) 52 Cal.3d 307

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441]
Lewis v. State Bar (1981) 28 Cal.3d 683, 688 [170 Cal.Rptr. 634, 621 P.2d 258]
Olquin v. State Bar (1980) 28 Cal.3d 195, 198
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]
Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]
Call v. State Bar (1955) 45 Cal.2d 104, 110-111 [287 P.2d 761]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404
Enriquez v. Smyth (1985) 173 Cal.App.3d 691, 696-698 [219 Cal.Rptr. 267]
CAL 2020-203, CAL 2015-193, CAL 2010-179
 OC 2011-02
 SF 2011-1
 Accepting legal employment without sufficient time, resources or ability to perform the services with competence
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
CAL 2014-190
 SD 2007-1
 Acquiring sufficient learning and skills includes knowing the benefits and risks associated with technology relevant to the profession
CAL 2020-203, CAL 2015-193
 Acquiring sufficient learning of governing laws is needed when a newly licensed attorney begins practice in a particular field of law
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
 Advocating civil disobedience
CAL 2003-162
 Alcohol abuse
 incapacity to attend to law practice
 -enrollment as inactive member
 Business and Professions Code section 6007 (b)
 -jurisdiction of the courts
 Business and Professions Code sections 6190-6190.6
 -unfinished client business due to
 Business and Professions Code section 6190
 Lawyers 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
 Telephone: (415) 538-2107
 Allocation of authority
 lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal acts in manner that is professionally unreasonable
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
 Attorney is responsible for supervising work delegated to paraprofessionals
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
 Attorney prepares will and receives a substantial gift
 LA 462
 Bonus program for public agency attorneys tied to savings by agency
 SD 1997-2
 Burden of proof in malpractice action
 attorney charged with spoliation of evidence must prove that the attorney's negligence did not result in the loss of a meritorious case
Galanek v. Wismar (1998) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]
 Cessation of law practice leaving unfinished client matter
 death
 Business and Professions Code section 6180
 disbarment
 Business and Professions Code section 6180
 inactive status
 Business and Professions Code section 6180
 jurisdiction of the courts
 Business and Professions Code sections 6180-6180.14
 resignation
 Business and Professions Code section 6180
 suspension
 Business and Professions Code section 6180
 Class action
 arm's length negotiation
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
 Client's instructions intentionally ignored
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
 Collaborative family law practice
 OC 2011-01
 Communication with clients
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
Lister v. State Bar (1990) 51 Cal.3d 1117
Hartford v. State Bar (1990) 50 Cal.3d 1139
Layton v. State Bar (1990) 50 Cal.3d 889
In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263

COMPETENCE

- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- In the Matter of Greenwood (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
- In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
- In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
- In the Matter of Johnston (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585
- In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128
- CAL 2010-179, CAL 2003-163, LA 497 (1999), SF 2011-1 ability to communicate with non-English speaking clients
- Iturribarria v. I.N.S. (9th Cir. 2003) 321 F.3d 889
- Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
- CAL 1984-77
- counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350
- Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
- identity of client confirmed through reasonable steps
- CAL 2012-184
- in collaborative family law practice, negotiation and facilitation of settlement only role of attorney, should be communicated with client
- OC 2011-01
- inattention to the needs of a client and a failure to communicate are proper grounds for discipline
- Spindell v. State Bar (1975) 13 Cal.3d 253, 260
- In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263
- In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- incapacitated lawyer
- CAL 2021-206
- instructions during deposition not to answer sanctionable
- Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
- Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
- representation of a minor
- LA 504 (2000)
- successor attorney's duty to advise client of ramifications of failure to notify prior attorney of existence of settlement
- CAL 2008-175
- use of outside lawyers or outsourcing legal services
- CAL 2004-165, CAL 1994-138
- LA 518 (2006)
- SD 2007-1
- use of technology via virtual law office (VLO) may require additional reasonable steps to ensure that client comprehends legal concepts and advice given
- CAL 2012-184
- Criminal matter
- abandonment of client
- Brooks v. Yates (9th Cir. 2016) 818 F.3d 532
- Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
- In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]
- In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]
- appellate court has the obligation to ensure adequate representation of counsel even to the extent of removing retained counsel
- People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
- client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim
- People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]
- competent attorney for criminal defendant would have sought the opinion of a time of death expert regarding time of victim's death
- In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
- counsel was deficient in failing to investigate and present mitigating evidence at sentencing or resentencing hearing
- White v. Ryan (9th Cir. 2018) 895 F.3d 641
- defense attorney failed to present evidence of client's mental impairment prejudiced client in first degree murder trial
- Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
- defendant's attorney was ineffective for failing to file suppression motion on Miranda grounds while defendant was in custody and interrogated by police
- People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]
- defendant's attorney was not ineffective for not objecting to prosecutor's asking attorney to explain certain evidence
- Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
- failure to file timely Appellate Opening Brief (AOB)
- In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
- ineffective assistance of counsel by attorney when he failed to seek psychological testing for a minor
- Weeden v. Johnson (9th Cir. 2017) 854 F.3d 1063
- ineffective assistance of counsel is presumed even if plea agreement includes appeal waivers which precludes defendant's desired appeal
- United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
- malpractice
- Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]
- Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]
- Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
- Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
- Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
- Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
- legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence
- Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]
- plea agreement including appeal waivers does not change "Flores-Ortega" rule that, where counsel's deficient performance precludes defendant's desired appeal, prejudice in ineffective assistance claim is presumed
- Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
- requesting continuance, over client's objection, to competently prepare case did not violate client's right to speedy trial
- People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
- right to discharge retained counsel does not require showing of incompetence
- People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

- three strikes
 *Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]
 SD 1995-1
- Declaration of fault by attorney who is not attorney of record entitled client to relief under Code of Civil Procedure section 473
Younessi v. Woolf (2016) 244 Cal.App.4th 1137 [198 Cal.Rptr.3d 763]
- Declaration of fault by foreign attorney entitled client to relief under CCP § 473
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
- Declaration of fault by in-house counsel entitled client to vacation of default judgment under CCP § 473
Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]
- Defense counsel
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]
People v. Saldana (1984) 157 Cal.App.3d 443, 461-462
 bizarre closing argument prejudicial to criminal defendant and co-defendant
People v. Diggs (1986) 177 Cal.App.3d 958
- Delay in handling of client's matter amounts to reckless incompetence
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
- Dishonesty
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
 habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
- Duties
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120 [202 Cal.Rptr. 349]
 specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Duty in handling discovery of electronically stored information (ESI)
CAL 2015-193
- Duty to advise client of reasonably apparent legal problems outside the scope of representation
 LA 502 (1999)
 attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1
- Duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation
 LA 497 (1999)
- Elements of equitable tolling
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
- legal mistake not objectively reasonable for tolling purposes
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
- Equitable tolling of statute of limitations defined
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
- Excessive caseload and limited resources
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
- Expert witness
 testified falsely at deposition
 SD 2023-1
- Failure to adequately represent client's interest in land sale
Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]
- Failure to adequately supervise
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
CAL 2020-203, CAL 2015-193, CAL 2010-179
 LA 522 (2009)
- adequate office procedures and staff training
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- attorney employed non-attorney to supervise other non-attorneys in preparing habeas corpus petitions
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
 -pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]
- client related to ESI (electronically stored information)
CAL 2015-193, SD 2012-1
- law firm's remote practice
CAL 2023-208
- non-attorney employees
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 -paralegal submitted incorrect address for attorney to the Bar
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

COMPETENCE

- responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
 - Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
- outside lawyers or providers of outsourced legal services
 - CAL 2004-165
 - LA 518 (2006)
 - SD 2007-1
- outside vendors related to ESI (electronically stored information)
 - CAL 2023-208, CAL 2015-193, SD 2012-1
- public defender's supervision of separate alternate public defender office
 - CAL 2002-158
- remote work
 - CAL 2023-208
- 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 Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
 - CAL 1997-150
- Failure to advise client of other claims
 - Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]
 - Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]
 - Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
 - Nichols v. Keller (1993) 15 Cal.App.4th 1672 [19 Cal.Rptr.2d 601]
 - In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 - SD 2005-1
- claims of prior attorney in matter
 - CAL 2008-175
- class action
 - counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
 - Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- failure to advise client of collateral penalty (deportation) is not ineffective assistance of counsel
 - U.S. v. Fry (9th Cir. (Nev.) 2003) 322 F.3d 1198
 - People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
 - People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
- under Penal Code section 1473.7, showed errors in information provided by counsel were damaging to his understanding of the immigration consequences of his no content plea
 - People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
- possible adverse implications of participating in collaborative family law agreement
 - OC 2011-01
- Failure to advise client on immigration matter
 - Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
- attorney's incorrect advice on immigration matter resulted in alien being denied his right to appeal
 - Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917
- not shown when client signed a form with boilerplate language about immigration consequences of guilty plea
 - People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
- Failure to advise/misadvise about the immigration consequences of guilty plea
 - Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
 - Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]
 - U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
 - U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
 - U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
 - People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
 - In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
 - People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
 - People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
 - In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
 - People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]
 - People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
 - People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]
 - People v. Aguilar (2014) 227 Cal.App.4th 60 [173 Cal.Rptr.3d 473]
 - because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
 - People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
 - expungement of state charges has no effect on the federal immigration consequences of a conviction of a felony
 - People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
- Failure to appear at hearing to mitigate prejudice caused by attorney
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to argue for reversal of judgment
 - In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]
- Failure to cite case law or authorities in opposition brief
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to communicate with client before penalty phase of trial
 - Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
- Failure to communicate status of case to client
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to conduct discovery
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to consult experts
 - Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
- Failure to cooperate with discovery
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
- Failure to deliver trust amendment to trustee before death of settlor
 - Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- Failure to file lawsuit or negotiate a settlement
 - In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564
- Failure to file opposition to summary judgment motion
 - Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
 - In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

attorney's opposition to summary judgment motion was prepared poorly due to his serious illness and heavy medication, court finds excusable neglect
Minick v. City of Petaluma (2016) 3 Cal.App.5th 15 [207 Cal.Rptr.3d 350]

Failure to file responsive pleading thereby causing harm to client
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]

Failure to file timely notice of appeal
Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

Failure to inform client of denial of habeas petition constitutes abandonment
Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Failure to inform client of significant developments
In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852

Failure to interview and call witnesses
Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083

Failure to investigate California and non-California law applicable to client's case
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Failure to investigate potential client fraud
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744

Failure to overrule criminal defendant's decision to call witness not incompetent
People v. Galan (1989) 213 Cal.App.3d 864

Failure to provide competent legal services in bankruptcy matters
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

Failure to provide competent legal services in immigration matters
Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

-qualification for non-lawyer immigration consultant
People v. Salcido (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]

Failure to provide competent legal services in patent matters
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Failure to pursue breach of contract action on behalf of client
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Failure to respond to cross-complaint
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

Failure to return client's multiple telephone messages
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Failure to serve answer repeatedly and in violation of court order
Community Dental Services v. Tani (2002) 282 F.3d 1164

Failure to supervise
 client related to ESI
CAL 2015-193
 law firm's remote practice
CAL 2023-208
 outside vendors related to ESI
CAL 2015-193

permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

remote work
CAL 2023-208

Failure to suppress evidence
People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

Failure to take action to set aside default judgment
Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]
Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 369]
Cheleden v. State Bar (1942) 20 Cal.2d 133, 138 [124 P.2d 1]

Failure to take steps to establish paternity
In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

Failure to use reasonable skill and diligence
Sands v. State Bar (1989) 49 Cal.3d 919
Gold v. State Bar (1989) 49 Cal.3d 908
Baker v. State Bar (1989) 49 Cal.3d 804
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Arden v. State Bar (1987) 43 Cal.3d 713 [239 Cal.Rptr. 68]
Franklin v. State Bar (1986) 41 Cal.3d 700
Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
Marcus v. State Bar (1980) 27 Cal.3d 199 [165 Cal.Rptr. 121, 611 P.2d 462]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Kinnamon v. Staitman & Synder (1977) 66 Cal.App.3d 893, 903 [136 Cal.Rptr. 321]
Lerette v. Dean Witter Organization, Inc. (1976) 60 Cal.App.3d 573, 577 [131 Cal.Rptr. 592]
In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
CAL 2020-203, CAL 2015-193, SD 2007-1

fee dispute does not relieve counsel of duty
 LA 521 (2007)

specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
CAL 2004-165

will registry, attorney had duty to determine that registry protects interests of the client before registering client's identifying information
CAL 2007-173

Gross negligence
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
 violation of attorney's oath
 Business and Professions Code section 6067
Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

COMPETENCE

- Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713, 494 P.2d 1257]
- Demain v. State Bar (1970) 3 Cal.3d 381, 387 [90 Cal.Rptr. 420, 475 P.2d 652]
- Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368, 470 P.2d 352]
- Grove v. State Bar (1967) 66 Cal.2d 680 [58 Cal.Rptr. 564, 427 P.2d 164]
- Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
- Stephens v. State Bar (1942) 19 Cal.2d 580
- Waterman v. State Bar (1936) 8 Cal.2d 17, 19-20
- Marsh v. State Bar (1930) 210 Cal. 303, 307
- default judgment may be set aside when attorney is grossly negligent which resulted in the judicial system losing credibility and appearance of fairness and an innocent party suffers drastic consequences
- Community Dental Services v. Tani (2002) 282 F.3d 1164
- Habeas matter
- Foley v. Biter (9th Cir. 2015) 793 F.3d 998
- abandonment of a client
- Foley v. Biter (9th Cir. 2015) 793 F.3d 998
- Incapacity to attend to law practice
- inactive enrollment
- Business and Professions Code section 6007
 - alcohol addiction
 - Business and Professions Code section 6007(b)
 - conservator appointed on account of mental condition
 - Business and Professions Code section 6007(a)
 - drugs, addiction
 - Business and Professions Code section 6007(b)
 - guardian appointed on account of mental condition
 - Business and Professions Code section 6007(a)
 - illness
 - Business and Professions Code section 6007(b)
 - incompetent, mentally
 - Business and Professions Code section 6007(a)
 - insane, following judicial determination of
 - Business and Professions Code section 6007(a)
 - involuntary treatment required
 - Business and Professions Code section 6007(a)
 - mental illness
 - Business and Professions Code section 6007(b)
- unfinished client matters
- alcohol, excessive use of
 - Business and Professions Code section 6190
 - drugs, excessive use of
 - Business and Professions Code section 6190
 - infirmary
 - Business and Professions Code section 6190
 - jurisdiction of the courts
 - Business and Professions Code sections 6190-6190.6
 - mental illness
 - Business and Professions Code section 6190
 - physical illness
 - Business and Professions Code section 6190
- Incompetent representation of counsel
- basis for reversal of judgment
 - report by clerk to State Bar
 - Business and Professions Code section 6086.7
 - especially appearing attorney owes a duty of care to the litigant
- Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Lack of zealous defense
- a competent attorney would not have conceded the cause of death, where there were "tantalizing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
- Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
- failure to investigate and introduce exculpatory evidence at trial
- Jones v. Shinn (9th Cir. 2019) 943 F.3d 1211
- Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
- In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
- Lack of zealous representation
- People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- Lack time and resources to represent pro bono client
- Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
- Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 353-355
- Licensed attorneys who are not active members of the State Bar of California
- effect on underlying matter
 - People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]
 - *People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
 - People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
 - Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
 - federal courts may require membership in State Bar of California to ensure a uniform minimum level of competence for lawyers
 - Russell v. Hug (9th Cir. 2002) 275 F.3d 812
- Limited preparation does not affect
- LA 379 (1979)
- Malpractice
- non-client
 - third-party beneficiary
 - Gordon v. Ervin Cohen & Jessup LLP (2023) 88 Cal.App.5th 543 [305 Cal.Rptr.3d 53]
- Mere ignorance of law insufficient
- Zitny v. State Bar (1966) 64 Cal.2d 787 [51 Cal.Rptr. 825, 415 P.2d 521]
- Griffith v. State Bar (1953) 40 Cal.2d 470, 476
- Friday v. State Bar (1943) 23 Cal.2d 501, 505-508
- Miscalendar of a five-year statute of limitation period
- In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47
- Motion for relief from mistake appropriate where attorney neglected to pay transfer of venue fees resulting in dismissal of client's matter
- Gee v. Estate of James Charles Jewett (2016) 6 Cal.App.5th 477 [211 Cal.Rptr.3d 137]
- Negligent legal representation by itself does not prove misconduct
- In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
- Negligent negotiation
- goal of lawyer is to achieve a reasonable settlement
 - Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
 - settlements are often protected judgment calls
 - Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- Obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively
- Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]
- Obligation to represent client competently not alleviated by a conflict of interest waiver
- CAL 1989-115
- Pro bono clients
- Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Public defender
can be sued under 42 U.S.C. 1983, not as “state actor” but as administrative head of office
Miranda v. Clark County, Nevada (9th Cir. (Nev.) 2003) 279 F.3d 1102
excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
supervision of separate alternate public defender office
CAL 2001-158
Reckless behavior by attorney
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9
failure to respond to discovery requests, oppose dismissal motion, and refile case
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Repeated failure to provide competent legal services
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
Representation of a client with diminished capacity
CAL 2021-207
Representation of a minor client in a dependency proceeding
In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
LA 504 (2000)
Responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
Reversal of judgment in judicial proceeding based upon incompetent representation
-report by clerk to State Bar
Business and Professions Code section 6086.7
Right to discharge retained counsel does not require showing of incompetence
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
Sexual relations with client
Rule 3-120, Rules of Professional Conduct (operative as of September 14, 1992)
Business and Professions Code section 6106.9
affecting representation
CAL 1987-92, OC 2003-02
Succession planning
CAL 2024-209
Suspended attorney engaged in unlawful practice of law may not be charged with failure to act competently
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
Technology
understanding transmittal and storage of digital information, ESI (electronically stored information)
CAL 2023-208, CAL 2020-203, CAL 2015-193, SD 2012-1
use and understanding of technology assisted review (TAR)
SD 2018-3

use and understanding of virtual law office (VLO)
CAL 2012-184
Technology competence, duty of
CAL 2023-208
COMPLAINT
Business and Professions Code section 6043.5
Business and Professions Code section 6094
CONFIDENCES OF THE CLIENT [See Attorney-client relationship. Conflict of interest, client.]
Business and Professions Code section 6068(e)
Code of Civil Procedure section 2016.
Evidence Code section 950 et seq.
Rules 4-101 and 5-102(B), Rules of Professional Conduct (operative until May 26, 1989)
Rules 3-310(D) and 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
Tomblin v. Hill (1929) 206 Cal. 689, 693-694
Matter of Danford (1910) 157 Cal. 425, 429 [108 P.322]
Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24, 28 [32 Cal.Rptr. 188]
CAL 2019-197
LA 506 (2001), LA 403 (1982), LA 389 (1981)
Arbitration agreements
confidentiality provision within law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
Assertion of attorney-client privilege
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
In re Polos (1984) 154 Cal.App.3d 448, 457
Attorney as partner or employee of two law firms
LA 511 (2003)
Attorney may make disclosures of client confidences to the extent relevant in determining malpractice
CAL 2019-197
Attorney opinion does not reveal any protected information
People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]
*People v. Bolden (1983) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]
Attorney-client disagreement as to claim or defense
In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]
Attorney-client privilege, existence of
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 627
Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 10]
People v. Kor (1954) 129 Cal.App.2d 436 [277 P.2d 94]
CAL 2016-195, SD 2006-1
between firm attorney and in-house counsel
CAL 2019-197

CONFIDENCES OF THE CLIENT

court has obligation to rule on claim of privilege regarding documents seized from attorneys whether or not the attorneys are suspected of criminal conduct

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

does not extend to employee's personal claim of attorney-client privilege to protect his communications with corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

does not extend to otherwise unprivileged subject matter that has been communicated to attorney

2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197] SD 2006-1

dual purpose communication

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

extends to communications between firm attorney and in-house counsel related to dispute with current client

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

in camera

-determination of issue of privilege

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

--court may not review the content of a communication to determine whether it is privileged

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

in camera review of communications to determine privilege

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

not limited to litigation communications

Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

survives client's death

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

survives corporate merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

Attorney-client privilege, scope

People v. Canfield (1979) 12 Cal.3d 699, 705 [117 Cal.Rptr. 81, 527 P.2d 633]

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LA 519 (2006)

SF 2014-1

broader than Fifth Amendment's protection in a federal investigation

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

confidential communications of documents that are available to the public and information that may be known to others

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court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

court may not require disclosure of information to rule on claim of privilege

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

does not ordinarily protect the identity of the client

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

People v. Chapman (1984) 36 Cal.3d 98, 110

does not require DOJ to release certain sections of USA Book due to attorney work product exemption under Freedom of Information Act

American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473

extends to all communication relating to a client's matter or interests among and between multiple attorneys who are representing client

Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

extends to investigatory report prepared for city by outside attorney despite attorney not providing legal advice to city

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

in camera review of communications to determine privilege

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

may apply to preliminary questionnaire

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

no California authority allows an attorney to disclose attorney-client communications or confidential information in defense of a lawsuit by a third party

LA 519 (2006)

not limited to litigation communications

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

opinion letter by outside counsel to corporate counsel covered by attorney-client privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

report prepared by police officers in the performance of their duties are public record and are not privileged

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

Sixth Amendment's Confrontation Clause vs. attorney-client privilege

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

social media page

LA 529 (2017), SD 2011-2

source of funds in client trust account

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tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy

Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]

use of courtroom to eavesdrop on confidential attorney-client communications

-dismissal of criminal complaint based on government's use of law enforcement agents to eavesdrop on confidential attorney-client communications was not an appropriate remedy

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

Attorney-client relationship, existence of

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

Arden v. State Bar (1959) 52 Cal.2d 310, 315 [341 P.2d 6]

People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 10]

between firm attorney and in-house counsel

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

Attorney-inmate consultation

People v. Torres (1990) 218 Cal.App.3d 700 [267 Cal.Rptr. 213]

Attorney-inmate letters

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

In re Jordan (1974) 12 Cal.3d 575 [116 Cal.Rptr. 371]

In re Jordan (1972) 7 Cal.3d 930 [103 Cal.Rptr. 849]

In re Gonzales (1989) 212 Cal.App.3d 459

Attorney's affirmative acts which further unlawful client conduct not subject to duty to maintain confidences

In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

Bankruptcy proceedings

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

Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]

LA 452

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

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

trustee of a corporation has the power to waive the corporation's attorney-client privilege with respect to pre-bankruptcy communications

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

Billing information

United States v. Amlani (9th Cir. 1999) 169 F.3d 1189

CAL 1971-25, LA 456, SF 1984-1

Business checks payable to a client or to others on the client's behalf may not be privileged

Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

Child dependency proceedings

duty to follow a minor client's instruction not to disclose confidential information

LA 504 (2000)

factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

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

"Chinese wall"

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

Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826

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

People v. Christian (1994) 41 Cal.App.4th 986

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

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]

Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]

Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]

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

CAL 2002-158, CAL 1998-152

Client cannot be located

CAL 1989-111

Client name protected by privilege when disclosure of client's name might implicate client's rights of privacy

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Client name protected by privilege when disclosure of client's name might subject client to investigation for civil or criminal liability

Hays v. Wood (1979) 25 Cal.3d 772

People v. Chapman (1984) 36 Cal.3d 98, 110

Client need not show actual disclosure

Woods v. Superior Court (1983) 149 Cal.App.3d 931

Client to entertainment industry

LA 409 (1983)

Client trust fund records may be disclosed for good cause by State Bar for attorney disciplinary proceedings

Doyle v. State Bar (1982) 32 Cal.3d 12

In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535

Client's confidence

duty of lawyer to maintain inviolate

Business and Professions Code section 6068(e)

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LA 422 (1983)

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Client's identity covered by attorney-client privilege

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144

Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223

Alexiou v. United States (9th Cir. 1994) 39 F.3d 973

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Dole v. Milonas (9th Cir. 1989) 889 F.2d 885

Baird v. Koerner (9th Cir. 1960) 279 F.2d 623

Hays v. Wood (1979) 25 Cal.3d 772 [160 Cal.Rptr. 102]

Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

Rosso, Johnson et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]

disclosure when doing conflicts check

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Co-defendants, representation of

People v. Kerfoot (1960) 184 Cal.App.2d 622

Communication by client

Upjohn v. U.S. (1983) 449 U.S. 383, 393

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- by letter
 - disclosing violation of probation by leaving jurisdiction
LA 82 (1935)
- Communication with client required under Probate Code section 21350, must be confidential
 - Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
- Communications made during confidential mediation cannot be disclosed without express waiver of parties
 - Eisendrath v. Superior Court (2003) 109 Cal.App.4th 351 [134 Cal.Rptr.2d 716]
- Communications which are privileged exceptions
 - billing statements
 - attorney fee totals in legal matters that concluded long ago
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 - Public Records Act disclosure
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
 - protects the confidentiality of invoices for work in pending and active legal matters
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]
- Compelled disclosure of client's identity
 - Tedder & Associates v. United States (9th Cir. 1996) 77 F.3d 1166
 - United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
 - In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
 - Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
 - In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
 - In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
 - United States v. Hirsch (9th Cir. 1986) 803 F.2d 493, 496, 497
 - Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 635
 - Rosso, Johnson, et al. v. Superior Court (1987) 191 Cal.App.3d 1514 [237 Cal.Rptr. 242]
- good faith requirement
 - *Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
not required where putative class members' had right to privacy when they responded to neutral letter from plaintiff's counsel
 - Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- Compelling testimony against client
 - In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
 - Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
 - In re Michaelson (9th Cir. 1975) 511 F.2d 882, 892
 - Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 628-635
 - McKnew v. Superior Court (1943) 23 Cal.2d 58, 61-62 [142 P.2d 1]
 - Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93 [119 P.2d 134]
 - Ex parte McDonough (1915) 170 Cal. 230, 233 [149 P. 566]
 - People v. Johnson (1968) 258 Cal.App.2d 705, 710
 - Stearns v. Los Angeles City School Dist. (1966) 244 Cal.App.2d 696, 723 [53 Cal.Rptr. 482]
 - Hutson v. Superior Court (1962) 203 Cal.App.2d 687 [21 Cal.Rptr. 753]
 - People v. Morgan (1956) 140 Cal.App.2d 796, 803-804 [296 P.2d 75]
- Confidences and secrets
 - Dixon v. State Bar (1982) 32 Cal.3d 728
 - Earl Schieb, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]
 - Meehan v. Hopps (1956) 144 Cal.App.2d 284, 286 [301 P.2d 10]
 - Pacific Tel. & Tel. Co. v. Fink (1956) 141 Cal.App.2d 332 [296 P.2d 843]
 - In re Soale (1916) 31 Cal.App. 144, 152 [159 P. 1065]
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- acquisition of
 - telephone "hotline" taking legal inquiries from callers
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- compelled testimony against client
 - United States v. Bank of California (N.D. Cal. 1976) 424 F.Supp. 220, 225
 - In re Navarra (1979) 93 Cal.App.3d 325 [155 Cal.Rptr. 522]
- conflict of interests
 - Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]
 - Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]
- disclosure of clients, public officials
 - Rule 7-103, Rules of Professional Conduct
 - Hays v. Wood (1979) 25 Cal.3d 772, 784 [160 Cal.Rptr. 102, 603 P.2d 19]
- duty to follow a minor client's instruction not to disclose confidential information
 - Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 - LA 504 (2000)
 - minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
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- embarrassing facts and allegations
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 - expert witness testified falsely at deposition
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- may be disclosed in preliminary questionnaire
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 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
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 - Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
 - Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 - Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
 - STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
 - State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 - State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
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Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198 LA 519 (2006)
 bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 director is not entitled to inspect general corporate documents that were generated in defense of a lawsuit that director filed against the corporation
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
 director who filed a lawsuit against corporation may not swap his "shareholder's hat" for his "director's hat" and claim an absolute right to access all corporate documents on the grounds that his action made him the corporation's adversary
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]
 employee not entitled to personal claim of attorney-client privilege to protect his communications with corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 merger
 -authority to assert (or waive) attorney-client privilege passes to new management of corporation
Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]
 privilege ends when original holder dies and upon personal representative's discharge, unless there is a corporation or other organization that is a successor in interest
HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
 shareholder status does not in and of itself entitle an individual to unfettered access to corporate confidences and secrets
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 621 [120 Cal.Rptr. 253]
 shareholder's derivative action against corporation does not entitle shareholders to attorney-client privilege information
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
 shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
 statements made by corporate officer with understanding that statements would be disclosed could be claimed as privileged
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
 survives corporate merger
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
 Court order to produce privileged material
In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
 compliance with court order does not moot further appeals claiming that the attorney-client privilege applies
Church of Scientology v. United States (1992) 504 U.S. 940 [112 S.Ct. 2273]

court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

court may require disclosure of information to rule on claim of privilege

Evidence Code section 915

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

-as pertaining to documents covered by attorney-client privilege, Workers Compensation Appeals Board could not require in camera inspection by special mater in order to determine privilege

The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]

-in camera review of communications to determine privilege

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege and court could not require in camera disclosure for ruling on claim of privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

court order requiring attorney to provide documents in response to subpoenas in regards to collecting on judgment are appealable under CCP § 904.1

Macaluso v. Superior Court (2013) 219 Cal.App.4th 1042 [162 Cal.Rptr.3d 318]

disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine

Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]

district court granted IRS's petition to enforce summons on tax documents based on "foregone conclusion" exception to Fifth Amendment

U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 704 F.3d 1197

federal court in camera review

U.S. v. Zolin (1989) 491 U.S. 554 [109 S.Ct. 2619]

In re Grand Jury Subpoena 92-1 (9th Cir. 1994) 31 F.3d 826

In re Grand Jury Investigation (9th Cir. 1992) 974 F.2d 1068

-distinguished from application of CA state law

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination

Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]

law office property seized by law enforcement officers protected until trial court reviews all sealed documents

Geilim v. Superior Court (1991) 234 Cal.App.3d 166

subpoena duces tecum which is overbroad and reaches materials covered by the attorney-client privilege is invalid
In re Grand Jury Subpoena Issue to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314

test validity of court order

Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]

trial court erred in finding that privilege was waived by disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

Criminal case reciprocal discovery under the Crime Victim's Justice Reform Act upheld despite alleged interference with attorney work product privilege

Izazaga v. Superior Court (1991) 54 Cal.3d 356

Cross examination of former client

Hutson v. Superior Court (1962) 203 Cal.App.2d 687, 691 [CAL](#) 1980-52

Cumis counsel

Civil Code section 2860

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

First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574

Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]

San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]

Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345

Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]

Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277

McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]

attorney-client relationship between independent Cumis counsel and carrier not created by § 2860

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

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]

compared to "monitoring counsel"

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

duty to disclose to insurer unprivileged information concerning insured's control over the litigation

LA 464 (1991)

insured and independent Cumis counsel retain right to privately communicate and to shield those communications from insurance carrier

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

First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574, 576, n. 1

Data breach

[CAL](#) 2020-203

Deceased clients' confidences

Evidence Code section 960

LA 491 (1997), LA 414 (1983)

disclosure of by court, by personal representative

Fletcher v. Alameda County Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]

People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]

Paley v. Superior Court (1955) 137 Cal.App.2d 450

federal investigation

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

privilege transfers to personal representative once client dies

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

Defined

Evidence Code section 952

U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504

Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

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

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]

Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996

In re Young (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]

Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1200

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

[CAL](#) 2016-195, [CAL](#) 2013-188, [CAL](#) 2010-179, [CAL](#) 1996-146, [CAL](#) 1993-133, [CAL](#) 1987-93, [CAL](#) 1987-92, [CAL](#) 1981-58, [CAL](#) 1980-52

LA 529 (2017), LA 500 (1999), LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1981), SD 1996-1, OC 97-002

perjury of non-client witness

[CAL](#) 2019-200

Disclosure

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

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

Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

Fox Searchlight Pictures, Inc., v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]

Commercial Standard Title Co. v. Superior Ct. (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]

[CAL](#) 2016-195, [CAL](#) 2012-183

LA 519 (2006), LA 498 (1999), LA 400 (1982), LA 396 (1982), LA 394 (1982), LA 389 (1981), SD 2008-1, OC 2022-01

attorney seeking legal advice for self in wrongful termination action, but not permitted to disclose publically

[CAL](#) 2012-183

before grand jury

In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554

by attorney

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

SD 2008-1, OC 2022-01

-responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client

LA 525 (2012), SF 2014-1

-social media

LA 529 (2017)

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- use of confidential client information to collect a fee
CLA 2022-1
- by client
 - responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client
LA 525 (2012), SF 2014-1
- by corporate counsel
 - U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 - McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
 - criminal record of director to other directors
LA(I) 1965-14
 - suspended status of corporation to court
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350] LA 408 (1982)
 - unlawful acts by founder and consultant of company
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 - unlawful acts by officers, directors, or executives
LA 353 (1976)
- by corporate employees
 - Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
- by corporate officer
 - to attorney for the purpose of disclosure to outside auditors is not privileged
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- by legal services program to researcher
LA 378 (1978)
- by personal representative
 - HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
 - People v. Pena (1984) 151 Cal.App.3d 462, 480-481
- by salaried employee who is a lawyer assigned to represent customers of the employer
LA 510 (2003)
- city's sunshine ordinance invalid to the extent it required disclosure of attorney-client privilege information
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- class action, identity of putative class members' identity would violate their right to privacy
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
- client engaged in unlawful activity
 - U.S. v. Chen (9th Cir. 1996) 99 F.3d 1495
 - People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 - CAL 1996-146, CAL 1986-89
 - LA 466 (1991), LA 422 (1983), LA 329 (1972), LA 305 (1968), LA 267 (1960)
- client had no action against defendant
LA 271 (1962)
- client name [See Confidences of the client, client name.]
- client trust account information
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
- client, officer of corporation, discloses sexual harassment of employee of corporation, at time that attorney also represents the corporation
CAL 2003-163
- client/plaintiff overpaid by defendant under settlement agreement
LA 520 (2007)
- client's civil fraud
CAL 1996-146
LA 417 (1983), LA 386 (1980)
- client's fiduciary breach
CAL 1988-96
SD 1990-2, SD 1983-10
- client's prior criminal conviction
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 1986-87
- client's unauthorized practice of law
LA 436 (1985)
- collaborative family law practice, sharing of information without formal discovery requests
OC 2011-01
- collection action against client
LA 452 (1988)
- compelled disclosure
 - court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 - disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]
 - district court granted IRS's petition to enforce summons on tax documents based on "foregone conclusion" exception to Fifth Amendment
U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 7104 F.3d 1197
 - no waiver of attorney-client privilege where defendant had previously produced privileged documents to federal government during regulatory and criminal investigations
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
 - trust may not allow a former trustee to withhold from a successor trustee all communications between that former trustee and the trust's legal counsel
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
- consent by client
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
CAL 2010-179, LA 519 (2006)
- conservatorship proceedings
CAL 1989-112, LA 450 (1988), OR, 95-002, SD 1978-1, SF 1999-2
- consultation with an independent attorney regarding the client's case may be permitted
SD 1996-1
- counsel for social welfare agency in reports to agency
LA 259 (1959), LA 254 (1958)
- death of client
LA 300 (1967)
- detrimental to client
LA 436 (1985)
- divorce fraud
SF 1977-2
- electronic communication technologies, utilization of
OC 97-002
- remote
CAL 2023-208
- email
 - from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
- escrow company, of client billings
CAL 2002-159
- expert opinion to third parties
CAL 1981-58

- minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
- expert witness is former client of attorney
LA 513 (2005)
- false accounting by client
SD 1990-2, SD 1983-10
- false filing of bankruptcy petition
LA 422 (1983)
- former client's perjury in continuing case
LA 386 (1977)
- former client's threat of violence disclosed to intended victims
LA(l) 1947-2
- future crime by client
Evidence Code section 956.5
U.S. v. Alexander (9th Cir.(Mont.) 2002) 287 F.3d 811
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]
CAL 1988-96
LA 463 (1990), LA 417 (1983), LA 414 (1983)
SD 1990-1
- government use of testimony from a defendant's bankruptcy lawyer to show client defied lawyer's advice
U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
- identity of client
Rule 7-105(2), Rules of Professional Conduct
Hooser v. Superior Court (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]
- in camera
 - as means of informing the court as to the basis of motion for withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
CAL 2015-192
 - basis of motion for withdrawal
LA 498 (1999)
 - determination of issue of privilege
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 - employer could not be required to make in camera disclosure of opinion letter for ruling on claim of privilege
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - in camera evidentiary hearings order to determine whether a joint defense agreement implicitly ended at some point
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
 - in camera review not a prerequisite to trial court's determination that the documents were privileged
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - of possible client perjury
People v. Brown (1988) 203 Cal.App.3d 1335
 - proper to review challenge to search warrant obtained using information disclosed by defendants' attorney
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 - while trial court may not order disclosure, holder of privilege may request in camera review to aid trial court's determination
League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

- in child custody proceeding
 - conflict between client and interests of child
CAL 1976-37
 - duty to follow a minor client's instruction not to disclose confidential information
LA 504 (2000)
- in questionnaire
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
- inadvertent
 - K.L. Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
 - Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
 - Samuels v. Mitchell (1994) 155 F.R.D. 195
 - Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
 - McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
 - DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
 - State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 - Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
CAL 2020-203, CAL 2013-188, CAL 2010-179
LA 531 (2019), SD 1987-3
 - arbitrator's award of sanctions proper for mishandling of inadvertently received privileged documents
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
 - city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
 - conversation between attorney and attorney's investigator inadvertently taped by police
People v. Benally (1989) 208 Cal.App.3d 900
 - documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - excessive review of privileged documents, received improperly, resulted in disqualification
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 - inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
 - no waiver of attorney-client privilege where defendant had previously produced privileged documents to federal government during regulatory and criminal investigations
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
 - protective order may be necessary to prevent inadvertent disclosure of client confidences when dealing with large volume of digitally stored information
SD 2012-1
 - third party disclosure
DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- incompetent client
LA 229 (1955)
- indigent relative of client's is not indigent
LA 264 (1959)

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inference that attorney used confidential information, acquired during the representation, against the former client in attempting to defeat the same project that the attorney had represented the client in promoting, establishes minimal merit within the meaning of the anti-SLAPP statute (C.C.P. § 425.16)

Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]

insurance fraud

LA 329 (1972)

insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

mediator may not report sanctionable conduct of parties to court

Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]

no disclosure between public defender's office and alternative public defender

CAL 2002-158

not permitted to reveal publically in attorney's own action for wrongful termination

CAL 2012-183

of assets not disclosed

LA 159 (1945), LA(I) 1976-4, LA(I) 1954-4

of child abuse

LA 504 (2000)

of confidences learned by attorney acting in dual capacity of real estate broker to client

LA 413 (1983)

of confidential settlement agreement

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

LA 512 (2004)

of conflict between attorney and minor client

LA 504 (2000)

of deceased client's demand of fraudulent accounting

LA 267 (1960)

of employer's secrets when attorney represents employee-alien seeking permanent status under a labor certification preference visa

LA 465 (1991)

of estate fraud

LA 259 (1959)

of false medical billing

LA 498 (1999)

of fees paid to IRS

SF 1975-5

of former client

CAL 1992-126, CAL 1988-96, CAL 1980-52

LA 271 (1962)

-threats of violence communicated to lawyer

U.S. v. Alexander (9th Cir. (Mont.) 2002) 287 F.3d 811

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

LA(I) 1947-2

-to present counsel

LA(I) 1962-2

of fraudulent act

-against a third party

LA 389 (1982)

-by client

CAL 1996-146, CAL 1988-96

LA 417 (1983), LA 329 (1972)

-of third party regarding client

LA 422 (1984)

of legal aid recipient to governing authority

LA 358 (1976)

of refusal to make payments to escrow fund to research project

LA 378 (1978)

of settlement

-to client's prior attorney

CAL 2008-175

of trust fund records

Doyle v. State Bar (1982) 32 Cal.3d 12

In the Matter of Member W (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 535

of whereabouts

-of military deserter

LA(I) 1956-1

-to enable service of process

--fugitive's

LA(I) 1931-2

-to public health department

LA(I) 1956-4

-to tax board

LA 177 (1950)

perjured testimony by client

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Brown (1988) 203 Cal.App.3d 1335

CAL 1983-74

LA 386 (1981), LA 305 (1968)

OC 2003-01

perjury of non-party witness

SD 1983-8

"Pritchess" motion

Williams v. City of Anaheim (2006) 140 Cal.App.4th 1422 [45 Cal.Rptr.3d 452]

Public Records Act

National Conference of Black Mayors v. Chico Community Publishing, Inc. (2018) 25 Cal.App.5th 570 [236 Cal.Rptr.3d 1]

-attorney-client privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance

St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

-city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

-executive communications made during the decision making process are protected from disclosure by the deliberative process privilege

Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]

pursuant to search warrant

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

regarding breach of attorney-client duty asserted by former client

Evidence Code section 958

LA 396 (1982)

-evidence code exception limited to claims in the context of a formal legal proceeding

SF 2014-1

sale of law practice

LA 361 (1976)

securities fraud

LA 353 (1976)

silence on attorney's part potentially criminal

LA 329 (1972)

Sixth Amendment's Confrontation Clause vs. attorney-client privilege

-defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

specially appearing attorneys may receive client confidences
[CAL](#) 2004-165
 testimony by former co-defendant, called as the prosecution's key witness, impairs defense counsel's ability to cross-examine his former client regarding matters discussed in confidence during pre-trial joint defense meeting
[United States v. Henke](#) (9th Cir. 2000) 222 F.3d 633
 to administrative agency
 LA 435 (1985), LA 177 (1950), LA(I) 1956-4
 to another attorney regarding legal opinion of ongoing case is protected confidential information
[Fireman's Fund Insurance Co. v. Superior Court](#) (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
 to bail bondsman
[In re Young](#) (1989) 49 Cal.3d 257 [261 Cal.Rptr. 59]
 to Bar Examiners regarding name and activities of ex-client
 LA 400 (1982)
 to charity regarding statistical information on clients referred to attorney by charity
 LA 403 (1982)
 to client
 -attorney married to bailiff
[CAL](#) 1987-93
 -attorney married to court reporter
[CAL](#) 1987-93
 -witness is former colleague of attorney
[CAL](#) 1987-93
 to client's creditor
 LA(I) 1954-4
 to client's prior attorney
 -existence and amount of settlement
[CAL](#) 2008-175
 to co-counsel
 SF 2011-1
 to collect fee from former client/debtor in bankruptcy proceedings
 LA 452
 to data processing firm
[CAL](#) 1971-25
 LA 423 (1983), LA 374 (1978)
 to Internal Revenue Service
 -any person engaged in a trade or business must report to the IRS the receipt in any year of \$10,000 or more in cash payments from any one person
 I.R.C. sec. 6050(I)
[United States v. Blackman](#) (9th Cir. 1995) 72 F.3d 1418
 to law enforcement agents
 -intentionally placed to eavesdrop on privileged attorney-client communications
[People v. Shrier](#) (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
 to legal aid society's Board of Directors
 LA 358 (1976)
 to opposing counsel and to the court
 -law firm representing corporation has duty to disclose client's suspended status
[Palm Valley Homeowners Association v. Design MTC](#) (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
 to own counsel
 -attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege
[General Dynamics Corp. v. Superior Court](#) (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]
[Dietz v. Meisenheimer et al.](#) (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
[Solin v. O'Melveny & Myers, LLP](#) (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

-former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action
[Fox Searchlight Pictures, Inc. v. Paladino](#) (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
[CAL](#) 2012-183
 LA(I) 1961-3
 SD 2008-1
 -parties may disclose to their respective counsel documents containing potentially confidential or privileged information of third party clients
[Chubb & Son v. Superior Court \(Lemmon\)](#) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]
 to police
[People v. Navarro](#) (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
 to prosecutor pursuant to a search warrant
[People v. Superior Court \(Laff\)](#) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
 to protect self
 -in tax audit
 LA(I) 1974-12
 to third parties reasonably necessary to carry out the representation
[California Oak Foundation v. County of Tehama](#) (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]
 -common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
[Citizens for Ceres v. Superior Court](#) (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
 -public relations consultant was not someone to whom disclosure was reasonably necessary to accomplish the purpose for which client retained attorney
[Behunin v. Superior Court \(Schwab\)](#) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
 to third party who will fund litigation
 LA 500 (1999)
 to third party who will pay client's legal fees
 LA 456
 violation of court order by third party
 LA 394 (1982)
 when known to others
[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195, [CAL](#) 1981-58
 LA(I) 1971-3
 where attorney believes innocent person wrongly convicted of felony
 LA 389 (1981)
 will
 -contents after incompetency of client
 LA 229 (1955)
 will depository, Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent
[CAL](#) 2007-173
 will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests
[CAL](#) 2007-173
 withdrawal from case by attorney at sentencing phase
[People v. McLeod](#) (1989) 210 Cal.App.3d 585
[CAL](#) 1983-74
 witness perjury
[CAL](#) 2019-200
 Discovery
[Costco Wholesale Corp. v. Superior Court](#) (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
[People ex rel. Deukmejian v. Brown](#) (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]

CONFIDENCES OF THE CLIENT

Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
2,022 Ranch, L.L.C v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
CAL 1993-133
LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980) attorney at a minimum, must have a basic understanding of and facility with, issues relating to e-discovery or seek expert assistance
CAL 2015-193
documents submitted to bankruptcy trusts by plaintiff's attorney to support claims for compensation for alleged asbestos-related injuries may be discoverable in similar litigation against another party where the documents are not privileged and do not include information about an offer to compromise or settle a claim
Volkswagen of America Inc. v. Superior Court (2006) 139 Cal.App.4th 1481 [43 Cal.Rptr.3d 723]
extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
in enforcing judgment, creditor may not ask for information from other party's attorney except regarding money owed to them
Fox Johns Lazar Pekin & Wexler, APC, et al., v. Superior Court (2013) 219 Cal.App.4th 1210 [162 Cal.Rptr.3d 571]
judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination
Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]
not limited to proceedings at which testimony may be compelled by law
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
where third party funds lawsuit in exchange for interest in proceeds
LA 500 (1999)
Dismissal of an action
on basis that attorney-party's due process right to present a claim or defense is compromised by inability to present confidential information
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
Disqualification
abuse of discretion not found where separate attorney for directors of corporation gave permission for adverse counsel's communication with directors and no confidential information disclosed
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
actual possession need not be proven-test
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Civil Service Comm. v. Superior Court (1985) 163 Cal.Spp.3d 70 [209 Cal.Rptr. 159]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]
attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp.908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that they attorney actually received or used such information
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
because of possibility of breach
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
choice of counsel
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
defense counsel disqualified when former co-defendant is called as the prosecution's key witness and counsel's ability to cross-examine former client is impaired
United States v. Henke (9th Cir. 2000) 222 F.3d 633
marital relationship does not create assumption that lawyers violate duty of confidentiality
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
no automatic vicarious disqualification of law firm when tainted attorney leaves the firm and there's evidence that no one other than the departed attorney had any dealings with the client or obtained confidential information
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
no conflict of interest found where former member of public defender's office represented witness in current matter where defendant was represented by another member of public defender's office and where office received no confidential information of witness
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
not automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
not required when based on counsel's alleged familiarity with claims procedures from a prior representation of the moving party
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
not required where attorney who handled adverse party's prior matter has left firm and there is no evidence that confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

not required where defendants had common interests and shared information

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

not required where plaintiff's expert waived conflict where defense counsel had previously represented expert

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel

Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

presumption of shared confidences in a law firm

-rebuttable

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

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

preventative measures to prevent information from being conveyed

CLA 2021-1

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]

vicarious disqualification of the entire firm required where attorney formally represented an adverse party in the same litigation, regardless of the firm's ethical screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

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

Distinguished from attorney-client privilege

People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Industrial Indem. Co. v. Great American Ins. Co. (1977) 73 Cal.App.3d 529, 536, fn. 5

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

CAL 2016-195, OC 97-002

District attorney

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

Does not extend to communications intended to be confidential where party claiming privilege fails to explain who was the attorney and who was the client to communications

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

Dual professions, attorney engaged in

CAL 1999-154

Duty of loyalty to client may require attorney's limited response to judge's questions absent an affirmative duty to inform the court

OC 95-0001

client's absence from court, attorney may not answer court's inquiry if harmful to client

SD 2011-1

Duty to assert attorney-client privilege

CAL 2015-193

Duty to divulge client fraud

Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93

LA 436 (1985)

Duty to former client

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998-999

Duty to protect client confidences and secrets

after death of client

Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

LA 491 (1997), LA 414 (1983)

after termination of attorney-client relationship

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

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

People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 480]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

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

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

CAL 2016-195, CAL 1993-133

LA 498 (1999), LA 452 (1988), LA 400 (1982), LA 386 (1980) OC 2022-01

communication between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege

Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]

does not protect third party information unless third party is an agent of client

Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]

extends to e-discovery

CAL 2015-193

extends to judgment creditor's request on debtor's attorney's other clients, firm's billings on matters for these clients and possible alter ego entities of judgment debtor

Fox Johns Lazar Pekin & Wexler, APC, et al., v. Superior Court (2013) 219 Cal.App.4th 1210 [162 Cal.Rptr.3d 571]

extends to preliminary consultations by a prospective client with a view to retention of that lawyer although employment does not result

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

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

Syre v. Douglas (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]

CAL 2021-205, CAL 2003-161

extends to questions submitted by potential client via website

CAL 2005-168

-does not extend to private information received from a non-client via an unsolicited email

SD 2006-1

handling discovery of electronically stored information (ESI)

CAL 2015-193

CONFIDENCES OF THE CLIENT

listserv postings should avoid including information regarding particular cases
 LA 514 (2005)
 minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 not limited to proceedings at which testimony may be compelled by law
People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
 where the third party funds lawsuit in exchange for interest in proceeds
 LA 500 (1999)
 Duty to reveal the fruits of crime in his possession to the prosecution
CAL 1984-76
 Electronic file metadata
CAL 2023-208, CAL 2020-203, CAL 2015-193, CAL 2007-174
 SD 2012-1
 E-mail
CAL 2023-208, CAL 2012-184, CAL 2010-179, CAL 2007-174
 SD 2006-1
 OC 97-002
 from client to attorney sent on client's employer's computer, where client warned that communication was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
 storage in the "cloud"
CAL 2023-208
 Employee who also works for other lawyers
 Penal Code section 135
CAL 1979-50
 educate employee about maintaining clients' confidences
CAL 1979-50
 Evidence
 state rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
 Evidence of crime in lawyer's possession
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084
People v. Picl (1982) 31 Cal.3d 731 [183 Cal.Rptr. 685]
People v. Meredith (1981) 29 Cal.3d 682, 695
People v. Superior Court (Fairbank) (1987) 192 Cal.App.3d 32, 39
People v. Lee (1970) 3 Cal.App.3d 514 [83 Cal.Rptr. 715]
CAL 1986-89, CAL 1984-76
 LA 531 (2019), LA 466 (1991)
 Exceptions to rule of confidentiality
U.S. v. Sideman & Bancroft, LLP (9th Cir. 2013) 7104 F.3d 1197
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]
Fox Searchlight Pictures, Inc. v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]
American Mutual Liability Insurance Co. v. Superior Ct. (1974) 38 Cal.App.3d 579, 595-596 [113 Cal.Rptr. 561]
CAL 2019-197, CAL 2012-183
 LA 519 (2006), LA 504 (2000), LA 498 (1999), LA 394 (1982)
 SD 2008-1
 SF 2014-1
 Exceptions to the attorney-client privilege codified in the Evidence Code modify the duty of confidentiality under Bus. & Prof. Code § 6068(e)
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Expert

Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
 LA 513 (2005)
 communication between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 designation of a party as an expert trial witness is not in itself implied waiver of party's attorney-client privilege
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
 disqualification may be required if the expert possesses confidential information material to the pending litigation
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Toyota Motor Sales, U.S.A., Inc. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
 disqualification of counsel not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
 disqualification of expert witness interviewed but not retained by opposing party is abuse of discretion
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
 expert's opinion
CAL 1981-58
 -minor defendant is entitled to assistance of expert psychotherapist, who will not report confidential information about child abuse or threats to authorities
Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 law firm's retention of expert previously rejected by opposing party justifies disqualification from further representation
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
 need not be removed where plaintiff's expert was previously represented by defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
 Extends to information learned from third parties resulting from confidential communications with client
People v. Barr (1984) 159 Cal.App.3d 1129, 1159-1160
 Fee agreement considered confidential communication
 Business and Professions Code section 6149
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 LA 456
 Fee arrangement not subject to attorney-client privilege, no revelation of confidential information
U.S. v. Bauer (9th Cir. 1997) 132 F.3d 504
United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
In re Grand Jury Proceedings v. U.S. (9th Cir. 1994) 33 F.3d 1060
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
Phaksuan v. United States (9th Cir. 1984) 722 F.2d 591, 594
U.S. v. Sherman (9th Cir. 1980) 627 F.2d 189, 191-192
 Fiduciary relationship, existence of
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
Lee v. State Bar (1970) 2 Cal.3d 927, 939 [88 Cal.Rptr. 361]
Johnstone v. State Bar (1966) 64 Cal.2d 153, 155-156 [49 Cal.Rptr. 97]

People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
CAL 1987-93, CAL 1984-83
American Airlines v. Sheppard Mullin, Richter & Hampton
 (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
 in identifying the "real client" for purposes of finding the
 fiduciary exception to the attorney-client privilege, the Court
 applied the following factors: whether the advice was paid for
 by the trust corpus; whether the trustee had reason to seek
 personal advice rather than as a fiduciary; and whether the
 advice could be intended for a purpose other than the benefit
 of trust
U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131
 S.Ct. 2313]
 trust obligations between the United States and Indian tribes
 are defined by statute and are not comparable to a private
 trust relationship
U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131
 S.Ct. 2313]
 Former client
 accept employment adverse to
 -knowledge of former client's property and property rights
 involved in action
 LA 31 (1925)
 use of confidential communications of
 -in subsequent representation of adverse party
 LA 27 (1925)
 use of confidential information in attorney biography
 OC 2022-01
 Franchise group
 franchisee law firms of franchise group obtaining confidences
 LA 423 (1983)
 Fraud
 against client
Krieger v. State Bar (1954) 43 Cal.2d 604 [275 P.2d 459]
 upon client
Choate v. State Bar (1953) 41 Cal.2d 399
Hinds v. State Bar (1941) 19 Cal.2d 87, 92-93
 Fugitive
 client's absence from court, attorney may not answer court's
 inquiry if harmful to client
 SD 2011-1
 harboring a fugitive
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State
 Bar Ct. Rptr. 737
 LA(I) 1931-2
 Historical background
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 500-501
 [30 Cal.Rptr. 317]
 Identity of third party paying attorney's fee
United States v. Blackman (1995) 72 F.3d 1418
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493
 Implied-in-fact contract
 duty of confidentiality does not extend to private information
 received from a potential client via an unsolicited email
 SD 2006-1
 may result in duty of confidentiality
CAL 2005-168, CAL 2003-161
 Imputed knowledge
 to principal
Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d
 301]
 In camera hearing on motion to withdraw
 defense counsel reveals belief that defendant would commit
 perjury
People v. Brown (1988) 203 Cal.App.3d 1335
 In camera review
 determination of waiver of privilege where documents related
 to a joint defense agreement were shared or sought under
 theory of common interest doctrine
Costco Wholesale Corp. v. Superior Court (2009) 47
 Cal.4th 724 [101 Cal.Rptr.3d 758]

OXY Resources California LLC v. Superior Court (2004)
 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 Inaccurate fiduciary accounting by client
 SD 1983-10
 Inadvertent disclosure
Samuels v. Mitchell (1994) 155 F.R.D. 195
KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal.
 Rptr. 3d 743]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Sundholm v. Hollywood Foreign Press Association (2024) 99
 Cal.App.5th 1330 [318 Cal.Rptr.3d 669]
McDermott Will & Emery, LLP v. Superior Court (Hausman)
 (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th
 1118 [88 Cal.Rptr.3d 800]
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th
 1112 [18 Cal.Rptr.3d 112]
State Compensation Insurance Fund v. WPS, Inc. (1999) 70
 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
Aerojet-General Corp. v. Transport Indemnity Insurance
 (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
CAL 2020-203, CAL 2015-193, CAL 2010-179, SD 1987-3
 by third party does not negate confidentiality or cause
 forfeiture of privilege where claimant acted pursuant to
 protective order to keep trade secrets confidential
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882
 [86 Cal.Rptr.3d 297]
 city's inadvertent disclosure of documents in response to
 Public Records Act request did not waive attorney-client
 privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199
 Cal. Rptr. 3d 743]
 client did not waive attorney-client privilege applicable to e-
 mail by forwarding it to third party and did not consent to
 additional disclosure of e-mail
McDermott Will & Emery, LLP v. Superior Court (Hausman)
 (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
 documents improperly taken by employee, from employer, in
 violation of non-disclosure agreement, were attorney-client
 privileged documents and were improperly reviewed by
 counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125
 Cal.Rptr.3d 361]
 electronic communication technologies, utilization of
 OC 97-002
 if involuntary disclosure, privilege will be preserved if the
 holder has made efforts "reasonably designed" to protect the
 privilege
Gomez v. Vernon (9th Cir.(Idaho) 2001) 255 F.3d 1118 [50
 Fed. R. Serv.3d (Callaghan) 436]
 inadvertent release of documents under Public Records Act
 does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil)
 (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]
 theft of documents by an associate and the employer's
 subsequent release of information in those documents to a
 third-party to investigate the associate's conduct constituted a
 waiver of privilege
Pacific Pictures Corporation v. U.S. District Court (9th Cir.
 2012) 679 F.3d 1121
 Incompetent client
 attorney initiated conservatorship proceedings, absent client
 consent
CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF
 1999-2
 duty of confidentiality compared with duty to be truthful to the
 court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103
 Cal.Rptr.2d 148]

CONFIDENCES OF THE CLIENT

In-house counsel may establish attorney-client relationship with law firm attorney

[CAL](#) 2019-197

Joint defense agreement

advance waiver of potential future conflict contained in a joint defense agreement found enforceable

[In re Shared Memory Graphics](#) (9th Cir. 2011) 659 F.3d 1336 may be created (and ended) by conduct as well as express agreement

[U.S. v. Gonzalez](#) (9th Cir. 2012) 669 F.3d 974

privilege related to documents shared before litigation

[OXY Resources California LLC v. Superior Court](#) (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

Mediation

[Simmons v. Ghaderi](#) (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]

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

all communications among all participants remain privileged unless all mediation participants involved in a mediation-related communication agree to its disclosure

[Cassel v. Superior Court](#) (2011) 51 Cal.4th 113 [119 Cal.Rptr.3d 437]

[Amis v. Greenberg Traurig LLP](#) (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]

communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation

[Wimsatt v. Superior Court](#) (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]

evidence of alleged oral settlement agreement made in mediation was inadmissible

[Simmons v. Ghaderi](#) (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]

exception mediation privilege

-admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et seq.)

[Estate of Thottam](#) (2008) 165 Cal.App.4th 1331 [81 Cal.Rptr.3d 856]

general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney

[Provost v. Regents of the University of California](#) (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation

[Amis v. Greenberg Traurig LLP](#) (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]

mediation confidentiality statutes prohibit a mediator from testifying to anything about a settlement agreement unless parties agree otherwise

[Radford v. Shehorn](#) (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]

prepared for the purpose of mediation are not subject to discovery and are not admissible in subsequent litigation

[Rojas v. Superior Court](#) (2004) 33 Cal.4th 407 [15 Cal.Rptr. 643]

proponent's attorney's declaration that he numbered the agreement pages before the parties signed was admissible because it involved non-communicative conduct

[Radford v. Shehorn](#) (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]

waiver of confidentiality may not be effective in absence of party authorization

[Rael v. Davis](#) (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]

Mediator may not report sanctionable conduct of parties to court
[Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc.](#) (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]

Minor client in dependency matter

[In re Charlissee C.](#) (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597] LA 504 (2000)

Mismanagement of funds

by client

-administrator

--report to court

LA 132 (1940)

--urge restitution

LA 132 (1940)

Misuse of client funds

[Resner v. State Bar](#) (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]

[Brawner v. State Bar](#) (1957) 48 Cal.2d 814 [313 P.2d 1]

[Burns v. State Bar](#) (1955) 45 Cal.2d 296, 302 [288 P.2d 514]

Misuse of client property

[Lefner v. State Bar](#) (1966) 64 Cal.2d 189, 193 [49 Cal.Rptr. 296, 410 P.2d 832]

[Sunderlin v. State Bar](#) (1949) 33 Cal.2d 785 [205 P.2d 382]

Moonlighting as contract lawyer

SD 2023-2

Moral turpitude

[In the Matter of Gillis](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

Name of client [See Confidences of the client, client name.]

Obtained in unrelated matter

LA(I) 1963-1

Outside services, use of by attorney

[CAL](#) 2023-208, [CAL](#) 2010-179

may involve disclosure of client confidences

[CAL](#) 2023-208, [CAL](#) 2020-203, [CAL](#) 2012-184, [CAL](#) 1971-25, LA 516 (2006), SD 2007-1

-to outside lawyers or providers of outsource legal services
LA 518 (2006)

Partnership

[Knight v. Ferguson](#) (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

[Hecht v. Superior Court](#) (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]

[Wortham & Van Liew et al. v. Superior Court](#) (1987) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]

Perjury

by client

[Nix v. Whiteside](#) (1986) 475 U.S. 157 [106 S.Ct. 988]

[People v. Guzman](#) (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

[People v. Bolton](#) (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

[People v. Johnson](#) (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

[CAL](#) 1983-74, LA 305 (1968), OC 2003-01

by witness

[CAL](#) 2019-200

disclosure of secret by attorney

[Nix v. Whiteside](#) (1986) 475 U.S. 157 [106 S.Ct. 988]

[People v. Guzman](#) (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

[People v. Johnson](#) (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

[CAL](#) 1983-74, LA 305 (1968), OC 2003-01

narrative form of testimony is best choice when attorney fears client will commit perjury

[People v. Guzman](#) (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

[People v. Bolton](#) (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

[People v. Johnson](#) (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

withdrawal

[Nix v. Whiteside](#) (1986) 475 U.S. 157 [106 S.Ct.] 988

- People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
- CAL 1983-74, LA 305 (1968), OC 2003-01
- discretion of the court in granting motion
- People v. Brown (1988) 203 Cal.App.3d 1335
- Possession of, presumed if substantial relationship of the matters
- Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 578 [205 Cal.Rptr. 605]
- rebuttable presumption
- County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
- Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
- Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
- Possibility of breach, basis for disqualification
- Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999
- Prison officials may only open mail – not read it
- People v. Poe (1983) 145 Cal.App.3d 574
- Prisoner mail to foreign attorney
- In re Gonzales (1989) 212 Cal.App.3d 459 [260 Cal.Rptr. 506]
- Privilege
- Evidence Code sections 950 et seq.
- Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
- Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
- Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
- Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]
- Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
- City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
- St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]
- Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
- Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
- Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
- People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
- CAL 2016-195, CAL 2015-193, CAL 2013-188
- LA 531 (2019), LA 519 (2006)
- SF 2014-1
- U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
- United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
- Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
- Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
- HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
- People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
- Welfare Rights Organization v. Crisan (1983) 33 Cal.3d 766 [190 Cal.Rptr. 919, 661 P.2d 1073]
- DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
- League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]
- St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
- Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
- Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
- State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]
- Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
- Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
- Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
- Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
- PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr. 213]
- Grand Jury v. Superior Court (1989) 211 Cal.App.3d 740 [259 Cal.Rptr. 404]
- *Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793 [204 Cal.Rptr. 234]
- LA 519 (2006)
- attorney
- absent waiver, responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client
 - LA 525 (2012), SF 2014-1
 - absolute work product and qualified work product defined
 - American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
 - Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
 - risk when using social media
 - LA 529 (2017)
 - authority to assert
 - In re Boileau (9th Cir. 1984) 736 F.2d 503, 506
 - by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection
 - Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
 - communications related to issues raised in litigation
 - Byers v. Superior Court (2024) 101 Cal.App.5th 1003 [320 Cal.Rptr.3d 748]
 - communications between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
 - Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 - good faith requirement
 - Olson v. Superior Court (1984) 157 Cal.App.3d 780, 796
 - holder of psychotherapist-patient privilege when appointed for minor and serving as guardian ad litem
 - In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]

CONFIDENCES OF THE CLIENT

- identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)
 - Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]
- required to claim privilege
 - Evidence Code section 955
- witness interviews, conducted by investigators employed by defendant's counsel, are protected by work product privilege
 - Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
- attorney-client and work product privileges are not limited by the prosecution seeking to discover documents through a search warrant
 - People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]
- attorney-client privilege applies even to disclosures to a court
 - Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- attorney-client privilege extends to all communications relating to a client's matter or interests among and between multiple attorneys who are representing client
 - Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]
- attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 - Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
- attorney-client privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance
 - St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- bankruptcy proceedings
 - attorney cannot use confidences of former client to challenge client's discharge of fees owed
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
- breach by attorney, no "fruit of the poisonous tree" remedy absent government misconduct
 - People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
- client
 - deceased client
 - HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]
 - LA 491 (1997), LA 414 (1983)
 - federal investigation
 - Swidler & Berlin v. United States (1998) 524 U.S. 399 [118 S.Ct. 2081]
 - intention of affecting property interest
 - Evidence Code section 961
 - defined
 - U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
 - Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
 - Moeller v. Superior Court (1997) 16 Cal.4th 317 [69 Cal.Rptr.2d 317]
 - People v. Gionis (1995) 9 Cal.4th 1196 [40 Cal.Rptr.2d 456]
 - Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
 - Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]
 - St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
- Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
- Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
- Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
- Schaff v. Superior Court (1983) 146 Cal.App.3d 921 SD 2006-1
- disqualification of law firm appropriate due to violation of ethical obligations regarding use of inadvertently disclosed privilege e-mail
 - McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
- email to attorney on client's employer's computer, where client warned that communication was neither private nor confidential
 - Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
- fiduciaries: receivers, trustees, executors entitled to privilege
 - Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]
- file
 - Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
- identity
 - United States v. Blackman (9th Cir. 1995) 72 F.3d 1418
 - In the Matter of the Grand Jury Subpoena Issue to Chesnoff (9th Cir. 1995) 62 F.3d 1144
 - Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
 - Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
 - In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317
 - Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
 - Baird v. Koerner (9th Cir. 1960) 279 F.2d, 623, 629
- in-house counsel may establish attorney-client relationship with law firm attorney
 - Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 - CAL 2019-197
- joint clients
 - common interest doctrine, no waiver of
 - Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
 - community of interest doctrine
 - In re the Regents of the University of California (1996 Ind.) 101 F.3d 1386
 - exception to privilege
 - Evidence Code section 962
 - Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal. Rptr.2d 754]
 - Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467 [200 Cal.Rptr. 471]
 - joint defense agreement implied
 - U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
 - mass tort
 - SF 2020-1
 - no joint client privilege when parties have simply overlapping interests
 - Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
 - under joint defense agreement
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633

--when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]
 -joint defense agreement; documents shared before litigation
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 -mass tort
 SF 2020-1
 common interest doctrine
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 -based on waiver analysis; parties may share privileged information when it furthers the attorney-client relationship
Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
 -common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
 communications which are privileged
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
Alexiou v. United States (9th Cir. 1994) 39 F.3d 973
In re Grand Jury Subpoena Issued to Gerson S. Horn (9th Cir. 1992) 976 F.2d 1314
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
Dole v. Milonas (9th Cir. 1989) 889 F.2d 885
Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424
Baird v. Koerner (9th Cir. 1960) 279 F.2d 623, 629
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]
Chronicle Pub. Co. v. Superior Court (1960) 54 Cal.2d 548, 566 [7 Cal.Rptr. 104, 354 P.2d 637]
Holm v. Superior Court (1954) 42 Cal.2d 500, 506 [267 P.2d 1025]
City & County of San Francisco v. Superior Court (1951) 37 Cal.2d 227, 234-235 [231 P.2d 26]
McKnew v. Superior Court (1943) 23 Cal.2d 58 [142 P.2d 1]

Sundholm v. Hollywood Foreign Press Association (2024) 99 Cal.App.5th 1330 [318 Cal.Rptr.3d 669]
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
People v. Tamborrino (1989) 215 Cal.App.3d 575
Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 655 [36 Cal.Rptr. 21]
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497 [30 Cal.Rptr. 317]
People v. Morgan (1956) 140 Cal.App.2d 796, 803 [296 P.2d 75]
People v. Kor (1954) 129 Cal.App.2d 436, 442-443 [277 P.2d 94]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 CAL 2016-195
 -client was unable to demonstrate communications with third-party were made in the course of the attorney-client relationship, the attorney-client privilege does not attach
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
 -communications between firm attorney and in-house counsel related to dispute with current client may be privileged
Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 -distinctions between confidences and secrets and privileged communications
 SD 2011-1
 -documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee
Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]
 -does not allow former trustee to withhold communications with trust's former counsel on ground of attorney-client privilege unless trustee retains his/her own counsel for personal services and pays fees out of pocket
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

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-does not protect third party information unless third party is an agent of client

Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]

Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]

Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]

-email to attorney was neither private nor confidential

Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]

-exceptions

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

Arden v. State Bar (1959) 52 Cal.2d 310, 320

Nowell v. Superior Court (1963) 223 Cal.App.2d 652, 657-658 [36 Cal.Rptr. 21]

--billing statements

Clarke v. American National Commerce Bank (9th Cir. 1992) 974 F.2d 127

---attorney fee totals in legal matters that concluded long ago

Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

---Public Records Act disclosure

Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

--business checks payable to a client or others on the client's behalf

Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

--co-defendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other co-defendant

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

--does not apply to work product

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

--does not extend to employee's personal claim of attorney-client privilege to protect his communications with corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

--does not extend to otherwise unprivileged subject matter that has been communicated to attorney

2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

--DOJ cannot withhold documents under FOIA that do not present a risk of circumvention of legitimate government surveillance and the law by wrongdoers

American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473

--extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

--in camera review of communications to determine privilege

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

--investigation activities by a claims adjuster who also is an attorney may not be covered by the privilege

2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

--no unavailability exception -- privilege protects pre-trial statements although unavailable to opposing counsel through discovery

Admiral Insurance v. United States (9th Cir. 1989) 881 F.2d 1486

-identity of current clients not disclosed to third parties and client specific information regarding funds held by the attorney in a client trust account need not be disclosed to creditor by attorney debtor

Hooser v. Superior Court (2001) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

-investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

-predecessor trustee failed to establish that they communicated with counsel in their personal capacity

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

-privilege does not extend to investigated work done by claims adjuster who also is an attorney

2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

-purpose of the communication, between attorney and client

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

-questionnaire, where no waiver of privilege

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

-report prepared by expert-consultant is protected by the attorney's work product privilege

In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900

condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners

Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

deceased client

Evidence Code section 957

Fletcher v. Alameda County Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]

People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]

Paley v. Superior Court (1955) 137 Cal.App.2d 450 LA 300

-destruction of file

LA 491 (1997)

definitions

-client

Evidence Code section 951

-confidential communication between lawyer and client

Evidence Code section 952

Nalian Truck Lines, Inc. v. Nakano Warehouse and Transportation Corp. (1992) 6 Cal.App.4th 1256

-lawyer

Evidence Code section 950

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

derivative action by shareholders does not entitle shareholders to attorney-client privilege information

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

disclosure by corporate officer to attorney for the purpose of disclosure to outside auditors is not privileged

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

disclosure of client secret

-attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]

Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

-leading to search warrant

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

-to third parties reasonably necessary to carry out the representation

Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]

California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]

--public relations consultant was not someone to whom disclosure was reasonably necessary to accomplish the purpose for which client retained attorney

Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]

documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

dual purpose communication

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

duty to assert, lawyer's

-extends to attorney for corporation as to communications with client before merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

eight-part test

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

exceptions

-breach of duty arising out of lawyer-client relationship

--no exception where third party is seeking disclosure to information related to the litigation

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

-courts cannot add to statutory privilege exceptions

St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

-does not apply to work product

Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

-due process

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

-fraud or crime

In re Napster, Inc. Copyright Litigation (9th Cir. 2007) 479 F.3d 1078

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

--preponderance of evidence required to establish

In re Napster, Inc. Copyright Litigation (9th Cir. 2007) 479 F.3d 1078

-identity of putative class members not covered by privilege

Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]

-no implied exceptions to attorney-client privilege

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

-to mediation privilege

--admissibility of a chart, ruled to be a settlement agreement, which the parties had previously consented to disclosure in the event there was litigation to enforce the agreement (Evidence Code § 1123 et seq.)

Estate of Thottam (2008) 165 Cal.App.4th 1331 [81 Cal.Rptr.3d 856]

-use of client confidential information to collect a fee
CLA 2022-1

federal common law

United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

fundamental fairness

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

holder of privilege

-attorney appointed for minor serves as guardian ad litem and is holder of psychotherapist-patient privilege

In re Cole C. (2009) 174 Cal.App.4th 900 [95 Cal.Rptr.3d 62]

-bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege

Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]

-personal representative as

HLC Properties, Ltd. v. Superior Court (2005) 35 Cal.4th 54 [24 Cal.Rptr.3d 199]

-successor fiduciary

Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

-successor of a merged corporation

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

in identifying the "real client" for purposes of finding the fiduciary exception to the attorney-client privilege, the Court applied the following factors: whether the advice was paid for by the trust corpus; whether the trustee had reason to seek personal advice rather than as a fiduciary; and whether the advice could be intended for a purpose other than the benefit of trust

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

in-house counsel may establish attorney-client relationship with law firm attorney

Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

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insurance cases

-liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advice it received

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

not waived when the client's agent discloses a privileged communication without client's authorization

DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]

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policy and purpose

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

preservation of attorney-client privilege is a critical pretrial matter

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

presumption

Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

Johnson v. Superior Court (1984) 159 Cal.App.3d 573 [205 Cal.Rptr. 605]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

presumption of shared confidences in a law firm

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

property interest

-intention of deceased client affecting

Evidence Code section 961

-validity of writing affecting

Evidence Code section 961

protection from discovery

Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]

City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]

Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]

-attorney plaintiff may not prosecute a lawsuit if in doing so client confidences would be disclosed unless statute removes the protection of the attorney-client privilege

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

-attorney, at a minimum, must have a basic understanding of and facility with, issues relating to e-discovery or seek expert assistance

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-by corporate director

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

-co-defendant's statements in letter to own attorney which, if disclosed, would be purportedly of exculpatory nature as to other co-defendant

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

-communications related to issues raised in litigation

Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047, 1052-1053

-communications with expert witness for opposing party

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

-does not require DOJ to release certain sections of the USA Book due to attorney work product exemption under the Freedom of Information Act request

American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473

-general, boilerplate assertion of an evidentiary privilege is not a proper assertion of the privilege

Burlington Northern & Santa Fe Railway Co. v. U.S. District Court (9th Cir. (Mont.) 2005) 408 F.3d 1142

-not limited to litigation communications

STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]

-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

-subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity

Cooley v. Superior Court (2006) 140 Cal.App.4th 1039 [45 Cal.Rptr.3d 183]

-through binding arbitration clause within law firm employment agreement

Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066

-use of law enforcement agents to intentionally eavesdrop on confidential attorney-client communications

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

protects client communications

Upjohn v. U.S. (1981) 449 US 383 [101 S.Ct. 677]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

public record

-city attorney's written opinion to council on pending matter subject to attorney-client privilege

Roberts v. City of Palmdale (1993) 5 Cal.4th 363 [20 Cal.Rptr.2d 330]

-city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

-communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act

Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]

-executive communications made during the decision making process are protected from disclosure by the deliberative process privilege
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]

-inadvertent release of documents under Public Records Act does not waive the attorney-client privilege
Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]

-mere fact that information may appear in public domain does not affect the privileged status of the information
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

-privileged communications exempt from disclosure pursuant to Public Records Act request and city Sunshine ordinance
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

-report prepared by police officers in the performance of their duties are public record and are not privileged
Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]
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public record information
 -city attorney's written opinion to council on pending matter subject to attorney-client privilege
St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

real parties in interest may not compel disclosure when receiver asserts privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

right of corporation to claim
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600
Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818

-corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation
Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

scope
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 824, 826-829, 830-831
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

search warrant not quashed despite use of defendant's confidential information to obtain the warrant when law enforcement agents do nothing to procure or induce the defendant's attorney's improper disclosure of the information
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

selective waiver
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

shareholders may not pierce privilege
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]

Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]

-third party paying fee, identity of
Ralls v. U.S. (9th Cir. 1995) 52 F.3d 223
U.S. v. Hirsch (9th Cir. 1986) 803 F.2d 493

Sixth Amendment's Confrontation Clause vs. attorney-client privilege
 -defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination
Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

-right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors
People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

standing to assert common interest doctrine
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-not applicable where the parties executed no agreement in the pursuit of a joint strategy
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

-voluntary release by counsel of unredacted documents to federal government
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121

third party communications
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-between corporate employee and corporate counsel
U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

-does not protect third party information unless third party is an agent of client
Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
Zimmerman v. Superior Court (2013) 220 Cal.App.4th 389 [163 Cal.Rptr.3d 135]

-privilege only extends to those necessary to effectuate the client's consultation
U.S. v. Kovel (2nd Cir. 1961) 296 F.2d 918
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship
U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

trust's attorney need not disclose to beneficiaries confidential communication with trustee
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

-former trustee cannot withhold communications with trust's former counsel on group of attorney-client privilege to successor trustee
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

voluntary disclosure of privileged materials to government agency in non-public investigation constitutes waiver
McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703

voluntary disclosure partially waives attorney-client privilege for contested documents in patent case
Starsight Telecast v. Gemstar (1994) 158 F.R.D. 650

waiver
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

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Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
Electro Scientific Industries, Inc. v. General Scanning, Inc. (N.D. Cal. 1997) 175 F.R.D. 539
Byers v. Superior Court (2024) 101 Cal.App.5th 1003 [320 Cal.Rptr.3d 748]
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]
Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
Transamerica Title Ins. Co. v. Superior Court (1986) 188 Cal.App.3d 1047
Motown Record Corp. v. Superior Court (1984) 155 Cal.App.3d 482, 492 [202 Cal.Rptr. 227]
Rigolfi v. Superior Court (1963) 215 Cal.App.2d 497, 502 [30 Cal.Rptr. 317]
CAL 2015-193, CAL 1989-115
 -agreement requires disclosure
Tennenbaum v. Deloitte & Touche (9th Cir. 1996) 77 F.3d 337
 -arbitration case
 --privilege waived with disclosure of arbitration documents to accountants for non-legal purposes
Samuels v. Mitchell (1994) 155 F.R.D. 195
 -bankrupt corporation's attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 -by client
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Mitchell v. Superior Court (1984) 37 Cal.3d 591 [208 Cal.Rptr. 886]
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
 LA 519 (2006)
 --absent waiver, responding to disparaging public statement via internet posting made by former client, attorney must be proportionate and restrained and must not reveal client confidential information nor injure the client
 LA 525 (2012)
 SF 2014-1
 --email to attorney was neither private nor confidential
Holmes v. Petrovich Development Co. (2011) 191 Cal.App.4th 1047 [119 Cal.Rptr.3d 878]
 -by corporation
United States v. Ruehle (9th Cir. 2009) 583 F.3d 600

-by public agency
 --not found when executive communications were made during the decision making process and were protected by the deliberative process privilege
Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]
 -court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]
 -court must hold hearing before ruling on waiver of attorney-client privilege
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
 -disclaimer of attorney-client relationship does not effectively waive the duty of confidentiality
Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110
 -failure to produce a privilege log in a timely manner is a waiver of privilege
Burlington Northern & Santa Fe Railway Co. v. U.S. District Court (9th Cir. (Mont.) 2005) 408 F.3d 1142
 -forced waiver not an authorized sanction for failure to file a privilege log
Korea Data Systems Co. Ltd. v. Superior Court (1997) 51 Cal.App.4th 1513 [59 Cal.Rptr.2d 925]
 -found when attorney did not specifically reference objections to individual items in discovery request for production of documents
Scottsdale Insurance Company v. Superior Court (1997) 59 Cal.App.4th 263 [69 Cal.Rptr.2d 112]
 -found when claiming ineffective assistance of counsel
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Durdines v. Superior Court (1999) 76 Cal.App.4th 247 [90 Cal.Rptr.2d 217]
 -found when party claiming privilege uses non-disclosure as both a sword and a shield
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
United States v. Amlani (9th Cir. 1999) 169 F.3d 1189
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
 -found where clients never disputed attorney's authority to release documents to a third-party
Pacific Pictures Corporation v. U.S. District Court (9th Cir. 2012) 679 F.3d 1121
 -inadvertent disclosure absent client's waiver does not destroy privilege
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]
KL Group v. Case, Kay & Lynch (9th Cir. 1987) 829 F.2d 909
 -inadvertent disclosure by third party does not negate confidentiality or cause forfeiture of privilege where claimant acted pursuant to protective order to keep trade secrets confidential
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 -inadvertent, accidental disclosure by attorney not waiver by client
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 -insured employer of claimant may not waive attorney-client privilege that insurer is entitled to assert under Labor Code section 3762
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

- IRS, voluntary disclosure by client
Griffith v. Davis (1995) 161 F.R.D. 689
- limited in federal habeas petitions, court justified in entering protective order
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
- limited to habeas proceeding when court within its discretion, issues protective order when ineffective assistance of counsel issues are raised
Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715
Osband v. Woodford (9th Cir. 2002) 282 F.3d 1125
- limited waiver based on limited disclosure
Chevron Corporation v. Pennzoil Company (9th Cir. 1992) 974 F.2d 1156
- no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
- not found
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
Hoffman v. City and County of San Francisco (N.D. Cal. 2013) 2013 WL 2403641
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Shooker v. Superior Court (2003) 111 Cal.App.4th 923 [4 Cal.Rptr.3d 334]
Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]
- common interest doctrine applies to joint prosecution agreement for the sharing of experts reports
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
- disclosure of documents reasonably necessary to further the interests of counsel, clients, and third parties who were bound by an offer and acceptance
STI Outdoor v. Superior Court (Eller Media Co.) (2001) 91 Cal.App.4th 334 [109 Cal.Rptr.2d 865]
- liability carrier for directors and officers of pre-merger corporation has no standing to waive privilege where it is not defending itself on the basis of the advice it received
Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
- shareholder derivative action
Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
- to third parties reasonably necessary to carry out the representation
California Oak Foundation v. County of Tehama (2009) 174 Cal.App.4th 1217 [94 Cal.Rptr.3d 902]
- common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent
Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]
- when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
- patent case
McCormick-Morgan, Inc. v. Teledyne Industries, Inc. (N.D. Cal. 1991) 765 F.Supp. 611
- reasonable steps to protect privileged communications
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]
- sexual relations with client may waive privilege
OC 2003-02
- technology
CAL 2010-179

- third party communication, privilege only extends to those necessary to effectuate the client's consultation
U.S. v. Kovel (2nd Cir. 1961) 296 F.2d 918
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
- trustee's reporting duties do not trump the attorney-client privilege and does not constitute a waiver
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- who may claim
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
Alpha Beta Co. v. Superior Court (1984) 157 Cal.App.3d 818, 825
- witnesses
-privilege does not extend to memorandum disclosing the existence of
Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]
- work product
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
- independent third party digital forensic expert's report do not reflect an attorney's impressions, conclusions, opinions, legal research and theories, thus, not protected under CCP 2018.030, as work product
Uber Technologies, Inc., v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]
- under the Freedom of Information Act, DOJ is not required to release certain sections of the USA Book due to attorney work product exemption
American Civil Liberties Union of Northern California v. United States Department of Justice (9th Cir. 2018) 880 F.3d 473
- work product including non-litigation work
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]
State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]
- absolute privilege not applicable when attorney merely acts as a business agent receiving or conveying messages
Rumac v. Bottomley (1983) 143 Cal.App.3d 810 [192 Cal.Rptr. 104]
- attorney/client privilege distinguished from work product rule
Admiral Insurance v. U.S. District Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486
U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065
Electro Scientific Industries v. General Scanning (N.D. Cal. 1997) 175 F.R.D. 539
McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
SD 2004-1

CONFIDENCES OF THE CLIENT

-attorney's use of social media to communicate with non-clients regarding professional activities must guard against disclosing confidential client information

LA 529 (2017)

-by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection

Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

-common interest doctrine

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

--common interest doctrine, did not protect otherwise privileged communications disclosed between parties because their interests were fundamentally divergent

Citizens for Ceres v. Superior Court (2013) 217 Cal.App.4th 889 [156 Cal.Rptr.3d 789]

-common interest doctrine applies to join prosecution or defense agreements for the sharing of experts' reports

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]

-excluded from discovery

Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

Olson v. Superior Court (1984) 157 Cal.App.3d 780

-identity of putative class members does not violate
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]

-limited to work done for client and communications with the client for that purpose

Aetna Casualty & Surety Co. v. Superior Court (1984) 153 Cal.App.3d 467, 476

-need not be revealed to enable the court to rule on privilege

*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 793-794 [204 Cal.Rptr. 234]

-no waiver when previously produced privileged documents to federal government during regulatory and criminal investigations found to be coerced

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-privilege does not extend to memorandum disclosing the existence of

Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996 [22 Cal.Rptr.2d 862]

-report prepared by expert-consultant is protected by the attorney's work product privilege

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

work product privilege

-witness interviews, conducted by investigators employed by defendant's counsel, are protected by work product privilege

Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]

Prospective client

Syre v. Douglas (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]

CAL 2021-205

Psychotherapist-patient privilege

Roe v. Superior Court (1991) 229 Cal.App.3d 832 [280 Cal.Rptr. 380]

Public Records Act

Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]

League of California Cities v. Superior Court (2015) 241 Cal.App.4th 976 [194 Cal.Rptr.3d 444]

communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act

Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]

Public record information

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

CAL 2016-195

city attorney's written opinion to council on pending matter subject to attorney-client privilege

St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]

city's inadvertent disclosure of documents in response to Public Records Act request did not waive attorney-client privilege

Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal. Rptr. 3d 743]

inadvertent release of documents under Public Records Act does not waive the attorney-client privilege

Newark Unified School District v. Superior Court (Brazil) (2016) 245 Cal.App.4th 887 [190 Cal.Rptr.3d 721]

report prepared by police officers in the performance of their duties are public record and not privileged

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

LA 386

work product

-impressions, conclusions, opinions, or legal research theories, are not subject to compelled disclosure

Labor & Workforce Development Agency v. Superior Court (2018) 19 Cal.App.5th 12 [227 Cal.Rptr.3d 744]

Questionnaire posted on the Internet

may be privileged if no waiver of privilege, despite waiver of attorney-client relationship

Barton v. U.S. Dist. Court for Central Dist. of Cal. (9th Cir. 2005) 410 F.3d 110

Receivers entitled to attorney-client privilege when counsel is obtained to assist in the discharge of duties

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Recorded confidential communications

sanctions for

Shenefield v. Shenefield (2022) 75 Cal.App.5th 619 [290 Cal.Rptr.3d 641]

Records mistakenly delivered to a party

SD 1987-3

Related matter

A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client

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

imputed knowledge

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]

-rebuttable presumption of shared confidence in a law firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Relationship of matter to

Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 897 [175 Cal.Rptr. 575]
imputed knowledge

-rebuttable presumption of shared confidences in a law firm

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

Representing client's former spouse

DeLong v. Miller (1955) 133 Cal.App.2d 175

Research project by non-attorney seeks summarized client data
LA 378 (1978)

Revelation of client confidences required by court order

challenge to error

Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]

Right to chosen counsel

Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 674 [153 Cal.Rptr. 295]

automatic vicarious disqualification of a firm would reduce the right

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

disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Search warrant

lawyer's voluntary disclosure to police that her clients are committing crimes is not a basis to quash a search warrant or suppress evidence despite a claimed breach of the attorney-client privilege

People v. Navarro (2006) 138 Cal.App.4th 146 [41 Cal.Rptr.3d 164]

Secret of client

duty of lawyer to preserve

Business and Professions Code section 6068(e)
CAL 2020-203, CAL 2010-179, CAL 1988-96, CAL 1986-87, CAL 1981-58, CAL 1980-52
LA 456, LA 452 (1988), LA 436 (1985), LA 409 (1983),
LA 386 (1980)
SD 2011-1

secret includes criminal or fraudulent acts

CAL 1988-96, CAL 1986-87

Settlement, private

Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]

agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent

LA 505 (2000)

"Smoking gun"

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084
In re Grand Jury Subpoena (Horn) (9th Cir. 1992) 976 F.2d 1314, 1317

CAL 1984-76, LA 466 (1991)

Social media

LA 529 (2017)

Standing to assert common interest doctrine

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

Status of suspended corporations

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

LA 408 (1982)

Succession planning

CAL 2024-209

Supervision of employees

attorneys must prohibit their employees from violating confidences of former employers as well as confidences of present clients

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

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

CLA 2023-1

duty to maintain client confidences when sharing facilities and staff with other attorneys

CAL 1997-150

duty to maintain client confidences when sharing facilities with non-lawyers

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

Technology, use of

CAL 2023-208, CAL 2012-184, CAL 2010-179, SD 2018-3

technology assisted review (TAR)

SD 2018-3

when using e-discovery, if attorney is not well versed in use of such technology, should consult with an expert to make sure no confidential information is released

CAL 2015-193

Telephone "hotline" taking legal inquiries from callers

LA 449 (1988)

To "of counsel"

LA 516 (2006)

To protect self

against a claim brought by a third-party

LA 519 (2006)

attorney may respond generally to online review of former client if the matter is concluded and no confidential information is disclosed

SF 2014-1

Trusts

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

trust's attorney need not disclose to beneficiaries confidential communication with trustee

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Unauthorized dismissal of case

Foote v. State Bar (1951) 37 Cal.2d 127, 128 [230 P.2d 617]

Use of

CAL 2012-183

following disqualification due to a conflict of interest

CAL 1970-22

former in-house counsel may disclose employer-client confidences to her own attorneys to the extent relevant to her wrongful termination action

Fox Searchlight Pictures, Inc. v. Paladino (2001) 89 Cal.App.4th 294 [106 Cal.Rptr.2d 906]

CAL 2012-183, SD 2008-1

in action against former client

-attorney plaintiff may not prosecute a lawsuit if client confidences would be disclosed unless statute removes the protection of the attorney-client privilege

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164, 1190 [32 Cal.Rptr.2d 1]

Solin v. O'Melveny & Myers, LLP (2001) 89 Cal.App.4th 451 [107 Cal.Rptr.2d 456]

SD 1970-2

-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client

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

CONFLICT OF INTEREST

- in action to collect fee involving client
LA 452 (1988), LA 159 (1945), LA(I) 1961-3
- in action to recover unpaid attorney referral fees
Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]
- in representation of another client
LA 506 (2001), LA 366 (1977)
- in representing former client's opponent
SD 1976-10
- parties may disclose to their respective counsel documents containing potentially confidential or privileged information of third party claims
Chubb & Son v. Superior Court (Lemmon) (2014) 228 Cal.App.4th 1094 [176 Cal.Rptr.3d 389]
- revelation to entertainment industry regarding client's case
LA 409 (1983)
- Virtual law office (VLO)
CAL 2012-184
- Waiver [See Privilege. waiver]
- Whereabouts of client
CAL 1989-111, LA(I) 1931-2
- Wireless connection, use of and need for precautions
CAL 2020-203, CAL 2010-179
- Withdrawal
 - in camera disclosure of general information as basis for
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
 - in camera disclosure of possible client perjury
People v. Brown (1988) 203 Cal.App.3d 1335 LA 498 (1999)
- Withholding client funds
Burns v. State Bar (1955) 45 Cal.2d 296, 302 [288 P.2d 514]
Sullivan v. State Bar (1955) 45 Cal.2d 112 [287 P.2d 778]
- Work product
 - law firm is the holder of work product privilege and need not seek consent from associate attorney before disclosure
Ellis v. Superior Court (Nelson) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]
- Wrongfully retaining client money
Griffith v. State Bar (1945) 26 Cal.2d 273, 275 [158 P.2d 1]
- CONFLICT OF INTEREST** [See Adverse interest. Attorneys of Governmental Agencies. Confidences of the client. Duty to disclose. Termination. Withdrawal. 18 Santa Clara L.Rev 997, 1003 (1978).]
 - Rule 3-310(D)
Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]
- Abuse of discretion
 - court did not abuse discretion in denying motion to substitute in retained counsel; waiver based on an inadequate conflict waiver
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
 - found when court removed the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
- Acceptance of adverse employment
 - Rule 4-101, Rules of Professional Conduct [former rule 5] (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
 - Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
 - Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
 - CAL 1988-96, CAL 1986-87, CAL 1980-52
LA 452 (1988), LA 448 (1987), LA 436 (1985), LA 409 (1983), LA 406 (1982), LA 395 (1982), LA 386 (1980), LA 242 (1957), LA 237 (1956), LA 223 (1955), LA 216 (1953), LA 170 (1949), LA 136 (1941), SD 1968-3
- attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- client in one matter, later opposing party in unrelated matter
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 304 [205 Cal.Rptr. 671]
- Jeffrey 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]
- Accepting compensation from other than client
Rule 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
LA 500 (1999)
- Accepting employment adverse to client
Rules 4-101 and 5-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-310, Rules of Professional Conduct (operative as of May 27, 1989)
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
- Acquisition of adverse interest
 - absolute prohibition
Ames v. State Bar (1973) 8 Cal.3d 910, 915 fn.8
 - acquiring former client's collection business and clientele
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

advice of independent counsel

Connor v. State Bar (1990) 50 Cal.3d 1047

Hawk v. State Bar (1988) 45 Cal.3d 589

Ritter v. State Bar (1985) 40 Cal.3d 595

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-partner not an independent counsel

Connor v. State Bar (1990) 50 Cal.3d 1047

adverse pecuniary interest must be "knowingly acquired"

In the Matter of Cacioppo (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 128

asset in probate estate acquired by attorney in apparent satisfaction of fee

Fall v. State Bar (1944) 25 Cal.2d 149, 152-154 [153 P.2d 1]

attorney enters into partnership with client

Kapelus v. State Bar (1987) 44 Cal.3d 179

-finder's fee

Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]

Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609

-judgment proceeds as source of attorney fee

LA 416 (1983)

-representation/business relationship with living trust marketer

CAL 1997-148

-security for fees

LA 407 (1982), LA 398 (1982)

-selling information regarding case to entertainment industry

LA 409 (1983)

attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client

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

attorney's dual capacity as attorney and real estate broker

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

SD 1992-1

attorney's purchase of real property which was the subject matter of client representation

Tomblin v. Hill (1929) 206 Cal. 689

before termination of attorney-client relationship requires compliance with rule 5-101

Arden v. State Bar (1987) 43 Cal.3d 713

bidding on government contract requiring client's consent to waiver of client's attorney-client and work product privileges

LA 435

borrowing money from client

In re Tallant (9th Cir. 1998) 218 B.R. 58

Sugarman v. State Bar (1990) 51 Cal.3d 609

Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

Rhodes v. State Bar (1989) 49 Cal.3d 50

Dixon v. State Bar (1982) 32 Cal.3d 728, 733

Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619 P.2d 1005]

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

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

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

-absence of security for a loan is an indication of unfairness

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-full disclosure and written consent required

McKnight v. State Bar (1991) 53 Cal.3d 1025

Lipson v. State Bar (1991) 53 Cal.3d 1010

Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]

Frazer v. State Bar (1987) 43 Cal.3d 564

Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

borrowing money from trust where attorney is trustee

Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

business transaction with client

In re Tallant (9th Cir. 1998) 218 B.R. 58

In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

SF 1997-1

-burden of proof on attorney that dealings fair and reasonable

In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]

Hunnecutt v. State Bar (1988) 44 Cal.3d 362, 372-373 [243 Cal.Rptr. 699]

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

In the Matter of Lillian Brown Johnson (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233

Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

CAL 1995-140, LA 477

-fee financing plan

CAL 2002-159, OC 93-002

-from fund which resulted from representation, attorney-client relationship exists even if representation has otherwise ended

Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

-law partner not "independent counsel" for purpose of conflicts rule

Connor v. State Bar (1990) 50 Cal.3d 1047

-moral turpitude found

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

-no violation found if no financial gain and not a party to the transaction

In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

CONFLICT OF INTEREST

- no violation of [rule](#) 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction
 - [In the Matter of Allen](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
- not found where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
 - [CAL](#) 2002-159
- post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
 - [In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- strictly scrutinized for fairness
 - [Rodgers v. State Bar](#) (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
 - [Beery v. State Bar](#) (1987) 43 Cal.3d 802, 812-813
 - [BGJ Associates, L.L.C. v. Wilson](#) (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
 - [Passante, Jr. v. McWilliam](#) (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]
 - [In the Matter of Peavey](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
 - [In the Matter of Lillian Brown Johnson](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 233
 - [In the Matter of Hagen](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153
- charging lien in hourly fee agreement requires compliance with [rule](#) 3-300
 - [Fletcher v. Davis](#) (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]
 - [CAL](#) 2006-170
- contingency fee agreements distinguished
 - [Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
- compensation from third party affecting professional judgment
 - LA 317 (1970)
- confession of judgment
 - [In the Matter of Lane](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- entering into loan transaction with client – attorney has one client loan money to another client
 - [Rodgers v. State Bar](#) (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381]
 - [Hunnecutt v. State Bar](#) (1988) 44 Cal.3d 362
- estate attorney charging personal representative personally for services performed
 - LA 347 (1975), SD 1992-1
- judgment proceeds as source of attorney fee
 - LA 416 (1983)
- lending money to client by attorney
 - [Dixon v. State Bar](#) (1982) 32 Cal.3d 728, 733
 - [Bradpiece v. State Bar](#) (1974) 10 Cal.3d 742, 744
 - [Fergus v. Songer](#) (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
 - [In the Matter of Reiss](#) (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
 - [In the Matter of Fonte](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
 - [In the Matter of Lane](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735
- by attorney's spouse
 - [Fergus v. Songer](#) (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
- lien against recovery in unrelated matter to secure fees owed not subject to [rule](#) 3-300
 - LA 496 (1998)
- no duty to recommend specific lawyer
 - [Maltaman v. State Bar](#) (1987) 43 Cal.3d 924
- not found
 - charging lien in contingency fee agreement does not create an adverse interest within the meaning of [rule](#) 3-300
 - [Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 - [CAL](#) 2006-170
 - where attorney arranges to transfer client's property to attorney's son
 - [In re Casey](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
 - where attorney merely refers client to real estate broker for loan for legal fees and there is no referral fee from broker and attorney does not represent any party in the loan transaction
 - [CAL](#) 2002-159
- note and deed of trust for personal gain
 - [Lee v. State Bar](#) (1970) 2 Cal.3d 927
- note secured by deed of trust to secure fees is an "adverse" interest requiring compliance with rule 5-101
 - [Read v. State Bar](#) (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
 - [Hawk v. State Bar](#) (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]
 - [In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
 - LA 492 (1998)
- open-ended credit transaction found unfair
 - [Morgan v. State Bar](#) (1990) 51 Cal.3d 598
- patent prosecution, compliance with 3-300 not required where attorney's fees are linked to the proceeds of the patent but attorney has no ability to summarily extinguish the client's ownership interest
 - LA 507 (2001)
- post-settlement agreement, that attorney would attempt to compromise medical bills in exchange for payment
 - [In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
- purchase of property which is the subject matter of the litigation
 - [Silver v. State Bar](#) (1974) 13 Cal.3d 134 [117 Cal.Rptr. 821, 528 P.2d 1157]
- purchase of real property subject of collection effort on behalf of client
 - [Marlowe v. State Bar](#) (1965) 63 Cal.2d 304, 307 [46 Cal.Rptr. 326, 405 P.2d 150]
- purchase of second deed of trust by wife of attorney deemed adverse to client
 - [Calzada v. Sinclair](#) (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
- quit claim deed and general power of attorney which permit attorney to summarily extinguish a client's property interest constitutes an adverse interest
 - [Brockway v. State Bar](#) (1991) 53 Cal.3d 51
- representation of insurer and party adverse to insurance company
 - [Anderson v. Eaton](#) (1930) 211 Cal. 113, 116-117 [293 P. 788]
 - 30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
 - [CAL](#) 1981-57, [CAL](#) 1980-52, [CAL](#) 1979-49, [CAL](#) 1977-46, [CAL](#) 1975-35, [CAL](#) 1969-18
 - LA 407 (1982)
- security for fees
 - LA 492 (1998), LA 407 (1982), LA 398 (1982)
- selling information regarding case to entertainment industry
 - LA 409 (1983)
- settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver, does not require 3-300 compliance
 - [CAL](#) 2009-178
- structured settlement, use of
 - [CAL](#) 1987-94
- taking business clientele from a former client
 - [David Welch Company v. Erskine and Tully](#) (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Actual or potential conflict

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

Adjuster, former acts against former employer

LA 216 (1953)

act for both parties

Civil Code section 225(m)

counsel for adopting parents advises natural parents

Civil Code section 225m

represent one party in, after advising the other

LA(l) 1958-6

written consent

Civil Code section 225(m)

Administrative agency attorneys

Administrative Procedure Act does not prohibit state agency

attorney from acting as an agency prosecutor in one case

and concurrently acting as agency advisor in unrelated case

Morongo Band of Mission Indians v. State Water

Resources Control Bd. (2009) 45 Cal.4th 731 [88

Cal.Rptr.3d 610]

Adoption

Civil Code section 225(m)

LA 407 (1982)

representation of natural parent and proposed adopting
parents

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

Adverse interest

LA 418 (1983)

attorney acting as receiver for corporation and acting as
attorney against same corporation

LA 74 (1934)

attorney both partner in partnership arrangement and
counsel to partnership and another party

Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164
Cal.Rptr. 87]

attorney for bankruptcy estate trustee had prior consultation
with debtor

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

attorney for defendant accusing client of being in collusion
with plaintiff

Pennix v. Winton (1943) 61 Cal.App.2d 761, 769-777
[143 P.2d 940]

attorney for estate attempts to purchase property of
beneficiary for substantially less than the true value

Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr.
467, 535 P.2d 331]

attorney involvement in fee dispute with client and prior
attorney over fees not arising out of current representation

Jackson v. State Bar (1975) 15 Cal.3d 372 [124 Cal.Rptr.
185, 540 P.2d 25]

attorney purchases judgment from opposing party, then
seeks enforcement of that judgment against former client

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

attorney retained by a party to recover monies owed
subsequently becomes involved with opposing party to
detriment of original client

Lee v. State Bar (1970) 2 Cal.3d 927 [88 Cal.Rptr. 361,
472 P.2d 449]

attorney's agreement to indemnify a client's reasonable
costs and expenses is not an adverse interest

LA 517 (2006)

authorization for attorney to keep any extra sums resulting
from a compromise of the claims of medical care providers

In the Matter of Silverton (Review Dept. 2001) 4 Cal.
State Bar Ct. Rptr. 252

charging lien in hourly fee agreement requires compliance
with [rule](#) 3-300

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th
38 [108 Cal.Rptr.3d 455]

Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d
58]

-contingency fee agreements distinguished

[CAL](#) 2006-170

city attorney disqualified from representing city in matter
related to prior representation of private company

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

confession of judgment deemed detrimental to client

Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr.
152, 503 P.2d 608]

county counsel with private practice may not represent district
organized under Municipal Water District Act of 1911

30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)

defense counsel in criminal matter is being prosecuted by
district attorney in other matters

Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166

defined

LA 496 (1998), SF 1997-1

definition

[CAL](#) 2011-182

disclosure and consent per [rule](#) 3-300 not a cure when matter
is governed by probate code

SD 1989-2

executor hiring attorney

Baker, Manock and Jensen v. Superior Court (2009) 175
Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

Estate of Effron (1981) 117 Cal.App.3d 915, 928 [173
Cal.Rptr. 93]

fee dispute does not create adverse pecuniary interest

LA 521 (2007)

financial interest in the subject matter of the representation

U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013
U.S. Dist. Lexis 33394

-accepting compensation from broker for referring client

SD 1989-2

-accepting compensation from doctor for client referral

LA 443 (1987)

-accepting compensation from insurance agent for client
referral

[CAL](#) 1995-140

-accepting compensation from investment manager for
client referral

[CAL](#) 1999-154

-in corporation about which client desires legal advice

LA 57 (1928)

former client

Victaulic Company v. American Home Assurance
Company et al. (2022) 80 Cal.App.5th 485 [295
Cal.Rptr.3d 738]

LA 2 (1917)

-in litigation

Gendron v. State Bar (1983) 35 Cal.3d 409

LA 30 (1925), SD 1976-10

former corporate counsel now counsel for stockholders in
derivative suit

Jacuzzi v. Jacuzzi Bros., Inc. (1963) 218 Cal.App.2d 24,
29 [32 Cal.Rptr. 188]

in-house counsel represented employer and employee
concurrently (to the employee's detriment) without obtaining

informed consent

Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164
Cal.Rptr.3d 309]

injury to former client due to representation of current client

McPhearson v. Michaels Company (2002) 96 Cal.App.4th
843 [117 Cal.Rptr.2d 489]

Gilbert v. National Corporation for Housing
Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Big Bear Municipal Water District v. Superior Court (1969)
269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]

insurance company and insured [[See Insurance.](#)]

Industrial Indem. Co. v. Great American Ins. Co. (1977) 73
Cal.App.3d 529 [140 Cal.Rptr. 806]

Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65
Cal.Rptr. 406]

CONFLICT OF INTEREST

- and other party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
- litigation
 - against former client
 - concerning subject about which lawyer given legal advice
LA 27 (1925)
 - with client regarding management of suit
SD 1978-1
- litigation continued after contrary instructions from client
Johnson v. State Bar (1935) 4 Cal.2d 744 [52 P.2d 928]
- loaning money received on behalf of estate to other clients without approval of administratrix
Black v. State Bar (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]
- no adverse interest when attorney's fees come from settlement since client decided to accept settlement offer that would generate lower fees for attorney
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- not found
 - attorney's investment in organization predated representation of organization
OC 2011-02
- pecuniary interests adverse to client
 - subject to [rule](#) 3-300 if attorney can extinguish the client's property interest without judicial scrutiny
SF 1997-1
- pending litigation
 - attorney may post and guarantee fidelity bond for out-of-country client
SF 1973-16
- promissory note as security for fees
CAL 1981-62
SF 1997-1
LA 492 (1998)
- property purchased by wife of attorney subject matter of original client consultation
Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 914-915 [86 Cal.Rptr. 387]
- prospective client
Syre v. Douglas (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]
CAL 2021-205
- publication of article regarding client's case
 - no conflict found
LA 451 (1988)
- purchase of property by attorney at a foreclosure sale
LA 455
- represent city in prosecution of actions and represent city employee against city
 - in unrelated matters
LA 77 (1934)
- represent client before arbitrator while simultaneously representing arbitrator on unrelated matter
LA 415 (1983)
- represent defendant client and attorney who represents plaintiff
 - in unrelated matters
SD 1975-19
- sale of real property by attorney to a client necessitates full disclosure of ownership interests
Gallagher v. State Bar (1981) 28 Cal.3d 832, 835-838 [171 Cal.Rptr. 325, 622 P.2d 421]
- structured settlement, use of
CAL 1987-94
- subpoena served on current client A, who is a witness in prospective client B's matter
CAL 2011-182
- when trustee is also creditor
Vivitar Corporation v. Broten (1983) 143 Cal.App.3d 878 [192 Cal.Rptr. 281]

Adverse party

attorney files motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

collaborative family law practice, duties to adverse party, adverse counsel and own client, must be disclosed to client
OC 2011-01

communication with unrepresented party
CAL 1996-145, LA 334 (1973)

compelled to communicate directly with party
Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]

disclosure of relationship between attorney and family members as adverse parties to client
Codiga v. State Bar (1978) 20 Cal.3d 788, 792 [144 Cal.Rptr. 404, 575 P.2d 1186]

failure to disclose relationship with
Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]

fraudulent conduct of reported
SF 1975-2

instruct client with respect to communications with opposing party
CAL 1993-131, SD 1983-2

insurance cases, company and insured [See Insurance.]

plaintiffs' class counsel offered employment by defendant
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]

not found where attorney was the president and COO of adverse party; not disqualified based on successive representation where attorney did not have attorney-client relationship with previous employer
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]

previously consulted attorney on another matter
CAL 1984-84, LA 406 (1982)

relationship with opposing counsel not considered a relationship with adverse party
CAL 1984-83, SD 1989-4, SD 1976-12

represent city in prosecution of actions and represent city employee against city

- in unrelated matters
LA 77 (1934)

representation in related matter against former client
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

representation of

- after obtaining information from
LA 193 (1952)
- attorney for bankruptcy estate trustee had prior consultation with debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
- one against the other after investigation
LA 223 (1954)
- related matter
LA 223 (1954), LA 141 (1943)
- unrelated action
 - against client
LA 6 (1918)

representation of, in unrelated matter against existing client
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

- Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]
- represented
 -by former partner
CAL 1981-57
- social relationship; attorney and opposing party
 -club membership of attorney as impacts representation of client against club
Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 261-262 [142 Cal.Rptr. 759]
DeLong v. Miller (1955) 133 Cal.App.2d 175 [283 P.2d 762]
- Adverse position
 attorney for criminal defendant adopted position in direct opposition to that of his client
People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]
- Aggregate settlements of claims
Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]
- All affected clients' consent
 applies to current not former clients
 LA 463 (1990)
- Appeal
 attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
 attorney purchased judgment from opposing party seeks to enforce judgment against former client in the appeal on same matter as original representation
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 from pre-trial order denying motion to disqualify counsel for conflict of interest
 -standard requires showing on appeal that order affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 order denying motion to disqualify not an immediately appealable final order
Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
- Appearance of conflict
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]
People v. Conner (1983) 34 Cal.3d 141, 148 [193 Cal.Rptr. 148, 666 P.2d 5]
- People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 district attorney
 -recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney office
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
 recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
- Appearance of impropriety
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (9th Cir. 1984) 745 F.2d 1463, 1467
In re Georgetown Park Apartments (9th Cir. BAP 1992) 143 B.R. 557
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]
Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]
People v. Lopez (1984) 155 Cal.App.3d 813, 823-824 [202 Cal.Rptr. 333]
*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
CAL 1981-63
 LA 363 (1979)
 absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

CONFLICT OF INTEREST

former employee of defendant may become a client of plaintiff's attorney and may communicate confidential information to that attorney

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

multiple and interconnected family entanglements results in an appearance of impropriety and undermines the integrity of the judicial system

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

standard has never been used by a California court as the sole basis for disqualification

In re AFI Holding, Inc. (9th Cir. BAP 2006) 355 B.R.139
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]

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

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Gregori v. Bank of America (1989) 207 Cal.App.3d 291, 305-306 [254 Cal.Rptr. 853]

Arising from relationship with non-client

Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
OC 2012-1

-disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

Arising out of formation of partnership with out-of-state law firm

LA 392 (1981)

Assignee

represent

-against former client's assignee in matter in which acted for client

LA(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 as witness

advocate-witness rule, motion to disqualify under

Lopez v. Lopez (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

Attorney general

withdrawing from representation of one party then suing the same clients on the identical controversy

People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]

Attorney-client relationship

consultation in non-office setting

CAL 2003-161

consultation where potential client submits legal question via website

CAL 2005-168

-is not created by receipt of private information from potential client via an unsolicited email

SD 2006-1

Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

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

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]

existence of

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

Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]

Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

Ward v. Superior Court (1977) 70 Cal.App.3d 23, 31 [138 Cal.Rptr. 532]

In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]

Kraus v. Davis (1970) 6 Cal.App.3d 484, 490-491 [85 Cal.Rptr. 846]

Meehan v. Hopps (1956) 144 Cal.App.2d 284, 287 [301 P.2d 101]

McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
CAL 1977-47

-arising out of a joint defense agreement

United States v. Henke (9th Cir. 2000) 222 F.3d 633

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-fiduciary relationship exists in absence of fee agreement

Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]

-for conflicts of interest purposes, an attorney represents the client when the attorney knowingly obtains material confidential information from the client and renders legal advice or services as a result

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

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

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

-former client

-exists when transaction involves funds obtained by representation

Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

-law firm acquires former client's collection business

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

-minor and guardian

Evidence Code section 951

CAL 1988-96

-“on-going relationship” between attorney and client based on periodic visits to attorney’s office seeking legal assistance

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

-preparing answer for in propria persona defendant creates relationship
LA 432 (1984)

-purchaser of client’s assets
LA 433 (1984)

-telephone “hotline” providing legal advice to callers
LA 449 (1988)

for purposes of disqualification, attorney representing insured is also representing insurance company

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

formed with bank when attorney writes an opinion letter for bank at the request of a client who is a customer of the bank
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

substantial attorney-client relationship must be shown
People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

without separate relationship, there can be no conflict of interest between governmental entity and constituent entity

North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]

Avoiding adverse interests

Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)

Avoiding representation of adverse interests

Rule 5-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-300, Rules of Professional Conduct (operative as of May 27, 1989)

Bankruptcy [See Conflict of interest, receiver.]

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

attorney failed to disclose debtor owed prior fees to attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

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

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

attorney for bankruptcy estate trustee had prior consultation with debtor

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

attorney for bankruptcy estate has duty to disclose all facts concerning his transactions with the debtor

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

attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

attorney-trustee was removed when it was shown she was not disinterested (had an indirect relationship with debtor)

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

concurrent representation of clients with adverse interests

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

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

CAL 2014-191

represent

-bankrupt/creditor
LA 50 (1927)

-receiver
--party in divorce and
LA 51 (1927)

-receiver/general creditor
LA 74 (1934)

Bond

indemnity company counsel acts against assured by way of subrogation
LA(l) 1966-1

Bonus program for public agency attorneys tied to savings by agency
SD 1997-2

Borrowing money from trust where attorney is trustee

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

Breach of fiduciary duty

attorney acting as counsel for both sides in leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831, 842 [164 Cal.Rptr. 87]

attorney’s purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client

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

business dealings between attorney and client subject to scrutiny

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

Calzada v. Sinclair (1970) 6 Cal.App.3d 903, 915

disbursements from community property assets in dissolution matter without consent of parties

Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]

disclose to court representation of related trust

Potter v. Moran (1966) 239 Cal.App.3d 873 [49 Cal.Rptr. 229]

duty component defined

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

misrepresentation and undue influence induce client to sell real property to attorney

Hicks v. Clayton (1977) 67 Cal.App.3d 251

to former client

-law firm acquires former client’s collection business

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884

Business activity

recommend own to client

LA(l) 1971-16

represent

-customers of own

LA 205 (1953), LA(l) 1976-7

Business or financial transactions with clients

In re Tallant (9th Cir. 1998) 218 B.R. 58

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206

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

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

CONFLICT OF INTEREST

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

SF 1997-1

advice of independent counsel

In re Tallant (9th Cir. 1998) 218 B.R. 58

Connor v. State Bar (1990) 50 Cal.3d 1047

Hawk v. State Bar (1988) 45 Cal.3d 589

Ritter v. State Bar (1985) 40 Cal.3d 595

Beery v. State Bar (1987) 43 Cal.3d 802, 813

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

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

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

SD 1992-1

-partner not an independent counsel

Connor v. State Bar (1990) 50 Cal.3d 1047

authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

burden of proof on attorney that dealings fair and reasonable

In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Rodgers v. State Bar (1989) 48 Cal.3d 300

Hunnecutt v. State Bar (1988) 44 Cal.3d 362

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

SD 1992-1

deed of trust to secure fees

Read v. State Bar (1991) 53 Cal.3d 394

Hawk v. State Bar (1988) 45 Cal.3d 589

LA 492 (1998)

duty to disclose interest

Rosenthal v. State Bar (1987) 43 Cal.3d 612

fair market value is not determinative of whether a transaction is fair and reasonable to a client

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

full disclosure required

Beery v. State Bar (1987) 43 Cal.3d 802

Frazer v. State Bar (1987) 43 Cal.3d 564

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

lending money to client by attorney

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

-by attorney's spouse

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

moral turpitude found

In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

no violation found if no financial gain and not a party to the transaction

In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117

In the Matter of Fandey (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

CAL 2002-159

overreaching and/or undue influence, presumption of

Ritter v. State Bar (1985) 40 Cal.3d 595

Giovanazzi v. State Bar (1980) 28 Cal.3d 465

-Probate Code, § 16004(c), prohibiting a fiduciary from obtaining an advantage from the beneficiary, applies to the attorney-client relationship

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

stock promise to attorney is unenforceable

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

strictly scrutinized for fairness

Rodgers v. State Bar (1989) 48 Cal.3d 300

Beery v. State Bar (1987) 43 Cal.3d 802

BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240

unsecured promissory note does not give attorney a present interest in client's property to trigger rule 3-300

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Business transaction with former client

no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction

In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198

using funds obtained in the representation

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

-attorney-client relationship continues to exist

Hunnecutt v. State Bar (1988) 44 Cal.3d 362

Child custody proceeding, disclosure to court, improper conflict between client and child

-suggest appointment of separate counsel for child

CAL 1976-37

"Chinese Wall"

settlement confidentiality agreement

LA 512 (2004)

steps which must be taken to set up an effective screen

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

CLA 2021-1

vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

Circumstances of case evidence, reasonable possibility that district attorney's office may not act in even-handed manner

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

City

act against while representing insurance carrier of
SD 1974-22

advising constituent public agency ordinarily does not give rise to attorney-client relationship separate and distinct from entity of which agency is a part
North Hollywood Project Area Committee v. City of Los Angeles (1998) 61 Cal.App.4th 719 [71 Cal.Rptr.2d 675]
Civil Service Com. v. Superior Court (1984) 163 Cal.App.3d 70, 78 [209 Cal.Rptr. 159]

assist in representation of actions and represent city employee against city in unrelated matter
LA 77 (1934)

associate of

- practice by
LA(I) 1975-4

attorney

46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)

attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

city attorney/county counsel

Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]

74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)

61 Ops. Cal. Atty. Gen. 18, 22-23 (1/5/78; No. CV 77-118)

CAL 2001-156

- city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- may serve simultaneously as a city council member
85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
- partner
 - appointed as county counsel may contract with own firm to assist in the performance of duties
74 Ops. Cal. Atty. Gen. 155 (8/13/91; No. 91-201)
 - practice by
LA(I) 1975-4
- partner represents
 - in criminal matters
LA 242 (1957), LA(I) 1975-4
- practice by
 - associate of
LA(I) 1975-4
- private attorney under contract to government agency
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900
- recusal of
People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]
- simultaneously acts as a member of Coastal Regional Commission which votes on matters relating to the city
SD 1977-1
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]

city council member

- city council member who is also an attorney may not advocate on behalf of a client's interests when those interests are adverse to the city
101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)

- defense attorney in criminal matter
People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
- practice by
CAL 1977-46
- practice by partners of
CAL 1981-63, CAL 1977-46,
LA(I) 1975-4
SD 1976-12
- represent tort claimants against city
CAL 1981-63
- represents
 - civil litigants
CAL 1977-46
 - criminal defendants
CAL 1977-46
 - in ordinance violations
LA 273 (1962)
SD 1969-1
 - in traffic cases
SD 1969-1

fee, contingency contract with government agency
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
People ex rel. Clancy v. Superior Court (1984) 161 Cal.App.3d 894, 899-900

Government Code section 1090

- city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)

Class action

- Anti-SLAPP statute inapplicable to claims that attorney abandoned clients in order to represent adverse interests
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
- class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
- class counsel offers to dismiss case if defendant makes multimillion dollar payment to attorney personally
Cal Pak Delivery, Inc. v. United Parcel Service, Inc. (1997) 52 Cal.App.4th 1
- conflict of interest when firm who employs attorney/plaintiff is counsel for the class for which attorney/plaintiff is a class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
- defendant agreed to hire class counsel to monitor the proposed settlement if approved
Linney v. Cellular Alaska Partnership (9th Cir. 1998) 151 F.3d 1234 [41 Fed.R.Serv.3d 1079]
- disqualification not required when representing class in two cases since putative class members are not 'clients' and no conflict exists
Kullar v. Footlocker Retail, Inc. (2011) 191 Cal.App.4th 1201 [121 Cal.Rptr.3d 353]
- duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- incentive agreement between class representatives and class counsel
Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645
Rodriguez v. West Publishing Corporation (9th Cir. 2009) 563 F.3d 948

CONFLICT OF INTEREST

no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 Client [This heading is used for fact situations that do not easily fit under other, less abstract headings. Most conflict of interest matters involving clients are indexed under various other headings.]
 act against
 LA(l) 1972-15, SD 1976-10
 -in related matter
 LA 448 (1987), LA(l) 1974-13, LA(l) 1971-7
 -in unrelated matter
 LA 266 (1959), LA(l) 1975-2, LA(l) 1971-7, LA(l) 1965-2
 SD 1974-14
 -witness
 --against present client
 ---in criminal proceedings
 CAL 1979-49
 --expert witness is former client of attorney
 LA 513 (2005)
 former
 -act against
 LA(l) 1972-5
 -in related matter
 LA(l) 1977-1, LA(l) 1972-7, LA(l) 1971-7, LA(l) 1969-2
 SD 1970-2
 -in unrelated matter
 LA(l) 1971-7, LA(l) 1969-2, LA(l) 1964-6
 SD 1974-14, SD 1974-12, SD 1970-2
 -expert witness is former client of attorney
 LA 513 (2005)
 holder of the privilege
 Evidence Code section 953
 initiation of conservatorship proceedings against
 CAL 1989-112, LA 450 (1988), SD 1978-1
 multiple clients
 Evidence Code section 962
 of associate
 -represent client in claim against
 CAL 1981-57
 SD 1972-15
 -witness
 --against present client
 CAL 1980-52
 represent
 -despite client malpractice suit against attorney's former law corporation
 SD 1978-10
 -self and
 LA 39 (1927)
 Co-counsel
 attorney's self-interest does not create conflict with client when attorney seeks indemnification in malpractice action
 Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
 no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
 Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
 Communicate with client
 potential malpractice claim, facts related to
 CAL 2019-197, CAL 2009-178
 where attorney has professional or financial interest in the subject matter
 CAL 2009-178

Communication with treating physician
 SD 1983-9
 sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
 Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
 Concurrent representation of clients with adverse interests
 Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 SD 2017-2
 client as witness in another client's case
 Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 not found
 A.F. v. Jeffrey F. (2022) 79 Cal.App.5th 737 [294 Cal.Rptr.3d 700]
 witness, who is a client in a concurrent matter, has right to not have her counsel put her in such a position where she is portrayed in a negative manner
 Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]
 Condemnation
 assist governmental body, former employer, when clients of partnership involved in the matter
 LA 246 (1957)
 Cone of silence
 In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
 Confidential information
 Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 155 [172 Cal.Rptr. 478, 624 P.2d 1206]
 Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
 Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
 Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
 Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
 OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
 Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
 60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)
 59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
 CAL 2011-182, CAL 1976-37
 LA 435 (1985), LA 418 (1983)
 SD 2023-2, SD 2008-1, SD 1976-10, SD 1974-12, SD 1970-2
 SF 1973-6, SF 1973-19
 acquisition of by virtue of employment as associate in law firm
 Kraus v. Davis (1970) 6 Cal.App.3d 484, 491 [85 Cal.Rptr. 846]
 -associate switches sides
 Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 LA 501 (1999), LA 363 (1976)
 actual versus potential disclosure
 -actual use or misuse not determinative – possibility of breach of confidence controls
 Elan Transdermal v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
 United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
 Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934

-associate switches sides
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
 LA 501 (1999), LA 363 (1976)

-where former attorney in substantially same matter is now prosecutor
People v. Johnson (1980) 105 Cal.App.3d 884, 890-891 [164 Cal.Rptr. 746]

attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

attorney for several clients involved in business enterprise later represents one of those clients against former associates
*Crocce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

"Chinese wall"
Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]

-attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)
Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]

-burden to show presence of screening is on the party sought to be disqualified
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) (2003) 241 F.Supp.2d 1100
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575

-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

-cone of silence
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

-disqualification not required, marital relationship does not create assumption that lawyers violate duty of confidentiality
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

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

-elements of
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

-"ethical wall" failed to prevent district attorney from discussing case with the press
People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]

-former court commissioner now associate in firm
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]

-former government attorney now associate in law firm
 LA 246 (1957)

-general analysis
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150

-must be set up at a time when the potentially disqualifying event occurred
Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796

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

-retired judge subsequently represents one of the parties in the same matter
Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]

-screening of law clerk hired by law firm while clerk worked for judge before whom law firm was appearing in pending matter
First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983

-screening procedures must be put in place before the "tainted" attorney is brought on board
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

-separation between Public Defender and Alternate Public Defenders' offices
People v. Christian (1994) 41 Cal.App.4th 986
CAL 2002-158

-settlement confidentiality agreement
 LA 512 (2004)

-steps which must be taken to set up an effective screen
Armstrong v. McAlpin (2nd Cir. 1980) 625 F.2d 433
Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
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--public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

-switching sides in same matter
 --attorney disqualified where attorney obtained privileged information related to pending litigation during his employment at adverse party
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]

CONFLICT OF INTEREST

- vicarious disqualification where firm failed to rebut presumption of imputed knowledge
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
- vicarious disqualification not required
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- district attorney
 - recusal of entire office
 - not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- vicarious disqualification of a firm denied because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
- vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
- vicarious disqualification of city attorney's office where in related matter city attorney previously represented private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- vicarious disqualification of entire firm where no attempt to screen
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
- vicarious disqualification of public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
- walling off of witness/employee of district attorney's office is less drastic measure than disqualification
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
- when attorney is screened from participation in the matter to the satisfaction of adverse party
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899 [175 Cal.Rptr. 575]
 LA 501 (1999)
- client and witness for co-defendant represented by same law firm
Leversen v. Superior Court (1983) 34 Cal.3d 530 [194 Cal.Rptr. 448, 668 P.2d 755]
- common interest doctrine
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- commonly known facts deemed not given in confidence
Stockton Theatres, Inc. v. Palermo (1953) 121 Cal.App.2d 616, 624-626 [264 P.2d 74]
- conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- county counsel representation of both parties
Ward v. Superior Court (1977) 70 Cal.App.3d 23 [138 Cal.Rptr. 532]
- detrimental use based on adverse positions as attorney for insurance company and counsel for opposing party
Anderson v. Eaton (1930) 211 Cal. 113, 116 [293 P. 788]
- disclosure
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 29 [32 Cal.Rptr. 188]
- disclosure of, based on prior relationship with former client now opposing party
Allen v. Academic Games League (1993) 831 F.Supp. 785
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 619-624 [120 Cal.Rptr. 253]
 LA 501 (1999)
- disqualification based on double imputation of confidential knowledge not found when lawyer is two steps removed from attorney who has confidential information about a client
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure
Allegaert v. Perot (9th Cir. 1977) 565 F.2d 246
Cornish v. Superior Court (1989) 209 Cal.App.3d 467
- disqualification of attorney from representing debtor is not attributable to his firm under Bankruptcy Code
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
- disqualification of attorney not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
- disqualification of attorney not required where party shared information of another party, with the adverse party, where there were simply overlapping interests, no joint clients privilege
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
- disqualification of attorney not required where substantial relationship is not shown and actual confidences of the former client are not breached
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown
Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]
disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
disqualification of defense counsel not required where plaintiff's expert witness was a former client of defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
disqualification of law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney
Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]
disqualifying the firm from the litigation is reversed and remanded where disqualified attorney departs from mega-firm during pendency of appeal
Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]
dissemination of information to counsel for adversary by a third party
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Maruman Integrated Circuits, Inc. v. Consortium Co. (1985) 166 Cal.App.3d 443 [212 Cal.Rptr. 497]
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]
duty to protect continues after formal attorney-client relationship ends
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 934 [197 Cal.Rptr. 185]
existence of in multiple representation situations
Arden v. State Bar (1959) 52 Cal.2d 310, 319-320 [341 P.2d 6]
former counsel for opposing party
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]
Big Bear Mun. Water Dist. v. Superior Court (1969) 269 Cal.App.2d 919, 925-929 [75 Cal.Rptr. 580]
-for disqualification purposes, confidential information may include knowledge of a client's internal operations, policies, and litigation philosophies
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
-no automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
former law clerk/student in firm involved in litigation against former firm's client
Allen v. Academic Games League (1993) 831 F.Supp. 785
former state-employed attorney in firm involved in litigation against state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
franchise group
-franchisee law firms of franchise group obtaining confidences
LA 423 (1983)
impute knowledge to co-counsel
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1578
In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
LA 501 (1999)
-to all in firm
CAL 1998-152, LA 377 (1978)
imputed knowledge not found
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
imputed knowledge theory holds that knowledge by any member of a law firm is knowledge by all of the attorneys, partners, and associates
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
CAL 1998-152, LA 501 (1999)
"joint-client" exception to lawyer-client privilege
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
-when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]
joint defense agreement implied
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
knowledge of attitudes, strengths, weaknesses strategy
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

CONFLICT OF INTEREST

material to new representation

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
LA 501 (1999)

"materiality" of confidential information may be lost through passage of time

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

multiple representation

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obtained from non-client and useful in representation in an action on behalf of a client

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

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Raley v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 SD 2006-1

obtaining during course of representation of opposing party in previous lawsuit

Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 573-574

"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm

Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826

possession of as impetus to representation of client against former client

Shaeffer v. State Bar (1934) 220 Cal. 681 [32 P.2d 140]

potential disclosure

Galbraith v. State Bar (1933) 218 Cal. 329, 332-333 [23 P.2d 291]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

-in criminal case

Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 675 [153 Cal.Rptr. 295]

-representation under Joint Powers Act

Government Code section 6500 et seq.

60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)

presumption of possession

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999

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

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109, 114 [14 Cal.Rptr.2d 184]

Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566

H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]

Elliott v. McFarland Unified School Dist. (1985) 165 Cal.App.3d 562, 569 [211 Cal.Rptr. 802]

Civil Service Comm. v. Superior Court (1985) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489 [192 Cal.Rptr. 609]

-attorney never performed services for former client of attorney's former firm

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

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

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

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

-attorney never performed services for former client of attorney's wife's previously disqualified firm

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

-automatic disqualification is not appropriate for mere exposure to the opposing party's confidential information with no evidence that the attorney actually received or used such information

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

-disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

-due to similarity between the two cases and the overlapping factual issues common to both, father and daughter should be treated as a single unit for determining whether a conflict exists

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

-rebuttable

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

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

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

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

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

-rebuttable presumption of shared confidential information 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]

-significant danger as a result of law firm's prior involvement in a divorce case where firm represented the father of the opposing party that the firm had acquired confidential information of the opposing party

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

prior association with opposing party counsel by attorney for defendant

Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 706 [61 Cal.Rptr. 386]

prior relationship with opposing party
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]

prior representation of co-defendant
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]

prior representation of defendant by district attorney while in private practice
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]

public defender may not set up separate division within office to represent criminal defendant
 59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)

relationship with opposing party in unrelated litigation
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
CAL 2014-191

removal of expert for plaintiff not required where defense counsel had represented the expert ten years before and expert offered unqualified waiver of conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

rule 3-310(E) requires court determination that a "member" has obtained confidential information for purpose of disqualification
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 SD 2006-1

settlement confidentiality agreement
 -attorney disqualified for seeking to call former clients as witnesses in pending action who were subject to
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 -confidentiality clause could not prevent former client from testifying in pending matter as to the facts and circumstances he witnessed
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

switching sides in same matter
Sheffield v. State Bar (1943) 22 Cal.2d 627, 630 [140 P.2d 376]
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306 [205 Cal.Rptr. 671]
CAL 1998-152
 LA 363 (1976), LA(l) 1962-2
 -associate switches sides
 LA 363 (1976)
 -attorney disqualified where attorney obtained privileged information related to pending litigation during his employment at adverse party
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
 -attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client put attorney in the position of being the opposing side in the same litigation in which he represented former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 -defense attorney to prosecutor's office
Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]
 -vicarious disqualification of city attorney's office not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
 telephone "hotline" taking legal inquiries from callers
 LA 449 (1988)
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 vicarious disqualification where firm failed to rebut presumption of imputed knowledge
O'Gara Coach Co., LLC v. Ra (2019) 30 Cal.App.5th 1115 [242 Cal.Rptr.3d 239]
 where public defender's office held no confidential information, conflict of interest did not exist where witness in current matter had been represented by former member of public defender's office
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

Conflicting offices
 concurrently holding
 4 Ops. Cal. Atty. Gen. 261 (10/11/44; No. NS-5643)
 3 Ops. Cal. Atty. Gen. 18 (1/20/44; No. NS-5288)
 2 Ops. Cal. Atty. Gen. 177 (8/30/43; No. NS-5077)

CONFLICT OF INTEREST

potential conflict
SD 1977-1

Consent
LA 533 (2020)
advance waiver
-prospective client
[CAL](#) 2021-205

associate switches sides
LA 363 (1976)

attorney/arbitrator hiring counsel of party appearing before him requires written consent to continue arbitration
LA 415 (1983)

authority of attorney to consent to conflict without client's personal waiver
[People v. Brown](#) (1992) 5 Cal.App.4th 950

blanket waiver
[In re Shared Memory Graphics](#) (9th Cir. 2011) 659 F.3d 1336
[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796
[Visa U.S.A. Inc. v. First Data Corp.](#) (N.D. Cal. 2003) 241 F.Supp.2d 1100
[CAL](#) 1989-115

class action representatives may waive conflicts of interest on behalf of potential class members
[Sharp v. Next Entertainment, Inc.](#) (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

class representative's authority to make decisions concerning conflicts of interest for the entire class
[Pettway v. American Cast Iron Pipe Company](#) (5th Cir. 1978) 576 F.2d 1157

client's consent to forbidden act insufficient
[Ames v. State Bar](#) (1973) 8 Cal.3d 910, 915 [106 Cal.Rptr. 489, 506 P.2d 625]
[CAL](#) 1988-105

conservatorship proceedings
OC 95-002, SF 1999-2

failure to object in a timely manner deemed to be a waiver
[Trust Corporation of Montana v. Piper Aircraft Corp.](#) (1983) 701 F.2d 85, 87-88

failure to object to district attorney as prosecutor when former counsel in action based on same facts; deemed to be waiver
[People v. Johnson](#) (1980) 105 Cal.App.3d 884, 891-892 [164 Cal.Rptr. 746]

franchise law firms of franchise group representing adverse or multiple clients
LA 423 (1983)

from buyer and seller where attorney is broker for both, but attorney to only one
LA 413 (1983)

implied
[Blecher & Collins, P.C. v. Northwest Airlines, Inc.](#) (C.D. Cal. 1994) 858 F.Supp. 1442
[Liberty National Enterprises, LP v. Chicago Title Insurance Company](#) (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
[State of Arizona ex rel. Arizona Department of Revenue v. Yuen](#) (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
[State Farm Mutual Automobile Insurance Company v. Federal Insurance Company](#) (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
[Health Maintenance Network v. Blue Cross of So. California](#) (1988) 202 Cal.App.3d 1043

-insufficient to resolve a conflict in a lawyer's representation of two clients, one of whom implicated co-client in a fraudulent scheme while the latter declared that she had no involvement in the illegal activity
[State of Arizona ex rel. Arizona Department of Revenue v. Yuen](#) (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

improper to request consent from client when a disinterested lawyer would conclude that the client should not agree to representation involving a conflict of interest under the circumstances

[State of Arizona ex re. Arizona Department of Revenue v. Yuen](#) (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
loaning money received on behalf of estate to other clients without consent of administratrix

[Black v. State Bar](#) (1972) 7 Cal.3d 676, 681 [103 Cal.Rptr. 288, 499 P.2d 968]

may not be sufficient in dual representation situations where actual, present, existing conflict

[State of Arizona ex re. Arizona Department of Revenue v. Yuen](#) (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
[Tsakos Shipping & Trading, S.A. v. Juniper Garden Town Homes Ltd.](#) (1993) 12 Cal.App.4th 74 [15 Cal. Rptr.2d 585]
[Klemm v. Superior Court](#) (1977) 75 Cal.App.3d 893, 898 [142 Cal.Rptr. 509]

[CAL](#) 1993-133
LA 533 (2020), LA 471 (1992), LA 432 (1984), LA 427 (1984)
SD 2013-1

-must withdraw

[CAL](#) 1988-96
LA 471 (1992), LA 395 (1982)

minor may not have legal capacity

LA 459 (1990)

necessity for full disclosure of representation of adverse party
[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796

[Furia v. Helm](#) (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

[Ishmael v. Millington](#) (1966) 241 Cal.App.2d 520, 526 [50 Cal.Rptr. 592]

necessity for written consent

[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796

[Visa U.S.A. Inc. v. First Data Corp.](#) (N.D. Cal. 2003) 241 F.Supp.2d 1100

[In re Airport Car Rental Antitrust Litigation](#) (N.D. Cal. 1979) 470 F.Supp. 495, 500

[Dixon v. State Bar](#) (1982) 32 Cal.3d 728, 733 [187 Cal.Rptr. 30, 653 P.2d 321]

[In re Marriage of Friedman](#) (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

3-310

[Stanley v. Richmond](#) (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

[Klemm v. Superior Court](#) (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]

[Industrial Indem. Co. v. Great American Insurance Co.](#) (1977) 73 Cal.App.3d 529, 537 [140 Cal.Rptr. 806]

[Jeffry v. Pounds](#) (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]

[In the Matter of Aquiluz](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32

[CAL](#) 1998-152

-after disclosure of former representation of adverse party

[CAL](#) 1998-152, LA 406 (1982)

-by appropriate constituent of organization other than the constituent to be represented

[Coldren v. Hart, King & Coldren, Inc.](#) (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

[CAL](#) 1999-153

-by wife, where attorney represented husband and wife jointly on estate plans, later represents husband on [Marvin](#) Agreement with another woman

LA 448 (1987)

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

CAL 2014-191

-potential conflict waived, attorney as scrivener to marriage settlement agreement

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

-wife's signature on post-nuptial agreement was tantamount to a written waiver of any potential conflict of interest

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

necessity of

Lee v. State Bar (1970) 2 Cal.3d 927, 941-942 [88 Cal.Rptr. 361, 472 P.2d 449]

People v. Davis (1957) 48 Cal.2d 241, 256 [309 P.2d 1]

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

of client

-after disclosure of former representation of adverse party

LA 406 (1982)

-attorney's relationship with courtroom personnel

CAL 1987-93

-by appropriate constituent of organization other than the constituent to be represented

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

CAL 1999-153

-corporation and board of directors in derivative suit

LA 397 (1982)

-representation of adverse party

--in unrelated action

LA 406 (1982)

LA 6 (1918)

-witness is former colleague of attorney

CAL 1987-93

of opposing party

Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 705 [61 Cal.Rptr. 386]

parties pursuant to Joint Powers Act

Government Code section 6500 et seq.

60 Ops. Cal. Atty. Gen. 206 (7/7/77; No. CV 76-14)

representation of more than one party

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

-to continued representation

--of multiple parties

CAL 1975-35

LA 427 (1984), LA 22 (1923)

required for full disclosure

Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]

unrelated action

61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)

where current expert for plaintiff was prior client of defense counsel, no disqualification of defense counsel required when expert gives unqualified waiver and consent

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

Conservatorship proceedings

CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2

Contingent fee from insurer, based on percentage of medical expenses recovered, for protecting insurer's lien on recovery of expenses

LA 352 (1976)

Contract

draft

-for both parties

SF 1973-26

-for own son and other party

SF 1973-26

re-negotiation of fee contract with client while case is pending

CAL 1989-116

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

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

Corporation as client

actual conflict defined

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Corporations

Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)

In re Sidco (1993) 162 B.R. 299

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr.2d 756]

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

acting as agent for and construing contracts for potential clients of corporation

CAL 1968-13

acting as both receiver for and attorney against corporation

LA 74 (1934)

advising officers and directors when corporate control changes

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense

Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]

attorney (employee) sues employer/client

General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

-employment information versus legal services information

SD 2008-1

attorney acting as director and as attorney

OC 2011-02

attorney for governmental entity advises constituents with antagonistic positions

CAL 2001-156

because minority shareholder's derivative claims render majority shareholder's and corporation's interests adverse, majority shareholder's attempt to consent to attorney's concurrent representation of corporation over minority shareholder's objection was ineffective

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

corporate director/attorney representing client in transaction with corporation

CAL 1993-132

counsel for

-corporation and CEO as individual

Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

CONFLICT OF INTEREST

-in-house counsel represented employer and employee concurrently (to the employee's detriment) without obtaining informed consent
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]

-employer and management employees
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

-former represents against
 LA(l) 1973-5, SD 1970-2

-in-house counsel for corporate client represents outside company in merger with client
 LA 353 (1976)

former attorney for corporation representing parties in litigation against corporation covering time period of previous employment
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]

organization as client
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717 [20 Cal.Rptr. 756]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 LA 353 (1976)

parent /subsidiary considered single entity for conflicts purposes
Teradyne, Inc. v. Hewlett-Packard Co. (N.D. Cal. 1991) 20 U.S.P.Q.2d 1143
Baxter Diagnostics Inc. v. AVL Scientific Corp. (C.D. Cal. 1992) 798 F.Supp. 612
Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113, OC 2012-1

representation of corporation and board of directors in derivative action
 LA 397 (1982)

representation of corporation and controlling shareholders
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

representation of corporation and corporate director as co-defendants
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
CAL 1999-153, LA 471 (1992), SD 2017-1

representation of corporation and directors is impermissible, but attorney can represent one party
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

representation of corporation and officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
CAL 2003-163

representation of corporation deemed not representation of corporate officers personally
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Meehan v. Hopps (1956) 144 Cal.App.2d 284, 290 [301 P.2d 101]

representation of corporation not deemed representation of minority shareholder
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]

representation of former shareholders against former corporate client in related matters requires disqualification because of duty of loyalty and confidentiality
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

representation of minority shareholder and director in proxy fight by former corporate general counsel
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]

represents

- corporation against director
 LA(l) 1966-14
- corporation and board of directors in derivative suit
 LA 397 (1982)
- director of represents stockholder against
 LA(l) 1955-2
- incorporate
 -later represent against one incorporator
 SD 1974-13

shareholders derivative action
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

-against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]

-attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]

stockholder

- director of corporation represents stockholder against corporation
 LA(l) 1955-2

County counsel

- attorney for governmental entity advises constituents with antagonistic positions
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]
CAL 2001-156
- collective bargaining by government attorneys
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
- conflict exists when county counsel represents both minor and county department of social services
In re Melicia L. (1988) 207 Cal.App.3d 51 [254 Cal.Rptr. 541]
- conflict of interest rules do not bar county counsel from suing county where no breach of duties of loyalty or confidentiality
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
- dispute between district attorney and county sheriff prevented county counsel from representing either party since the two were county public officers, thus, requiring independent counsel for sheriff
Rivero v. Lake County Board of Supervisors (2014) 232 Cal.App.4th 1187 [181 Cal.Rptr.3d 769]
- giving advice to independent board of retirement
 80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
- limitations on court authority to order employment of independent counsel for county employee under Government Code section 31000.6
Strong v. Sutter County Bd. of Supervisors (2010) 188 Cal.App.4th 482 [115 Cal.Rptr.3d 498]

may serve simultaneously as a city council member

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

outside counsel represents county in tort liability also may represent parties in actions against county if unrelated matter

61 Ops. Cal. Atty. Gen. 18 (1/578; No. CV 77-118)

representation of both child and Department of Children Services

LA 459 (1990)

representation of both Sheriff's Department and Employment Appeals Board places burden on county to show effective screening or be disqualified

Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575

representation of county improper after prior representation of county commission in same matter

Civil Service Comm. v. Superior Court (1984) 163 Cal.App.3d 70 [209 Cal.Rptr. 159]

representation of county tax assessor and appeals board by separate branches of county counsel's office proper, where effective screening procedures were shown

Jefferson v. Board of Assessment and Appeals No. 3 for Orange County (9th Cir. 2012) 695 F.3d 960

representation of district organized under Municipal Water District Act of 1911 incompatible with duties as county counsel, notwithstanding provision allowing outside private law practice

30 Ops. Cal. Atty. Gen. 86, 88 (8/23/57; No. 57-149)

representation of social services department and of public conservator by separate branches of the county counsel office may not be a conflict of interest

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

Creating a conflict

absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint

Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

plaintiff's expert waives potential conflict where defense counsel previously represented expert; expert need not be removed and defense counsel need not be disqualified

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

Creditor

counsel for represents debtor in resolving financial problems of

LA(I) 1969-5

counsel for uses assets of debtor in his possession to satisfy creditor's claim

LA(I) 1969-5

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

CAL 2014-191

represent creditor of former client against former client

SD 1974-12

Criminal proceedings

active representation of conflicting interests deprives defendant of effective assistance of counsel

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

actual conflict that adversely affects defense counsel's performance is required to find ineffective assistance of counsel

U.S. v. Rodriguez (9th Cir. 2003) 347 F.3d 818

People v. Perez (2018) 4 Cal.5th 421 [229 Cal.Rptr.3d 303]

People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

appointment of substitute or conflict counsel to evaluate a defendant's claim of incompetent advice regarding entry of a guilty plea

People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]

attorney's conflict of interest violates Sixth Amendment right to effective counsel (former representation of co-defendant in earlier trial)

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

Fitzpatrick v. McCormick (9th Cir. 1989) 869 F.2d 1247

-no violation of defendant's Sixth Amendment rights where defense counsel previously represented prosecution witness's spouse in a previous case

People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]

city attorney disqualified from prosecuting misdemeanor where probable future representation of city to defend actions brought by same criminal defendants

People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]

client

-witness

--against present client

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

CAL 1979-49

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

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

-one investigator shared among 12 contract defenders

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

court has duty to inquire into possibility of conflict of interest on part of defense counsel

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

Schell v. Witek (9th Cir. 2000) 218 F.3d 1017

People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]

People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]

People v. Cook (1975) 13 Cal.3d 663 [119 Cal.Rptr. 500]

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]

People v. Owen (1989) 210 Cal.App.3d 561 [258 Cal.Rptr. 535]

-no duty where no potential conflict of interest exists

People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

-removal of defense counsel improper due to insufficient conflict of interest

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

CONFLICT OF INTEREST

- removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
- where court failed to inquire into potential conflicts, defendant must establish that conflict adversely affected counsel's performance
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
- death penalty confirmed in spite of defense counsel's alleged conflict of interest (similar representation of defendant and witness)
People v. Bonin (1989) 47 Cal.3d 808 [254 Cal.Rptr. 298]
- death row inmate entitled to assistance from conflict-free counsel in federal habeas petition to argue equitable tolling
Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]
- death threat against public defender by defendant required court to appoint conflict counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
- defense attorney consults in confidence one defendant who becomes witness against other co-defendants
 - attorney may not represent other co-defendants
LA 366 (1977)
- defense counsel and district attorney involved in personal relationship
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
- defense counsel good friend of defendant's roommate who was also a suspect
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
- defense counsel in criminal matter is being prosecuted by district attorney in other matters
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]
- defense counsel left public defender's office and went to DA's office during case
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
- defense counsel married to bailiff
CAL 1987-93
- defense counsel testifies at penalty phase
People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
- defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
- defense counsel's secretary dating plaintiff's attorney
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
- defense counsel's separate retainer agreements with defendant and with defendant's family did not create a conflict of interest that affected counsel's performance
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]
- disqualification
 - ineffective representation in covering attorney's conduct in failing to file timely notice of appeal
In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]
 - recusal of entire D.A.'s office unnecessary when defendant and victim exchange roles in concurrent cases
People v. Hernandez (1991) 231 Cal.App.3d 172
 - when former co-defendant under a joint defense agreement is prosecution witness
United States v. Henke (9th Cir. 2000) 222 F.3d 633
- district attorney
 - recusal of entire office
People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
- former client
 - not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- now co-defendant
 - disqualification
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
- now witness
 - against present client
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
United States v. Henke (9th Cir. 2000) 222 F.3d 633
Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
CAL 1980-52
---no prejudice where former client is witness against current client and Public Defender is able to impeach witness with other convictions
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
 - potential witness of potential perpetrator is potential conflict and court has latitude to remove defense counsel over the objection of defendant
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
 - prior representation of murder victim by defense attorney
Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
- habeas relief
 - client entitled to, when trial attorney's conflict of interest results in failure of attorney to file direct appeal
Manning v. Foster (9th Cir. (Idaho) 2000) 224 F.3d 1129
 - substitution of counsel should be granted where defense counsel who filed untimely petition would be required to denigrate own performance
Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]
- joint defense agreement implied
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
- limited conflict does not taint defense counsel's entire representation of defendant
People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]
- mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
- mere veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
- no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter
U.S. v. Baker (9th Cir. 2001) 256 F.3d 855
- not found where defendant claimed irreconcilable conflict based on petitioner dismissed lawsuit against the public defender's office and appointed pre-trial counsel
Foote v. Del Papa (9th Cir. (Nev.) 2007) 492 F.3d 1026
- post-indictment subpoena on target's counsel creates possibility of conflict of interest but is insufficient to disturb conviction
United States v. Perry (9th Cir. 1988) 857 F.2d 1346
- private attorney now district attorney prosecuting former client in a related matter
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]

representation of co-defendants

-by same attorney

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]

-potential conflict between

CAL 1975-35, CAL 1970-22

representation of criminal defendant by member of firm acting as city prosecutor
 LA 453 (1989)

representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158

representation of subordinate

-superior, head of criminal organization pays legal fees
CAL 1975-35

right to counsel does not include right to any particular court-appointed counsel

People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]

right to counsel includes right to waive potential conflict

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Burrows (1990) 220 Cal.App.3d 116 [269 Cal.Rptr. 206]

right to counsel may be forfeited by defendant's threatening conduct towards counsel only after a full due process proceeding is afforded

King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

right to counsel may not be forfeited without defendant's voluntary, knowing and intelligent waiver

McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

right to counsel, not infringed by court's denial of defendant's motion to substitute a retained counsel who had a conflict with a former client

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner

Ellis v. Harrison (9th Cir. 2018) 891 F.3d 1160
U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818

threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant

People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

waiver of

-by defendant

People v. Pastrano (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 620]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
Alocer v. Superior Court (1988) 206 Cal.App.3d 951
 --denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr. 173]

-no valid waiver found

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

withdrawal

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

witness for prosecution former client of public defender's office

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

People v. Pennington (1991) 228 Cal.App.3d 959

witness for prosecution former colleague and friend of defense counsel

CAL 1987-93

Criminal prosecution

conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement

United States v. Henke (9th Cir. 2000) 222 F.3d 633

defendant entitled to counsel free of conflict

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164
People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
People v. Foley (2023) 97 Cal.App.5th 653 [315 Cal.Rptr.3d 675]
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]

-client may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

-lump sum payment of fees and costs does not create inherent conflict

People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]

district attorney

-recusal of entire office

--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

dual representation of co-defendants

-actual conflict of interest

People v. Foley (2023) 97 Cal.App.5th 653 [315 Cal.Rptr.3d 675]

-adverse effect on counsel's performance

People v. Foley (2023) 97 Cal.App.5th 653 [315 Cal.Rptr.3d 675]

-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]

-presumption of prejudice

People v. Foley (2023) 97 Cal.App.5th 653 [315 Cal.Rptr.3d 675]

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]

CONFLICT OF INTEREST

- representation of criminal defendant by member of firm acting as city prosecutor
LA 453
- representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
- threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
- waiver of
 - by defendant
 - denied if showing of a serious potential conflict
Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]
 - People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]
 - People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]
 - defendant may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
- Dating/Social Relationships
 - 34 Santa Clara L. Rev. 1157 (1994)
 - criminal defense lawyer dating prosecutor at time of trial
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
 - married to bailiff
CAL 1987-93
 - plaintiff attorney dating secretary of law firm representing defendant
Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]
 - social contacts and dating conflicts of interest
34 Santa Clara L. Rev. 1157 (1994)
- Defending and indemnifying opposing party
 - plaintiff's counsel in personal injury action may not enter into an agreement to defend and indemnify defendants against an action brought against them by third parties
LA 532 (2019)
- Discharge of attorney
 - rights and obligations of client
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
- Disclosure
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 - attorney for bankruptcy estate trustee has duty to disclose all facts concerning his transactions with the debtor
In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]
 - confidences of the client, basis for disqualification
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1577-1578
 - disqualification denied where full disclosure of reasonably foreseeable adverse effects in testifying
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - disqualification proper remedy for failure to disclose reasonably foreseeable adverse effects
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 - malpractice found where attorney failed to advise elder client of conflict where attorney would receive finder's fee and repayment of loan, by attorney to another client, from loan proceeds obtained in transaction
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
- potential malpractice claim, facts related to
CAL 2009-178
- requires full consent
 - People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]
 - Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
- to buyer and seller where attorney is broker for both, but attorney to only one
LA 413 (1983)
- to client
 - OC 2011-02
 - arguments made by attorney on opposite sides of a controverted issue in different cases
CAL 1989-108
 - attorney's relationship with courtroom personnel
CAL 1987-93
 - former representation of adverse party
Allen v. Academic Games League (1993) 831 F.Supp. 785
LA 406 (1982)
 - insurance cases
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
 - Lysick v. Walcom (1968) 258 Cal.App.2d 136 [65 Cal.Rptr. 406]
 - interest in subject matter of the representation
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
 - witness is former colleague of attorney
CAL 1987-93
- to court
 - attorney's relationship with courtroom personnel
CAL 1987-93
 - in child custody proceedings
 - conflict between client and interests of child
CAL 1976-37
 - in welfare proceeding
 - conflict between child and state
CAL 1977-45
 - inform of representation of related trust
Potter v. Moran (1966) 239 Cal.App.2d 873 [49 Cal.Rptr. 229]
- to former client
LA 6 (1918)
- where attorney has professional or financial interest in the subject matter
CAL 2019-197, CAL 2009-178, SD 2017-1
- Disqualification of counsel
 - Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
 - People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]
 - Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]
 - absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 - alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

appeal

-disqualification counsel is collaterally estopped from re-litigating issue of his breach of an ethical violation that had already been decided by court that ordered the disqualification

A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

-disqualification order not appealable in the grand jury context

In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

-from pre-trial order denying motion to disqualify counsel for conflict of interest

--standard requires showing on appeal that order affected outcome of case

In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]

-order disqualifying the firm from the litigation is reversed and remanded where disqualified attorney departs from mega-firm during pendency of appeal

Fluidmaster, Inc. v. Fireman's Fund Ins. Co. (2018) 25 Cal.App.5th 545 [235 Cal.Rptr.3d 889]

-standing to challenge disqualification

A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

arbitration

-panel's denial of a motion to disqualify lawyers for an alleged conflict of interest may not support party's subsequent assertion of claim preclusion of res judicata

Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]

arbitrator's denial of motion to disqualify opposing counsel for conflict of interest was open to collateral attack

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

associated counsel

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

attorney-client relationship

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

-associate who worked on plaintiff's case is brother-in-law to presiding judge

Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158

-disqualification denied where the court found that new partner who switched sides had no involvement in the instant action and had not discussed the action with the attorneys at the new law firm and where the firm had not used the new partner's services relating to the instant action

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

-disqualification despite technicality of no attorney-client relationship

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

-disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified

Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]

In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

-disqualification not proper unless an attorney-client relationship existed

In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

attorney disqualified for an ethical violation generally not entitled to fees

A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

attorney general – denied

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

attorney's former joint representation of parties justified disqualification from representing one against the other

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

based on incidental social contacts and completely unrelated business transaction

Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631

based on receipt of confidential information from a non-client

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

based on relationship between class action counsel and class representative

Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

between the party and the attorney sought to be disqualified

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

burden on client

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]

-public law office

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

CONFLICT OF INTEREST

"case-by-case" approach must be used by trial courts

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

choice of counsel of non-moving party must be taken into consideration

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

city attorney

-city attorney disqualified from representing city in matter related to prior representation of private company

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

-criminal prosecution and defense of city arising out of same incident

People v. Municipal Court (Byars) (1978) 77 Cal.App.3d 294 [143 Cal.Rptr. 491]

city councilman as defense counsel in criminal action

*People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714, 716-720 [138 Cal.Rptr. 235]

CAL 1981-63

class action representatives may waive conflicts of interest on behalf of potential class members

Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

co-counsel

-case law does not support "double imputation" when lawyer is two steps removed from attorney who has confidential information about a client

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

-imputed knowledge to

Panduit Corp. v. All States Plastic Mfg. Co. (7th Cir. 1984) 744 F.2d 1564, 1578

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 501

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

Chadwick v. Superior Court (1980) 106 Cal.App.3d 108 [164 Cal.Rptr. 864]

--to all in firm

LA 377 (1978)

concurrent representation of clients with adverse interests

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

-client's consent to dual representation must be based on disclosure of all material facts the attorney knows and can reveal

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

-if an attorney simultaneously represents two clients with adverse interests, disqualification is automatic

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

-not found

A.F. v. Jeffrey F. (2022) 79 Cal.App.5th 737 [294 Cal.Rptr.3d 700]

-with few exceptions, there is a per se rule requiring disqualification of an attorney or a law firm when there is a conflict of interest based upon concurrent representation of multiple clients

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

confidential information delivered to opposing party's counsel

Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590-592 [147 Cal.Rptr. 915]

conflict occurs when prosecution calls as witness former co-defendant with whom defense attorney had an attorney-client relationship under a joint defense agreement

United States v. Henke (9th Cir. 2000) 222 F.3d 633

conflicting liabilities between insurers and insured

Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]

consultation with an independent attorney regarding the client's case may prevent the consulted attorney from representing the party adverse to the client

SD 1996-1

county counsel not in conflict of interest when separate branches of the office represents potentially adverse interests

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

criminal proceeding

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

CAL 1980-52, CAL 1979-49

-public defender's workload so excessive to warrant removal

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Cumis counsel does not have attorney-client relationship with insurer for purpose of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [39 Cal.Rptr.2d 25]

defense counsel need not be disqualified where expert for plaintiff was former client of defense counsel but gives unqualified waiver

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

denied following attorney's waiver of interest in case

Bell v. 20th Century Insurance Co. (1989) 212 Cal.App.3d 194 [260 Cal.Rptr. 489]

denied when the persons who are personally interested in the conflict filed written declarations waiving the conflict

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

dependency proceedings

-actual conflict amongst multiple siblings requires disqualification from joint representation

In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]

In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]

-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

discussion with party concerned fees only

Hicks v. Drew (1897) 117 Cal. 305, 307-308 [49 P. 189]

disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

disqualification denied where former legal secretary of defendant became a client, not an employee of attorney for plaintiff

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

disqualification granted where family entanglements, potential misuse of confidential information, near certain prospect that counsel would testify, and preservation of integrity of the judicial system would require it

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

disqualification may not be available when an attorney-client relationship never existed between the party and the attorney sought to be disqualified

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]

-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

DCH Health Services Corp. (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

disqualification not necessary where contract with city merely set forth a "framework" for representation and did not, by itself, create an attorney client relationship

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

-Banning Ranch distinguished

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

disqualification of attorney and attorney general denied where moving party had no reasonable expectation that confidential information shared with opposing party and party was advised and consented to disclosure

Cornish v. Superior Court (1989) 209 Cal.App.3d 467 [257 Cal.Rptr. 383]

disqualification of attorney not required even if attorney received confidential information about defendant, did not meet burden of showing the information could give plaintiff an unfair advantage or affect outcome of litigation

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will

Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

disqualification of attorney not required where attorney never performed services for former client of attorney's former firm

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

disqualification of attorney not required where client never imparted confidential information to attorney – now representing adverse party in same matter

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

disqualification of attorney not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

disqualification of attorney not required where no confidential information was disclosed

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]

disqualification of attorney not required where record does not create reasonable probability that confidential information was divulged – attorney dating opposing firm's secretary

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown

Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]

disqualification of law firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

disqualification when the misconduct or status has a continuing effect on judicial proceedings

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

district attorney

Penal Code section 1424

-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

-based on private party influence on the impartiality of the district attorney

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

-disqualification not required where prosecutor published novel containing factual similarities to underlying case

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

CONFLICT OF INTEREST

-district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

-financial assistance to prosecutor's office did not disqualify district attorney

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-financial assistance to prosecutor's office disqualified district attorney

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

-prosecution of defendant for crimes not precluded by virtue of representation of defendant's child re ward of court status

People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515, 520-522 [159 Cal.Rptr. 625]

-recusal denied when motion is solely based on public perception that prosecutor seeks death penalty to fulfill a campaign promise

People v. Neely (1999) 70 Cal.App.4th 767 [82 Cal.Rptr.2d 886]

-recusal of entire office

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573

--district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

--erroneous denial of recusal motion is harmless error if it does not involve due process violation

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

--not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

--not required where prosecutor involved in making of film about capital murder case

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

--not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-recusal of entire office due to prior association with defense firm by assistant district attorney

People v. Lopez (1984) 155 Cal.App.3d 813, 821-822 [202 Cal.Rptr. 333]

*Younger v. Superior Court (1978) 77 Cal.App.3d 892, 894-897 [144 Cal.Rptr. 34]

-recusal of entire office due to prior representation of defendant by district attorney while in private practice

People v. Lepe (1985) 164 Cal.App.3d 685

-recusal of entire office unnecessary when defendant and victim exchange roles in concurrent cases

People v. Hernandez (1991) 231 Cal.App.3d 1376

-without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

duty of loyalty does not apply where defense counsel previously had represented expert for plaintiff and where expert waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

duty of loyalty requires

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

entire firm

In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Paul E. Iacono Structural Engineer, Inc. v. Humphrey (1983) 722 F.2d 435

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

In re Charisse C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

A.I. Credit Corp. v. Aguilar & Sebatinelli (2003) 113 Cal.App.4th 1072 [6 Cal.Rptr.3d 813]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
Mills Land & Water Co. v. Golden West Refining (1986) 186 Cal.App.3d 116 [230 Cal.Rptr. 580]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
In the Matter of Thibault (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 64
CAL 1998-152
 LA 501 (1999)
 -attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
 -city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 -disqualification of attorney from representing debtor is not attributable to his firm under bankruptcy code
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
 -limited exception where the tainted lawyer can show that there was no opportunity for confidential information to be divulged within the firm
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
 -no automatic various disqualification of law firm when tainted attorney is properly screened
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 -not required when attorney at law firm covered depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
 -not required when attorney, while at another firm, represented current firm's opposing party's insurer and effectively screened from involvement in the current litigation
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 -not required when tainted attorney leaves firm and there's evidence that no one other than the departed attorney had any dealings with the client or obtained confidential information
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
 -not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
 -not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-presumption of shared confidences rebutted by evidence of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 failure to file notice of appeal and subsequent defense of that action
In re Fountain (1977) 74 Cal.App.3d 715, 719
 former clients, subject to confidential settlement, as witnesses in pending action
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 former judge
 -disqualification of counsel for vendors of real property on ground that counsel had participated as judge in other cases involving same real property at issue
Hassett v. Olson (2022) 78 Cal.App.5th 866 [293 Cal.Rptr.3d 802]
 former state-employed attorney in law firm employed by plaintiff to sue state
Chambers v. Superior Court (1981) 121 Cal.App.3d 893 [175 Cal.Rptr. 575]
 immigration matters
 -representation adverse to former corporate client's employees and officers in immigration matters
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
 marital relationship insufficient to deprive party of choice of counsel
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
 mediator is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
 mere exposure to confidences of an adversary does not, standing alone, warrant disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Cooke v. Superior Court (1978) 83 Cal.App.3d 582, 590 [147 Cal.Rptr. 915]
 -prior representation of opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 motion for
Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
 non-lawyer employee "switches sides"
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
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 not automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

CONFLICT OF INTEREST

not required

-marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

not required when only "blue sky" work done by underwriter's counsel, no attorney-client relationship created

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

not warranted where expert witness, initially retained by defendant and later designated as a potential witness for plaintiff, disclosed no confidential information from defendant to plaintiff's counsel

Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]

"of counsel" to defendant's firm becomes "of counsel" to plaintiff's firm

Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826

party of moving for disqualification of counsel absent an attorney-client relationship generally does not have standing to assert conflict of interest

-no vicarious standing among members of entity in non-derivative suit

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

prejudice to non-moving party found to be, extreme where counsel had been long term counsel for non-moving and motion was brought in the middle of the case

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

prior relationship with opposing party

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

In the Matter of Thibault (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 64

-attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

-disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

prior representation of co-defendant

In re Charles L. (1976) 63 Cal.App.3d 760, 763 [132 Cal.Rptr. 840]

-in related matter

Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]

prior representation of opposing party

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211

Trone v. Smith (9th Cir. 1980) 621 F.2d 994

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]

Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30 [32 Cal.Rptr. 188]

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 1998-152, CAL 1993-133, LA 501 (1999)

-associate switches sides

Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

LA 363 (1976)

-in matter relating to same transaction

Cord v. Smith (9th Cir. 1964) 338 F.2d 516

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

- In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 -no automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 -representation of attorney/client against former attorney/client
 LA 418 (1983), SD 1984-1
 -substantial relationship to current matter not found
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
 prior representation of plaintiff's expert witness does not require disqualification where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
 prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of third party
People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]
 public defender
 -where witness had been represented by former member of public defender's office and where current defendant was represented by the public defender's office and where no confidential information of witness was found, there was no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
 raised on appeal from the final judgment
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]
 related matter, substantial relationship
Panduit Corp. v. All States Plastic Mfg. Co., Inc. (7th Cir. 1984) 744 F.2d 1564, 1576
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
 -disqualification of attorney where same attorney was previously disqualified in a related case
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
 -no automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 -vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 -public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 -vicarious disqualification of entire city attorney's office where in related matter city attorney previously represented private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 res judicata and collateral estoppel, effect of
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
 sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client
Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]
 standards
 -difference for subsequent representation than for simultaneous
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
 standing to assert
 -absent an attorney client relationship, party moving for disqualification generally does not have standing to assert a conflict of interest
In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
 -no vicarious standing where action brought by member of entity against entity and its only other member is not a derivative action
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
 -vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
 substantial relationship
Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
 temporary judge lacks authority to order disqualification of lawyer
Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]
 timeliness of *Marsden* motion
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
 timeliness of motion to disqualify
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

CONFLICT OF INTEREST

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
Earl Scheib, Inc. v. Superior Court (1967) 253 Cal.App.2d 703, 707-710 [61 Cal.Rptr. 386]
 trial court must determine if there is a substantial relationship between the prior and current representation based on facts, legal issues, and the nature and extent of the attorney's involvement
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
 -attorney disqualified for formerly representing the adverse party in the same litigation necessitates vicarious disqualification of the entire firm regardless of screening measures
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
 trial court's power
People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
 under California law, a law firm is not subject to disqualification because one of its attorneys possesses information concerning an adversary's general business practices or litigation philosophy
Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
 unrelated matter
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
 -expert witness in unrelated matter
 -where plaintiff's expert was previously represented by defense counsel and where expert waives conflict, removal of expert not required and disqualification of defense counsel not required
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
 -simultaneous representation of defendant and plaintiff's expert witness in an unrelated matter
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
 vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
 vicarious disqualification of a firm not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
 vicarious disqualification of a firm not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
 vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
National Grange of the Order of Patrons of Husbandry v. California Guild (2019) 38 Cal.App.5th 706 [250 Cal.Rptr.3d 705]
 vicarious disqualification of city attorney's office not required when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
 vicarious disqualification of plaintiff's law firm required despite screening of former counsel for defendant who moves to and later leaves plaintiff's firm
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
 vicarious disqualification required despite screening measures when attorney switches sides and the attorney is not a former government attorney moving to private practice
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
 withdrawal from representation of one client in the course of concurrent representation of adverse clients in separate matters may not avoid disqualification sought by the ousted client
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

District attorney

common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

conflict of interest requires a showing that the district attorney's discretionary decision making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

dispute between district attorney and county sheriff prevented county counsel from representing either party since the two were county public officers, thus, requiring independent counsel for sheriff

Rivero v. Lake County Board of Supervisors (2014) 232 Cal.App.4th 1187 [181 Cal.Rptr.3d 769]

district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

entire office

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

former

-represents

--in criminal matters

Business and Professions Code section 6131

LA(l) 1958-9

former attorney now district attorney and issue based on same facts as prior proceeding

People v. Johnson (1980) 105 Cal.App.3d 884 [164 Cal.Rptr. 746]

formerly employed as private counsel for co-defendant

In re Charles L. (1976) 63 Cal.App.3d 760, 765 [132 Cal.Rptr. 840]

formerly represented defendant as private counsel

People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]

married to bailiff

CAL 1987-93

personal animosity of district attorney towards co-defendant

*People v. Battin (1978) 77 Cal.App.3d 635, 670-672 [143 Cal.Rptr. 731]

police officer assigned to the district attorney's office related to informant

People v. McPartland (1988) 243 Cal.Rptr. 752
 proceedings to have child of defendant in criminal case declared ward of court

People v. Superior Court (Martin) (1979) 98 Cal.App.3d 515 [159 Cal.Rptr. 625]

recusal of entire office

Penal Code section 1424

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200]

People v. Conner (1983) 34 Cal.3d 141

People v. Dekraai (2016) 5 Cal.App.5th 1110 [210 Cal.Rptr.3d 523]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

People v. Choi (2000) 80 Cal.App.4th 476 [94 Cal.Rptr.2d 922]

Lewis v. Superior Court (1997) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]

*Younger v. Superior Court (1978) 77 Cal.App.3d 892 [144 Cal.Rptr. 34]

-based on private party influence on the impartiality of the district attorney

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

-defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor's children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

-erroneous denial of recusal motion is harmless error if it does not involve due process violation

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

-improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial

People v. McPartland (1988) 243 Cal.Rptr. 752

-not necessary when defendant and victim exchange roles in concurrent cases

People v. Hernandez (1991) 231 Cal.App.3d 1376

-not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

-prosecutor's recusal not required where prosecutor advocates but does not formally represent the interests of a third party

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

CONFLICT OF INTEREST

relative of crime victim employed in district attorney's office
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
representation of county and private citizen
Dettamanti v. Lompoc Union School District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
representation of county by district attorney at welfare hearing permitted even if county has a county counsel
Rauber v. Herman (1991) 229 Cal.App.3d 942 [280 Cal.Rptr. 785]
representation of criminal defendant by member of firm acting as city prosecutor
LA 453
retired district attorney wishing to associate with law firm holding county contract to act as public defender
62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
CAL 1977-45
threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant
People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]
Divorce
community property, contingent fee
CAL 1983-72
post-nuptial agreement enforceable despite law firm's dual representation of husband and wife on estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
represent
-both parties
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
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 both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
attorney acting as expert witness against former client
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
attorney acting as Federal Rule 30(b)(6) spokesperson
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
attorney as director and as attorney for organization
OC 2011-02
attorney for plaintiff formerly had borrower-lender relationship with defendant
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
lobbyist and legal counsel for a state agency may be permissible
78 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
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
absence of litigation or contemplated litigation
Lessing v. Gibbons (1935) 6 Cal.App.2d 598, 605-606 [45 P.2d 258]
actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
actual conflict between Limited Liability Company and LLC member
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]
Howitt v. Superior Court of Imperial County (1992) 3 Cal.App.4th 1575
attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]

buyer and seller in real estate transaction

CAL 1982-69
LA 413 (1983), LA 384 (1980)
SF 1973-22

by counsel

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

clients each demand the original file

LA 493 (1998)

co-defendants in criminal case

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]

-attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

concurrent representation of adverse parties in separate matters is not cured by ending relationship with previous client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]
CAL 2003-163

concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated

Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
-lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program

CAL 2014-191

consent to potential conflict

In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
SD 2017-1, SF 2020-1

corporation and board of directors in derivative suit

LA 397 (1982)

corporation and director of corporation as co-defendants

Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
CAL 1999-153, LA 471 (1992)

corporation and directors

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

SD 2017-1

corporation and officers

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

CAL 1999-153, SD 2017-1

dependency proceedings

-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.

In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]

-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual

In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]

franchisee law firms of franchisor group representing multiple clients

LA 471 (1992), LA 423 (1983)

insurance company

-insured

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278, 91 Cal.Rptr.2d 453
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Unigard Ins. Group v. O'Flaherty & Belgium (1997) 38 Cal.App.4th 1229
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
LA 528 (2017), LA 424 (1984), LA 352 (1976)

-party adverse to insurer

Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
CAL 1975-35, CAL 1970-22
LA 397 (1982)

-Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]

joint defense agreement establishes an implied attorney-client relationship with the co-defendant

United States v. Henke (9th Cir. 2000) 222 F.3d 633

living trust marketer and participant

CAL 1997-148

mediation

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

minor and guardian

CAL 1988-96

minority shareholder's derivative claims against corporation and officers creates an actual conflict

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

CONFLICT OF INTEREST

mortgagee and mortgagor

Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]

of general and limited partners in partnership

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]

Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]

of potential conflicting interests

LA 471 (1992), LA 427 (1984)

preparing answer for in propria persona defendant while representing plaintiff on same matter

LA 432 (1984)

Duty of loyalty

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36 Cal.Rptr.2d 537]

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Casualty Insurance Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]

Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839

Truck Insurance Exchange v. Fireman's Fund Insurance Co.

(1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]

Jeffrey v. Pounds (1977) 67 Cal.App.3d 611

CAL 2011-182, CAL 2003-163

SD 2013-1

OC 2012-1

actual conflict distinguished from direct conflict in evaluating ineffective assistance of counsel claim

U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818

attorney should not represent client if representation may be materially limited by attorney's duties to another client

Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083

attorney violates duty of loyalty to current client by calling client as a witness in a concurrent matter in which client/witness may be portrayed in negative manner

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative

Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]

criminal defendant has right to representation free from conflicts of interest and to assistance of counsel whose loyalties are not divided

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

defendant denied effective assistance of counsel when his attorney not only failed to speak on defendant's behalf at forfeiture of right to counsel hearing, but also testified against defendant

King v. Superior Court (2003) 107 Cal.App.4th 929 [132 Cal.Rptr.2d 585]

does not apply where defense counsel had previously represented plaintiff's expert

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

here attorney has professional or financial interest in the subject matter

U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394

ineffectiveness claim based on divided loyalty in criminal matter does not require showing of prejudice as a result of defense counsel's actual conflict

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164 LA 506 (2001)

may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense

SD 2004-1

no fiduciary duty owed to co-counsel, where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

where attorney has professional or financial interest in the subject matter

CAL 2009-178

Duty to both insured and insurer

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]
 LA 528 (2017)
 cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
 extends to uninsured courtesy defense client
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
 LA 439 (1986), LA 427 (1984), LA 424 (1984), LA 395 (1982), LA 344 (1974)
 Duty to client
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
 conflicting claims of two clients
McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d 718]
 Duty to disclose attorney acting as trustee for client
 discovery of conflicting duties to multiple clients
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
CAL 1970-22, CAL 1975-35
 duty to disclose self-involvement in trust
Lyders v. State Bar (1938) 12 Cal.2d 261 [83 P. 500]
 prior representation of opposing party in unrelated matter
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 10 [136 Cal.Rptr. 373]
 to both clients in multiple representation
 LA 471 (1992), LA 427 (1984), LA 395 (1982), LA 344 (1974)
 Duty to withdraw
Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
 duty to prospective client
CAL 2021-205
 timeliness
Yorn v. Superior Court (1979) 90 Cal.App.3d 669, 676 [153 Cal.Rptr. 295]
Pennix v. Winton (1943) 61 Cal.App.2d 761, 773-775 [145 P.2d 561]
CAL 1980-52, CAL 1979-49, LA 395 (1982)
 Effect of mere prior professional relationship
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 Effect of time lapse
Johnson v. Superior Court (1984) 159 Cal.App.3d 573, 577-578 [205 Cal.Rptr. 605]
 Elements of effective ethical screens
 former and prospective clients
 CLA 2021-1
 specific elements
 -timely manner
 CLA 2021-1
 -no fee sharing with prohibited lawyer
 CLA 2021-1
 -notice to affected clients
 CLA 2021-1

Escrow
 agent
 -represents
 --against grantor
 LA 266 (1959)
 --one party in dispute over escrow between parties
 LA(l) 1955-6
 Estate(s)
 attorney as beneficiary of trust
Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
 attorney for
 -buys estate property
 LA 238 (1956)
 -charges personal representative personally for services performed
CAL 1993-130, LA 347 (1975)
 -claimant in bankruptcy proceeding, then later purchases property in foreclosure sale held by claimant
 LA 455
 -personal representative and real estate broker
 SD 1992-1
 -removal of beneficiary's request/demand
Estate of Effron (1981) 117 Cal.App.3d 915, 928-930 [173 Cal.Rptr. 93]
 -represents
 --administrator
 ---as contestant in probate
 LA 193 (1952)
 --as such and as heir
CAL 1976-41
 LA 237 (1956), LA 193 (1952), LA 44 (1943), LA(l) 1967-6
 --deceased attorney's client
Estate of Linnick (1985) 171 Cal.App.3d 752, 758 [217 Cal.Rptr. 552]
 --plaintiffs in wrongful death action against estate
 LA 341 (1973)
 --real estate broker for the sale of estate property
 SD 1992-1
 --takes assignment of administrator's interest in estate to secure loan
 LA 228 (1955)
 attorney representing both heir 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
Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
Estate of Effron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]
 --fees from executor and statutory fees
CAL 1993-130
 --finders fee from purchaser of estate property
 LA 317
 --offers to prepare claims for creditors of state for fee
 LA(l) 1961-6
 --own partnership
 LA 219 (1954)
 --referral fee from broker listing estate property
 SD 1989-2

CONFLICT OF INTEREST

- represents
 - person in determination of heirship
 - LA(l) 1965-8
 - reopened estate against
 - LA 269 (1960)
- beneficiary as
 - LA 219 (1954)
- beneficiaries in contest over heirship
 - LA(l) 1958-2
- disqualification of attorney not required from representing executor against beneficiary and law firm that drafted will
 - Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]
- law firm's dual representation of husband and wife in estate plan did not create a conflict of interest that voided post-nuptial agreement, in which law firm only represented husband
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- partnership represents
 - member, trustee
 - LA 219 (1954)
 - successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice and there is no conflict of interest arising from the duty of loyalty or confidentiality in suing for malpractice
 - Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]
- trustee
 - beneficiary as
 - LA 219 (1954)
 - violation of [rule](#) 3-310 of the Rules of Professional Conduct may render a post-nuptial agreement unenforceable
 - In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- False arrest cases on retainer for police officers/represent clients who might raise issue of false arrest
 - SD 1972-2
- Fee
 - apportioning fees where conflict between insurer and insured
 - LA 424
 - attorney engaged in conflicting representation without obtaining informed written consent not entitled to recover fees
 - Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
 - Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 11
 - Goldstein v. Lees (1975) 46 Cal.App.3d 614
 - charging lien in hourly fee agreement requires compliance with [rule](#) 3-300
 - Fletcher v. Davis (2004) 33 Cal.4th.61 [14 Cal.Rptr.3d 58]
 - contingency fee agreements distinguished
 - Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
 - [CAL](#) 2006-170
 - conflict of interest
 - United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 - Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 - Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
 - Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
 - Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
 - Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
 - prosecution's witness' offer to pay for criminal defendant's legal fees impaired defense counsel's ability to impeach witness
 - Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
 - defense of city employees pursuant to Gov. Code § 995 et seq.
 - city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
 - City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
 - dispute does not create
 - LA 521 (2007)
 - government
 - city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
 - City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
 - insurance cases
 - insurer's ability to recover attorney fees from insured
 - Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]
 - paid by co-defendant
 - attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
 - U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 - paid by third party
 - Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
 - [CAL](#) 1992-126, [CAL](#) 1975-35
 - LA 510 (2003), LA 471 (1992), LA 439 (1986)
 - by co-defendant in separate trial
 - U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 - by corporation to minority shareholder's attorney
 - Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
 - by insurer of client
 - Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - LA 439 (1986), LA 352 (1976)
 - by prosecution's witness who testified against criminal defendant
 - Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
 - estate attorney charging personal representative personally for services performed
 - LA 347 (1975)
 - public agency attorney participation in a bonus program tied to savings by the agency
 - SD 1997-2
 - union pays for representation of potential class members
 - Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
 - referral
 - paid to an attorney by client in an unrelated matter
 - SD 1987-2
 - represent
 - in settlement when fee paid out of settlement
 - SD 1975-4
 - self and co-counsel with regards to contingent fee
 - SD 1972-1
 - when in client's best interest to settle although no recovery of fees
 - Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct.1531]
 - Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
 - Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
 - Fiduciary duty
 - attorney acting as director and as attorney for organization
 - OC 2011-02
 - attorney as executor of estate
 - Probate Code section 10804

- substitution into litigation
 - Pepper v. Superior Court (1977) 76 Cal.App.3d 252, 259 [142 Cal.Rptr. 759]
- attorney represents estates and deceased attorney's former client
 - Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
- breach of
 - taking business clientele of a former client
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- can exist even absent express attorney-client relationship
 - Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
 - Allen v. Academic Games League of America (1993) 831 F.Supp. 785
 - Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 - Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
 - Morrison Knudsen Corp. v. Hancock, 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]
 - 101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)
 - CAL 1993-132, CAL 1981-63
 - not created by receipt of private information from potential client via an unsolicited email
 - SD 2006-1
- presumption of undue influence
 - BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
 - Ball v. Posey (1986) 176 Cal.App.3d 1209 [222 Cal.Rptr. 746]
- self-dealing of attorney/trustee
 - Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265 [83 P.2d 500]
- Financial advice
 - 46 Ops. Cal. Atty. Gen. 74 (10/14/65; No. 64-65)
- Financial interest
 - Government Code section 1090
 - city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
 - 86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
 - "noninterest" when city council, a member of which is a deputy county counsel, enters into contract for law enforcement services if interest is disclosed to city council and noted in official records and deputy county counsel-city council member may participate in the negotiations
 - 85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)
- of lawyer
 - in corporation
 - about which the client desires legal advice
 - LA 57 (1928)
- Foreclosure
 - represent
 - plaintiff's purchase real property involved
 - LA 282 (1963)
- Former client
 - Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [243 Cal.Rptr. 699]
 - Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
 - In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
 - In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297
- acceptance of employment
 - adverse to
 - Arm v. State Bar (1990) 50 Cal.3d 763, 769 [268 Cal.Rptr. 741, 789 P.2d 922]
 - knowledge of former clients' property and property rights involved in action
 - LA 31 (1925)
- adverse interest to
 - buying an interest in the judgment against one's client from former client's opponent
 - Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 - in litigation
 - LA 30 (1925)
- business transaction with former client
 - no violation of rule 3-300 found in disciplinary action where attorney did not comply with rule regarding the transaction with former client
 - In the Matter of Allen (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198
- co-defendant in present criminal proceeding
 - disqualification
 - Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
- confidential information
 - Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]
- estate plan for husband and wife, and subsequent agreement for husband
 - LA 448 (1987)
- expert witness is former client of attorney
 - LA 513 (2005)
- insurer of current opposing party
 - San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- prior representation of murder victim by defense attorney
 - Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]
- taking business clientele from
 - David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- witness against
 - Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087 [206 Cal.Rptr. 45]
- attorney as
 - LA 75 (1934)
- present client
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633
 - Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957
 - People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - People v. Pennington (1991) 228 Cal.App.3d 959
 - CAL 1980-52
- witness in related case
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
- Former office represents client
 - Vangsness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090 [206 Cal.Rptr. 45]
- Franchisee law firms of franchise group
 - LA 423 (1983)
- Gifts to attorney
 - Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]
- attorney/beneficiary drafts gift instrument
 - Probate Code sections 15687, 21350 et seq.
 - Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]

CONFLICT OF INTEREST

- Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839]
inducing client to offer of free use of client's vacation property
CAL 2011-180
- Government attorneys
attorney general may represent board where another state agency in the underlying proceeding retains separate counsel to avoid prohibited dual representation conflict
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
city attorney
-city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
district court must make specific factual findings that show the U.S. Attorney's Office continued representation would result in a clear legal or ethical violation
U.S. v. Williams (9th Cir. 2023) 68 F.4th 564
prosecutor's entire office not disqualified where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
state agency's mere payment of license fee for professional employees does not necessarily bar employees from rendering professional services to others for compensation
86 Ops. Cal. Atty. Gen. 54 (4/11/03, No. 02-613)
- Government code section 1090
outside contractor attorney may be treated as an employee
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
- Grand jury
Sixth Amendment right to counsel of one's choice does not apply
-disqualification order not appealable
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
- Guardian
attorney for
-deemed to represent minor
CAL 1988-96
-former represents against as counsel for wife of deceased ward
LA(l) 1962-5
- Homeowner's association – where attorney is member of association and represents plaintiffs against association
LA 397 (1982)
- Immigration matters
representation adverse to former corporate client's employees and officers in immigration matters
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
- Impropriety, appearance of
*People v. Municipal Court (Wolfe) (1975) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
can exist even absent express attorney-client relationship
CAL 1981-63
- Ineffective assistance of counsel
attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the defendant
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest
Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166
- Insurance cases
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
Civil Code section 2860
- San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
Simonyan v. Nationwide Insurance Co. of America (2022) 78 Cal.App.5th 889 [293 Cal.Rptr.3d 555]
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Golden Eagle Insurance Co. v. Foremost Insurance Co. (1993) 20 Cal.App.4th 1372, 1395-1396
Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345
Sheldon Appel Co. v. Albert & Olikier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]
Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]
McGee v. Superior Court (1985) 176 Cal.App.3d 221, 227 [221 Cal.Rptr. 421]
Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]
LA 501 (1999)
-“cumis counsel” fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
-obligation of counsel to exchange information does not sanction disclosure of client confidences
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
-statute partially changed the rule of the Cumis case
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
apportioning fees where conflict between insurer and insured
LA 424 (1984)
attorney's duty to act competently requires that decision making control over client's litigation be given to client despite contrary instructions from client's insurer
CAL 1995-139
LA 464 (1991)
conflict of interest does not arise every time the insurer proposes to provide a defense under a reservation of rights...insured's right to independent counsel “depends upon the nature of the coverage issue, as it relates to the underlying case.”
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
 Cumis representation is based on ethical standards, not insurance concepts
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Moser v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
 dispute between insurer and insured as to policy coverage entitles insured to obtain counsel for third party claim at insurer's expense
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
Executive Aviation, Inc. v. National Insurance Underwriters (1971) 16 Cal.App.3d 799, 808-810 [94 Cal.Rptr. 347]
 LA 501 (1999), LA 439 (1986)
 disqualifying conflict of interest between insurer and insured ceased to exist, therefore, insurer did not have a duty to continue to provide and pay for Cumis counsel
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
 duty owed to insured and insurer
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
First Pacific Networks, Inc. v. Atlantic Mutual Ins. Co. (N.D. Cal. 1995) 163 F.R.D. 574
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard v. O'Flaherty v. Belgium (1995) 38 Cal.App.4th 1229
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78 [38 Cal.Rptr.2d 25]
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688 [201 Cal.Rptr. 528]
 LA 528 (2017)
 -payment of insurer's reimbursement claims without client's consent may create conflict of interest
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
CAL 1995-139, CAL 1987-91, LA 464 (1991), LA 345 (1982), LA 344 (1974), SD 1987-1
 fees
 -"cumis counsel" fee dispute requires mandatory arbitration
Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]
 -insurer's ability to recover from insured
Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]

James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
 for independent counsel to be required, the conflict of interest must be significant and actual
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
 full disclosure of conflict of interests required in representation of insurer and insureds by same attorney
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
CAL 1988-96, CAL 1987-92
 LA 395 (1982), LA 344 (1974)
 -insured's right to be informed of conflict of interest
Manzanita Park, Inc. v. I.N.A. (9th Cir. 1988) 857 F.2d 549
 independent counsel's ability to represent insureds interest against insurer in coverage actions
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
 independent judgment
 -failure to use
 SD 1974-21
 insurance company attorney
 -former
 --acts against company in related matter
 LA 217 (1953)
 -represents
 --assured
 ---and company
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 LA 336 (1973)
 insurance company attorney represents insurance company
 -assured
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
 SD 1978-5
 -criminal defendant against insured
 SD 1972-2
 insured's counsel interjecting issue of collusion between defendant insured and plaintiff raises conflict of interest
Price v. Giles (1987) 196 Cal.App.3d 1469
 insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
 insurer's right to control defense provided to insured
 - right to control the defense includes what measures are cost effective provided there is no actual conflict of interest
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
 laches – delay in raising conflict of interest motion
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
 multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made
Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463

CONFLICT OF INTEREST

no conflict when alleging anticipated circumstances that have not yet occurred in the underlying litigation related to the cumis counsel and insurer

Simonyan v. Nationwide Insurance Co. of America (2022) 78 Cal.App.5th 889 [293 Cal.Rptr.3d 555]

obligation of counsel to exchange information does not sanction disclosure of client confidences

LA 528 (2017)

reinsurer did not have attorney-client relationship with counsel retained by the previous insurer to defend the insured in the absence of an express agreement

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

representation of both insurer and insured to defeat third-party claim

Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]

CAL 1987-91, LA 352 (1976)

-insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

representation of two insureds with potentially divergent interests requires disclosure

Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]

requires independent counsel for insured

California Civil Code section 2860

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Rockwell International Corp. v. Superior Court (1994) 26 Cal.App.4th 1255

Blanchard v. State Farm Fire & Casualty (1991) 2 Cal.App.4th 345

Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863, 875 [254 Cal.Rptr. 336]

Foremost Ins. Co. v. Wilks (1988) 206 Cal.App.3d 251, 261 [253 Cal.Rptr. 596]

U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513

Native Sun Investment Group v. Ticor Title Ins. Co. (1987) 189 Cal.App.3d 1265, 1277 [235 Cal.Rptr. 34]

McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]

San Diego Navy Federal Credit Union v. Cumis Insurance Society (1984) 162 Cal.App.3d 358 [208 Cal.Rptr. 494]

CAL 1995-139

LA 501 (1999), LA 439 (1986), LA 424 (1984)

-insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured

Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]

-insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]

-insurer's control over insured's selected counsel

U.S.F. & G. v. Superior Court (1988) 204 Cal.App.3d 1513

rule 3-310 requires informed consent for continued representation of all clients

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

withdrawal

LA 395 (1982), LA 344 (1974)

Insured's consent required for prior counsel to maintain role in case on behalf of insurer

SD 1987-1

Issues, attorney argues inconsistent positions

Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]

CAL 1989-108

Joint powers arrangement

Government Code section 6500 et seq.

Elliott v. McFarland Unified School District (1985) 165 Cal.App.3d 562 [211 Cal.Rptr. 802]

60 Ops. Cal. Atty. Gen. 206, 212-213 (7/7/77; No. CV 76-14)

Joint Powers Act

Joint representation of clients in the same matter

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

LA 533 (2020), SF 2020-1

corporation and corporate director as co-defendants

LA 471 (1992)

Joint venture

LA 412 (1983)

Judge

attorney appearing before judge is also the personal counsel of the judge

In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557

failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review

People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]

vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Literary rights

LA 451, LA 409 (1983)

actual conflict of interest required to establish violation of 6th Amendment rights when attorney contracts to write book about trial

United States v. Hearst (1981) 638 F.2d 1190

attorney contract for publication rights about trial

United States v. Hearst (N.D. Cal. 1978) 466 F.Supp. 1068

attorney's literary rights to trial adverse to client's interests

People v. Corona (1978) 80 Cal.App.3d 684, 720 [145 Cal.Rptr. 894]

"life story" fee agreement all right if accused knowingly and intelligently waives potential conflicts

Maxwell v. Superior Court (1982) 30 Cal.3d 606 [180 Cal.Rptr. 177, 639 P.2d 248]

literary rights agreement not found neither prior to nor during actual trial

Bonin v. Vasquez (C.D. Cal. 1992) 794 F.Supp. 957

publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Lobbying firm

dual capacity of a lobbyist and legal counsel for a state agency may be permissible

78 Ops. Cal. Atty. Gen. 322 (11/8/95; No. 95-616)

Maintaining independence of professional judgment

Rule 1-600, Rules of Professional Conduct

[Rule](#) 3-310(F), Rules of Professional Conduct (operative as of September 14, 1992)
 LA 500 (1999)
 Malpractice case based, in part, on claimed breach of loyalty
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
 Marvin agreement
 representation of husband and wife on estate plan, later husband on Marvin agreement with another woman
 LA 448 (1987)
 May arise from an attorney relationship with a non-client if attorney owes duty of fidelity
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1047 [197 Cal.Rptr. 232]
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
[CAL](#) 1993-132
 Mediator
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
 attorney acts as mediator to both parties but favors one over the other due to attorney-client relationship
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
 attorney who mediates one case is generally not disqualified from litigating later cases against the same party
Barajas v. Oren Realty and Development (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]
 Minor's counsel
 no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests
In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]
 Moonlighting as contract lawyer
 SD 2023-2
 Motion to vacate a foreign state judgment on the basis of the existence of a conflict of interest
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
 Multiple representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
[CAL](#) 2011-182, [CAL](#) 1993-132
 LA 533 (2020), LA 471 (1992), LA 427 (1984)
 SD 2017-1
 SF 2020-1, SF 1973-26, SF 1973-15
 absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
 -mortgagee and mortgagor
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
 actual versus potential conflict
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
 LA 471 (1992), LA 427 (1984), SD 2013-1
 administrative proceeding
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]

advance waiver of potential future conflict contained in a joint defense agreement found enforceable
In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336
 assistant district attorney representing county and private citizen
Dettamanti v. Lompoc Unions District (1956) 143 Cal.App.2d 715 [300 P.2d 78]
 attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
 -Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
 attorney for former business associates later represents one of those clients against the others in a matter directly related to earlier representation
*Croce v. Superior Court (1937) 21 Cal.App.2d 18, 19 [68 P.2d 369]
 attorney partner in a partnership arrangement acting as counsel for both sides in a leasing transaction
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 attorney representing conflicting issues in litigation
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
McClure v. Donovan (1947) 82 Cal.App.2d 664, 666 [186 P.2d, 718]
 attorney represents two insureds with potentially divergent interests
Spindle v. Chubb/Pacific Indemnity Group (1979) 89 Cal.App.3d 706, 713 [152 Cal.Rptr. 776]
 LA 395 (1982)
 attorney's former joint representation of parties did not require disqualification where valid waiver found
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
 attorney's former joint representation of parties justified disqualification from representing one against the other
Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]
 both sides
Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
 SD 1976-16
 business firm and clients of business
 -when attorney is partner in business
[CAL](#) 1969-18
 class action representatives may waive conflicts of interest on behalf of potential class members
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
 clients each demand the original file
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

CONFLICT OF INTEREST

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228] LA 493 (1998)
concurrent representation of adverse parties in separate matters may be permissible if cases are totally unrelated
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083 -lawyer may concurrently represent both creditor and debtor in unrelated matters without written consent when debtor-client is adequately prescreened through a pro bono program
CAL 2014-191
concurrent representation of clients with adverse interests
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
CAL 2003-163
LA 528 (2017)
-not found
A.F. v. Jeffrey F. (2022) 79 Cal.App.5th 737 [294 Cal.Rptr.3d 700]
consent of all parties
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Image Technical Services v. Eastman Kodak Co. (N.D. Cal. 1993) 820 F.Supp. 1212
Arden v. State Bar (1959) 52 Cal.2d 310 [341 P.2d 6]
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Aquiluz (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
LA 22 (1923), SD 2017-1, SD 1974-22, SF 2020-1
-in-house counsel represented employer and employee concurrently (to the employee's detriment) without obtaining informed consent
Yanez v. Plummer (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]
consultation with attorney, evidence of relationship
[See Attorney-Client Relationship, Consultation with, prima facie case of existence of.]
corporate director/attorney representing client in transaction with corporation
CAL 1993-132
corporation and board of directors on derivative suit
LA 397 (1982)
corporation and directors
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

CAL 1999-153, SD 2017-1
corporation and officers
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
CAL 1999-153, SD 2017-1
county counsel represents a department of the county and an individual
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375] LA 459 (1990)
creating a conflict by the mere filing of a meritless cross-complaint should not establish a conflict between opposing attorney's clients where no previous conflict existed
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
criminal defendants by public defender's office
59 Ops. Cal. Atty. Gen.27, 28 (1/15/76; No. CV 72-278)
criminal proceeding
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
CAL 1979-49, CAL 1975-35, CAL 1970-22
criminal prosecution
-co-defendants entitled to separate representation
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]
People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]
-privately retained counsel representing co-defendants
People v. Cook (1975) 13 Cal.3d 663, 670-673 [119 Cal.Rptr. 500, 532 P.2d 148]
People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313]
Dependency Court Legal Services may represent multiple parties with adverse interests
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
dependency proceeding
-actual conflict amongst multiple siblings requires disqualification of appointed counsel from joint representation
In re Zamer G. (2007) 153 Cal.App.4th 1253 [63 Cal.Rptr.3d 769]
In re Jasmine S. (2007) 153 Cal.App.4th 835 [63 Cal.Rptr.3d 593]
-no separate counsel needed where attorney represented two siblings with different plans. In this case, even if separate counsel had been appointed, the result would have been the same.
In re T.C. (2011) 191 Cal.App.4th 1387 [120 Cal.Rptr.3d 569]
-sanctions imposed against attorney for bringing frivolous conflict motions
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
disqualification order not appealable in the grand jury context
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
dissolution of marriage
Ishmael v. Millington (1966) 241 Cal.App.2d 520 [50 Cal.Rptr. 592]

CONFLICT OF INTEREST

- divorce action
 - party and receiver appointed in same action
LA 52 (1927)
 - post-nuptial agreement enforceable despite law firm's dual representation of husband and wife in estate plan
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
- employer and employee-alien in an immigration matter
LA 465 (1991)
- estate planning matter
 - representation of testator and beneficiary
SD 1990-3
- franchise group of law firms
LA 423 (1983)
- husband and ex-wife in tax proceedings
Devore v. Commissioner of Internal Revenue Service (9th Cir. 1992) 963 F.2d 280
- husband and wife in dissolution of marriage
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893 [142 Cal.Rptr. 509]
- husband and wife in estate plan, and subsequent agreement for husband only
LA 448 (1987)
- in-house counsel for organization represents outside company in merger with organization
LA 353
- insurance company
 - and insured
MGIC Indem. Corp. v. Weisman (9th Cir. 1986) 803 F.2d 500
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529 [140 Cal.Rptr. 806]
American Mutual Liability Insurance Co. v. Superior Court (1974) 38 Cal.App.3d 579, 592 [113 Cal.Rptr. 561]
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
LA 528 (2017)
 - actual conflict
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575 [184 P.2d 505]
James 3 Corporation et al. v. Truck Insurance Exchange (2001) 91 Cal.App.4th 1093 [111 Cal.Rptr.2d 181]
LA 528 (2017)
 - and another party
Hammett v. McIntyre (1952) 114 Cal.App.2d 148 [249 P.2d 885]
 - attorney must withdraw if attorney obtains information from insured that could be provide basis for insurance carrier to deny coverage
LA 528 (2017)
 - attorney who is director subject to same conflicting interests as attorney for carrier
SF 1979-2
- Cumis counsel does not have attorney-client relationship with insurer for purposes of disqualification
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Assurance Co. of America v. Haven (1995) 32 Cal.App.4th 78, 90 [38 Cal.Rptr.2d 25]
- disqualifying conflict of interest between insurer and insured counsel ceased to exist, therefore, insurer did not have a duty to continue to provide and pay for Cumis counsel
Swanson v. State Farm General Insurance Company (2013) 219 Cal.App.4th 1153 [162 Cal.Rptr.3d 477]
- withdrawal
LA 395 (1982), LA 344 (1974)
- and party adverse to insurer
Anderson v. Eaton (1930) 211 Cal. 113 [293 P. 788]
- no actual conflict
Federal Insurance Company v. MBL, Inc. (2013) 219 Cal.App.4th 29 [160 Cal.Rptr.3d 910]
- providing courtesy defense
 - insurer that voluntarily provided courtesy defense but no indemnification had duty to defend uninsured as if they had been insured
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
- limited and general partnerships
Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
LA 461 (1990)
- malpractice found where attorney failed to advise elder client of conflict where attorney also represented another person claiming to be the nephew of the elder in obtaining a loan against property owned by elder client's trust
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
- minor and guardian
CAL 1988-96
- no joint representation, where parties have simply overlapping interests
Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]
- non-profit legal corporation created by a county board of supervisors does not give rise to a conflict of interest even if the corporation represents multiple parties with adverse interest
Castro v. Los Angeles County Board of Supervisors (1991) 232 Cal.App.3d 1432
- not found where attorney had a "framework" contract with former client for "as requested" future representation, but did not currently represent the client
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
- of executor
 - in individual capacity against co-executor
LA 72 (1934)
- permanency hearing where one attorney represents two brothers creates conflict when court is considering post-termination sibling visitation issues
In re Clifton B. (2000) 81 Cal.App.4th 415 [96 Cal.Rptr.2d 778]
- preparation of answer for opposing party
LA 432 (1984)
- privilege held between co-client
Evidence Code section 962
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
- probate matter
 - representation of decedent's spouse and executor
LA 23 (1923)

CONFLICT OF INTEREST

- withdrawal from
 - when lawyer represents executor being sued by beneficiary
 - LA 23 (1923)
- representation of corporation and controlling shareholders
 - Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
- representation of corporation and officer, in a separate matter, may require withdrawal from representation where corporation may be liable for officer's action
 - [CAL](#) 2003-163
- sale and purchase of stock of corporation
 - SF 1973-10
- unauthorized representation
 - Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
- without consent of client
 - Gendron v. State Bar (1983) 35 Cal.3d 409, 410-411
 - *In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664
- workers' compensation insurance carrier and a claimant making a claim against one of the carrier's insureds
 - Smiley v. Director, Office of Workers' Compensation (9th Cir. 1992) 973 F.2d 1463
- Not automatic where previous representation did not expose attorney to confidential information material to the current representation
 - Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
- Obtaining loan from client
 - disclosure and written consent required
 - Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]
- Of counsel
 - Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
 - firm's acceptance of client adverse to of counsel's client
 - [CAL](#) 1993-129
 - LA 516 (2006)
 - SF 1985-1(F)
 - vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Office sharer
 - [CAL](#) 1979-50, LA 216
 - represent opposing sides
 - SD 1972-15
- Opposing counsel
 - joins partnership
 - LA(I) 1962-2
- Opposing party
 - represent
 - client against after obtaining information from
 - LA 193 (1952)
- Ordinance violation
 - city council member represents in
 - LA 273 (1962), SD 1969-1
- Outside counsel or providers of outsourced legal services, use of
 - [CAL](#) 2004-165
 - LA 518 (2006)
- Paid by third party
 - LA 510 (2003)
- litigation funding
 - [CAL](#) 2020-204
- Partnership
 - attorney for
 - Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717

- In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
- [CAL](#) 1994-137
- does not necessarily have an attorney-client relationship with an individual partner for purposes of conflict of interest rules
 - Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
- represents all partners
 - Hecht v. Superior Court (1987) 192 Cal.App.3d 560 [237 Cal.Rptr. 528]
 - Wortham & Van Liew et al. v. Superior Court (1986) 188 Cal.App.3d 927 [233 Cal.Rptr. 725]
- formation of
 - LA(I) 1967-11
- member of partnership acting as counsel for partnership and another party transacting business with partnership
 - Olivet v. Frischling (1980) 104 Cal.App.3d 831 [164 Cal.Rptr. 87]
- no conflict exists for attorney in representation when client partners pursue a common business goal
 - Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]
- opposing counsel joins
 - LA(I) 1962-2
- practices
 - prosecutor
 - LA 377 (1978)
 - when member is
 - city attorney
 - LA(I) 1975-4
 - city council member
 - [CAL](#) 1981-63, [CAL](#) 1977-46
 - LA(I) 1975-4
 - prosecutor
 - LA 377 (1978)
- prior representation re partnership agreement held not conflict in subsequent litigation covering partnership asset
 - Quaglino v. Quaglino (1979) 88 Cal.App.3d 542 [152 Cal.Rptr. 47]
- representation of both general and limited partners in partnership
 - Johnson v. Haberman & Kasoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
 - LA 461 (1990)
- representation of partner against another when represents partnership
 - LA 412 (1983)
- represents
 - against
 - when associate before joining acted for other side
 - LA 363 (1976)
 - custody proceedings
 - [CAL](#) 1976-37
 - estate
 - member against relative of client
 - LA(I) 1956-8
 - member-executor/trustee
 - LA 219 (1954)
 - when member before joining acted for other side
 - LA 269 (1960), LA 252 (1958), LA 246 (1957)
 - in civil matter
 - against city
 - when member is city councilor
 - [CAL](#) 1981-63
 - in criminal matter
 - when member is
 - city attorney
 - LA(I) 1975-4
 - city councilor
 - [CAL](#) 1977-46
 - LA(I) 1975-4

---prosecutor
 LA 377 (1978)
 undertaking partnership with opposing counsel compromises client's interest and constitutes breach of fiduciary duty
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
 Partnership, business
 regarding divorce
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
 regarding termination agreement drafted by other counsel
 LA(l) 1963-9
 Personal interest in client's case
 LA(l) 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(l) 1931-1
 Police officer
 also lawyer
 LA 94 (1936)
 defends criminal cases
 LA 94 (1936)
 Potential conflict
CAL 1988-9(l)
 civil litigation
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Klemm v. Superior Court (1977) 75 Cal.App.3d 893, 899 [142 Cal.Rptr. 509]
 LA 533 (2020)
 civil proceedings
Burum v. State Comp. Ins. Fund (1947) 30 Cal.2d 575, 584 [184 P.2d 505]
 criminal proceeding
 -between co-defendants
CAL 1970-22
 dissolution of marriage
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
 Prior representation
 as corporate counsel for family corporation
Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935 [197 Cal.Rptr. 185]
 of former client
 -attorney seeks to become party adverse to former client in the same matter in which he had represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 of opposing party's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 sufficiency
Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 549 [152 Cal.Rptr. 47]
 Prosecuting attorney [See Conflict of interest, attorney general; commonwealth's attorney; district attorney.]
 employer of, practice by
 LA 377 (1978)
 partner of
 -practice by
 LA 377 (1978)
 -represents
 --in criminal cases
 Business and Professions Code section 6131

LA 377 (1978)
 private practice
 -district attorney engaged in
 8 Ops. Cal. Atty. Gen. 301 (12/11/46; No. 46-354)
 4 Ops. Cal. Atty. Gen. 39 (7/19/44; No. NS-5517)
 representation of criminal defendant by member of firm acting as city prosecutor
 LA 453
 Prospective client
Syre v. Douglas (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]
CAL 2021-205
 Public agency attorneys
 attorney acts as both advocate and advisor to decision maker
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
Quintero v. City of Santa Ana (2003) 114 Cal.App.4th 810 [7 Cal.Rptr.3d 896]
 -Administrative Procedure Act does not prohibit state agency attorney from acting as an agency prosecutor in one case and concurrently acting as agency advisor in unrelated case
Morongo Band of Mission Indians v. State Water Resources Control Bd. (2009) 45 Cal.4th 731 [88 Cal.Rptr.3d 610]
 attorney may not advise city council regarding arbitration award when another attorney in the same firm represented the city's police department at arbitration
Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]
 common interest between prosecutor's office and agency that funded a nuisance abatement specialist position in prosecutor's office does not in itself create a conflict
People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]
 participation in bonus program tied to savings by public agency
 SD 1997-2
 Public defender
 appointment of public defender to represent defendant at sentencing not precluded by public defender's office representation of co-defendant at trial
People v. Ware (1966) 241 Cal.App.2d 143, 146-148 [50 Cal.Rptr. 252]
 conflict of interest
 -defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
 -excessive caseload and limited resources may require removal or substitution
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 -juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
 -representation of one co-defendant by public defender and representation of other co-defendant by alternate public defender
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
CAL 2002-158
 -witness for prosecution former client of public defender's office
People v. Noriega (2010) 48 Cal.4th 517 [108 Cal.Rptr.3d 74]

CONFLICT OF INTEREST

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
court orders public defender's office to assign a new attorney from its office to represent defendant in his criminal proceedings due to racial statements made by prior attorney
Sanchez v. Superior Court of San Bernardino County (2024) 106 Cal.App.5th 617 [327 Cal.Rptr.3d 225]
law firm holding county contract to provide public defender wishes to associate retired district attorney
62 Ops. Cal. Atty. Gen. 546 (10/5/79; No. 79-622)
multiple representation
-separate counsel must be appointed when actual conflict exists among minor clients or when there is a reasonable probability that a potential conflict will become actual
In re Celine R. (2003) 31 Cal.4th 45 [1 Cal.Rptr.3d 432]
Carroll v. Superior Court (2002) 101 Cal.App.4th 1423 [124 Cal.Rptr.2d 891]
prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
removal of public defender was proper where defendant made credible death threat against counsel
People v. Avila (2011) 191 Cal.App.4th 717 [119 Cal.Rptr.3d 657]
representation of criminal defendant by separate division within office does not alleviate conflict
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
withdrawal
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]
Public office
duality of
58 Ops. Cal. Atty. Gen. 241 (4/29/75; No. CV 74-251)
38 Ops. Cal. Atty. Gen. 121, 123 (10/9/61; No. 61-91)
Government Code section 1090
-city council may not contract with a law firm to represent the city when a member of the city council is also a member of the law firm, even where the firm will receive no fees for the representation
101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
Publication of article regarding client's case
no conflict found
LA 451 (1988)
Purpose of [rule](#) 3-300
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
BGJ Associates, L.L.C. v. Wilson (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]
SF 1997-1
Purpose of [rule](#) 3-310
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Purpose of [rule](#) 3-600
*Ronson v. Superior Court (1994) 24 Cal.App.4th 94 [29 Cal.Rptr.2d 268]
Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717
Real estate transactions [\[See](#) Conflict of interest, foreclosure; title.]
deed of trust on client's property through use of wife of attorney
Calzada v. Sinclair (1970) 6 Cal.App.3d 903 [86 Cal.Rptr. 387]
represent
-buyer and seller/later one against other
LA 471
SF 1973-22
-client in donating property to another client later same client in attempt to secure return of property
LA(l) 1970-10
Recusal of district attorney
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200, 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]
People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
Williams v. Superior Court (1988) 198 Cal.App.3d 960 [244 Cal.Rptr. 88]
People v. Lopez (1984) 155 Cal.App.3d 813 [202 Cal.Rptr. 333]
*Younger v. Superior Court (1978) 77 Cal.App.3d 592 [144 Cal.Rptr. 34]
erroneous denial of recusal motion is harmless error if it does not involve due process violation
People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]
not required where ethical wall would be effective alternative
People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]
prior representation as private attorney and necessity for making claim timely
People v. Johnson (1980) 105 Cal.App.3d 884, 889-891 [164 Cal.Rptr. 746]
prior representation in criminal matters now prosecuting
People v. Lepe (1985) 164 Cal.App.3d 685 [211 Cal.Rptr. 432]
relative of crime victim employed in district attorney's office
*People v. Superior Court (Greer) (1977) 19 Cal.3d 255 [137 Cal.Rptr. 476, 561 P.2d 1164]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
witness victim was former non-attorney employee in DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
Related matter
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]
Dill v. Superior Court (1984) 158 Cal.App.3d 301
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Relationship with opposing counsel
Rule 3-320, Rules of Professional Conduct
Manley v. Fireman's Fund Insurance Co. (9th Cir. 1989) 883 F.2d 747
People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]
34 Santa Clara L.Rev. 1157 (1994)
CAL 1984-83, SD 1989-4, SD 1976-12, OC 2012-1
disqualification of attorney where same attorney was previously disqualified in a related case
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
Relationship with previously disqualified counsel and law firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Relative
partnership represents member against relative of client
LA(I) 1956-8
represent
-against client's relative
LA(I) 1956-8
-daughter against son-in-law
SF 1973-6
spouse
-represent
--client's in divorce
LA 207 (1953), LA 192 (1952)
--former client's in divorce
LA(I) 1971-8
Remedies of former clients
People v. Superior Court (Corona) (1981) 30 Cal.3d 193, 200 [178 Cal.Rptr. 334, 636 P.2d 23]
Remedy
Alliance Bank v. Murray (1984) 161 Cal.App.3d 1 [207 Cal.Rptr. 233]
Represent
both client A in suit A v. B, and client B in suit B v. C
Rule 3-310(C)(3), California Rules of Professional Conduct
Abbott v. United States IRS (9th Cir. 2005) 399 F.3d 1083
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
CAL 2014-191, CAL 2011-182, LA 506 (2001), LA 333 (1973)
both guardian and minor
CAL 1988-96, SD 2017-2

both interests of child and state
-in welfare proceeding
CAL 1977-45
both sides
SF 1973-15
concurrent representation of mother and child with conflicting interest
SD 2017-2
multiple witnesses in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
party to reclaim rights from federal government/parties in whom rights are vested
SD 1968-3
subpoena served on current client, by prospective client constitutes an adverse interest
CAL 2011-182
Representation by public officials
city councilman as defense attorney in criminal proceeding
People v. Municipal Court (Wolfe) (1977) 69 Cal.App.3d 714 [138 Cal.Rptr. 235]
county counsel acts as attorney for district under Municipal Water District Act of 1911, not permitted
30 Ops. Cal. Atty. Gen. 86 (8/23/57; No. 57-149)
Representation of co-defendants
U.S. v. Lightbourne (9th Cir. 1996) 104 F.3d 1172
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
In re Noday (1981) 125 Cal.App.3d 507, 517-519 [178 Cal.Rptr. 653]
In re Charles L. (1976) 63 Cal.App.3d 760, 764 [132 Cal.Rptr. 840]
CAL 2002-158, LA 471 (1992)
actual conflict for joint representation can exist due to co-defendant's psychological domination of defendant sibling
United States v. Stites (9th Cir. 1995) 56 F.3d 1020
actual conflict not found
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
People v. Bryant (1969) 275 Cal.App.2d 215 [79 Cal.Rptr. 549]
attorney's representation of two defendants, one of whom paid the legal fees for both, was not adversely affected, even though payment by one defendant created a theoretical division of loyalty
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
public defender's office representation of co-defendant does not preclude representation of other co-defendant at sentencing hearing
People v. Ware (1966) 241 Cal.App.2d 143 [50 Cal.Rptr. 252]
representation of driver and passenger with potentially divergent interest requires disclosure
LA 533 (2020)
separate trials for co-defendants but attorneys for both associated with one another
People v. Avalos (1979) 98 Cal.App.3d 701, 715-716 [159 Cal.Rptr. 736]
CAL 1979-49, CAL 1970-22
Right to effective counsel
attorney's literary rights to trial interfered with duty of undivided loyalty to client
People v. Corona (1978) 80 Cal.App.3d 684, 720-721 [145 Cal.Rptr. 894]
multiple representation as violation of Sixth Amendment
Cuyler v. Sullivan (1980) 446 U.S. 335, 348 [100 S.Ct. 1708, 64 L. Ed. 2d 333]
United States v. Moore (9th Cir. 1998) 159 F.3d 115

CONFLICT OF INTEREST

public defender refused to participate but no actual prejudice resulted
*People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
publication rights in trial
United States v. Hearst (9th Cir. 1981) 638 F.2d 1190
Sixth amendment rights not violated where co-defendant raised conflict of interest based on a mere theoretical division of loyalty
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
there is no constitutional right to pay for counsel with money that is subject to a valid prior claim by a third party
Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]
Rules developed for private sector may not squarely fit realities of public attorney's practice
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]
CAL 2002-158
Salaries
62 Ops. Cal. Atty. Gen. 54 (2/6/79; No. CV 77-243)
Self-dealing
attorney as trustee
Lyders v. State Bar (1938) 12 Cal.2d 261, 264-265
attorney purchasing real property subject of representation of client
Tomblin v. Hill (1929) 206 Cal. 689 [275 P. 941]
Settlement
SD 2013-1
attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)
Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]
conflicting instructions from insurer and insured
LA 344 (1974)
general antagonisms between lawyer and client, specifically, regarding settlement are not necessarily "tangible conflicts"
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
represent
-in when fee owed by client comes out of proceeds of
SD 1975-4
vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Sexual relations with client
Rule 3-120, California Rules of Professional Conduct
Business and Professions Code Sections 6106.8 and 6106.9
McDaniel v. Gile (1991) 230 Cal.App.3d 363
Barbara A. v. John G. (1983) 145 Cal.App.3d 369
CAL 1987-92, OC 2003-02
defense attorney's "intimate" relationship with client found not to be a conflict
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
Sharing office space with another attorney
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
CAL 1997-150, CAL 1986-90, CAL 1979-50
LA 216 (1953), SD 1985-1
represent opposing sides
SD 1972-15
Special counsel appointed by bankruptcy court to represent bankruptcy trustee of debtor may have a conflict as a result of duties owed to the debtor's principals
In re Westwood Shake & Shingle, Inc. (9th Cir. 1992) 971 F.2d 387

Special office
created to avoid conflicts
62 Ops. Cal. Atty. Gen. 764 (12/7/79; No. 79-817)
59 Ops. Cal. Atty. Gen. 27 (1/15/76; No. CV 72-278)
Specially appearing attorneys
CAL 2004-165
Standing to assert
Allen v. Academic Games League of America (C.D. Cal 1993) 831 F.Supp. 785, 788
Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]
Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]
State Water Resources Control Bd. v. Superior Court (2002) 97 Cal.App.4th 907 [118 Cal.Rptr.2d 784]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
McGee v. Superior Court (1985) 176 Cal.App.3d 221 [221 Cal.Rptr. 421]
101 Ops. Cal. Atty. Gen. 1 (04/03/18; No. 14-301)
absent an actual conflict between an opposing attorney's clients, a party should not be able to create one by merely filing a meritless cross-complaint
Federal Home Loan Mortgage Corporation v. La Conchita Ranch Company (1998) 68 Cal.App.4th 856 [80 Cal.Rptr.2d 634]
aggrieved non-party had standing to disqualify client's counsel who had been previously disqualified in a related litigation involving non-party and client
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
courts should be skeptical when disqualification motions are brought by opposing parties
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
insurer has standing to sue law firm representing both insurer and insured
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
laches
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
River West, Inc. v. Nickel, Jr. (1987) 188 Cal.App.3d 1297 [234 Cal.Rptr. 33]
litigant lacks standing to assert a third party's conflict of interest claim against opposing counsel
Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]
-attorney-client relationship not always required for a party to have standing to bring a motion to disqualify
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
-vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

no vicarious standing among members of entity in non-derivative suit

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

vicarious standing defined

Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

-vicarious standing distinguished

Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]

where an attorney's continued representation threatens an opposing litigant with cognizable injury or would undermine the integrity of the judicial process, the trial court may grant a motion for disqualification, regardless of whether motion is brought by present or former client

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

Substantial relationship

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

Employers Insurance of Wausau v. Seeno (N.D. Cal. 1988) 692 F.Supp. 1150

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

Faughn v. Perez (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 1998-152

LA 501 (1999)

applicable to determine whether information law firm received as "monitoring counsel" for corporate parent's insurance underwriters disqualified firm from representing a party against corporate subsidiary

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

attorney seeks to substitute into appeal as the party adverse to his former client in the same matter in which he had originally represented that client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

between representation of current client(s) and prior representation of opposing party

Damron v. Herzog (9th Cir. 1995) 67 F.3d 211

Merle Norman Cosmetics, Inc. v. U.S. District Court (9th Cir. 1988) 856 F.2d 98

Trust Corp. of Montana v. Piper Aircraft Corp. (1983) 701 F.2d 85, 87

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 998

Cord v. Smith (9th Cir. 1964) 338 F.2d 516

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 374]

Galbraith v. State Bar (1933) 218 Cal. 329 [23 P.2d 291]

Bridgepoint Construction Services, Inc. v. Newton (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]

Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]

Dill v. Superior Court (1984) 158 Cal.App.3d 301

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- Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
Yorn v. Superior Court (1979) 90 Cal.App.3d 669 [153 Cal.Rptr. 295]
Goldstein v. Lees (1975) 46 Cal.App.3d 614 [120 Cal.Rptr. 253]
Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24 [32 Cal.Rptr. 188]
Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646 [29 Cal.Rptr. 150]
 -attorney not barred from continuing to represent insider of closely held company in a derivative lawsuit pursuant to Forrest v. Baeza
Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
 -presumption of the exchange of confidential information
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Adams v. Aerojet General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
Global Van Lines, Inc. v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]
CAL 1998-152, CAL 1992-126, LA 501 (1999)
 between the cases
Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 603
 city attorney disqualified from representing city in matter related to prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
 disqualification of attorney where same attorney was previously disqualified in a related case
Machado v. Superior Court (2007) 148 Cal.App.4th 875 [55 Cal.Rptr.3d 902]
 factors considered by the court
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Rhburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
 -dependency proceeding
 -factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 -presumption of the exchange of confidential information
Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]
 modified substantial relationship test
Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Jessen v. Hartford Casualty Ins. Co. (2003) 111 Cal.App.4th 698, 710 [3 Cal.Rptr.3d 877]
Adams v. Aerojet-General (2001) 86 Cal.App.4th 1324, 1340 [104 Cal.Rptr.2d 116]
 motion to disqualify must be based on application of substantial relationship test
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Rosenfeld Construction Co., Inc. v. Superior Court (1991) 235 Cal.App.3d 566
 -alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
 no automatic where previous representation did not expose attorney to confidential information material to the current representation
Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]
 no substantial relationship found
Merle Norman Cosmetics, Inc. v. United States District Court (9th Cir. 1988) 856 F.2d 98
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
H.F. Ahmanson & Co. v. Salomon Brothers, Inc. (1991) 229 Cal.App.3d 1445 [280 Cal.Rptr. 614]
 substantial relationship test inapplicable
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 -where disqualification for former representation would be futile
Christensen v. United States District Court (9th Cir. 1988) 844 F.2d 694
 -where former client, now expert witness for adverse party, waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

under the “substantial relationship test,” an attorney will be disqualified only when there is a substantial relationship between the subjects of the prior and current representations

Victaulic Company v. American Home Assurance Company et al. (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]

vicarious disqualification of a firm not required because of the timely and effective screening of the tainted attorney

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

vicarious disqualification of entire city attorney’s office where in related matter city attorney previously represented private company

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

vicarious disqualification of public law office

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

where criminal defendant’s proposed substitute counsel had represented defendant’s brother on prior rape charges

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

where law firm had previously represented opposing party’s father, and opposing party had been a witness in that prior matter, and law firm now represents a current client adverse to opposing party in a new matter

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

Substitution of counsel

court abused discretion in denying criminal defendant’s motion to appoint substitute counsel without first conducting proper inquiry

U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772

court discretion in denying criminal defendant’s motion to appoint substitute counsel after learning counsel would not allow a plea of not guilty by reason of insanity

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

Successive representation

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen’s Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

against former client as the adverse party in the same matter in which the attorney had represented that client

Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

dependency proceeding

-factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations

In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]

prior representation of government witness impaired defense counsel’s duty to fully cross examine witness

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

Suit against client

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

Support action, represent wife, former client in divorce, after representing former husband in unrelated matter

SF 1973-19

Tactical abuse of disqualification proceeding

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120

Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

Bell v. 20th Century Ins. Co. (1989) 212 Cal.App.3d 194

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

Taking business clientele of a former client

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Three strikes cases

*Garcia v. Superior Court (1995) 40 Cal.App.4th 552 [46 Cal.Rptr.2d 913]

SD 1995-1

Thrust upon conflict defined

OC 2012-1

Undue influence

absent independent legal advice in attorney/client transaction

Gold v. Greenwald (1966) 247 Cal.App.2d 296 [55 Cal.Rptr. 660]

advantage to attorney when client disadvantaged

Pixveve Aircraft Co. v. Greenwood (1943) 61 Cal.App.2d 21 [141 P.2d 933]

attorney as trustee, client as beneficiary

Probate Code sections 15687, 16002, 16004, 21350 et seq.

attorney beneficiary of trust

Bank of America v. Angel View Crippled Children’s Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

attorney beneficiary of will

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

burden on attorney

-to enforce fee agreement

Ferrara v. La Sala (1960) 186 Cal.App.2d 263 [9 Cal.Rptr. 179]

-to prove arm’s length transaction

Gold v. Velkov (1955) 133 Cal.App.2d 622 [284 P.2d 890]

-to show transaction fair

Estate of Witt (1926) 198 Cal. 407 [245 P.2d 197]

Clark v. Millsap (1926) 197 Cal. 765, 783 [242 P.2d 918]

McDonald v. Hewlett (1951) 102 Cal.App.2d 680 [228 P.2d 83]

business dealings invalid

Priester v. Citizens National Trust & Savings Bank of Los Angeles (1955) 131 Cal.App.2d 314 [280 P.2d 835]

business dealings with client

Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581]

Felton v. Le Breton (1891) 92 Cal. 457, 469 [28 P. 490]

-courts view attorney/client transactions with suspicion

Stieglitz v. Settle (1920) 50 Cal.App. 581 [195 P. 705]

CONFLICT OF INTEREST

- must fully inform client
Thornley v. Jones (1929) 96 Cal.App. 219 [274 P. 93]
- must show validity of contract
Walter v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
- unequal relationship with
Blattman v. Gadd (1931) 112 Cal.App. 76, 92 [296 P. 681]
- confidence and trust in attorney induced client to sell real property at disadvantageous price
Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- contingent fee contract entered under free will
Rader v. Thrasher (1962) 57 Cal.2d 244 [18 Cal.Rptr. 736, 368 P.2d 360]
- contract without consideration to client
Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
- dependency proceeding
 - factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- inducing client to offer of free use of client's vacation property
CAL 2011-180
- overreaching due to client's ignorance of legal matters
 - use of confession of judgment against client
Hulland v. State Bar (1972) 8 Cal.3d 440, 450 [105 Cal.Rptr. 152, 503 P.2d 608]
- presumption of undue influence is evidence
Giovanazzi v. State Bar (1980) 28 Cal.3d 465 [169 Cal.Rptr. 581, 619, P.2d 1005]
Bradner v. Vasquez (1954) 43 Cal.2d 147 [272 P.2d 11]
Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]
- prima facie case
Metropolis, etc. Savings Bank v. Monnier (1915) 169 Cal. 592, 598 [147 P. 265]
- profits from transaction with client
Hicks v. Clayton (1977) 67 Cal.App.3d 251 [136 Cal.Rptr. 512]
- recording deed
Rebmann v. Major (1970) 5 Cal.App.3d 684 [85 Cal.Rptr. 399]
- unfair advantage to attorney
Carlson v. Lantz (1929) 208 Cal. 134 [280 P. 531]
- where city council member who is also a member of a law firm which seeks to represent the city raises the possibility that the member's personal considerations may conflict with the exercise of official judgment or discretion (Government Code section 1090)
86 Ops. Cal. Atty. Gen. 137 (7/24/2003; No. 03-302)
- Vicarious disqualification of entire law firm [See Disqualification.]
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
W.L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
Davis v. EMI Group Limited (N.D. Cal. 2013) 2013 WL 75781, 2013 U.S. Dist. Lexis 1642
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
- Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
- Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
- Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
- Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
- William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
- CAL 1998-152
LA 501 (1999)
- attorney and associates involved in matters
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]
- city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]
- district attorney
 - recusal of entire office
 - not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
- double imputation of confidential knowledge
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- hardship to client
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]
- not required because of the timely and effective screening of the tainted attorney
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
- public law office
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
- not required when attorney at law firm covered depositions for independent counsel
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
- not required where attorney never performed services for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
- not required where attorney never performed services for former client of attorney's wife's firm
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
- not required where attorney never performed services for former client of public defender's office
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

not required where attorney who handled adverse party's prior matter has left firm and there is no evidence confidential information was exchanged

California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

not required where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Voluntary withdrawal

People ex rel. Deukmejian v. Brown (1981) 29 Cal.3d 150, 157 [172 Cal.Rptr. 478, 624 P.2d 1206]

prior relationship with adverse party

Quaglino v. Quaglino (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]

Waiver of

advance waiver of potential future conflict contained in a joint defense agreement found enforceable even though the waiver does not specifically state the exact nature of the future conflict

In re Shared Memory Graphics (9th Cir. 2011) 659 F.3d 1336

both confidentiality and conflict of interest

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]

CAL 1998-152, CAL 1989-115

SF 2020-1

-not found

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

by criminal defendant

People v. Peoples (1997) 51 Cal.App.4th 1513 [60 Cal.Rptr.2d 173]

Alcocer v. Superior Court (1988) 206 Cal.App.3d 951
-client must be advised of the full range of the dangers and possible consequences of the conflicted representation and he must understand the ramifications of his waiver

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

-court has discretion to deny substitution because of serious potential conflict

Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]

-court has latitude to remove counsel where potential conflict exists, over objection by defendant

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]

-no valid waiver found

Wheat v. U.S. (1988) 486 U.S. 153 [103 S.Ct. 1692]

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]

--no evidence that defendant understood any of the specific ramifications of his waiver

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

-valid waiver found

Visa U.S.A. Inc. v. First Data Corp. (N.D. Cal. 2003) 241 F.Supp.2d 1100

Welfare proceeding

conflict between state and child

-disclosure by district attorney to court

CAL 1977-45

Will

attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

attorney beneficiary of holographic will

Maltaman v. State Bar (1987) 43 Cal.3d 924

attorney drafts will making secretary executor, then represents executor for fee

LA 382 (1979)

attorney who drafted was later employed as attorney for executor

Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

Estate of 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.

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

Butler v. Lebouef (2016) 248 Cal.App.4th 198 [203 Cal.Rptr.3d 572]

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

attorney drafts will making secretary executor, then represents executor for fee

LA 382 (1979)

counsel for organization drafts for those leaving money to organization

LA(I) 1966-17, LA 428 (1984)

draft

-when named beneficiary, executor, etc.

LA(I) 1963-4

prosecution witness is former client of attorney

SD 1974-15

Withdrawal [See Withdrawal.]

client prevents exercise of independent professional judgment
SD 1972-1

probate matter, from

-where lawyer defends executor in action brought by decedent's spouse to whom lawyer also giving legal advice
LA 23 (1923)

reasons for

Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]

Uhl v. Municipal Court (1974) 37 Cal.App.3d 526 [112 Cal.Rptr. 478]

representation of co-defendants

CAL 1970-22

Witness

attorney acting as

Milicevic v. Fletcher Jones Imports, Ltd. (9th Cir. (Nev.) 2005) 402 F.3d 912

Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

Industrial Indem. Co. v. Great American Insurance Co. (1977) 73 Cal.App.3d 529, 538

Grove v. Grove Valve & Regulator Co. (1963) 213 Cal.App.2d 646, 655, 657-658 [29 Cal.Rptr. 150]

-against former client

LA 75 (1934)

CONSERVATORSHIP PROCEEDINGS

- anticipated testimony may be sufficient to disqualify attorney and/or law firm
 - U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394
 - Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]
- called by defense while member of district attorney's or attorney general's staffs
 - *People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
- consent of client
 - Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
- called by opposition, testimony not prejudicial to client
 - Rule 2-111(A)(4),(5), Rules of Professional Conduct (operative until May 26, 1989)
 - Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
 - Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]
 - Brown v. De Rugeris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
- United States Attorney's staff
 - U.S. v. Prantli (1985) 756 F.2d 759
- for impeachment purposes
 - Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
- client
 - former
 - against present client
 - People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]
 - in criminal proceeding
 - Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - witness
 - against present client
 - Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
 - Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
 - McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
 - Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
 - LA 513 (2005)
 - in criminal proceeding
 - CAL 1980-52
- witness
 - against present client
 - in criminal proceeding
 - CAL 1979-49
 - former co-defendant as key witness for the prosecution
 - United States v. Henke (9th Cir. 2000) 222 F.3d 633
- criminal case
 - People v. Hernandez (1991) 231 Cal.App.3d 1376
 - People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
- no conflict found where defense counsel previously represented wife of prosecution witness
 - People v. Cornwell (2005) 37 Cal.4th 50 [33 Cal.Rptr.3d 117]
- defense attorney consults in confidence one defendant who becomes witness against other co-defendants
 - attorney may not represent other co-defendants
 - LA 366 (1977)

expert witness for plaintiff previously represented by defense counsel, need not be removed and defense counsel need not be disqualified where expert waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

CONSERVATORSHIP PROCEEDINGS

Attorney initiated conservatorship proceedings, absent client consent

CAL 1989-112, LA 450 (1988), OC 95-002, SD 1978-1, SF 1999-2

Attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will

Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]

Attorney plays greater role for making fundamental choices for client once court has raised competency of criminal defendant

People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]

Authority to bind conservatee-client who requests not to be present at hearing

In re Conservatorship of the Person of John L. (2010) 48 Cal.4th 131 [105 Cal.Rptr.3d 424]

Compared with child dependency proceedings

LA 504 (2000)

Conservatee cannot obligate conservatorship estate for payment of attorney's fees

Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258 Cal.Rptr. 574]

Constructive attorney-client relationship not formed between conservatee and her conservator's designated attorney

In re Lee G. (1991) 1 Cal.App.4th 17 [1 Cal.Rptr.2d 375]

Fees

value of an estate in an elder abuse case is a factor in setting fees and is consistent with rule 4-200

Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

Reestablishing conservatorship by stipulation filed by conservatee's attorney

In re Conservatorship of Deidre B. (2010) 180 Cal.App.4th 1306 [103 Cal.Rptr.3d 825]

Right of prospective conservatee to effective assistance of counsel

In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]

CONSULTATION WITH CLIENT [See Attorney-client relationship.]

CONTACT WITH JURORS

Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

CAL 1988-100, CAL 1987-95, CAL 1976-39

CONTACT WITH OFFICIALS [See Judges. Judicial officials.]

Communications with

Rules 7-103 and 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rules 2-100 and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

CONTACT WITH WITNESSES [See Witnesses, contact with.]

Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

Rule 4.2, Rules of Professional Conduct (operative as of November 1, 2018)

Doe v. Superior Court of San Diego County (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

With treating physician of opposing party

CAL 1975-33, SD 1983-9

CONTEMPT OF COURT

Code of Civil Procedure sections 178, 1209
 Code of Civil Procedure sections 1211
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
 Attorney misbehavior in office
 Code of Civil Procedure section 1209, par. 3
 Criminal
 attorney held in
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 -judge other than one bringing charges must try
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]
 -notice to attorney required
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
 Due process requires that reasonable notice be given as to the charges and the opportunity to be heard
Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075
In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
 Impugning integrity of prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
 Inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 Judicial officers
 power to punish for contempt
 Code of Civil Procedure section 178
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
 Mitigation
 apology
In re Baroldi (1987) 189 Cal.App.3d 101 [234 Cal.Rptr. 286]
 apology to the court was insufficient to excuse or to purge attorney of contempt of court
In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 No penalty for advising client-witness to refuse to produce material demanded by a subpoena duces tecum based on 5th Amendment
Maness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]
 Procedures differ for punishing direct, hybrid and indirect contempt
In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
CONTINGENCY FEE [See Fee.]
 Business and Professions Code section 6147
 "Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
 Adequacy of consideration is to be determined at time of contract formation
Rader v. Thrasher (1962) 57 Cal.2d 244, 252 [18 Cal.Rptr. 736, 368 P.2d 360]
 Advancement of funds
Rule 4-210, California Rules of Professional Conduct (operative as of May 27, 1989)
 LA 499 (1999), LA 106 (1937)
 Alimony, overdue
 LA 275 (1963), LA 263 (1959), LA(l) 1969-1, SF 1971-1
 Attorney's fees paid in tort-based action were excludable from client's gross income
Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Award of attorney fees statutes may not allow a computation which increases the award to account for the client's retention of attorneys on a contingent fee basis
City of Burlington v. Dague (1992) 505 U.S. 557 [112 S.Ct. 2638]
 Bankruptcy court's award of fees based on a pre-approved contingent fee agreement
In re Reimers (9th Cir. 1992) 972 F.2d 1127
 Charging liens
 contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170
 created by contract
Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]
 Child support, overdue
CAL 1983-72
 LA 275 (1963), LA 263 (1959)
 Civil rights
 fee arrangement allowed providing fees in excess of court awarded fee
Venegas v. Mitchell (1990) 495 U.S. 82 [110 S.Ct. 1679]
 Client discharges attorney
 quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
 Collections
 LA 275 (1963), LA 263 (1959)
 percentage of amount charged creditor
 LA 4 (1917)
 Compensation for actual, necessary services under bankruptcy law
Yermakov v. Fitzsimmons and Weldon (9th Cir. 1983) 718 F.2d 1465
 Contract
 ambiguity is a question of law
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
 attorney abandonment of case
 -quantum meruit
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
 attorney may pay litigation costs for clients if representing on a charitable basis
 SF 1974-4
 between city and private attorney
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
 Business and Professions Code section 6147 applies only to fee agreements with litigation plaintiffs and not to clients generally who have non-litigation matters
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
 -statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
 city attorney, private contingency contract
People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
 contingency lawyer may negotiate a fee contract that gives first proceeds to the lawyer and imposes on client greater risk of non-payment
 LA 526 (2015)

CONTINGENCY FEE

- contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- county attorney, private contingency fee contract
County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
- discharged attorney limited to quantum meruit, premise
Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- evaluated as of time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
CAL 2007-170, CAL 1994-135
- hybrid, hourly and contingent
 SF 1999-1
- hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- interest charged on advanced costs from payment until billing
 LA 499 (1999)
- lenders to attorneys for percentage of settlement
 SF 1981-1
- offset recovery not actually received by client
 LA 458
- recovery is in the form of an annuity
CAL 1987-94
 -attorney entitled to percentage of periodic payments
Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
 -attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
 -medical malpractice action under Business and Professions Code section 6146
Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311
- recoverable only in event of favorable settlement
 SF 1985-2
- recovery of, based upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
 SF 1985-2
- strictly construed against attorney
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
- voidable at option of client if Business and Professions Code section 6147(b) not complied with
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
- Costs
 LA 517 (2006)
 recovery of
 LA 495 (1998)
- Court award rebate to client
 LA 523 (2009), LA 447 (1987)
- Court not bound by contract for
Reynolds v. Ford Motor Company (2020) 47 Cal.App.5th 1105 [261 Cal.Rptr.3d 463]
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
- Deceased attorney
Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]
- Determination of
 based on offset recovery which client does not actually receive
 LA 458
 cannot be determined in summary or ex parte proceedings
Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]
 quote specific amount for certain services
 SD 1976-4
- Discharge
 entitled to recover reasonable value of services rendered
In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679
 quantum meruit
Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]
Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
- Dissolution
CAL 1983-72
- Divorce
 award of legal fees tied to division of community property
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 559-560 [206 Cal.Rptr. 641]
 discipline not imposed for attorney entering into
Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]
 not violative of public policy
Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]
In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]
Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]
CAL 1983-72
 void as against public policy
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
 SF 1971-1, LA 188 (1952)
 when no other recovery
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8 [206 Cal.Rptr. 641]
- Effect of discharge or withdrawal
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
- Estate
 LA 144 (1943)
 Failure to comply with Business and Professions Code section 6147, subdivision (a) prevented an authorization for "additional fees" from being a contingency fee agreement
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- Favored in California
Newman v. Freitas (1900) 129 Cal. 283, 292 [61 P. 907]
Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638]
- Fees received before contingency fee reduced to a writing
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- Fifty percent of recovery contingency fee
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

Filiation action

void as against public policy

Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]

For public defender

People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458, 627 P.2d 188]

Former shareholder of law firm has no right on interpleader to contingency fee from cases which shareholder settled while working for firm

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

From insurer, based on medical expenses recovered, for protecting insurer's lien on recovery of its expenses

LA 352 (1976)

Governmental entities

compensation of government counsel by contingency fee is prohibited in most if not all circumstances

People ex rel. City of San Diego v. Experian Data Group (2022) 77 Cal.App.5th 1006 [293 Cal.Rptr.3d 149]

contingency fee contract allowed where the government agency's case is brought on its own behalf, and not in the name of the public, to recover compensatory damages that the agency incurred for investigation and remediation costs

Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]

contingency fee contracts not allowed where, like criminal cases, neutrality of counsel is of critical concern when important constitutional liberty interests are at stake

Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]

Health care provider

priority of attorney lien for fees and costs of litigation in relation to contractual medical lien

Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

representing person seeking damages against

Business and Professions Code section 6146

Hybrid, hourly and contingent

SF 1999-1

non-litigation matters

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Hybrid, reverse contingency

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

Insist upon

LA(l) 1970-11

Lay person hired on basis of

expert

LA 45 (1927)

paralegal receives bonuses

LA 457

secretary

LA 222 (1954), LA 190 (1952)

Malpractice

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

attorney's failure to comply with legislative mandates under Business and Professions Code section 6146 et seq. may give rise to a cause of action for professional negligence

Schultz v. Harney (1994) 27 Cal.App.4th 1611

In the Matter of Harney (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 266

Medical injury tort claims

Business and Professions Code section 6146

attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees

Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

periodic payments to plaintiff

-attorney entitled to percentage of present value of periodic payments award best represented by cost of annuity

Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311

Medical malpractice action

limitation on amount

-Business and Professions Code section 6146

-attorney not automatically entitled to the maximum contingency percentages under § 6146, which establishes caps on the recovery, not guarantees of the attorney's fees

Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

-federal tort claims act preempts California Business and Professions Code section 6146 fee limitation

Jackson v. United States (9th Cir. 1989) 881 F.2d 707 CAL 1987-94

-fee in excess of MICRA limitations may be pursued if MICRA causes of action are brought together with non-MICRA causes of action

Waters v. Bourhis (1985) 40 Cal.3d 424

Barris v. County of Los Angeles (1997) 60 Cal.App.4th 471 [70 Cal.Rptr.2d 281]

*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

-medical-legal consulting firms may contract for a contingent fee

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

-test for determining attorney fees based on periodic payments

Mai Chi Nguyen, A Minor v. Los Angeles County Harbor/UCLA Medical Center (1995) 40 Cal.App.4th 1433 [48 Cal.Rptr.2d 301]

Minor's compromise

Probate Code sections 3500 et seq., 3600 et seq.

Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]

Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

Law Offices of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]

Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]

trial court has jurisdiction to divide fees between prior and current attorneys as part of settlement approval

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

Modification of contract

Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]

Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675]

Not unconscionable

Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]

Notice of lien

Hansen v. Haywood (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]

Offset recovery

LA 458

One hundred percent of the amount of liens compromised is an unreasonable and unconscionable fee

In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Paid to expert witness

CAL 1984-79

Patent prosecution

LA 507 (2001)

Paternity action

void as against public policy

Kyne v. Kyne (1943) 60 Cal.App.2d 326 [140 P.2d 886]

CONTINGENCY FEE

Plaintiff

agreement voidable at option of, where attorney fails to comply with Business and Professions Code section 6147

Business and Professions Code section 6147(b)

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

terms of written contract

Business and Professions Code section 6147(a)(1)-(5)

workers' compensation

-exception for requirements of written contract

Business and Professions Code section 6147(c)

written contract and terms

-workers' compensation exception

Business and Professions Code section 6147(c)

written contract to represent

Business and Professions Code section 6147(a)(1)

Presumptively invalid if attorney does not explain and client does not understand

Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]
LA 458

Private attorneys

whether contingency fee agreements with private attorneys are prohibited in public nuisance prosecutions depends on type of remedy sought and types of interests implicated by case

People ex rel. City of San Diego v. Experian Data Group (2022) 77 Cal.App.5th 1006 [293 Cal.Rptr.3d 149]

Probate

attorney's lien for fees based on settlement obtained on behalf of deceased client in probate case

Novak v. Fay (2015) 236 Cal.App.4th 329 [186 Cal.Rptr.3d 451]

extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Public entities

may contract with private attorneys on contingency fee basis under certain circumstances, supervision by neutral governmental attorneys who retain control

County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]

Quantum meruit

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]

Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
SF 1989-1

determination of reasonable fee

-trier of fact may not consider contingency nature of fee in determination of quantum meruit

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

expert witness testimony permitted

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

incapacitation of attorney who was associated (became judge) entitles firm to quantum meruit fees (formula for determination of fees)

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

voluntary withdrawal of counsel without cause

Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Reasonableness of

Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

under 42 U.S.C. § 406(b) (social security benefits)

Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]

Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215

Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465

under California Rules of Court, rule 7.955, a 10% attorney's fee was not reasonable for trial court to award because it failed to look at other factors, such as one attorney had 47 years of experience in aviation accidents and both attorneys had many years of experience as pilots

Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]

Reasonableness of in light of legislative activity

Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]

Salton Bay Marina, Inc. v. Imperial Irrigation Dist. (1985) 172 Cal.App.3d 914, 952 [218 Cal.Rptr. 839]

Rebate portion of fee to client

LA 523 (2009), LA 447 (1987)

Recovery is in the form of an annuity

attorney entitled to percentage of periodic payments

Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]

Referral fee, duty to pay on occurrence of contingency

Mason v. Levy & Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

Settlement

attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure attorney is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon

Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]

Strictly construed against the attorney

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

LA 499 (1999)

Structured settlement

Sayble v. Feinman (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]

[CAL](#) 1987-94

medical malpractice action under Business and Professions Code section 6146

Schneider v. Kaiser Foundation Hospitals (1989) 215 Cal.App.3d 1311

Unfair Competition Law

People ex rel. City of San Diego v. Experian Data Group (2022) 77 Cal.App.5th 1006 [293 Cal.Rptr.3d 149]

Validity

Estate of Kerr (1966) 63 Cal.2d 875 [48 Cal.Rptr. 707, 409 P.2d 931]

Herron v. State Bar (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Gelfand, Greer, Popko & Miller v. Shivener (1973) 30 Cal.App.3d 364 [105 Cal.Rptr. 445]

Estate of Raphael (1951) 103 Cal.App.2d 792 [230 P.2d 436]

Estate of Schnell (1947) 82 Cal.App.2d 170 [185 P.2d 854]

Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]

Eaton v. Thieme (1936) 15 Cal.App.2d 458 [59 P.2d 638] evaluated as of time of making

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 1994-135

Voidable

at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with

Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]

Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

-statement that fee is negotiable required under Business and Professions Code section 6147(a)(4) applies to certain non-litigation matters

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Workers' compensation cases

exempted from provisions for written fee contract
Business and Professions Code section 6147(c)

CONTRACT [See Contract for employment, fee.]

Changing terms, pro bono to paying
SD 1983-6

Client must understand

Denton v. State Bar (1951) 101 Cal.2d [226 P.2d 723]
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

Client waiver of attorney violation of Rules of Professional Conduct
CAL 1988-105

Construe contract for prospective client of corporations
when attorney acting as business agent for corporation
CAL 1968-13

Contract making material changes to existing contingency fee contract must comply with Business and Professions Code § 6147

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

Damages in contract causes of actions between partners of a dissolved partnership

equitable maxim to "do equity" does not preclude the recovery of damages

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Draft for

both parties

SF 1973-26

transaction between son and other party

SF 1973-26

Effect on contingent fees of attorney withdrawal

Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]

For reporter's services

no intention to pay

CAL 1979-48

Implied-in-fact

CAL 2003-161

Plain language reference to whether an attorney-client relationship is formed where potential client submits legal question via website

CAL 2005-168

relationship not created based on receipt of private information from potential client via an unsolicited email

SD 2006-1

CONTRACT ATTORNEY

Compensation paid to non-employee attorney hired to render services to firm's client

CAL 1994-138

LA 518 (2006), LA 473 (1993), LA 503 (2000)

out-of-state attorney who merely assists California lawyer may recover attorney fees

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Costs

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

LA 518 (2006)

Ghostwriting by

OC 2014-1

Moonlighting as contract lawyer

SD 2023-2

Non-lawyers compensated for placing "temporary" attorneys with law firm

CAL 1992-126

Outsourcing legal services

LA 518 (2006)

Use of contract attorney, disclosure to client

CAL 1994-138, LA 518 (2006), LA 473 (1993)

ghostwriting

OC 2014-1

CONTRACT FOR EMPLOYMENT [See Attorney-client relationship.]

Business and Professions Code sections 6068(h), 6146, 6147

Code of Civil Procedure section 1021

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

Macri v. Carson Tahoe Hospital (1966) 247 Cal.App.2d 63 [55 Cal.Rptr. 276]

Bradner v. Vasquez (1951) 102 Cal.App.2d 338 [227 P.2d 559] LA 226 (1955)

Absent retainer agreement, quantum meruit

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

Spies v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

CONTRACT FOR EMPLOYMENT

Agency relationship

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

Agreement evidenced parties' intent to establish an ongoing attorney-client relationship of an open-ended nature, terminable only by specific methods described in the agreement and under conditions that included attorney's return of all property and funds to the client

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent

LA 505 (2000)

Agreement to divide statutory award of attorney's fees between attorney and client

LA 523 (2009)

Agreement to limit personal professional liability prohibited

Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-400, Rules of Professional Conduct (operative effective May 27, 1989)

damages limitation also prohibited

LA 489 (1997)

Appointment by court not a contract

Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]

Arbitration fee

binding

Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]

-client contract conditioned on

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

CAL 1981-56

binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machtinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

if an otherwise enforceable arbitration agreement is contained in an illegal contract, a party may avoid arbitration altogether

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

unlicensed practice of law does not completely invalidate an agreement pursuant to which firm attorneys also engaged in the licensed practice of law, thereby rendering the agreement enforceable

Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]

Arbitration for professional liability of lawyer

Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]

LA 489 (1997)

client contract conditioned on

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

CAL 1989-116, CAL 1977-47

no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson

Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]

Authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers

In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Bankruptcy

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

In re Hines (9th Cir. BAP 1998) 198 B.R. 769

Business and Professions Code sections 6147 and 6148 may not contemplate the wide variety of possible fee arrangements between attorneys and clients but any revision or expansion of statutes should be left to the legislature and not the courts

Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]

Charging liens

contingency fee agreements distinguished from hourly fee agreements

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170

-not adverse interest requiring disclosure to client

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

Classic retainer distinguished from "framework" contract

Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Contingent attorney's fee

charging liens

-contingency fee agreements distinguished from hourly fee agreements

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170

contingency lawyer may negotiate a fee contract that gives first proceeds to the lawyer and imposes on client greater risk of non-payment

LA 526 (2015)

domestic relations matter, discipline not imposed

Coviello v. State Bar (1955) 45 Cal.2d 57, 59-61 [286 P.2d 357]

evaluated as of time of making

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

CAL 2006-170, CAL 1994-135

fees received before contingency fee reduced to a writing

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

fifty percent of recovery contingency fee

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

hybrid, hourly and

SF 1999-1

hybrid, reverse contingency

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

not violative of public policy

In re Marriage of Gonzales (1975) 51 Cal.App.3d 340 [124 Cal.Rptr. 278]

-client has no funds to pay

Krieger v. Bulpitt (1953) 40 Cal.2d 97 [251 P.2d 673]

-percentage of recovery for spouse in divorce action

Mahoney v. Sharff (1961) 191 Cal.App.2d 191 [12 Cal.Rptr. 575]

strictly construed against the attorney

Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

LA 499 (1999)
to represent plaintiff
-terms of
Business and Professions Code section 6147(a)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
-voidable at option of plaintiff where Business and Professions Code, § 6147 not complied with
Business and Professions Code section 6147(b)
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
void as against public policy
SF 1971-1
-divorce case
Newman v. Freitas (1900) 129 Cal. 283 [61 P. 907]
Ayres v. Lipschutz (1924) 68 Cal.App. 134, 139 [228 P. 720]
-examine factual background of each case
Hill v. Hill (1943) 23 Cal.2d 82, 92 [142 P.2d 417, 421]
-however, attorney entitled to reasonable value of his services
Coons v. Kary (1968) 263 Cal.App.2d 650, 653-654 [69 Cal.Rptr. 712]
Theisen v. Keough (1931) 115 Cal.App. 353, 356 [1 P.2d 1015]
voidable
-at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr. 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
--failure to include provision that fee is negotiable
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Costs
attorney may agree to advance the reasonable expenses of prosecuting and defending client's matter and waiving the right to repayment by the client if there is no recovery
LA 517 (2006)
contract provision may require that the attorney advance all reasonable necessary costs
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
interest charged on advanced costs from payment until billing
LA 499 (1999)
Criminal defense services
People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
LA 466 (1991)
Evidence of value of attorney's services
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 561 fn. 8
Fees may not be raised by a law firm without notification to clients
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569

LA 479 (1994), LA 473 (1993)
Formal contract
Jackson v. Campbell (1932) 215 Cal. 103 [8 P.2d 845]
additional compensation must not be too vague
Goldberg v. City of Santa Clara (1971) 21 Cal.App.3d 857 [98 Cal.Rptr. 862]
construe liberally in favor of client
Miller v. Wing (1935) 9 Cal.App.2d 483 [50 P.2d 470]
discharged attorney
Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]
formed after attorney-client relationship established
Preston v. Herminghaus (1930) 211 Cal. 1 [292 P. 953]
implied contract to exercise due care, skill, and knowledge
Floro v. Lawton (1960) 187 Cal.App.2d 657 [10 Cal.Rptr. 98]
promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
strictly construed against the attorney
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
-without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
unconscionable contract
Swanson v. Hempstead (1944) 64 Cal.App.2d 681 [149 P.2d 404]
OC 99-001
-arbitration provision within law firm employment agreement
Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
"Framework" contract, where attorney and client provide a structure for future "as requested" representation, does not create a current attorney client relationship
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]
Banning Ranch distinguished
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]
Government contract
requiring attorney's clients to waive attorney-client and work product privileges
LA 435 (1985)
those contracting with a municipality are presumed to know the extent of its authority regarding the constitutional municipal debt limitation and must bear the risk of a shortfall in current year's revenues
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
Hybrid, hourly and contingent
OC 99-001, SF 1999-1
agreement based on fixed hourly rate which provides for possible increases based on performance is valid, but without specific agreement to do a major adjustment only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
non-litigation matters
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]

CONTRACT FOR EMPLOYMENT

- Hybrid, reverse contingency
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- Illegal contract
 - attorney sharing in award from dissolution
 - Theisen v. Keough (1931) 115 Cal.App. 353 [1 P.2d 1015]
 - client compromising suit without consent of attorney
 - Calvert v. Stoner (1948) 33 Cal.2d 97 [199 P.2d 297] LA 505 (2000)
 - contract with minor
 - Leonard v. Alexander (1942) 50 Cal.App.2d 385 [122 P.2d 984]
 - quantum meruit upon recovery
 - Rosenberg v. Lawrence (1938) 10 Cal.2d 590 [75 P.2d 1082]
 - when void, implied contract arises
 - Wiley v. Silsbee (1934) 1 Cal.App.2d 520 [36 P.2d 854]
- Imputation of agency relationship
 - Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
 - United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Indigent, non-contractual is statutory
 - People v. Barboza (1981) 29 Cal.3d 375 [173 Cal.Rptr. 458]
 - Arnelle v. City & County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]
- Informal contract
 - ambiguity in contract construction
 - Miller v. Lantz (1937) 9 Cal.2d 544 [71 P.2d 585]
 - equitable lien created if fee not stated
 - Wagner v. Sariotti (1943) 56 Cal.App.2d 693
 - extrinsic evidence to establish fee
 - Shaw v. Leff (1967) 253 Cal.App.2d 437 [61 Cal.Rptr. 178]
 - intention of parties
 - Houge v. Ford (1955) 44 Cal.2d 706
 - interpretation of agreement
 - Benjamin v. Frenke (1940) 40 Cal.App.2d 736 [105 P.2d 591]
 - modification of agreement
 - Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212 [64 Cal.Rptr. 915]
 - promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
 - Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
 - terms not in written agreement
 - McKee v. Lynch (1940) 40 Cal.App.2d 216
- Invalid agreement
 - advertising legal services for reduced rates
 - SD 1975-13
 - attorney entitled to reasonable value of services rendered
 - Calvert v. Stoner (1948) 33 Cal.2d 97, 104 [199 P.2d 297]
 - fixed fee if suit dismissed
 - Hall v. Orloff (1920) 49 Cal.App. 745, 749 [194 P.2d 296]
- Law firm employment agreements
 - arbitration provision
 - Davis v. O'Melveny & Myers (9th Cir. 2007) 485 F.3d 1066
- Modification of contract
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - Severson, Werson, Berke, & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569
 - Vella v. Hudgins (1984) 151 Cal.App.3d 515 [198 Cal.Rptr. 725]
 - Walton v. Broglio (1975) 52 Cal.App.3d 400 [125 Cal.Rptr. 123]
 - Baron v. Mare (1975) 47 Cal.App.3d 304 [120 Cal.Rptr. 675] LA 499 (1999), LA 479 (1994)
- authorization for "additional fees" could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)
 - In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
- lien against recovery in unrelated matter to secure fees owed
 - LA 496 (1998)
- modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client
 - Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]
- must be in writing
 - In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
- no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
 - Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
- virtual law office (VLO) representation may require modification when services can no longer be provided via VLO, due to complexity or inability to provide services except in a traditional setting
 - CAL 2012-184
- without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
- Moonlighting as contract lawyer
 - SD 2023-2
- Oral agreements
 - Thomson v. Casaudoumeca (1962) 205 Cal.App.2d 549, 551 [23 Cal.Rptr. 189]
 - Hardy v. San Fernando Valley Chamber of Commerce (1953) 119 Cal.App.2d 523 [259 P.2d 728]
 - Harvey v. Ballagh (1940) 38 Cal.App.2d 348 [101 P.2d 147] between attorney and beneficiary
 - Miller v. Price (1944) 66 Cal.App.2d 126 [152 P.2d 24]
 - between in-house attorney and client are voidable under Business and Professions Code section 6147
 - Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
- discretion of trial court
 - Kendrick v. Gould (1921) 51 Cal.App. 712 [197 P. 681]
- reasonable value of services rendered
 - Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
 - Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
- trial court has wide discretion in fixing fee
 - Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
- Power of attorney clause
 - improper for attorney to routinely request from clients
 - LA 393 (1981)
- Private attorney with governmental agency
 - County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]
 - People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24]
 - Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]
- Promissory note was not valid contract for payment of legal services rendered absent valid underlying attorney-client agreement
 - Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
- Providing for consequences of third-party funding of lawsuit
 - LA 500 (1999)

Providing for court awarded attorney fees
 absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 LA 523 (2009)
 attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
 district court had authority to award attorney fees for work done outside confines of litigation before court
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
 except for fees specifically provided by statute, the measure and mode of compensation of attorneys is left to the agreement, express or implied of the parties (Code of Civil Procedure 1021)
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 vacation of judgment as part of post-judgment settlement effectively eliminates fee award
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
 Providing for disposition of client files upon termination
 LA 493 (1998)
 Providing for repayment of costs of litigation
 LA 495 (1998)
 prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
 Providing for trial court determination of prevailing party and award of attorney fees
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
 Providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee
 LA 505 (2000)
 Public policy, contrary to; is a question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
 Quantum meruit
 statute of limitations for claims of
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
 where services have been rendered under a contract which is unenforceable because it was not in writing
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
 Question of law
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951-952 [203 Cal.Rptr. 879]
 Reasonable value implied when no fee specified
Buck v. Ewoka (1899) 124 Cal. 61 [56 P. 621]
Sattinger v. Golden State Glass Corp. (1942) 53 Cal.App.2d 130 [127 P.2d 653]
Stuart v. Preston (1934) 2 Cal.App.2d 310 [38 P.2d 155]
Hannon v. Goucher (1931) 117 Cal.App. 455 [4 P.2d 239]
 in absence of agreement
Batcheller v. Whittier (1909) 12 Cal.App. 262 [107 P. 141]

nothing said as to payment
Cusick v. Boyne (1905) 1 Cal.App. 643 [182 P. 985]
 valid contract but no agreement as to compensation
Elconin v. Yalen (1929) 208 Cal. 546 [282 P. 791]
 when attorney unable to complete performance
Boardman v. Christin (1924) 65 Cal.App. 413 [224 P. 97]
 Scope of representation
Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]
 LA 483 (1995), LA 476 (1995)
 Severability of contract
 doctrine of severance inapplicable where the attorney's services in business transactions with his client could not be separated into lawful and unlawful activities
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 Sports Service Contracts
 Business and Professions Code section 6106.7
 Substitution of attorney clause included by attorney
 LA 371 (1977)
 Term void as against public policy
 agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
 LA 505 (2000)
 clause regarding dismissal of suit without both client and attorney's consent
Hall v. Orloff (1920) 49 Cal.App. 745
 Unenforceable contract
 incompetent person
Estate of Doyle (1932) 126 Cal.App. 646, 647 [14 P.2d 920]
 minor may disaffirm
Spencer v. Collins (1909) 156 Cal. 298 [104 P.2d 320]
 not in writing
 -action will generally lie upon a common count for quantum meruit
Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]
 -attorney entitled to reasonable value of services where there is no written fee contract
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
 not signed by any party
Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]
 Use of "Contract Attorney Services"
CAL 2004-165
 ghostwriting
 OC 2014-1
 Void if consideration is unlawful
Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]
 Voidable
 agreement voided where the attorney failed to disclose to the client material terms of their business transactions and to obtain the client's written consent, as required under [rule](#) 3-300
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
 contingent attorney's fee agreement to represent plaintiff
 -at option of plaintiff where provisions of Business and Professions Code section 6147 not complied with
 Business and Professions Code section 6147(b)
Missakian v. Amusement Industry, Inc. (2021) 69 Cal.App.5th 630 [285 Cal.Rptr.3d 23]
Arnall v. Superior Court (2010) 190 Cal.App.4th 360 [118 Cal.Rptr.3d 379]
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

CORPORATION

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

if violates attorney's ethical duties

Hulland v. State Bar (1978) 8 Cal.3d 440, 448
modified fee agreement that lacked attorney's signature, contingency rate and costs, and provision stating that fees were negotiable and not established by law is voidable by client

Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72 Cal.Rptr.3d 756]

written contingent fee contract

-agreement not given to client in violation of Business and Professions Code sections 6068 (a) & 6147

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

written retainer agreement

-failure to comply with Business & Professions Code section 6148

Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]

Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]

-failure to enter into with client is in violation of Business and Professions Code, sections 6068 (a) and 6148 (a)

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

CORPORATION [See Attorney-client relationship.]

Rule 3-600, Rules of Professional Conduct (operative as of May 27, 1989)

Corporations Code section 15634

Upjohn v. U.S. (1981) 449 U.S. 383 [101 S.Ct. 677]

Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]

LA 389 (1981), LA 185 (1955)

Agent for, attorney acting as, to solicit athletic contracts

CAL 1968-13

Corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

Counsel for

brings suit against shareholder in unrelated matter
SD 1978-11

communicates with general counsel when suing subsidiary represented by local counsel
SD 1968-2

corporation and directors

-owe fiduciary duties to all directors claiming funds held on behalf of the corporation

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

discloses unlawful act of officers or executives

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
LA 353 (1976)

-advises officer that his conduct was illegal

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

dissolution

Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

duty to prevent client's communications with opposing party
LA(l) 1966-16

former

-represents

--against corporation

LA(l) 1936-1

--against officers

LA 139 (1941)

in-house attorneys come within the mandatory relief from default or dismissal provision of CCP § 473

Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]

in-house counsel entitled to award of reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198], as modified (June 2, 2000)

informs directors of criminal record of a director

LA(l) 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(l) 1966-14

--employees

SD 1972-3

relationship between corporate employee and corporate counsel

U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148

rendering legal services to corporation employees

SD 1975-18

role of attorney as

Woods v. Superior Court (1983) 149 Cal.App.3d 931, 935-936 [197 Cal.Rptr. 185]

shareholder derivative suit

LA 397 (1982)

-prevailing party awarded attorney's fees under Corporations Code section 800

Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]

subsidiary also represented by corporate counsel

SD 1976-6

suspended corporation

-duty to inform the court of corporation's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

LA 408 (1982)

Director represents stockholder against corporation

LA(l) 1955-2

Enjoy attorney-client privilege

Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

United States v. Rowe (9th Cir. 1996) 96 F.3d 1294

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

Zurich American Ins. Co. v. Superior Court (2007) 155 Cal.App.4th 1485 [66 Cal.Rptr.3d 833]

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

McKesson HBOC, Inc. v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

Scripps Health v. Superior Court (2003) 109 Cal.App.4th 529 [135 Cal.Rptr.2d 126]

National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]

Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1198

displaced managers in merger may not assert the privilege

over the wishes of current managers
Commodity Futures Trading Commission v. Weinbraub (1985) 471 U.S. 343 [105 S.Ct. 1986]

- Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
investigate activities by in-house counsel that do not involve legal advice may not be covered by the privilege
- 2,022 Ranch, L.L.C. v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
privilege extends to opinion letter by outside counsel to corporate counsel which court could not require in camera disclosure for ruling on claim of privilege
- Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
relationship between corporate employee and corporate counsel
- U.S. v. Graf (9th Cir. 2010) 610 F.3d 1148
shareholder derivative action against corporation does not entitle shareholders to attorney-client privilege
- Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
shareholder's derivative action against corporation's outside counsel cannot proceed because attorney-client privilege precludes counsel from mounting meaningful defense
- Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
- In propria persona
Van Gundy v. Camelot Resorts, Inc. (1984) 152 Cal.App.3d Supp. 29
- Incorporate
later represent against one incorporator
SD 1974-13
- In-house counsel
award of attorney fees that compensates corporation's inside and outside counsel at the same rate may be an abuse of discretion
- Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
entitled to award of reasonable fees under Civil Code section 1717
- PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
may state cause of action against employer for retaliatory discharge and breach of implied-in-fact contract
- General Dynamics Corp. v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]
LA 389 (1981), SD 2008-1
officers of the court, subject to Code of Professional Responsibility
- U.S. Steel Corporation v. United States (C.A. Fed. 1984) 720 F.2d 1465, 1468
- Joint venture
Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]
Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
LA 412 (1983)
- Representation of corporation and board of directors in derivative suit
LA 397 (1982)
- Representation of corporation and director
Coldren v. Hart, King & Coldren, Inc. (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
Havasu Lakeshore Investments, Inc., LLC v. Fleming (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
CAL 1999-153
- Shareholder(s)
director represents shareholder against corporation
LA(l) 1955-2
may not pierce the privilege in that capacity
- Reilly v. Greenwald and Hoffman, LLP (2011) 196 Cal.App.4th 891 [127 Cal.Rptr.3d 317]
Titmas v. Superior Court of Orange County (2001) 87 Cal.App.4th 738 [104 Cal.Rptr.2d 803]
- McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
National Football League Properties, Inc. v. Superior Court (Raiders) (1998) 65 Cal.App.4th 100 [75 Cal.Rptr.2d 893]
Hoiles v. Superior Court (1984) 157 Cal.App.3d 1192, 1199
minority, not deemed represented by counsel for corporation
- Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- Subsidiary
Brooklyn Navy Yard Cogeneration Partners v. Superior Court (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
CAL 1989-113
- Suspended corporation
attorney for suspended corporation cannot claim that statute of limitations expired when reliance upon his advice led to the statute expiring
- Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
duty to inform the court of corporation's status
- Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
- Trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
- Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
- CORPORATION COUNSEL** [See Client trust account. Confidences of the client. Corporation. Insurance company attorney. Law corporation.]
- COSTS** [See Advancement of funds. Client trust account. Expenses.]
- Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
Rule 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
- Advance
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
CAL 1976-38
LA 517 (2006), LA 379 (1979)
- Advanced costs by a law firm per terms of contingency fee agreement deductible as business expenses
- Boccardo v. Commissioner of Internal Revenue (9th Cir. 1995) 56 F.3d 1016
- Apportioning costs between insurer and insured
LA 424 (1984)
- Arbitration
law firm required to pay arbitration cost of former clients who sued firm, where client is of limited economic means
- Roldan v. Callahan & Blaine (2013) 219 Cal.App.4th 87 [161 Cal.Rptr.3d 493]
- Assigned counsel's duty with respect to
LA 379 (1979)
- Attorney's fees as costs
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
- Attorney's fees do not include expert witness fees
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
- Billing for costs and expenses
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
LA 499 (1999), SD 2013-3
- Common fund doctrine
attorney acting in propria persona may recover costs
- Leiper v. Gallegos (2021) 69 Cal.App.5th 284 [284 Cal.Rptr.3d 349]
- Contract attorney
Shaffer v. Superior Court (1995) 33 Cal.App.4th 993
outsourcing of legal services
LA 518 (2006)
- Costs incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10
In re Findley (9th Cir. 2010) 493 F.3d 1048

COURT

Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
In re Taggart (2001) 249 F.3d 987
In the Matter of Mackenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56
In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
 payment of costs to State Bar under 2003 amendments to Business and Professions Code § 6086.10 are not dischargeable
In re Findley (9th Cir. 2010) 493 F.3d 1048
 retroactive application of amended statute
Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933
 Criminal proceedings
 assignment of costs and fees against criminal defendant requires notice, hearing, and evidence of actual costs
People v. Poindexter (1989) 210 Cal.App.3d 803 [258 Cal.Rptr. 680]
 Donation of legal services and costs as prize
 LA 434 (1984)
 Error in awarding costs
 district court erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes
Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955
 family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]
 prevailing defendant cannot be awarded costs under Federal Debt Collection Practice Act (FDCPA) unless plaintiff brought the action in bad faith and for purpose of harassment
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699
 Expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
 Expert witnesses obtained through a medical-legal consulting firm
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
 Failure to hold advance costs in client trust account
Aronin v. State Bar (1990) 52 Cal.3d 276
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
 Failure to refund unused advanced costs
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
 Filing fee
 client's inability to pay
Alexander v. Carson Adult High School (1993) 9 F.3d 1448
 Flat periodic fee or lump sum to cover disbursements may be allowed if not unconscionable and client consents
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 Interest charged on advanced costs from payment until billing
 LA 499 (1999)
 IRS pre-litigation activities in tax assessment case did not warrant litigation costs to taxpayer
Estate of Merchant v. Commissioner Internal Revenue Service (9th Cir. 1991) 947 F.2d 1390
 Paid by lawyer
 LA 499 (1999), LA 379 (1979), LA 149 (1944)
 SF 1974-4
 Pro bono representation
 LA 379 (1979)
 Reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Recovery of, by party
Chelios v. Kaye (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
 cost of preparing administrative record may be recovered when reasonable and necessary
Otay Ranch, L.P. v. County of San Diego (2014) 230 Cal.App.4th 60 [178 Cal.Rptr.3d 346]
 cost of typing briefs for photocopying recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
 necessarily incurred traveling expenses recoverable
Lubetzky v. Friedman (1988) 199 Cal.App.3d 1350 [245 Cal.Rptr. 589]
 Recovery of, defending a frivolous civil action
Kobzoff v. Los Angeles County Harbor/UCLA Medical Center (1998) 19 Cal.4th 851 [80 Cal.Rptr.2d 803]
 Recovery of, upon occurrence of contingency
Kroff v. Larson (1985) 167 Cal.App.3d 857 [213 Cal.Rptr. 526]
 LA 495 (1998)
 SF 1985-2
 Reimbursing public entity for costs in paying subpoenaed peace officers is the responsibility of litigant and litigant's counsel
Maddox v. City of Costa Mesa (2011) 193 Cal.App.4th 1098 [122 Cal.Rptr.3d 629]
 Rules 460-462, Rules of Procedure of the State Bar
In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273
 Trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding
In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263
COURT [See Broadcasting. Candor. Judge.]
 Abuse of discretion
Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]
Dill v. Superior Court (1984) 158 Cal.App.3d 301, 306
 bankruptcy court abused its discretion by reducing documented fees without explanation
Fry v. Dinan (9th Cir. BAP 2011) 448 B.R. 775
 bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210
 Abuse of judicial process
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1172
 Appointment of defense attorney for criminal defendant
People v. Trujillo (1984) 154 Cal.App.3d 1077, 1086-1088
 Attorney's acts under Civil Code section 47(2) not privileged where damages do not stem directly from those acts
Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]
 Attorney's deception in collection of debt not protected by judicial process' absolute privilege under Civil Code section 47
Carney v. Rotkin, Schmerin & McIntyre (1988) 206 Cal.App.3d 1513 [254 Cal.Rptr. 478]
 Authority
 Code of Civil Procedure section 128
 appellate court
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
 LA 88 (1935)
 attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
 to disqualify law firm
Gridley v. Gridley (2008) 166 Cal.App.4th 1562 [83 Cal.Rptr.3d 715]

- William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048
- to impose sanctions
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170-1173
 -court cannot sanction pro hac vice attorney for bad faith misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 -court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
 -court has no statutory authority to impose monetary sanctions against pro hac vice attorney for bad faith misconduct
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
 -for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5
- to order ancillary criminal defense services
Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 318-323
- to order second defense counsel
Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318
- Bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts
In re Levander (9th Cir. 1999) 180 F.3d 1114
Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]
- Chooses not to speak on ethical issues
United States v. Springer (7th Cir. 1971) 460 F.2d 1344, 1354
- Client's cross-examination of witnesses
People v. Davis (1984) 161 Cal.App.3d 796, 802-804
- Discretion
 court has discretion to take into consideration a criminal defendant's desire to have a particular attorney appointed at the public's expense
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
 unreasonable application of clearly established federal law
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Discretion with respect to attorney-client relationship
People v. Davis (1984) 161 Cal.App.3d 796, 802
- Duty to determine presence of coercive element in plea bargaining
In re Ibarra (1983) 34 Cal.3d 277 [193 Cal.Rptr. 538, 666 P.2d 980]
- Duty to inform
 aid court in avoiding error
Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Furlong v. White (1921) 51 Cal.App. 265, 271
 attorney ghostwriter's involvement
 OC 2014-1
- by witness
 SD 1983-8
- of a known misrepresentation
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
 -by an expert witness
 SD 2023-1
- of perjury by the client
CAL 1983-74
- Electronic devices in courtroom
 Rule 1.15, California Rules of Court
- Failure to take judicial notice of statute pursuant to Evidence Code section 451 is trial court error
Kasem v. Dion-Kindem (2014) 230 Cal.App.4th 1395 [179 Cal.Rptr.3d 711]
- Federal courts
 district court's reliance upon distinction that State Bar makes between active and inactive members to limit practice of inactive attorneys is not improper exercise of court's rulemaking authority
In re North (9th Cir. 2004) 383 F.3d 871
 have inherent and broad regulatory authority to make rules respecting admission, practice, and discipline of attorneys appearing in those courts
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625, 631
 new district court rule requiring that attorneys appearing before it must be members of that jurisdiction does not deprive attorney of his constitutionally-protected property interest in his license to practice law
Gallo v. U.S. District Court of Arizona (2003) 349 F.3d 1169
- Fraud on the court must harm the integrity of the judicial process
In re Levander (9th Cir. 1999) 180 F.3d 1114
- Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Information disclosed to
 LA(l) 1972-3
- Informed about fee agreement
 LA 261 (1959)
- Jurisdiction
 California Code of Civil Procedure 1008
 -circumscribes courts' jurisdiction over applications to reconsider is strictly applied to applications or motions for reconsiderations and renewals of previous motions and not to any order to revisit an earlier ruling
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
 California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
 court's reservation of jurisdiction over the enforcement of a settlement agreement extends to attorneys who represent class members other than as class counsel
Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]
 refusal of a California court to give foreign state judgment full faith and credit where a party to the Arizona proceeding was denied due process under the Fifth and Fourteenth Amendments due to attorney's conflict of interest
State of Arizona ex re. Arizona Department of Revenue v. Yuen (2009) 179 Cal.App.4th 169 [101 Cal.Rptr.3d 525]
- Powers
 attorney attire in courtroom
Jensen v. Superior Court (1984) 154 Cal.App.3d 533 [201 Cal.Rptr. 275]

COURT REPORTER

court has no statutory power to discipline pro hac vice attorney; that power rests exclusively with the Supreme Court and with the State Bar

Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

Reciprocity admission

Arizona Supreme Court rule allowing admission on motion (AOM) for out of state attorneys is constitutional because it does not discriminate against non-residents

National Association for the Advancement of Multijurisdiction Practice v. Berch (9th Cir. 2014) 773 F.3d 1037

Responsibility, to ensure high standards of ethics

Comden v. Superior Court (1978) 20 Cal.3d 906, 912 [145 Cal.Rptr. 9, 576 P.2d 971]

Unification of municipal and superior courts not intended to fundamentally alter existing rights and procedures or parity of treatment of the parties

Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]

COURT REPORTER

Duty to pay court reporter

CAL 1979-48

Improper to condition delivery of deposition transcripts on the former client's paying the reporter's fees

LA 425 (1984)

Ministerial officers of the court subject to the court's inherent authority over judicial proceedings

Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]

CREDIT CARD [See Fee, financing of.]

Borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

CREDITOR [See Collections. Conflict of interest, creditor.]

CRIMINAL CASE [See Conflict of interest, criminal proceeding. Ineffective assistance of counsel. Prosecutorial misconduct.]

Penal Code section 1473.7

counsel must be appointed if a defendant's presence is waived or good cause exists to excuse a defendant's presence, such as when a defendant is confined in federal immigration custody or defendant is indigent and in federal custody

People v. Fryhaat (2019) 35 Cal.App.5th 969 [248 Cal.Rptr.3d 39]

Abandonment

Brooks v. Yates (9th Cir. 2016) 818 F.3d 532

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908] by appellate counsel was good cause for substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

Adequacy of appointed counsel

People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]

People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

Appeal

California use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

Appointment of deputy public defender by court to serve as "stand-by counsel" in the event defendant cannot continue with self-representation is impermissible under Government Code section 27706

Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]

Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]

Communication with a represented party

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084 LA 466 (1991)

Defense counsel's declarations regarding informant

People v. Oppel (1990) 222 Cal.App.3d 1146 [272 Cal.Rptr. 340]

Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude

In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61

Habeas petition

federal habeas petition based on alleged ineffective assistance of counsel

Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093

tolling of habeas petition deadline when prisoner did not have access to file

Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Negotiation of private agreement to compromise civil claim arising from crime

CAL 1986-89

Negotiation of private agreement to prosecute crime

CAL 1986-89

Private prosecution

California law does not permit private prosecution of criminal case without presence of public prosecutor

People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]

Represent

defendant

-after representing party who is now prosecution witness
LA 366 (1977)

-defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

when client is complaining witness
SD 1974-15

Right of criminal defendant to consult privately with counsel

People v. Torres (1990) 218 Cal.App.3d 700 [267 Cal.Rptr. 213]

Right to ancillary defense services under Penal Code section 987.9

Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]

Right to counsel

U.S. v. Yamashiro (9th Cir. 2015) 788 F.3d 1231

U.S. v. Walters (9th Cir. 2002) 309 F.3d 589

United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Clemmons (1990) 224 Cal.App.3d 1500

court has latitude to remove counsel where potential conflict exists, over objection by defendant

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]

defendant has right to counsel of choice and includes right to discharge retained counsel

U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed after being relieved for a conflict of interest

People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

does not attach at arrest or at an extradition hearing

Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175

includes criminal defendant's Sixth Amendment right to use her own "innocent" assets (those not traceable to a criminal offense) to pay a reasonable fee for the assistance of counsel

Luis v. United States (2016) ___ U.S. ___ [136 S.Ct. 1083]

may not be forfeited without defendant's voluntary, knowing intelligent waiver

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

no abuse discretion found where court denied motion to substitute retained counsel; based on a conflict that was not properly waived

People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]

Sixth Amendment right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

Sixth Amendment right to conflict-free representation

U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

Sixth Amendment right violated when counsel not present during the allocution phase of sentencing proceeding

U.S. v. Yamashiro (9th Cir. 2015) 788 F.3d 1231

Sixth Amendment right violated where attorney pursued defenses that did not comport with defendant's insistence that he did not commit the alleged criminal act

People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]

under 18 U.S.C. § 3005

-defendant not entitled to second court-appointed counsel when death penalty not sought

U.S. v. Waggoner (9th Cir. (Ariz.) 2003) 339 F.3d 915

waiver of right must be knowing and intelligent

U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

CROSS REFERENCE TABLES

History of Rules of Professional Conduct of the State Bar of California [See part III.D. of this Compendium.]

State Bar Act of 1939 [See part I.A. to this Compendium at "Cross Reference Table."]

DAMAGES

Damages in tort and contract causes of actions between partners of a dissolved partnership

equitable maxim to "do equity" does not preclude the recovery of damages

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

Data processing, information about cases given for purpose of

CAL 1971-25

LA 374 (1978)

Recovery of emotional suffering damages

Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]

DEBTOR [See Collections.]

DECEASED LAWYER

Business and Professions Code section 6180 et seq.

Division of fees with estate of, spouse of

Rule 3-102(A)(1), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Little v. Caldwell (1894) 101 Cal. 553, 561 [86 P. 107]

Estate of Linnick (1985) 171 Cal.App.3d 752 [217 Cal.Rptr. 552]

Heywood v. Sooy (1941) 45 Cal.App.2d 423 [114 P.2d 361]

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LA 361 (1976), LA 162 (1947), LA(I) 1974-15

SD 1969-4, SD 1968-5

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LA 361 (1976)

Law practice, sale of

Rule 2-300, California Rules of Professional Conduct

[See Practice of Law.]

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CAL 1986-90

letterhead

LA(I) 1962-5

-use of deceased or retired attorneys on

CAL 1986-90

used

-by sole survivor

LA 265 (1959)

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LA 265 (1959), LA 248 (1958), LA(I) 1962-5

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SD 1969-4

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Rule 2-300, California Rules of Professional Conduct

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LA 361 (1976), SD 1968-5

DEGREES [See Advertising, academic degrees.]

DELAY IN HANDLING CASE [See Competence. Misconduct. Trial conduct.]

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

In the Matter of Seltzer (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

For attorney's gain

Business and Professions Code section 6128(b)

Obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

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DISABLED LAWYER [See Deceased lawyer. Substitution of counsel. Withdrawal.]

Business and Professions Code section 6180 et seq.

Associate's duties with respect to practice of

LA 348 (1975)

DISBARMENT [See Disciplinary Action. Resignation. Suspension.]

Attorney appeared telephonically during suspension

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Attorney holding himself out as entitled to practice law and actually practicing law while suspended

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Based on severity of offense

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

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In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
California attorney is disbarred for practicing law in other states by settling consumer debt matters
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
Conviction of crime need not be in California
People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
Disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court
Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]
Disbarment recommendation does not retroactively require involuntary inactive enrollment
In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47
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In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Duties of disbarred lawyer
Rule 9.20, California Rules of Court
Bercovich v. State Bar (1990) 50 Cal.3d 116
In the Matter of Rose (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 646
Effect on application for licensure by other agencies
rejection by the Department of Real Estate of application for a license was based on applicant's previous disbarment as an attorney and his underlying fraud judgment
Berg v. Davi (2005) 130 Cal.App.4th 223 [29 Cal.Rptr.3d 803]
Excessive and punitive, where the most compelling mitigating circumstances clearly predominate
In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
Failure to report charge of crime involving moral turpitude
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
Federal court
In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]
disbarment from state does not result in automatic disbarment from Federal Court
In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]
must afford due process before disbarment of attorney based on state court disciplinary adjudication
In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]
In re Kramer (9th Cir. 1999) 193 F.3d 1131
-disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court
Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]
Judge systematically and routinely sold his office and his public trust
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Many violations surrounded by serious, extensive aggravation
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
Misappropriation generally warrants disbarment unless clearly attenuating circumstances are present
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
Multiple acts involving moral turpitude and dishonesty warrant disbarment
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Necessary when attorney was previously disbarred for serious misconduct
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Not reserved for attorneys with prior disciplinary record
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
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In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
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In re Kramer (9th Cir. 2002) 282 F.3d 721
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In re Yagman (9th Cir. 2022) 38 F.4th 25
Calaway v. State Bar (1986) 41 Cal.3d 743
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1
In the Matter of Ainsworth (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 894
In the Matter of McCray (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373
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In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
Business and Professions Code section 6102(c) cannot be applied retroactively to summarily disbar an attorney for felony convictions
In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601
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+In the Matter of Paguirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
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In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71
deserved for only those crimes which inherently involved moral turpitude
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
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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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In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

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Business and Professions Code sections 6075-6087
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In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Acts committed by attorney outside of professional capacity
attorney can be disciplined for

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]

In the Matter of Jensen (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283

Administrative in nature and not governed by criminal procedure rules

In re Crooks (1990) 51 Cal.3d 1090

Hawkins v. State Bar (1979) 23 Cal.3d 622 [155 Cal.Rptr. 234, 591 P.2d 524]

Emslie v. State Bar (1974) 11 Cal.3d 210

Admonishment considered appropriate discipline in light of extenuating circumstances and mitigation

In the Matter of Respondent C (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439

Aggravating circumstances

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In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

Conroy v. State Bar (1990) 51 Cal.3d 799

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

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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 Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

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Natali v. State Bar (1988) 44 Cal.3d 456 [247 Cal.Rptr. 165]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

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Conroy v. State Bar (1991) 53 Cal.3d 495

In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

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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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Phillips v. State Bar (1989) 49 Cal.3d 944

Blair v. State Bar (1989) 49 Cal.3d 762

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

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Phillips v. State Bar (1989) 49 Cal.3d 944

In the Matter of Kimmel (Review Dept. 2023) 2023 WL 5350634

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In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219

failure to accept responsibility for or understand wrongfulness of actions

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235]

Carter v. State Bar (1988) 44 Cal.3d 1091, 1100-1101 [245 Cal.Rptr. 628, 751 P.2d 894]

In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

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-respondent's continued assertions that the law governing loan modification services and fees was debatable despite a finding that the language of the statute is not ambiguous

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

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In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

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In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

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In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

failure to disclose misdemeanor on Moral character application

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Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

Phillips v. State Bar (1989) 49 Cal.3d 944

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-significant weight assigned to respondent's lack of insight because it suggests that his misconduct may reoccur
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single disciplinary violation does not amount to bad faith
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
uncharged violations
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
Edwards v. State Bar (1990) 52 Cal.3d 28, 35-36

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
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withdrawal of agreement regarding authenticity of documents does not amount to failure to cooperate with State Bar
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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Appropriateness of discipline
Tarver v. State Bar (1984) 37 Cal.3d 122 [207 Cal.Rptr. 302]
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In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
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Alcohol dependency
In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
Associate assigned to client matters may not be blamed for supervising attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221

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In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Attorney entitled to procedural due process

In re Kramer (9th Cir. 2002) 282 F.3d 721

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170

attorney deprived of opportunity to request Early Neutral Evaluation Conference prior to issuance of Notice of Disciplinary Charges

In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721

due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Attorney must be afforded a fair and reasonable opportunity to be heard

In re Kramer (9th Cir. 2002) 282 F.3d 721

Martin v. Committee of Bar Examiners (1983) 33 Cal.3d 717 [190 Cal.Rptr. 610, 661 P.2d 160]

due process not violated by summary order denying review by State Supreme Court without first issuing a written opinion or conferring a right to oral argument

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Attorney-client privilege may be waived if client fails to assert it at a disciplinary hearing

Calvert v. State Bar (1991) 54 Cal.3d 765

Authority of Bankruptcy Court

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

Authority of State Bar

abstention by a bankruptcy court from interference with a State Bar disciplinary proceeding

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

inherent power to discipline attorneys is consistent with its role as a disciplinary entity

Canatella v. Stovitz (2005) 365 F.Supp.2d 1064

misconduct in immigration matters

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

out-of-state arbitration representatives

Code of Civil Procedure section 1282.4

sovereign immunity of the State Bar as an arm of the state

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

Authority of Supreme Court

In re Silvertown (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

In re Attorney Discipline System: Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Alberston 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

Read v. State Bar (1991) 53 Cal.3d 394, Modified at 53 Cal.3d 1009

Hartford v. State Bar (1990) 50 Cal.3d 1139

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

Burden is on petitioner to demonstrate that findings of State Bar Court are unsupported by substantial evidence

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Smith v. State Bar (1984) 37 Cal.3d 17, 23-24 [206 Cal.Rptr. 545]

Montag v. State Bar (1983) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]

In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219

Burden of proof

State Bar of California, clear and convincing

In re Morales (1983) 35 Cal.3d 1

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

California Professional Responsibility Examination

purpose of

In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

California State Bar Court is not governed by civil or criminal rules of procedure

In re Taggart (2001) 249 F.3d 987

Censure

pro hac vice attorney

United States v. Summet (9th Cir. 1988) 862 F.2d 784

Civil findings by themselves are not dispositive of disciplinary issues

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Collateral estoppel from previous litigation

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725, 731

In the Matter of Applicant A (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 318, 329

Commencement of disciplinary proceeding

period of limitations

Rule 51, Rules of Procedure of the State Bar of California

Communications with the State Bar are privileged

Business and Professions Code section 6094

Lebbos v. State Bar (1985) 165 Cal.App.3d 656 [211 Cal.Rptr. 847]

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Chen v. Fleming (1983) 147 Cal.App.3d 36

Complaint

lapse of time in the filing of a disciplinary complaint is no defense unless specific prejudice is shown

Yokozeki v. State Bar (1974) 11 Cal.3d 436, 449

In the Matter of Aulakh (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

malicious prosecution charges against complainant not permissible as public policy

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

presentation of a false and malicious complaint may give rise to a misdemeanor

Business and Professional Code section 6043.5

presenting charges of attorney misconduct

contact State Bar Office of Investigations (800) 843-9053

Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Condition of psychiatric treatment requires clear or expert evidence that the respondent attorney had a specific mental or other problem

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Conditions attached to public or private reprovals under Rule 956

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of John Collier Pyle (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 929

Conduct warranting discipline

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80 dishonesty to court

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

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In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

misappropriation of client's funds

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

moral turpitude

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

In re Morales (1983) 35 Cal.3d 1, 9-10

In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

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In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

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In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

-warranting disbarment absent compelling mitigating circumstances

In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536

Confidentiality of disciplinary investigations

Business and Professional Code section 6086.1(b)

Contempt of court as basis for

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168

In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41

Continuances of proceedings

Palomo v. State Bar (1984) 36 Cal.3d 785, 791-792

Conviction of crime need not be in California

People v. Davis (1985) 166 Cal.App.3d 760, 764 fn.2 [212 Cal.Rptr. 673]

Conviction proceedings

differentiated from underlying original proceedings

In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

due process protections

In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110

Costs

incurred by the State Bar may be imposed on respondents under Business and Professions Code section 6086.10

In re Findley (9th Cir. 2010) 493 F.3d 1048

Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933

In re Taggart (2001) 249 F.3d 987

In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678

In the Matter of Chen (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 571

In the Matter of Respondent J (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 273

-payment of costs to State Bar under 2003 amendments to Business & Professions Code § 6086.10 are not dischargeable

In re Findley (9th Cir. 2010) 493 F.3d 1048

reasonable expenses recoverable by an attorney exonerated of all charges in a disciplinary proceeding

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

retroactive application of amended statute

Gadda v. State Bar (9th Cir. 2007) 511 F.3d 933

trial transcript cost not recoverable by an attorney exonerated of all charges in a disciplinary proceeding

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Criminal conviction

attorney cannot collaterally attack criminal conviction in disciplinary proceeding

In re Prantli (1989) 48 Cal.3d 227 [255 Cal.Rptr. 890, 768 P.2d 109]

attorney's conviction of a crime is conclusive evidence of guilt

In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]

In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rpt. 888

dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

summary disbarment for attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

summary disbarment for forgery

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

Criminal procedures do not apply in disciplinary proceedings

Palomo v. State Bar (1984) 36 Cal.3d 785, 792

Deception of court

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]

Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]

attempting to mislead a judicial officer

Maltman v. State Bar (1987) 43 Cal.3d 924

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misrepresentation to judge while attorney served on jury
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Default by respondent attorney
appropriate method for calculation of discipline
*In the Matter of Marsh (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 291

due process protections
In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110

recommendation extending actual suspension until compliance with rule 205 must state definite period of actual suspension and, if appropriate, stayed suspension
In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

requirement for probation conditions reasonably related to misconduct
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

requirement for specific period of stayed suspension
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

respondent claims disability affected memory
Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Default, no relief despite technical errors
In the Matter of Navarro (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 192

Defendants' burden of proof
Alberton v. State Bar (1984) 37 Cal.3d 1, 12 [206 Cal.Rptr. 373]

Defense
attorney has right to argue ethical obligations establish a bona fide legal representation defense
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

Defenses and mitigating circumstances
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Palomo v. State Bar (1984) 36 Cal.3d 785
In the Matter of Smithwick (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 320

good character
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

good faith is a defense to a charge of dishonesty
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

pro bono activities
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Delays during disciplinary process
+In the Matter of Aquiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502

no prejudice
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

Description of the attorney disciplinary system in California
In re Taggart (2001) 249 F.3d 987
Hirsh v. Justices of the Supreme Court (9th Cir. 1995) 67 F.3d 708, 711-12
In re Rose (2000) 22 Cal.4th 430 [93 Cal.Rptr.2d 298]

Disbarment appropriate when large sums of money misappropriated from several clients
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

Disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court
Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]

Disbarment despite attorney's claim of emotional and physical problems caused by chronic diarrhea
Bercovich v. State Bar (1990) 50 Cal.3d 116

Disbarment despite contention that attorney was incompetent and unable to assist in his defense
Slaten v. State Bar (1988) 46 Cal.3d 48 [249 Cal.Rptr. 289, 757 P.2d 1]

Disbarment despite mitigating circumstances if convicted of offense including intent to deceive or defraud and offenses committed while practicing law
In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561, 769 P.2d 417]

Disbarment for abandonment and failure to return unearned fees
Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]

Disbarment for federal crime
protection of public
In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]

Disbarment for intentional acts of moral turpitude
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

Disbarment for misappropriation of clients' identity
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

Disbarment for misappropriation of funds from client trust account and partnership operating account
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

Disbarment for misappropriation unless clearly extenuating circumstances are present
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Disbarment for moral turpitude
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

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In re Conflenti (1981) 29 Cal.3d 120 [172 Cal.Rptr. 203, 624 P.2d 253]

attorney's conviction for possession of child pornography
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]

conspiracy to commit offenses against the United States
In re Bloom (1987) 44 Cal.3d 128
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

conspiracy to obstruct justice, failure to report conviction to bar
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

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failure to establish compelling mitigating circumstances
In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536

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In re Rivas (1989) 49 Cal.3d 794

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judge systematically and routinely sold his office and his public trust
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misappropriation of firm's funds
 -attorney disbarred for misappropriating funds during
 breakup of firm
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 Cal.Rptr. 398, 751 P.2d 457]
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In re Lamb (1989) 49 Cal.3d 239
 Disbarment for practicing law in other states by settling consumer
 debt matters and holding himself out as entitled to practice in
 those jurisdictions
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar
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 Disbarment for repeated and persistent misconduct in multiple
 cases
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 conviction of conspiracy to distribute cocaine
In re Meacham (1988) 47 Cal.3d 510
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 794, 769 P.2d 976]
Weber v. State Bar (1988) 47 Cal.3d 492
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 suspended from practice of law
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 Disbarment may be appropriate discipline even where there is no
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 Disbarment necessary when attorney was previously disbarred
 for serious misconduct
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
 Disbarment would be excessive and punitive where the most
 compelling mitigating circumstances clearly predominate
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 Disbarred or disciplined attorney
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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 Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

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-federal trial transcript containing evidence counter to California rules admissible

In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595, 777 P.2d 631]

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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 Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

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In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

sanctions order may be relied upon as evidence of misconduct -statute of limitations, Rule 51

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

trial evidence considered only to determine aggravation and mitigation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

Excuse of misconduct

Ballard v. State Bar (1983) 35 Cal.3d 274

Fabrication of evidence for State Bar proceeding

Borré v. State Bar (1991) 52 Cal.3d 1047

Factors to be considered in assessing appropriate discipline where there was discipline imposed in an earlier original proceeding

In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

Facts surrounding a violation of Insurance Code section 750, subdivision (a) involved moral turpitude

In the Matter of Duxbury (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 61

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Failure to comply with Rule 955

Dahlman v. State Bar (1990) 50 Cal.3d 1088 [790 P.2d 1322]

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Powers v. State Bar (1988) 44 Cal.3d 337 [243 Cal.Rptr. 386]

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Warden v. State Bar (1999) 21 Cal.4th 628

Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]

Failure to comply with State Bar investigation

Baca v. State Bar (1990) 52 Cal.3d 294

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Failure to protect client's interests

Lewis v. State Bar (1981) 28 Cal.3d 683 [170 Cal.Rptr. 634, 621 P.2d 258]

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Failure to return promptly an unearned fee

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Failure to supervise associate

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]

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Failure to supervise non-attorney employees

In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437

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Federal court abstention from interference with a State Bar disciplinary proceeding

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

Federal court must afford due process before disbarment of attorney based on state court disciplinary adjudication

In re Kramer (9th Cir. 2002) 282 F.3d 721

Federal courts review

suspension from federal practice is not dictated by state rules

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

when State Bar has no procedure for review of letters of admonishment

Miller v. Washington State Bar Association (1982) 679 F.2d 1313

Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO

Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253

Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

Federal system has no uniform procedure for disciplinary proceedings

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170

Felony determination at the time plea of nolo contendere was made, for State Bar purposes, although crime reduced to misdemeanor at time of sentencing by trial judge

In the Matter of Jackson (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 610

Frivolous allegations against judges

Standing Com. on Dis. of United States (9th Cir. 1984) 735 F.2d 1168, 1171

Goal of Supreme Court

Smith v. State Bar (1984) 37 Cal.3d 17, 26

Grounds and defenses

Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189

Habitual disregard of client's interests

Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

does not result in disbarment

In the Matter of Respondent CC (Review Dept. 2023) 6 Cal. State Bar Ct. Rptr. 36

Harassment of client

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Hearing referee accused of being biased against respondent

In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

Illegal drug transactions

In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]

conspiracy to distribute cocaine, conviction for

In re Meacham (1988) 47 Cal.3d 510

Illegal fee

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Inducing client to withdraw disciplinary complaint

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Intent

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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

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*In the Matter of Respondent M (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 465

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In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502

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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 Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

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*In the Matter of Heiner (Review Dept. 1993) 1 Cal. State Bar Ct. Rptr. 301

not retroactively required upon a disbarment recommendation

In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

Involuntary Inactive Status

In the Matter of Mesce (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 658

amendment to § 6007(c)(4) allowing for automatic inactive enrollment, but may not be retroactively required upon a disbarment recommendation

In the Matter of Phillips (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

procedures for enrollment of attorney satisfies due process requirements

Conway v. State Bar (1989) 47 Cal.3d 1107 [255 Cal.Rptr. 390, 767 P.2d 657]

Phillips v. State Bar (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 47

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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]

Edmunds v. Superior Court (1994) 24 Cal.App.4th 221

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In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

over out-of-state arbitration representatives

Code of Civil Procedure section 1282.4

Labor Code violation

Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266, 775 P.2d 1035]

Lack of insight into wrongfulness of actions by attorney

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
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Level of discipline does not depend on how many rules or statutes proscribe the same misconduct

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

License cancellation

In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746

Loan modification services

collecting pre-performance fees in violation of the law

In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

unbundling services and collecting a fee for each service where prohibited by law

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

Malicious prosecution charges against disciplinary complainant not permissible as public policy

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Manslaughter

In re Nevill (1985) 39 Cal.3d 729 [217 Cal.Rptr. 241]

Mental examination order requires showing of good cause and least intrusive means

*In the Matter of Respondent B (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 424

Misappropriation of client's funds

Grim v. State Bar (1991) 53 Cal.3d 21

Snyder v. State Bar (1990) 49 Cal.3d 1302

Baker v. State Bar (1989) 49 Cal.3d 804

Weller v. State Bar (1989) 49 Cal.3d 670 [262 Cal.Rptr. 549, 779 P.2d 293]

Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280, 775 P.2d 1049]

Weber v. State Bar (1988) 47 Cal.3d 492

Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209]

Edmundson v. State Bar (1981) 29 Cal.3d 339 [172 Cal.Rptr. 899, 625 P.2d 812]

Comden v. Superior Court (1978) 20 Cal.3d 906, 915

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In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

warrants discipline even absent finding that attorney's conduct willful

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Misappropriation of firm's funds

attorney disbarred for misappropriating funds during breakup of firm

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398, 751 P.2d 457]

Misconduct in another jurisdiction

In re Kramer (9th Cir. 2002) 282 F.3d 721

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Misconduct prior to admission to the State Bar

Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]

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In the Matter of Passenheim (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 62

Misconduct spanned 10 years

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

Misleading hearing panel as aggravating circumstance in imposition of discipline

Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 705]

Mismanagement of client's trust by attorney trustee

Schneider v. State Bar (1987) 43 Cal.3d 784 [239 Cal.Rptr. 111]

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

Mitigating circumstances

Edwards v. State Bar (1990) 52 Cal.3d 28

Young v. State Bar (1990) 50 Cal.3d 1204 [791 P.2d 994]

Friedman v. State Bar (1990) 50 Cal.3d 235

Bercovich v. State Bar (1990) 50 Cal.3d 116

Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071

Baker v. State Bar (1989) 49 Cal.3d 804

Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]

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 Hipolito v. State Bar (1989) 48 Cal.3d 621, 257 Cal.Rptr. 331 [770 P.2d 743]
cooperation with the State Bar of California
 In the Matter of Kimmel (Review Dept. 2023) 2023 WL 5350634
 In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
delay by the State Bar in initiating disciplinary proceedings
 Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
drug addiction
 Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
 Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]
 In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392, 768 P.2d 1069]
 Rosenthal v. State Bar (1987) 43 Cal.3d 658 [238 Cal.Rptr. 394]
 In re Possino (1984) 37 Cal.3d 163, 171-172 [207 Cal.Rptr. 543, 689 P.2d 115]
extreme emotional difficulties
 Porter v. State Bar (1990) 52 Cal.3d 518
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extreme physical disabilities
 In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
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 In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
factual stipulation, very limited mitigation for
 In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
financial difficulties, if extreme and unforeseeable or beyond the attorney's control
 In the Matter of Laden (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 678
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 In the Matter of Kimmel (Review Dept. 2023) 2023 WL 5350634
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 In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
heavy caseload at time of misconduct is not mitigation
 In re Naney (1991) 51 Cal.3d 186
 In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
incurable personality disorder not mitigating circumstance
 Phillips v. State Bar (1989) 49 Cal.3d 944
isolated and relatively minor incident
 In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
lack of harm
 In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
-not found
 In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151
lack of prior discipline
 Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
 Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
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In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In re Michael Brown (1995) 12 Cal.4th 205
 -entitled to very little weight when attorney had practiced law for only seven years before start of misconduct
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
 -may be considered as a mitigating factor although the present misconduct is serious
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
 -not mitigating factor where attorney only in practice for a brief time
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
 lack of prior disciplinary record, no bar to discipline when numerous serious acts of misconduct
Weber v. State Bar (1988) 47 Cal.3d 492
 lengthy period of exemplary behavior
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737
 marital stress
Kaplan v. State Bar (1991) 52 Cal.3d 1067
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In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
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In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138
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In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
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In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
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In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 no financial loss to anyone
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
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In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
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In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631
 -slight credit
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 prompt action to report employee embezzlement to police and to make amends to clients
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
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In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
 remorse and recognition of wrongdoing
In the Matter of Kimmel (Review Dept. 2023) 2023 WL 5350634
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In re Crooks (1990) 51 Cal.3d 1090
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 respondent's claim of inadequate time to prepare and present evidence of mitigation
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
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In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
 stress associated with illness in the family
In re Crooks (1990) 51 Cal.3d 1090
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In the Matter of Gorman (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 567
 youth and inexperience not mitigating in misappropriation setting
Amante v. State Bar (1990) 50 Cal.3d 247 [786 P.2d 375]
 Monetary sanctions against law firm for aiding in unauthorized practice of law
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
 Multiple acts involving moral turpitude and dishonesty warrant disbarment
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
 Multiple complaints
Smith v. State Bar (1986) 38 Cal.3d 525 [213 Cal.Rptr. 236]
 Need to maintain high ethical standards
Comden v. Superior Court (1978) 20 Cal.3d 906, 915

DISCIPLINARY ACTION

Nolo contendere plea sufficient proof of guilt
Business and Professions Code section 6101
In re Gross (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
In the Matter of Porche (Review Dept. 2023) 2023 WL 2569129

Notice of disciplinary charges
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
attorney should be afforded opportunity to request Early Neutral Evaluation prior to issuance
In the Matter of Respondent AA (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 721
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Notice to show cause
In the Matter of Glasser (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 163
allegation of a Bus. & Prof. Code, § 6106 violation encompasses a lesser allegation of a rule violation for misuse of trust funds when the pleading clearly raises such issue
In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17
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In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615
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Participate in
solely to obtain advantage in civil matter
Rule 7-104, Rules of Professional Conduct (operative until May 26, 1993)
Rule 5-100, Rules of Professional Conduct (operative effective May 27, 1993)

Partnership with a non-attorney
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Permitting client trust account to fall below amount due client
Warner v. State Bar (1983) 34 Cal.3d 36

Persistent inability to adhere to duties of an attorney
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

Petition to set aside order for interim suspension
In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608

Post-misconduct behavior
effect on discipline imposed
Cooper v. State Bar (1987) 43 Cal.3d 1016

Preemption
Federal law does not preempt New York Bar Association Grievance Committee's authority to conduct investigation of patent attorney practicing before PTO
Schindler v. Finnerty (E.D.N.Y. 1999) 74 F.Supp.2d 253
Federal law does not preempt State Bar of California's authority to discipline attorney for misconduct in immigration matters
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

Pretrial discovery by accused attorney
Brotsky v. State Bar (1962) 57 Cal.2d 287

Prior disciplinary action considered
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
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Gary v. State Bar (1988) 44 Cal.3d 820

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In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413
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In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239
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Private reproof
may be disclosed on the State Bar's website
Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112 Cal.Rptr.2d 341]

Probation conditions
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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

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Probation violations
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-warrants 90-day suspension
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In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

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In the Matter of Weiner (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 759

probation revocation case remanded to the hearing judge re modification of a probation condition

In the Matter of Parker (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

probation revoked for failing to fully comply with probation requirements

In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

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+In the Matter of John Henry Hunter (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 81, 89

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Procedures

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In the Matter of Miller (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 110

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Wells v. State Bar (1984) 36 Cal.3d 199, 205-207

overview of procedures and review

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

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In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884

parties bound by stipulated facts despite judge's rejection of stipulation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

Rules of Practice Before the State Bar Court and Rules of Procedure of the State Bar Court

Text is located in:

Deerings Annotated California Codes, Court Rules, and in West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Public 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

Publication of member disciplinary records

Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128

Purpose

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

Tarver v. State Bar (1984) 37 Cal.3d 122, 133 [207 Cal.Rptr. 302]

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

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In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

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Gordon v. State Bar (1982) 31 Cal.3d 748, 758

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In re Findley (9th Cir. 2010) 493 F.3d 1048

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In re Severo (1986) 41 Cal.3d 493

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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

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-maintain highest professional standards, preserve integrity of and confidence in the legal profession

Conroy v. State Bar (1990) 51 Cal.3d 799

Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d 360]

Purview of Supreme Court, not Labor Board

Katz v. Worker's Comp. Appeals (1981) 30 Cal.3d 353 [178 Cal.Rptr. 815, 636 P.2d 1153]

Reciprocal disbarment

In re Kramer (9th Cir. 2002) 282 F.3d 721

Reciprocal discipline

In the Matter of Fisher (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999

imposition of reciprocal discipline by a federal court on a member of its bar based on a state's disciplinary adjudication

In re North (9th Cir. 2004) 383 F.3d 871

Recommendation extending actual suspension until compliance with rule 205 of Rules of Procedure of the State Bar, title II, State Bar Court Proceedings

recommendation must state definite period of actual suspension and, if appropriate, stayed suspension

In the Matter of Stansbury (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 103

Rehabilitation

bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation

Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]

disciplinary requirement of demonstrating learning in general law found unjustified

Snyder v. State Bar (1990) 49 Cal.3d 1302

under stds. 1.3 and 1.4(c)(ii), Stds. for Atty. Sanctions for Prof. Misconduct

In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571

DISCIPLINARY ACTION

-showing may be imposed even when doing so may extend the length of stayed suspension

In the Matter of Rolando M. Luis (2004) 4 Cal. State Bar Ct. Rptr. 737

Reinstatement

Calaway v. State Bar (1986) 41 Cal.3d 743

In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

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In the Matter of Salant (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 1

attorney must reimburse Client Security Fund prior to filing petition for reinstatement

In the Matter of Mackenzie (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 529

bankruptcy discharge of debts to clients considered indicator of lack of rehabilitation

Hippard v. State Bar (1989) 49 Cal.3d 1084 [264 Cal.Rptr. 684, 782 P.2d 1140]

omitting material information from reinstatement application

In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

In the Matter of Giddens (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 25

unauthorized practice of law and lack of candor demonstrated the lack of moral reform that is necessary for reinstatement

In the Matter of Kirwan (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630

Remand for retrial due to inconsistent findings and conclusions

*In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321

Reproval

In the Matter of Respondent Z (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 85

Requirements for reinstatement

In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

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In the Matter of Distefano (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 668

Restitution

bankruptcy does not bar order of restitution as part of attorney discipline

Brookman v. State Bar (1988) 46 Cal.3d 1004

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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

condition of probation intended to promote rehabilitation

In re Findley (9th Cir. 2010) 493 F.3d 1048

Sorensen v. State Bar (1991) 52 Cal.3d 1036

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In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

considerations of due process and fundamental fairness

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

failure to make restitution grounds for denial of reinstatement

In the Matter of Rudnick (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

not a means of awarding tort damages for legal malpractice

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

not a means of compensating the victim of wrongdoing

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willful failure to comply with restitution duties of probation

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In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Potack (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 525

RICO and Sherman Antitrust Act not a defense

Lebbos v. State Bar (1991) 53 Cal.3d 37

Rules of Professional Conduct in effect at relevant times used as basis for discipline

Friedman v. State Bar (1990) 50 Cal.3d 235

Bernstein v. State Bar (1990) 50 Cal.3d 221

Scope of review

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]

Tarver v. State Bar (1984) 37 Cal.3d 122, 131-132 [207 Cal.Rptr. 302]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Selective prosecution claim is found to be without merit

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

Serious and repeated misconduct

In re Trebilcock (1981) 30 Cal.3d 312 [178 Cal.Rptr. 630, 636 P.2d 594]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

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Sharing legal fee with a non-attorney

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Single publication rule defined

Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128

Sovereign immunity of the State Bar as an arm of the state

In re Franceschi (9th Cir. BAP 2001) 268 B.R. 219

Standard for subjecting attorney to discipline

moral turpitude

In re Fahey (1973) 8 Cal.3d 842 [106 Cal.Rptr. 313, 505 P.2d 1369]

Standard of review

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

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Standard of review by California Supreme Court

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Rule 9.12, California Rules of Court

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In the Matter of Murphy, Jr. (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 571

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

State Bar

advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376] failure to timely file request for review

In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67

inherent power to discipline for conduct in or outside the profession

Canatella v. Stovitz (2005) 365 F.Supp.2d 1064

In re Scott (1991) 52 Cal.3d 968

lacks authority to discipline an attorney until final judgment of criminal conviction on appeal or the time for appeal has passed

In re Strick (1983) 34 Cal.3d 891 [196 Cal.Rptr. 293, 671 P.2d 125]

sui generis arm of the Supreme Court

In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 263

Stipulation

partial stipulation to facts binds the parties

In the Matter of Rodriguez (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 884

parties bound by stipulated facts despite judge's rejection of stipulation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

parties' inability to reach stipulated discipline does not affect analysis of mitigation

In the Matter of Silver (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

very limited mitigation for factual stipulation

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

Substantial discipline

multiple violations

Finch v. State Bar (1981) 28 Cal.3d 659, 665 [170 Cal.Rptr. 629, 621 P.2d 253]

In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

Substitution

failure to timely execute substitution of attorney form

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

Sufficiency of evidence to sustain facts

Tarver v. State Bar (1984) 37 Cal.3d 122, 132-133 [207 Cal.Rptr. 302]

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Summary disbarment

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

+In the Matter of Paquirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936

In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729

In the Matter of Segall (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71

Business and Professions Code section 6102 (c) cannot be applied retroactively to summarily disbar an attorney for felony convictions

In the Matter of Curtis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51

In the Matter of Jolly (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 740

Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney

Husted v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]

Threat to present disciplinary charges

to obtain advantage in civil action

Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)

Threatening to report immigration status

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

Unconscionable fees

attorney fails to disclose to client that contingency fee to be in addition to fee earned

In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980

Untimely filing of decision

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

Vicarious versus personal liability for another attorney's misconduct

Dudugjian v. State Bar (1991) 52 Cal.3d 1092

"Willful" defined for non-compliance with California Rule of Court 9.20

Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]

Durbin v. State Bar (1979) 23 Cal.3d 461 [152 Cal.Rptr. 749]

In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783

In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413

"Willfulness" of violations

bad faith finding not required

McKnight v. State Bar (1991) 53 Cal.3d 1025

King v. State Bar (1990) 52 Cal.3d 307

Conroy v. State Bar (1990) 51 Cal.3d 799

Zitney v. State Bar (1966) 64 Cal.2d 787

repeated failure to attend to client needs is attorney conduct which need not be shown to be willful

Kapelus v. State Bar (1987) 44 Cal.3d 179, 188

Van Sloten v. State Bar (1989) 48 Cal.3d 921, 932

In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175

Willful failure to communicate, and to perform services

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Bach v. State Bar (1991) 52 Cal.3d 1201

King v. State Bar (1990) 52 Cal.3d 307

Baca v. State Bar (1990) 52 Cal.3d 294

Cannon v. State Bar (1990) 51 Cal.3d 1103

In re Billings (1990) 50 Cal.3d 235 [787 P.2d 617]

Twohy v. State Bar (1989) 48 Cal.3d 502 [256 Cal.Rptr. 794, 769 P.2d 976]

Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]

McMorris v. State Bar (1983) 35 Cal.3d 78

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

In the Matter of Trillo (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 59

Withdrawal from employment with prejudice to client is not a violation inconsistent with discipline for failure to communicate

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

DISCOVERY

DISCOVERY [See Interrogatory, sanctions on motion to compel.]
Copy of results given to another lawyer with some interest in matter

LA(l) 1965-16

Deposition of opposing counsel

Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]

Estate of Ruchti (1993) 12 Cal.App.4th 1593 [16 Cal.Rptr.2d 151]

Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]

Sanctions appropriate for willful failure to comply with discovery order

Los Defensores, Inc. v. Gomez (2014) 223 Cal.App.4th 377 [166 Cal.Rptr.3d 899]

Sanctions not available against attorney whose client unreasonably denies a request for admissions under CCP section 2033.420

Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

Sanctions not available to attorney who litigates in propria persona under CCP sections 2030(1) and 2023(b)(1)

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

DISCRIMINATORY CONDUCT IN A LAW PRACTICE

Rule 2-400, Rules of Professional Conduct (operative as of March 1, 1994)

DISQUALIFICATION [See Conflict of interest, disqualification. Termination of attorney-client relationship. Withdrawal from employment.]

Attorney general – denied

Cornish v. Superior Court (1989) 209 Cal.App.3d 467

Attorney retained by insurer to represent insured does not have attorney-client relationship for purposes of

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Attorney retained by insurer to represent insured has attorney-client relationship with insurer for purposes of

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

Attorney-client relationship must have existed before disqualification is proper

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Dino v. Pelayos (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

Hetos Investments, Ltd. v. Kurtin (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]

Responsible Citizens v. Superior Court (1993) 16 Cal.App.4th 1717, 1723

Authority of court

Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]

Doe v. Yim (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613]

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

advocate-witness rule

Lopez v. Lopez (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

Class action

representation of unnamed class member who would appear as witness in concurrent class action warranted disqualification

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

where the conflict arises between members of different classes in different cases and seriously threatens the policy concerns underlying the duty of loyalty—a client's right to be represented by counsel whose interests are not encumbered—the automatic disqualification rule applies

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

Concurrent representation of adverse parties in separate matters is not cured by withdrawal from representation of the less favored client who explicitly refuses to consent

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070

Buehler v. Sbardellati (1995) 34 Cal.App.4th 1527 [41 Cal.Rptr.2d 104]

Truck Insurance Exchange v. Fireman's Fund Insurance (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

Concurrent representation of clients with adverse interests

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]

client as witness in another client's case

Walker v. Apple, Inc. (2016) 4 Cal.App.5th 1098 [209 Cal.Rptr.3d 319]

not found

A.F. v. Jeffrey F. (2022) 79 Cal.App.5th 737 [294 Cal.Rptr.3d 700]

with few exceptions, there is a per se rule requiring disqualification of an attorney or a law firm when there is a conflict of interest based upon concurrent representation of multiple clients

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Confidences of adversary

Sundholm v. Hollywood Foreign Press Association (2024) 99 Cal.App.5th 1330 [318 Cal.Rptr.3d 669]

disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

disqualification required where confidences acquired inadvertently

Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]

LA 531 (2019)

disqualifying conflict may arise, with regard to an adverse non-client, by virtue of representing non-client's attorney

Acacia Patent Acquisition, LLC v. Superior Court of Orange County (2015) 234 Cal.App.4th 1091 [184 Cal.Rptr.3d 583]

documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

inadvertent disclosure requires disqualification

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
LA 531 (2019)

mere exposure to does not, standing alone, warrant disqualification

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
DP Pham LLC v. Cheadle (2016) 246 Cal.App.4th 653 [200 Cal.Rptr.3d 937]
Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
-where attorney for plaintiff formerly had borrower-lender relationship with defendant

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Confidences of the client

actual possession need not be proven – test

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 489-490 [192 Cal.Rptr. 609]

disqualification of attorney required where attorney actually possessed confidential information despite the fact that substantial relationship is not shown

Costello v. Buckley (2016) 245 Cal.App.4th 748 [199 Cal.Rptr.3d 891]

disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

inadvertent disclosure requires disqualification

Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
LA 531 (2019)

-documents improperly taken by employee, from employer, in violation of non-disclosure agreement, were attorney-client privileged documents and were improperly reviewed by counsel for the employee

Clark v. Superior Court (2011) 196 Cal.App.4th 37 [125 Cal.Rptr.3d 361]

material to current representation

Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

rebuttable presumption of shared confidences among the attorneys in a firm

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

County counsel

contingency fee agreement with private attorney does not always require

County of Santa Clara v. Superior Court (2010) 50 Cal.4th 35 [112 Cal.Rptr.3d 697]

Disclosure of confidences of the client

Panduit Corp. v. All States Plastic Mfg. Co., Inc. (C.A. Fed 1984) 744 F.2d 1564, 1577-1578

Gregori v. Bank of America (1989) 207 Cal.App.3d 291

Disqualification affirmed

alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Disqualification denied because former legal secretary of defendant became a client, not an employee of attorney for plaintiff

Neal v. Health Net, Inc. (2002) 100 Cal.App.4th 831 [123 Cal.Rptr.2d 202]

Disqualification denied where attorney received information from plaintiff's former coworker who was litigant in unrelated case

Roush v. Seagate Technology, LLC (2007) 150 Cal.App.4th 210 [58 Cal.Rptr.3d 275]

District attorney

conflict of interest requires a showing that the district attorney's discretionary decision-making has been placed within the influence and control of a private party with a particular interest in the prosecution of the defendant

People v. Eubanks (1996) 14 Cal.4th 580, 599 [59 Cal.Rptr.2d 200]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

disqualification based on private party influence on the impartiality of the district attorney

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

district attorney's office cannot be recused from case where alleged conflict was speculative and did not show actual unfairness

Spaccia v. Superior Court (2012) 209 Cal.App.4th 93 [146 Cal.Rptr.3d 742]

entire office

Penal Code section 1424

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

People v. Vasquez (2006) 39 Cal.4th 47 [45 Cal.Rptr.3d 372]

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Hambarian v. Superior Court (2002) 27 Cal.4th 826 [118 Cal.Rptr.2d 725]

People v. Eubanks (1996) 14 Cal.4th 580

People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d 5]

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

People v. Jenan (2006) 140 Cal.App.4th 782 [44 Cal.Rptr.3d 77]

People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]x

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

Lewis v. Superior Court (1977) 53 Cal.App.4th 1277 [62 Cal.Rptr.2d 331]

People v. Merritt (1993) 19 Cal.App.4th 1573 [24 Cal.Rptr.2d 177]

Williams v. Superior Court (1988) 198 Cal.App.3d 960

-not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

recusal not required where ethical wall would be effective alternative

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

DISQUALIFICATION

Examine circumstances of each case

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]

Expert witness

Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Shandralina G. v. Homonchuk (2007) 147 Cal.App.4th 395 [54 Cal.Rptr.3d 207]
Collins et al. v. State of California et al. (2004) 121 Cal.App.4th 1112 [18 Cal.Rptr.3d 112]
Western Digital Corp. v. Superior Court (1998) 60 Cal.App.4th 1471 [71 Cal.Rptr.2d 179]
Toyota Motor Sales, U.S.A. v. Superior Court (1996) 46 Cal.App.4th 778 [54 Cal.Rptr.2d 22]
Shadow Traffic Network v. Superior Court (1994) 24 Cal.App.4th 1067 [29 Cal.Rptr.2d 693]
 defendant may not disqualify opposing counsel based on alleged exchange of confidential information between counsel and expert witness without providing nature of information

DeLucca v. State Fish Co., Inc. (2013) 217 Cal.App.4th 671 [158 Cal.Rptr.3d 761]

need not be removed where expert for plaintiff was previously represented by defense counsel and waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

Extended to law firm

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 608 [168 Cal.Rptr. 196]

Financial management company

LA 372 (1978)

Financial stake in action

People ex rel. Clancy v. Superior Court (1985) 39 Cal.3d 740 [218 Cal.Rptr. 24, 705 P.2d 347]
Orange County Water District v. Arnold Engineering Company et al. (2011) 196 Cal.App.4th 1110 [127 Cal.Rptr.3d 328]
Priceline v. City of Anaheim (2010) 180 Cal.App.4th 1130 [103 Cal.Rptr.3d 521]

Former client ordinarily must be the moving party to seek disqualification based on a conflict of interest

Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966

Grand jury

Sixth Amendment right to counsel of one's choice does not apply

In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668

Inadvertent disclosure requires disqualification

McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]

Interest in subject matter of the representation

disqualification granted where payment of attorney legal services were paid from allegedly tainted funds

U.S. v. Murray (N.D. Cal. 2013) 2013 WL 942514, 2013 U.S. Dist. Lexis 33394

no disqualification where attorney owned shares in a company that purchased shares from a client that the attorney represented

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

Marital relationship or "appearance of impropriety" insufficient to deprive party of choice of counsel

Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

Mediator is generally not disqualified from litigating later cases against the same party

Barajas v. Oren Realty and Development Co. (1997) 57 Cal.App.4th 209 [67 Cal.Rptr.2d 62]

attorney's receipt of confidential information as settlement officer would bar attorney's firm from representing the opposing party (employer)

Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]

Motion

attorney-client relationship not always required for a party to have standing to bring a motion to disqualify

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

disqualification may not be available when an attorney-client relationship never existed between the moving party and the attorney sought to be disqualified

Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]

Shen v. Miller (2012) 212 Cal.App.4th 48 [150 Cal.Rptr.3d 783]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Motion brought by in propria persona party against opposing counsel

McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]

Motion for disqualification that is still pending does not automatically require stay of all trial matters

Reed v. Superior Court (Case Financial) (2001) 92 Cal.App.4th 448, mod. at 92 Cal.App.4th 1346B [111 Cal.Rptr.2d 842]

Motion must be timely filed

Kearns v. Fred Lavery Porsche Audi Co. (C.A. Fed. 1984) 745 F.2d 600, 605

Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]

River West, Inc. v. Nickel (1987) 188 Cal.App.3d 1297, 1311

Multiple representation of a claimant and the compensation insurance carrier against whom the claim is being made

Smiley v. Director, Office of Workers' Compensation Programs (9th Cir. 1992) 973 F.2d 1463

Non-client litigant has no standing to assert conflict and no expectation of confidentiality

Lynn v. George (2017) 15 Cal.App.5th 630 [223 Cal.Rptr.3d 407]

DCH Health Services Corp. v. Waite (2002) 95 Cal.App.4th 829 [115 Cal.Rptr.2d 847]

Non-client litigant may have standing to move for disqualification of counsel in cases where they have a sufficient personal stake

Concat LP v. Unilevel, PLC (N.D. Cal. 2004) 350 F.Supp.2d 796

Non-client litigant must establish a personal stake in a motion to disqualify

Colyer v. Smith (C.A. Cal. 1999) 50 F.Supp.2d 966

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Not automatic where previous representation did not expose attorney to confidential information material to the current representation

Wu v. O'Gara Coach (2019) 38 Cal.App.5th 1069 [251 Cal.Rptr.3d 573]

Not required even if attorney received confidential information about defendant because defendant did not meet burden of showing that the information could give plaintiff an unfair advantage or affect outcome of litigation

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Not required where no confidential information disclosed by current directors when their separate counsel had given permission for adverse counsel's communication with them

La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]

Notice of motion to disqualify a district attorney

Penal Code section 1424

Paralegal "switches sides"

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

CLA 2023-1

Penal Code § 1424 prosecuting attorney's conflict of interest

People v. Parmar (2001) 86 Cal.App.4th 781 [104 Cal.Rptr.2d 31]

In re Marriage of Abernethy (1992) 5 Cal.App.4th 1193 [7 Cal.Rptr.2d 342]

abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor's personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

Possibility of breach of client confidences

Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 999

Presumption of shared confidences

W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463
rebuttable

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Prior relationship with opposing party

Allen v. Academic Games League of America (1993) 831 F.Supp. 785

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Wutchumna Water Co. v. Bailey (1932) 216 Cal. 564, 574 [155 P.2d 505]

Med-Trans Corp., Inc. v. City of California City (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

Quaglin v. Quaglin (1979) 88 Cal.App.3d 542, 550 [152 Cal.Rptr. 47]

attorney for plaintiff formerly had borrower-lender relationship with defendant

Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

Prior relationship with opposing party's insurer

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

Prior representation of opposing party

Damron v. Herzog, Jr. (9th Cir. 1995) 67 F.3d 211

Trone v. Smith (9th Cir. 1980) 621 F.2d 994

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383

In re Airport Car Rental Antitrust Litigation (N.D. Cal. 1979) 470 F.Supp. 495, 499

Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr. 537] [36 Cal.Rptr.2d 537]

Knight v. Ferguson (2007) 149 Cal.App.4th 1207 [57 Cal.Rptr.3d 823]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]

Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]

Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]

Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]

City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]

Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr. 327]

In re Marriage of Zimmerman (1993) 16 Cal.App.4th 556 [20 Cal.Rptr.2d 132]

Rosenfeld Construction v. Superior Court (1991) 235 Cal.App.3d 566

Dill v. Superior Court (1984) 158 Cal.App.3d 301

Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483 [192 Cal.Rptr. 609]

Jacuzzi v. Jacuzzi Bros. (1963) 218 Cal.App.2d 24, 27-30

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 1998-152

alleged protected activity under Anti-SLAPP statute (C.C.P. § 425.16) found to be incidental to conflict of interest

United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

city attorney disqualified from representing city in matter related to prior representation of private company

City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

disqualification of counsel not required when based on counsel's familiarity with claims procedures from a prior representation of the moving party that was not substantial

Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

not automatic where previous representation did not expose attorney to confidential information material to the current representation

Khani v. Ford Motor Company (2013) 215 Cal.App.4th 916 [155 Cal.Rptr.3d 532]

unrelated matter

Cohn v. Rosenfeld (9th Cir. 1984) 733 F.2d 625

Flatt v. Superior Court (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050 [8 Cal.Rptr.2d 228]

Jeffry v. Pounds (1977) 67 Cal.App.3d 611

Prior representation of plaintiff's expert witness does not required disqualification where expert waives conflict

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

Public defender

court orders public defender's office to assign a new attorney from its office to represent defendant in his criminal proceedings due to racial statements made by prior attorney

Sanchez v. Superior Court of San Bernardino County (2024) 106 Cal.App.5th 617 [327 Cal.Rptr.3d 225]

juvenile court had no power to remove public defender absent a showing that minor was not indigent or a conflict existed

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

DISQUALIFICATION

prior representation of witness by former member of public defender's office where another public defender currently represents defendant and where the office had received no confidential information of the witness, no conflict of interest
People v. Lopez (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

Raised on appeal from final judgment
 requires showing that denial of motion affected outcome of case
In re Sophia Rachel B. (1988) 203 Cal.App.3d 1436 [250 Cal.Rptr. 802]

Required when attorneys change sides in factually related cases
Trone v. Smith (9th Cir. 1980) 621 F.2d 994, 1000-1001

Review procedures for denial of motion to disqualify
People v. Broxson (1991) 228 Cal.App.3d 977 [278 Cal.Rptr. 917]

Risk of disclosure of confidential information
United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1050
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 898 [175 Cal.Rptr. 575]
 rebuttable presumption of shared confidences among the attorneys in a firm
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Services never performed for former client of attorney's former firm
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Dieter v. Regents of the University of California (E.D. Cal. 1997) 963 F.Supp. 908
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

Services never performed for former client of attorney's wife's previously disqualified firm
Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]

Settlement officer
Castaneda v. Superior Court (2015) 237 Cal.App.4th 1434 [188 Cal.Rptr.3d 889]

Sixth Amendment
 no right to counsel of one's choice in a grand jury investigation
In re Grand Jury Investigation (9th Cir. 1999) 182 F.3d 668
 trial court's ex parte removal of counsel and ex parte substitution of new counsel, without the participation of defendant, infringed on the constitutional protections of defendant's free choice of counsel
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

Standards
 different for subsequent representation than for simultaneous representation
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

Standing to assert
 disqualification may not be available when an attorney-client relationship never existed between the moving party and the attorney sought to be disqualified
In re Marriage of Murchison (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]

Great Lakes Construction Inc. v. Burman (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]
 vicarious standing among members of Limited Liability Company
Blue Water Sunset, LLC v. Markowitz (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

Timeliness of mitigation claims
Bercovich v. State Bar (1990) 50 Cal.3d 116

Timeliness of motion to disqualify
Liberty National Enterprises, LP v. Chicago Title Insurance Company (2011) 194 Cal.App.4th 839 [123 Cal.Rptr.3d 498]

U.S. Attorney's Office
 district court must make specific factual findings that show the U.S. Attorney's Office continued representation would result in a clear legal or ethical violation
U.S. v. Williams (9th Cir. 2023) 68 F.4th 564

Vicarious disqualification to law firm
In re S.S. Retail Stores Corp. (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]
Atasi Corp. v. Seagate Technology (9th Cir. 1988) 847 F.2d 826
W. L. Gore & Assoc. v. Intern. Medical Prosthetics (1984) 745 F.2d 1463, 1466-1467
Bankruptcy of Mortgage and Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Allen v. Academic Games League of America (1993) 831 F.Supp. 785
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
Henriksen v. Great American Savings and Loan (1992) 11 Cal.App.4th 109 [14 Cal.Rptr.2d 184]
Higdon v. Superior Court (1991) 227 Cal.App.3d 1667 [278 Cal.Rptr. 588]
Klein v. Superior Court (1988) 198 Cal.App.3d 894 [244 Cal.Rptr. 226]
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048-1049 [197 Cal.Rptr. 232]
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 attorney and associates involved in matters
Global Van Lines v. Superior Court (1983) 144 Cal.App.3d 483, 490 [192 Cal.Rptr. 609]

city attorney and entire office disqualified from representing city in matter related to city attorney's prior representation of private company
City and County of San Francisco v. Cobra Solutions, Inc. (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

district attorney
 -recusal of entire office
 -not required where screening measures in place and where witness/victim was former non-attorney employee in separate branch of DA's office
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

hardship to client
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 899, 903 [175 Cal.Rptr. 575]

not automatic
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
Rhaburn v. Superior Court (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]
Goldberg v. Warner/Chappell Music, Inc. (2005) 125 Cal.App.4th 752 [23 Cal.Rptr.3d 116]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]

not required, when attorney representing party took job in city attorney's office which was adverse to the attorney's former client and where screening measures were timely and effective

City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]

not required, where firm-switching attorney's relationship with client at former firm was peripheral or attenuated and documents relating to case that attorney accessed contained no confidential information

Ochoa v. Fordel, Inc. (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

where attorney at law firm covers depositions for independent counsel

Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]

where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

When attorney acts as witness

Comden v. Superior Court (1978) 20 Cal.3d 906, 914 fn. 4 [145 Cal.Rptr. 9, 576 P.2d 971]

Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]

Lopez v. Lopez (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

Doe v. Yim (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613] consent of client

Lopez v. Lopez (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

When misconduct or status has a continuing effect on judicial proceedings

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 607 [168 Cal.Rptr. 196]

DISTRICT/MUNICIPAL ATTORNEY

Misconduct by [See Prosecutorial misconduct.]

DIVISION OF FEES [See Fee. Lay intermediaries. Partnership.] Rules 2-102(A), 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

Rules 1-600, 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

LA 503 (2000)

Agreement to divide statutory awarded of attorney's fees between attorney and client

LA 523 (2009)

Attorney as partner or employee of two law firms

LA 511 (2003)

Attorneys' oral agreement to form joint venture to share legal fees held enforceable notwithstanding argument that such arrangement may have violated rules of professional conduct requiring clients' consent to share fees and waiver of conflict of interest

Jorgensen v. Cassidy (9th Cir. 2003) 320 F.3d 906

Between attorneys

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565

Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]

Breckler v. Thaler (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]

Altschul v. Sayble (1978) 83 Cal.App.3d 153, 159-164 [147 Cal.Rptr. 716]

Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]

Turner v. Donovan (1935) 3 Cal.App.2d 485, 488

CAL 1994-138

LA 385 (1980), LA 204 (1953), LA(l) 1965-5

SF 1980-1

2-200 requirement

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

association of outside counsel not a basis for exemption from 2-200 requirements

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

attorney fee division agreement was unenforceable based on ethical violation of failure to disclose lack of professional liability insurance

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

between class counsel

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

between franchisee law firms

LA 423 (1983)

between law firm and outside lawyers or providers of outsourced legal services

CAL 2004-165, CAL 1994-138

LA 518 (2006), LA 473 (1993)

between subleasing attorneys and landlord-attorney

LA 486 (1995)

bonus to an "of counsel" attorney

LA 470 (1992)

DIVISION OF FEES

contingent referral fee

-duty of successor attorney to pay matures upon occurrence of contingency

Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

contract to divide

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

Kallen v. Delug (1984) 157 Cal.App.3d 940, 951

-attorney may not prevent law firm from obtaining client consent in order to render contract non-existent

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

-attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

-failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

--attorney precluded from recovering from client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

--failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

-terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

court appearances

[CAL](#) 2004-165

SD 1974-2

enforceable despite difference between agreement and actual division of labor

Breckler v. Thaler (1978) 87 Cal.App.3d 189 [151 Cal.Rptr. 50]

failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

-attorney precluded from recovering from client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

-failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

failure to comply with [rule](#) 2-200 violated policy consideration and an oral agreement is unenforceable

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

foreign

LA 35 (1927)

former partner associated on a particular case

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

if illegal, is void

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

Kallen v. Delug (1984) 157 Cal.App.3d 940, 951 [203 Cal.Rptr. 879]

independent contract attorney

LA 503 (2000)

merits of a declaratory relief action must be resolved in the trial court's discretion

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

minor's compromise

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

partner

-former

LA(I) 1979-1

-interstate partnership

LA 385 (1980), LA 325 (1972)

partner leaves firm

[CAL](#) 2020-201, [CAL](#) 1985-86

-allocation of fees for unfinished cases taken by departing attorney

Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

partnership dissolution

[CAL](#) 2020-201, [CAL](#) 1985-86

-allocation of income from unfinished business

Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]

Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]

--dissolved law firm had no interest in the fees or profits associated with unfinished hourly fee matters

Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]

-post-dissolution profits from unfinished partnership business

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

-right to share in proceeds from future business of new partnership

Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]

referral of legal business

LA 385 (1980), LA 232 (1956), LA(I) 1965-12

SD 1992-1, SD 1984-6

-fee-splitting agreement is enforceable even if referring attorney had improper fee splitting agreement with another, non-attorney; unclean hands doctrine does not apply

Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

-foreign lawyer

LA 35 (1927)

-suspended lawyer
LA(I) 1937-1

shareholder leaves firm

-has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

with dead lawyer's widowed spouse and estate
Rule 3-102(a)(1), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
Little v. Caldwell (1894) 101 Cal. 553, 561 [114 P. 361]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [36 P.2d 107]
CAL 1975-34

with foreign attorney
LA 426 (1984)

with former employer for work done after termination
Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
SD 1976-13

with lawyer who is not partner, associate, or shareholder of the law firm
CAL 1994-138, LA 473 (1993), LA 470 (1992)

with lay entity

- insurance company
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
- lawyer referral service
SD 1978-5
- non-profit organization
SF 1973-27
- to attorney for percentage of contingency fee
SF 1981-1

with out-of-state lawyer
LA 518 (2006), LA 385 (1980), LA 325 (1972), LA 166 (1947), LA 99 (1936), LA(I) 1969-3

Bonus

- to lay employee
LA 457

Class action

- attorney may not prevent class consent to fee-splitting agreement pursuant to rule 2-200
Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
- attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
- dispute among class counsel
Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

Definition of term "associate" for purposes of rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
LA 511 (2003)

sharing in fees as partner or employee of two law firms
LA 511 (2003)

Definition of term "partner" and "partnership" for purposes of rule 2-200
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Disclosure to client
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Hawkins v. State Bar (1979) 23 Cal.3d 622, 628-629 [155 Cal.Rptr. 234, 591 P.2d 524]
Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]
Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]
Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
CAL 1994-138
SD 1987-2

failure to obtain client's written consent in compliance with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
-attorney precluded from recovering from client
Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
rule 2-200 requires that client consent be obtained prior to a division of fees, but does not require that such consent be obtained prior to lawyers entering into a fee-splitting arrangement or the commencement of work on the client's matter
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of rule 2-200
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Disclosure to court
attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement
Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

Non-lawyers
collection agencies
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]

Outsourcing legal services
LA 518 (2006)

Paralegal fees under 42 USC 1997(e), 42 USC 1988, and 18 USC 3006A are subject to the same cap as attorney fees under Prison Litigation Reform Act
Perez v. Cate (9th Cir. 2011) 632 F.3d 553

Partnership dissolution
CAL 2020-201, CAL 1985-86
division of post-dissolution profits from unfinished partnership business
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

DIVISION OF FEES

Quantum meruit

discharged attorney attempts to enforce contingent fee contract made with substituted counsel

Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

discharged attorney attempts to enforce division of fees agreement with former co-counsel

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

discharged attorney entitled to reasonable value of services

Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

failure to comply with [rule](#) 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

-attorney precluded from recovering from client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

-failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

partnership entitled to

-for unfinished cases taken by departing partner

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

Champion v. Superior Court (1988) 201 Cal.App.3d 777

succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim

SF 1989-1

succeeding attorney's duty to honor withdrawing attorney's lien

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]

successor attorney's obligation to notify prior attorney of the existence of a settlement

[CAL](#) 2008-175

terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

under contingent fee contract, discharged attorney limited to quantum meruit recovery

Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

-attorney precluded from recovering from former co-counsel

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

voluntary withdrawal without cause forfeits recovery

Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Rationale underlying fee splitting prohibition

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

Referral fee

Dietz v. Meisenheimer et al. (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]

Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 593]

[CAL](#) 1994-138, LA 503 (2000), LA 486, LA 467, SD 1984-6 acceptance by attorney of "take it or leave it" referral fee constitutes accord and satisfaction

Thompson v. Williams (1989) 211 Cal.App.3d 566 [259 Cal.Rptr. 518]

acceptance of where firm represents carrier represents a conflict of interest

SD 1987-2

gift or gratuity

LA 503 (2000)

paid to attorney for executor from broker listing estate property

SD 1989-2

paid to attorney from doctor for referral of clients for medical services

LA 443 (1988)

referral of legal business, fee-splitting agreement is enforceable even if referring attorney had improper fee-splitting agreement with another, non-attorney; unclean hands doctrine does not apply

Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

requires written disclosure to client and client's written consent

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

where an outside lawyer functions on a particular matter essentially on the same basis as an employee, the outside lawyer is an associate for purposes of [rule](#) 2-200, and no case referral is involved

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Void under Business and Professions Code section 16600

Muggill v. Reuben H. Donnelley Corp. (1965) 62 Cal.2d 239

Frame v. Merrill, Lynch, Pierce, Fenner & Smith, Inc. (1971) 20 Cal.App.3d 668

With franchisor

LA 423 (1983)

With lay entity

barter organization

[CAL](#) 1981-60, [CAL](#) 1977-44

bona fide legal services program or activity

Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)

business manager of client

LA 431 (1984)

collection agency

LA 522 (2009), LA 36 (1927)

consulting firm

LA 194 (1952)

consumer organization which arranged for employment

SF 1973-27

- dead lawyer's estate
Estate of Cartwright v. Commissioner of Internal Revenue
 (9th Cir. 1999) 183 F.3d 1034
 LA 361 (1976)
 SD 1969-4, SD 1968-5
- doctor
 LA 443 (1988)
- employment agency
[CAL](#) 1992-126, LA 359 (1976)
- entity that helps persons get government loans
 LA(I) 1976-5
- financial management company
 LA 372 (1978)
- franchise group
 LA 423 (1983)
- group legal services organization
 Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- independent contractor
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- insurance company
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
[CAL](#) 1987-91
- investment/portfolio manager
[CAL](#) 1999-154
- lawyer
 -who is not a partner, associate or shareholder
[CAL](#) 1994-138, LA 473 (1993)
- lawyer referral service
 Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-600(B), Rules of Professional Conduct (operative as of May 27, 1989)
 Sections 8.1-8.2, State Bar Minimum Standards for a Lawyer Referral Service
- lay entity's for referral of business
 LA 96 (1936), LA(I) 1965-7, SD 2021-1
- lender to attorney of percentage of settlement
 SF 1981-1
- living trust marketers
[CAL](#) 1997-148
- management company
 LA 488 (1996)
- marketing programs
 SD 2019-2
- medical liaison
[CAL](#) 1995-143
- medical-legal consulting service
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
- membership organization
 LA 401 (1982)
- networking group
 SD 2021-1
- non-profit referring organization
 SF 1976-2, SF 1973-27
- outsourced legal services
 LA 518 (2006)
- prepaid legal services organization
 Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- property management firm
 LA 461 (1990)
- publishing company employees
 LA 446 (1987)
- spouse in marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
- voluntary legal services organization
 Rule 2-102(A), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-600(A), Rules of Professional Conduct (operative as of May 27, 1989)
- With non-lawyers
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
Kitsis v. State Bar (1979) 23 Cal.3d 857 [153 Cal.Rptr. 836, 592 P.2d 323]
In re Arnoff (1978) 22 Cal.3d 740, 745 [150 Cal.Rptr. 479, 586 P.2d 960]
Sawyer v. State Bar (1934) 220 Cal. 702 [32 P.2d 369]
McIntosh v. Mills (2004) 121 Cal.App.4th 333 [17 Cal.Rptr.3d 66]
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
In the Matter of Jones (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 411
[CAL](#) 1992-126
 LA 510 (2003), LA(I) 1972-19
- assistant
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675]
- attorney, not licensed at time services performed
 -may not be entitled to legal fees
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
- bonuses to lay employee
 LA 457
- business associate
Alpers v. Hunt (1890) 86 Cal. 78, 87 [24 P. 846]
- client
 LA 523 (2009), LA 461 (1990)
 -difference between original contingency fee and larger court award of fees
 LA 447 (1987)
 -refund of an overpayment
 LA 515 (2005)
- client assistant
 LA 437 (1985)
- collection agencies
 LA 522 (2009)
- corporate employer
 LA 510 (2003)
- dead lawyer's widowed spouse or estate
[Rule](#) 1-320(A)(1), Rules of Professional Conduct (operative effective May 27, 1989)
Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
[CAL](#) 1975-34, LA 361 (1976), LA 162 (1947), LA(I) 1974-15, SD 1968-5
- debt collection matter solicited in person by non-lawyer
 LA 96 (1936)
- disbarred attorney
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
- doctor
 LA 443
- employee
 LA 222 (1954), LA 190 (1952)
- employer
 LA 510 (2003)

DIVORCE

employment agency
[CAL](#) 1992-126
 expert witnesses provided by consulting service
[CAL](#) 1984-79
 fee rebate to client
 LA 523 (2009), LA 447 (1987)
 fee sharing agreement unenforceable under doctrine of
 illegality of contract
[McIntosh v. Mills](#) (2004) 121 Cal.App.4th 333 [17
 Cal.Rptr.3d 66]
 financial planning company
 LA 510 (2003)
 heir hunter
[Utz v. State Bar](#) (1942) 21 Cal.2d 100, 107
 independent contractor
[In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State
 Bar Ct. Rptr. 615
 insurance adjuster
[Cain v. Burns](#) (1955) 131 Cal.App.2d 439, 441 [280 P.2d
 888]
 investigator
 -employed by attorney
 -based upon contingent of recovery of unsatisfied
 judgment proper unless division of fees
 LA 89 (1936)
 investment/portfolio manager
[CAL](#) 1999-154
 lawyer referral service
[Hildebrand v. State Bar](#) (1950) 36 Cal.2d 504, 512 [255
 P.2d 508]
[Emmons, Williams, Mires & Leech v. State Bar](#) (1970) 6
 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]
 SD 2019-2
 living trust marketer
[CAL](#) 1997-148
 management company
 LA 488 (1996)
 medical liaison
[CAL](#) 1995-143
 medical-legal consulting services
[Oieda v. Sharp Cabrillo Hospital](#) (1992) 8 Cal.App.4th 1
[CAL](#) 1984-79
 organized lender
 SF 1981-1
 outsourced legal services
 LA 518 (2006)
 paralegal
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State
 Bar Ct. Rptr. 315
 LA 391, LA 457
 -Prison Litigation Reform Act does not set a separate
 benchmark rate for paralegal fees
[Perez v. Cate](#) (9th Cir. 2011) 632 F.3d 553
 private investigator
[Lyons v. Swope](#) (1957) 154 Cal.App.2d 598, 600 [317 P.2d
 121]
 professionals, other
 -participating in service exchange
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(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 re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr.
 920

-with charges pending
[Brown v. Grimes](#) (2011) 192 Cal.App.4th 265 [120
 Cal.Rptr.3d 893]
 service exchange
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(I) 1965-18
 spouse in marital dissolution
[In re the Marriage of Foley](#) (2010) 189 Cal.App.4th 521
 [117 Cal.Rptr.3d 162]
 tax consultant
[Crawford v. State Bar](#) (1960) 54 Cal.2d 659, 665 [7
 Cal.Rptr. 746]
 tax specialist
 -employed by attorney
 --to assist clients
 LA 86 (1935)
DIVORCE [See Alimony. Collusion. Confidences of the client.
 Conflict of interest, divorce, multiple representation. Fees.]
 Award of attorney's fees
 tied to division of community property
[In re Marriage of McNeill](#) (1984) 160 Cal.App.3d 548, 559-
 560 [206 Cal.Rptr. 641]
 when other spouse is able to pay
[In re Marriage of Kerry](#) (1984) 158 Cal.App.3d 456, 464
 Communication of confidences
 LA 417 (1983)
 Completion and filing of selected forms by divorce center
 SD 1983-12
 Contingent fee for [See Contingent fee, divorce.]
[CAL](#) 1983-72, LA 188 (1952)
 Counsel for one party holding trust fund executes against other's
 share for back child support
 LA(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(l) 1969-8

DRUG ABUSE [See Alcohol abuse.]

DUAL PROFESSIONS [See Advertising. Conflict of interest. Law office. Practice of law.]

DUTIES OF ATTORNEY [See Candor. Professional liability. Withdrawal from employment.]

Business and Professions Code sections 6068, 6077, 6103
Rule 3-101(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
CAL 2019-198, CAL 1983-71

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]
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. (1990) 50 Cal.3d 205 [786 P.2d 365]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]
Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
CAL 2013-189
 -acceptance of ministerial function invokes a duty
Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
 -attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]

Adverse pecuniary interest
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Advise adversary of campaign contribution to presiding judge in case
 LA 387 (1981)

Advise client of disability of employer attorney
 LA 348 (1975)

Advise client of partner and firm's malpractice
 LA 383 (1979)

Advise client of prior attorney's malpractice
 LA 390 (1981)

Advise client of reasonably apparent legal problems outside the scope of representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
 LA 502 (1999)
 attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1

Advise client of settlement and liability exposure
Garris v. Severson, Merson, Berke & Melchior (1988) 205 Cal.App.3d 301
 SD 2013-1

Advise client of significant developments
 Business and Professions Code section 6068(m)

DUTIES OF ATTORNEY

- [Rule](#) 3-500, Rules of Professional Conduct
[In the Matter of Edward Shkolnikov](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852
[CAL](#) 2020-203
- Advise court of material fact
[Crayton v. Superior Court](#) (1985) 165 Cal.App.3d 443, 450-451 [211 Cal.Rptr. 605]
OC 95-001
- Advise court of violation of court order by third party
LA 394 (1982)
- Advise court to correct known misrepresentation
[*Datig v. Dove Books, Inc.](#) (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
by expert witness
SD 2023-1
- Agent
no fiduciary duty
[Beck v. Wecht](#) (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
[Saunders v. Weissburg & Aronson](#) (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as mod. (August 9, 1999 and September 8, 1999)
[Pollack v. Lytle](#) (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
- Allocation of authority
lawyer who disregards specific instructions from his or her client to file notice of appeal by failing to file in timely appeal acts in manner that is professionally unreasonable
[In re A.R.](#) (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
- Appeal
counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing
[Roe v. Flores-Ortega](#) (2000) 528 U.S. 470 [120 S.Ct. 1029]
[In re A.R.](#) (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]
defendant expressly requested an appeal and counsel's performance was deficient by disregarding the defendant's request despite an appeal waiver
[Garza v. Idaho](#) (2019) ___ U.S. ___ [139 S.Ct. 738]
[United States v. Fabian-Baltazar](#) (9th Cir. 2019) 931 F.3d 1216
indigent defendant constitutionally entitled to counsel's best argument for an appeal before court rules on withdrawal
[United States v. Griffy](#) (9th Cir. 1990) 895 F.2d 561
- Artifice
never seek to mislead judge or judicial officer with Business and Professions Code section 6068(d)
[Rule](#) 5-200(B), Rules of Professional Conduct
- Associate's duties runs to client
LA 383 (1979)
Attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement
[Lysick v. Walcom](#) (1968) 258 Cal.App.2d 136, 156 [65 Cal.Rptr. 406]
- Attorney's liability for fraud extends to non-clients
[Herterich v. Peltner](#) (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
[Shafer v. Berger, Kahn et al.](#) (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
attorney's signature block on contract stating approval as to form and content not actionable misrepresentation
[Monster Energy Company v. Schechter](#) (2018) 26 Cal.App.5th 54 [236 Cal.Rptr.3d 669]
[Freedman v. Brutzkus](#) (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
- Avoid involving client in murky areas of law when alternatives are available
[Horne v. Peckham](#) (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]
- Candor
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
- dishonesty to court
[In re Aguilar and Kent](#) (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
[Perry v. Kia Motors America, Inc.](#) (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[In the Matter of Chestnut](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
-while attorney served on civil jury
[In the Matter of Fahy](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- distortions of record
[Amstar Corp. v. Envirotech Corp.](#) (C.A. Fed 1984) 730 F.2d 1476
- electronic data, concealing in violation of law
SD 2012-1
- no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
LA 502 (1999)
- quotations containing deletions
[Amstar Corp. v. Envirotech Corp.](#) (C.A. Fed. 1984) 730 F.2d 1476
- sanctioned for false statements to the court and concealment of facts regarding actions of opposing counsel
[Levine v. Berschneider](#) (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]
- withdrawal from representation of a minor child
LA 504 (2000)
- Care
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
[Janik v. Rudy, Exelrod & Zieff et al.](#) (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
specially appearing attorney owes a duty of care to the litigant
[Streit v. Covington & Crowe](#) (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Class action
conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
[Apple Computer, Inc. v. Superior Court](#) (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
[Janik v. Rudy, Exelrod & Zieff et al.](#) (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
[Barboza v. West Coast Digital GSM Inc.](#) (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
- Client
diminished capacity
[People v. Bolden](#) (1979) 99 Cal.App.3d 375 [160 Cal.Rptr. 268]
[CAL](#) 2021-207
prospective clients
[Syre v. Douglas](#) (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]
[CAL](#) 2021-205
- Commence remedial action
[*Datig v. Dove Books, Inc.](#) (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
[CAL](#) 1983-74
expert witness testified falsely at deposition
SD 2023-1

Communicate with clients

Business and Professions Code section 6068(m)

[Rule](#) 3-500, Rules of Professional Conduct

-failure to disclose to client that another attorney would represent her at a creditors' meeting and to obtain client's prior consent

[Price v. Lehtinen](#) (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

[Foley v. Biter](#) (9th Cir. 2015) 793 F.3d 998

[Lai v. State of California](#) (9th Cir. 2010) 610 F.3d 518

[Summerlin v. Schriro](#) (9th Cir. 2005) 427 F.3d 623

[U.S. v. 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 re Gruanu](#) (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

[In the Matter of Lucero](#) (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101

[Wolff v. State Bar](#) (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

[In the Matter of Greenwood](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831

[In the Matter of Hindin](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

[In the Matter of Sullivan, II](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

[In the Matter of Johnston](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 585

[In the Matter of Nunez](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

[In the Matter of Ward](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

[In the Matter of Collins](#) (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

[In the Matter of Tindall](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

[In the Matter of Taylor](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

[In the Matter of Respondent C](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 439

[CAL](#) 2014-190, [CAL](#) 2011-182, [CAL](#) 2008-175, [CAL](#) 2003-163 OC 2011-01, SF 2011-1

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

basis for calculating fees

OC 99-001

client/plaintiff overpaid by defendant under settlement agreement

LA 520 (2007)

counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing

[Garza v. Idaho](#) (2019) ___ U.S. ___ [139 S.Ct. 738]

[Roe v. Flores-Ortega](#) (2000) 528 U.S. 470 [120 S.Ct. 1029]

[United States v. Fabian-Baltazar](#) (9th Cir. 2019) 931 F.3d 1216

counsel testator regarding the nature and consequences of a gift to disqualified person under Probate Code section 21350

[Winans v. Timar](#) (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

digitally stored document preservation obligations, litigation hold

SD 2012-1

discovery sanctions against the attorney and client may be a significant development which should be communicated to the client

[CAL](#) 1997-151

duty to preserve client confidences and trust in attorney

[CAL](#) 2020-203

failed to respond to client's status inquiries

[In the Matter of Gonzales](#) (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632

failure to advise or inform client whether to accept plea bargain

[Missouri v. Frye](#) (2012) 566 U.S. 133 [132 S.Ct. 1399]

failure to communicate due to assigned associates inability to speak Spanish

[In the Matter of Whitehead](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

failure to communicate for two and a half years does not reasonably mean that client should have known that attorney had withdrawn or abandoned the case for purposes of tolling the statute of limitations on filing a malpractice action

[Gonzalez v. Kalu](#) (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]

failure to communicate with board of corporation

[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

gross negligence in failing to communicate may be deemed abandonment

[Mackey v. Hoffman](#) (9th Cir. 2012) 682 F.3d 1247

[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense

SD 2004-1

misleading client deliberately and depriving client of opportunity to preserve rights

[Community Dental Services v. Tani](#) (2002) 282 F.3d 1164

no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson

[Desert Outdoor Advertising v. Superior Court](#) (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]

no duty, as an element of malpractice action, to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter

[First Interstate Bank of Arizona v. Murphy, Weir & Butler](#) (9th Cir. 2000) 210 F.3d 983

on any matter which requires client understanding, the attorney must take all reasonable steps to insure that the client comprehends the legal concepts involved and advice given

LA 504 (2000)

potential malpractice claim, facts related to

[CAL](#) 2019-197, [CAL](#) 2009-178

DUTIES OF ATTORNEY

- prohibited from advising a debtor to incur more debt because the debtor is filing for bankruptcy, rather than for a valid purpose. However, attorneys may talk fully and candidly about the incurrence of debt in contemplation of filing a bankruptcy case. The inhibition of frank discussion serves no conceivable purpose within the statutory scheme
Milavetz v. United States (2010) 559 U.S. 229 [130 S.Ct. 1324]
- radio call-in show format is unlikely to support a reasonable expectation of confidentiality, loyalty or competence
CAL 2003-164
- "reasonable status inquiry" for purpose of B&P § 6068(m)
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
- settlement offers
-which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
- use of outside lawyers or outsourcing legal services
CAL 2004-165, CAL 1994-138
LA 518 (2006), OC 2014-1, SD 2007-1
- use of specially appearing attorney
CAL 2004-165
- use of technology via virtual law office (VLO) may require additional reasonable steps to ensure that client comprehended legal concepts and advice given
CAL 2012-184
- Compelled to deal directly with opposing party
Gregory v. Gregory (1949) 92 Cal.App.2d 343, 349 [206 P.2d 1122]
CAL 1987-93, CAL 1984-83
- Competence
Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)
Rule 5.2, Rules of Professional Conduct (operative as of November 1, 2018)
CAL 2021-206, OC 2011-01, SF 2011-1
- conservatorship proceedings
-duty of counsel to perform in an effective and professional manner is implicit in statute (Welf. & Inst. Code § 5365)
providing for appointment of attorney for proposed conservatee
In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]
- incapacitated lawyer
CAL 2021-206
- obligation to anticipate reasonably foreseeable risks
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
- Comply with and be familiar with standards of professional conduct required of members of the State Bar of California, Civil Local Rule 11-4
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
- Comply with State Bar reporting requirements
Business and Professions Code section 6068(j)
California Rule of Court 9.20
Rule 1-311, Rules of Professional Conduct (operative as of May 27, 1989)
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- Condone violation of duties, violates public policy
Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
- Confidences of client
OC 2011-01
- client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
- duty to follow a minor client's instruction not to disclose confidential information
LA 504 (2000)
- duty to maintain inviolate
Business and Professions Code section 6068(e)
LA 519 (2006)
- duty to maintain where client comes to attorney to discuss concerns regarding co-counsel
SF 2011-1
- duty to preserve client confidence and trust in attorney
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
People ex rel. Department of Corporations v. Speedee Oil Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
CAL 2010-179, CAL 1981-58, CAL 1987-93, CAL 1987-92
LA 506 (2001)
- after termination of the attorney-client relationship
LA 519 (2006)
- duty to protect client confidences and secrets
-after death of client
Swidler & Berlin v. United States (1998) 524 U.S. 399
LA 414 (1983)
- after termination of attorney-client relationship
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
LA 463 (1990), LA 452 (1988), LA 400 (1982), LA 386 (1980)
- fundamental ethical obligation not changed by court appointment to represent minor in dependency proceeding
LA 504 (2000)
- Conflict of duties may require withdrawal
CAL 2003-163
- Conform to professional standards of attorney in whatever capacity
Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]
Crawford v. State Bar (1960) 54 Cal.2d 659, 668 [7 Cal.Rptr. 746, 355 P.2d 490]
Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]
Raley v. Superior Court (1983) 149 Cal.App.3d 1042 [197 Cal.Rptr. 232]
In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965
In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
- California Rules of Professional Conduct do not apply only to lawyers who are acting in their roles as advocates for others
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- conflicts of interest may arise where an attorney assumes a role other than as an attorney adverse to an existing client
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
- rendering legal and non-legal services to a single client
Kelly v. State Bar (1991) 53 Cal.3d 509
Layton v. State Bar (1990) 50 Cal.3d 889
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
In the Matter of Priamos (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824
CAL 1999-154
- Constitution, support of United States and California
Business and Professions Code section 6068(a)

LA 527 (2015)
 -attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1
 -no discipline for a negligent mistake made in good faith
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
 Consult governing legal authorities and make a reasonable determination of the amount attorney is entitled to receive
[CAL](#) 2009-177
 Control communications of employees under attorney's letterhead and signature
Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
 Cooperate in disciplinary proceeding
 Business and Professions Code section 6068(i)
 Corrupt motive of passion or interest
 not to encourage action or proceeding from
 Business and Professions Code section 6068(g)
[Rule](#) 3-200(A), Rules of Professional Conduct
 Costs
 no duty to advance for pro bono client
 LA 379 (1979)
 Counsel or maintain such actions, proceedings, or defenses only as appear legal or just
 Business and Professions Code section 6068(c)
Canatella v. California (9th Cir. 2002) 304 F.3d 843
Sorensen v. State Bar (1991) 52 Cal.3d 1036
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112
 Courts of justice
 maintain respect for
 Business and Professions Code section 6068(b)
 respectfully yield to rulings of court, whether right or wrong
In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
Dominquez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [247 Cal.Rptr. 599]
 Deal honestly and fairly with adverse party and counsel
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[CAL](#) 2013-189
 Defend client
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
 Defense counsel
People v. Fatone (1985) 165 Cal.App.3d 164 [211 Cal.Rptr. 228]
In re Spears (1984) 157 Cal.App.3d 1203, 1210 [204 Cal.Rptr. 333]
People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]
 Defenseless, cause of
 duty not to reject for personal considerations
 Business and Professions Code section 6068(h)
 report child abuse
 Penal Code section 11165

Dependency proceeding
 factors determining whether disqualification of appointed counsel and entire public law office is required in substantially related successive representations
In re Charlissee C. (2008) 45 Cal.4th 145 [84 Cal.Rptr.3d 597]
 representation of a minor client
 LA 504 (2000)
 Depositions, representing client at
 instructions not to answer sanctionable
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]
 reconciling potentially divergent duties
 LA 497 (1999)
 Disclose
[CAL](#) 1969-19
 SD 1983-8
 altered evidence to opponent
 SD 1983-3
 death of client to opposing party
 LA 300 (1967)
 identity of informant to defendant
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 365-366 [194 Cal.Rptr. 152, 667 P.2d 1165]
 legal authority in the controlling jurisdiction which is adverse to client
Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
 violation of court order by third party
 LA 394 (1982)
 Dispute
 conflict of interest not created by
[CAL](#) 2009-178
 District attorney
In re Martin (1983) 150 Cal.App.3d 148, 169 [197 Cal.Rptr. 655]
 Document review, use and understanding of technology assisted review (TAR)
 SD 2018-3
 Duty to inform of a known misrepresentation
 by expert witness
 SD 2023-1
 Duty to preserve client confidence/trust in attorney
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[CAL](#) 2016-195, [CAL](#) 1987-93, [CAL](#) 1987-92
 OC 2012-1
 Duty to report impropriety of another attorney
 Business and Professions Code section 6100 et seq.
 LA 440 (1986)
 SD 1992-2, SF 1977-1
 Duty to supervise
 incapacitated lawyer
[CAL](#) 2021-206
 non-attorney employees
 -performed all legal services and attorney was not involved in any case unless the staff consulted him
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
 -permitted investigator to obtain search warrants in violation of court order
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
 Employ means consistent with truth
 Business and Professions Code section 6068(d)

DUTIES OF ATTORNEY

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

Rule 5-200, Rules of Professional Conduct

In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Employee duties to employer

Labor Code section 2650

Estate executor and beneficiary

Estate of Efron (1981) 117 Cal.App.3d 915 [173 Cal.Rptr. 93]

Exercise independent professional judgment in best interest of clients

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)

LA 383 (1979)

outsourcing legal services

LA 518 (2006)

Failure to appear in numerous matters

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

Failure to communicate status of case to client

In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

Failure to communicate with client severs principal-agent relationship

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Failure to communicate, to preserve client's ability to appeal, and to withdraw from the case constitutes abandonment

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Failure of counsel to investigate and file a federal tort claim imputed to client

Greene v. State of California (1990) 222 Cal.App.3d 117 [272 Cal.Rptr. 52]

Failure to disclose expert witness notes

People v. Lamb (2006) 136 Cal.App.4th 575 [40 Cal.Rptr.3d 609]

Failure to perform duties

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 Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

attorney neither pursued client's action nor took active steps to withdraw

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

pecially 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

expert witness testified falsely at deposition

SD 2023-1

False statement of fact or law

Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]

expert witness testified falsely at deposition

SD 2023-1

never seek to mislead judge or judicial officer with

Business and Professions Code section 6068(d)

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

Rule 5-200, Rules of Professional Conduct

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Fidelity to client

80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)

Anderson v. Eaton (1930) 211 Cal. 113

B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]

CAL 1987-93, CAL 1981-83

Fidelity to non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]

Fiduciary

Read v. State Bar (1991) 53 Cal.3d 394, modified at 53 Cal.3d 1009

Hartford v. State Bar (1990) 50 Cal.3d 1139

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 364]

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]

Ball v. Posey (1986) 176 Cal.App.3d 1209, 1214 [222 Cal.Rptr. 746]

Krusesky v. Baugh (1982) 138 Cal.App.3d 562, 567 [188 Cal.Rptr. 57]

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. 196

actions based on breach of duties owed to client are not SLAPP suits

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

adverse party

Sternlieb v. State Bar (1990) 52 Cal.3d 317

Guzzetta v. State Bar (1987) 43 Cal.3d 962 [239 Cal.Rptr. 675]

Crooks v. State Bar (1970) 3 Cal.3d 346

Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

-attorney seeks to become party adverse to former client in the same matter in which he had represented that client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

adverse party or non-client

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

-attorney breached duty as escrow holder

Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]

-disbursement of assets in dissolution without consent of parties

Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

attorney acting as director and as attorney for organization

OC 2011-02

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter was a violation of the confidential relationship between attorney and client

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

breach of duty to a former client

Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

fiduciary duties owed to former client even after termination of the relationship

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

Zador v. Kwan (1995) 31 Cal.App.4th 1285, 1293 [37 Cal.Rptr.2d 754]

legal obligation to give notice of impending default in plaintiff's suit

Bellm v. Bellia (1984) 150 Cal.App.3d 1036 [198 Cal.Rptr. 389]

no duty to co-counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Saunders v. Weissburg & Aronson (1999) 74 Cal.App.4th 869 [87 Cal.Rptr.2d 405], as modified (August 9, 1999 and September 8, 1999)

no duty to co-counsel regarding advice by attorney to terminate co-counsel

SF 2011-1

no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson

Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]

relationship ends when insured sues its insurer

San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095

rule requiring that trust funds disputed by client be maintained in the client trust account until the dispute is resolved also applies to disputes concerning funds held for the benefit of non-clients to whom the attorney owes fiduciary duties

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

In the Matter of Respondent F (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 17

standard for the relationship

Elan Transdermal, Ltd. v. Cygnus Therapeutic Systems (N.D. Cal. 1992) 809 F.Supp. 1383, 1384

*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182

statute of limitations

Stoll v. Superior Court (1992) 9 Cal.App.4th 1362

successor counsel to prior counsel

CAL 2009-177

to client's prior attorney

CAL 2008-175

to non-client joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

LA 412 (1983)

to non-client, where a confidential relationship of trust and dependency was created

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

to third-party non-client

Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]

Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

Files [See Files.]

Fraud

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

false representation that attorney had received escrow funds and was holding in trust

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client

Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]

Gross negligence in failing to communicate may be deemed abandonment

Brooks v. Yates (9th Cir. 2016) 818 F.3d 532

Honesty

deception and concealment amounting to moral turpitude

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

dishonesty to court

In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

-misrepresentation to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

fundamental rule of ethics, common honesty

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846, 768 P.2d 65]

Alkow v. State Bar (1952) 38 Cal.2d 257, 264 [239 P.2d 871]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

stock pledged by third party creates fiduciary duty under Business and Professions Code section 6068(a)

Hartford v. State Bar (1990) 50 Cal.3d 1139

Improve and enhance the rule of law

Capotosto v. Collins (1991) 235 Cal.App.3d 1439

DUTIES OF ATTORNEY

Indigent

duty to represent

Cunningham v. Superior Court (1986) 177 Cal.App.3d 336
[222 Cal.Rptr. 854]
SD 1968-4

private employment contract with

SD 1968-4

Inform court [See Court.]

correct known misrepresentation

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87
Cal.Rptr.2d 719]

non-party witness perjury

CAL 2019-200, SD 1983-8

of client perjury

CAL 1983-74

Insist that trustee receivers keep accurate records

Southwestern Media, Inc. v. Rau (9th Cir. 1983) 708 F.2d
419

Instruct client with respect to communications with opposing party

SD 1983-2

Insured's attorney owes no duty of good faith and fair dealing to insurer

Cooper v. Equity General Insurance (1990) 219 Cal.App.3d
1252 [268 Cal.Rptr. 692]

Insured's attorney owes no duty to insurer to turn over portions of third-party recoveries made on behalf of client

Farmers Insurance Exchange et al. v. Smith (1999) 71
Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information

Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91
Cal.Rptr.2d 453]

Investigate financial affairs of clients

attorney not permitted to be willfully ignorant on how the
attorney's fees were paid when attorney was objectively on
notice that the fees might have been derived from a pool of
frozen assets

Federal Trade Commission v. Network Services Depot,
Inc., et al. (9th Cir. 2010) 617 F.3d 1127

impractical and would unduly interfere with duties to clients

In re Emery (9th Cir. 2003) 317 F.3d 1064 [40
Bankr.Ct.Dec. 259]

Investigate potential securities fraud

Federal Deposit Insurance Corporation v. O'Melveny &
Myers (9th Cir. 1992) 969 F.2d 744

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009)
179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton
LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]

Investigate prior to filing lawsuit

Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835

Williams v. Coombs (1986) 179 Cal.App.3d 626 [224
Cal.Rptr. 865]

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar
Ct. Rptr. 615

Investigate statements made by own client

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d
1084

Paul Oil Company, Inc. v. Federated Mutual Insurance
(1998) 154 F.3d 1049

Butler v. State Bar (1986) 42 Cal.3d 323, 329 [228 Cal.Rptr.
499]

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar
Ct. Rptr. 196

VLO practice may require particular caution in verifying
client's identity and that the type of case can be handled in
a VLO setting

CAL 2012-184

Joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

Judge

never to mislead with artifice or false statement

Business and Professions Code section 6068(d)

In the Matter of Moriarty (Review Dept. 2017) 5 Cal.
State Bar Ct. Rptr. 511

Rule 5-200(B), Rules of Professional Conduct

Judicial office

maintain respect due

Business and Professions Code section 6068(b)

never to mislead with artifice or false statement

Business and Professions Code section 6068(d)

Keep accurate records

Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr.
896, 667 P.2d 700]

Law firm's remote practice

CAL 2023-208

Laws, support of United States and California

Business and Professions Code section 6068(a)

attorneys may give legal advice and assistance limited to
activities permissible under California state law provided the
client is advised of possible liability under federal law and
other potential adverse consequences

LA 527, SF 2015-1

no discipline for a negligent mistake made in good faith

In the Matter of Respondent P (Review Dept. 1993) 2 Cal.
State Bar Ct. Rptr. 622, 631

Litigation privilege

Civil Code section 47(b)

-insurer's attorney improperly transmitting insureds' tax
return to insurer after mistakenly receiving returns from
insureds' accountant constituted communicative conduct
protectable by litigation privilege

Strawn v. Morris, Polich & Purdy, LLP (2019) 30
Cal.App.5th 1087 [242 Cal.Rptr.3d 216]

-not limited to statements made during trial or other
proceedings

Strawn v. Morris, Polich & Purdy, LLP (2019) 30
Cal.App.5th 1087 [242 Cal.Rptr.3d 216]

does not protect attorney's alleged fraudulent statement about
insurance coverage

Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229
Cal.Rptr.3d 744]

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54
[131 Cal.Rptr.2d 777]

Loyalty

*GATX/Airlog Company v. Evergreen International Airlines,
Inc. (1998) 8 F.Supp.2d 1182

People ex rel. Department of Corporations v. Speedee Oil
Change Systems, Inc. (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d
816]

Flatt v. Superior Court (1994) 9 Cal.4th 275, 284 [36
Cal.Rptr.2d 537]

Ontiveros v. Constable (2016) 245 Cal.App.4th 686 [199
Cal.Rptr.3d 836]

Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156
Cal.Rptr.3d 492]

Great Lakes Construction Inc. v. Burman (2010) 186
Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051
[112 Cal.Rptr.3d 642]

United States Fire Insurance v. Sheppard, Mullin, Richter,
Hampton (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64
Cal.Rptr.3d 867]

Fremont Indemnity Co. v. Fremont General Corp. (2006) 143
Cal.App.4th 50 [49 Cal.Rptr.3d 82]

Benasra v. Mitchell, Silberberg, and Knupp (2004) 123
Cal.App.4th 1179 [20 Cal.Rptr.3d 621]

Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20
Cal.Rptr.3d 405]

Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810
[5 Cal.Rptr.3d 442]

Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
Metro-Goldwyn-Mayer v. Tracinda Corp. (1995) 36 Cal.App.4th 1832, 1839
Truck Insurance Exchange v. Fireman's Fund Insurance Co. (1992) 6 Cal.App.4th 1050, 1055 [8 Cal.Rptr.2d 228]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 611
CAL 2011-182, SD 2013-1, OC 2012-1
attorney's duty of loyalty to client assignee for the benefit of creditors cannot be divided or diluted by a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
bonus program for public agency attorneys tied to savings by agency
SD 1997-2
breach may arise even if adversity involves attorney's own personal actions rather than another client's representation
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
client's absence from court, attorney may not answer court's inquiry if harmful to client
SD 2011-1
conflict of interest based on divided loyalties when law firm that represents class also employs an attorney who serves as class representative
Apple Computer, Inc. v. Superior Court (2005) 126 Cal.App.4th 1253 [24 Cal.Rptr.3d 818]
does not extend to a party that claims third-party beneficiary status and whose interests are potentially adverse to those of the client
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
may require attorney's limited response to judge's questions absent an affirmative duty to inform the court
OC 95-001
may supersede an attorney's right to claim work product privilege as to material the attorney knows is relevant to former client's defense
SD 2004-1
no fiduciary duty owed to co-counsel where no collateral duties may interfere with duty of undivided loyalty and total devotion to client's best interest
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
SF 2011-1
owed to one client does not consume that owed the other client
Betts v. Allstate Ins. Co. (1984) 154 Cal.App.3d 688, 716 [201 Cal.Rptr. 528]
personal duty not delegable
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartlan & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr.2d 637]
self-interest of attorney does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
LA 506 (2001)

Maintain
contact with informants
Twigg v. Superior Court (1983) 34 Cal.3d 360, 366-367 [194 Cal.Rptr. 152, 667 P.2d 1165]
inviolate confidences and secrets of client
Business and Professions Code section 6068(e)
-outlasts employment
LA 389 (1981)
Make available client files on withdrawal
CAL 1994-134
SD 1997-1, SD 1984-3, SD 1977-3
SF 1996-1
exception: Penal Code 1054.2 requires court consent before release of address or telephone number of a victim or witness
Penal Code 1054.2
exception: Penal Code 1054.10 requires court consent before release of copies of child pornography
Penal Code 1054.10
Mandatory bar membership
Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174
MCLE (Minimum Continuing Legal Education)
Warden v. State Bar (1999) 21 Cal.4th 628
Greenberg v. State Bar of California (2000) 78 Cal.App.4th 39 [92 Cal.Rptr.2d 493]
In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330
superior court research attorneys are exempt from mandatory continuing education
Obbard v. State Bar of California (2020) 48 Cal.App.5th 345 [262 Cal.Rptr.3d 16]
Mediator
attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
CAL 2020-202, LA 527, SF 2015-1
Meritorious claims and contentions
Roche v. Hyde (2020) 51 Cal.App.5th 757 [265 Cal.Rptr.3d 301]
In the Matter of Fisher (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999
Misappropriation of funds
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
Misleading judge or judicial officer
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
court responsible for ascertaining attorney's role in preparation and presentation of sham evidence
Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
duty not to mislead by an artifice or false statement of fact or law
Rule 5-200(B), Rules of Professional Conduct
Business and Professions Code section 6068(d)
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
OC 95-001

DUTIES OF ATTORNEY

- duty to report possible violation of court order
LA 394 (1982)
- while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- No constitutional right to every defense
counsel need not raise every non-frivolous claim
Jones v. Barnes (1983) 463 U.S. 745 [103 S.Ct. 3308, 77 L.Ed.2d 987]
- No duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Not required to make futile objections
People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]
- Not to encourage actions brought from a corrupt motive of passion or interest
Rule 3-200(A), Rules of Professional Conduct
Sorensen v. State Bar (1991) 52 Cal.3d 1036
- Obey court orders
Business and Professions Code section 6103
Barnum v. State Bar (1990) 52 Cal.3d 104
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41
CAL 2015-192
- disregard of order by a workers' compensation judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
- filing quiet title action in spite of injunction not to do so
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
- law firm violated injunction by depositing client's check into client trust account
Commodity Futures Trading Commission v. Co. Petro Mktg. (9th Cir. 1983) 700 F.2d 1269, 1284
- lawyer failed to serve answer as ordered by court
Community Dental Services v. Tani (2002) 282 F.3d 1164
- monetary sanctions not warranted for premature departure from courthouse and returning late from lunch
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
- no penalty of contempt for advising client-witness not to produce incriminating material based on 5th Amendment
Manness v. Myers (1974) 419 U.S. 449 [95 S.Ct. 584]
- Obey oath
Chefsky v. State Bar (1984) 36 Cal.3d 116, 120-131 [202 Cal.Rptr. 349]
- Of discharged attorney
to sign settlement draft/check to facilitate former client's receipt of settlement proceeds
In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
CAL 2009-177
- Of succeeding attorneys
honor preceding attorneys' liens
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Offensive personality, duty to abstain from
Business and Professions Code section 6068(f)
- Officer of court
Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
Griffis v. Kresge (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
- attorneys, by virtue of their professional position, must undertake certain special duties to avoid conduct that undermines the integrity of the adjudicative process
Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127
- On withdrawal not affected by who terminates the relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
- Opposing counsel
disclose death of client during settlement negotiation
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
LA 300 (1967)
- dishonesty to
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
-attorney's signature block on contract stating approval as to form and content not actionable misrepresentation
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
- making settlement offers which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
- Opposing party
attorney by purchasing judgment against client seeks to become the party adverse to former client in the appeal on the same matter in which he had originally represented that client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
- attorney has duty to avoid knowingly making false statements and misrepresentations to non-clients
Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
- attorney may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- disbursement of funds to client and attorney when funds held for the benefit of client and the adverse party without knowledge or consent of the adverse party and opposing counsel
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
- litigation privilege
-insurer's attorney improperly transmitting insureds' tax return to insurer after mistakenly receiving returns from insureds' accountant constituted communicative conduct protectable by litigation privilege
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]
- is absolute and protects attorney from tort actions based on misleading statements made to opposing side
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
- criminal proceedings
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]
- dissolution proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
- in all torts except malicious prosecution
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
- settlement negotiation
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
- justifies dismissal of defamation action against law firm
Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
 -letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was not only protected by the litigation privilege but also protected under the anti-SLAPP statute
Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]
 -not limited to statements made during trial or other proceedings
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]
 -protects attorney conduct which is communicative in nature
Schneider v. Cerlo (1992) 5 Cal.App.4th 528 [7 Cal.Rptr.2d 323]
 -should not be extended to litigating in the press
GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
 no California authority allows an attorney to disclose attorney-client communications or confidential information in defense of a lawsuit by a third party
 LA 519 (2006)
 no duty of care owed
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
 to advise regarding opposing party's mistake of law affecting settlement
 LA 380 (1979)
 Oppressed, cause of duty not to reject for personal considerations
 Business and Professions Code section 6068(h)
 Outlast employment
 LA 389 (1981)
 does not dissolve when attorney is discharged
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]
 duties to client extend beyond the closing of the client file
In the Matter of Respondent G (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 175
 Owed to third parties [See Professional liability, duty owed to third parties.]
Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]
 attorney for corporation owes no duty to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 attorney owes no duty to beneficiaries to evaluate and ascertain client's testamentary capacity to draft or amend a will
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
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]
 settlement negotiations
 CAL 2015-194

Partner's malpractice
 associate's duty to disclose to client
 LA 383 (1979)
 Partnership dissolution
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
 CAL 2020-201, CAL 2014-190, CAL 1985-86
 fiduciary duty owed by partners of a dissolved partnership to complete the partnership's unfinished business and to act in the highest good faith
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
 Party
 honor of
 -advance no fact prejudicial to
 Business and Professions Code section 6068(f)
 reputation of
 -advance no fact prejudicial to
 Business and Professions Code section 6068(f)
 Pay court reporter fees
 CAL 1979-48
 Perform services for client
Butler v. State Bar (1986) 42 Cal.3d 323
McMorris v. State Bar (1983) 35 Cal.3d 78
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 Personal considerations, not to reject cause of defenseless or oppressed for
 Business and Professions Code section 6068(h)
 LA 445 (1987)
 Power of attorney, on advice of attorney
 Civil Code section 2421(3)(2)
 Preserve confidences and secrets
 Business and Professions Code section 6068(e)
 Privileged communication
 tax returns are privileged from disclosure; is not absolute and will not be upheld under certain conditions
Strawn v. Morris, Polich & Purdy, LLP (2019) 30 Cal.App.5th 1087 [242 Cal.Rptr.3d 216]
 Pro bono client
Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
*Yarbrough v. Superior Court (1983) 150 Cal.App.3d 388, 397
 Proceeding
 encouraging commencement or continuance from corrupt motive of passion or interest
 Business and Professions Code section 6068(g)
 legal or just
 -duty to counsel or maintain only
 Business and Professions Code section 6068(c)
 Professionalism
 LA 339 (1973), LA 272 (1962)
 Prosecutor
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Eubanks (1996) 14 Cal.4th 580 [59 Cal.Rptr.2d 200 927 P.2d 310] (mod. at 14 Cal.4th 1282D)
People v. Conner (1983) 34 Cal.3d 141 [193 Cal.Rptr. 148, 666 P.2d, 5]
People v. Petrisca (2006) 138 Cal.App.4th 189 [41 Cal.Rptr.3d 182]
People v. Manson (1976) 61 Cal.App.3d 102, 164
 duty to seek justice, not merely to convict
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
 Protect a client in every possible way
Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 744
 Public agency attorneys
 participation in bonus program tied to savings by agency
 SD 1997-2

DUTIES OF ATTORNEY

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

Remote work

CAL 2023-208

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 (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 601

Internal Revenue Code section 6050(l)

to the State Bar

-address of attorney

Business and Professions Code section 6002.1

-civil judgment for fraud, misrepresentation and breach of fiduciary duty in a professional capacity

In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

-conviction of attorney

Business and Professions Code section 6068(o)(5)

In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

-imposition of discipline

Business and Professions Code section 6068(o)(6)

-indictment or information

Business and Professions Code section 6068(o)(4)

In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

-judgment against attorney for moral turpitude

Business and Professions Code section 6068(o)(2)

In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

-judicial sanctions

Business and Professions Code section 6068(o)(3)

Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d 1210

Canatella v. California (9th Cir. 2002) 304 F.3d 843

Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d 991

Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102 F.3d 422

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 170

CAL 1997-151

-duty to report runs from the time sanctions ordered regardless of pendency of an appeal

In the Matter of Riordan (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862

-malpractice lawsuits

Business and Professions Code section 6068(o)(1)

Represent client zealously

*People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Pangelina (1984) 153 Cal.App.3d 1

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

CAL 2019-200

attorneys generally must pursue all available legal theories although it is impossible to know in advance whether a potential theory will prevail

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

attorneys obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

should not interfere with attorney's duties under rule 3-200 or B&P § 6068(c)

Canatella v. California (9th Cir. 2002) 304 F.3d 843

zeal must be subordinate to an attorney's paramount obligation to assure orderly administration of justice

Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

Research law

In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003

Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865

Respect courts and judicial officers

Business and Professions Code section 6068(b)

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

Return client files to client

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

CAL 2007-174

SD 1997-1, SD 1984-3, SD 1977-3

SF 1996-1, SF 1984-1

exception: Penal Code 1054.2 requires court consent before release of address or telephone number of a victim or witness

Penal Code 1054.2

exception: Penal Code 1054.10 requires court consent before release of copies of child pornography

Penal Code 1054.10

Return records mistakenly delivered to sender

SD 1987-3

Reveal

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

client perjury in a civil non-jury trial

CAL 1983-74

the fruits of crime in his possession to the prosecutor

CAL 1984-76, LA 466 (1991)

witness perjury

CAL 2019-200

Secrets of client

duty to preserve

Business and Professions Code section 6068(e)

duty to supervise [See Employee.]
 Serve indigent client without compensation
Mowrer v. Superior Court (1984) 156 Cal.App.3d 462, 470
 Settlement
 attempt to effectuate settlement where standards of professional care compel that most reasonable manner of disposing of action is settlement
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 156
 settlement check issued only to client, but delivered to attorney who has a lien
 OC 99-002
 successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
 Special obligation to obey the law
Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171
 Statutory duty to assist indigent
Arnel 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
 Succession planning
CAL 2024-209
 Supervise client trust account
Coppock v. State Bar (1988) 44 Cal.3d 665 [244 Cal.Rptr. 462]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
 LA 488 (1996)
 responsibility to monitor client trust account is nondelegable, notwithstanding even reasonable reliance on partner, associate, or responsible employee
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403
 Supervise employees
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Palomo v. State Bar (1984) 36 Cal.3d 785
Crane v. State Bar (1981) 30 Cal.3d 117, 122
Black v. State Bar (1972) 7 Cal.3d 676, 692
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Sullivan, II (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
CAL 1997-150, CAL 1988-103
 LA 522 (2009), LA 488 (1996)
 OC 94-002
 attorney employees
Bernstein v. State Bar (1990) 50 Cal.3d 221, 231
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
 -pattern of similar constitutional violations by untrained employees was necessary to demonstrate deliberate indifference for purposes of failure to train, where

exculpatory evidence was not produced as requested under Brady
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]
 outside lawyers or providers of outsourced legal services
CAL 2004-165, CAL 1994-138
 LA 518 (2006)
 SD 2007-1
 paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 OC 94-002, CLA 2023-1
 -lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
 remote work
CAL 2023-208
 responsibility for calendaring error falls on attorney regardless of whether the error was made by the attorney or paralegal
Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853
 Support of United States and California Constitution and Laws
 Business and Professions Code section 6068(a)
 -attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
 LA 527, SF 2015-1
 -no discipline for a negligent mistake made in good faith
Silberg v. Anderson (1990) 50 Cal.3d 205
In the Matter of Respondent P (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 622, 631
 Take reasonable measures to determine law at time of action
 no duty to foresee changes in law
Jones v. Stevenson (1983) 149 Cal.App.3d 560, 565
 *Sharpe v. Superior Court (1983) 143 Cal.App.3d 469 [192 Cal.Rptr. 16]
 Third party
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
 duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
 estate planning
 -duty to act with due care as to the interests of the intended beneficiary
Osornio v. Weingarten (2004) 124 Cal.App.4th 304
 -no duty owed to non-client potential beneficiary absent testator's express intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
 no duty to insurer to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
 no duty to third party
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]
 non-fiduciary who is asked for or volunteers information in the course of a business negotiation must be truthful to non-client
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
 not to convert funds
Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

DUTIES OF ATTORNEY

- PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
LA 454
reasonable duty to communicate with a lienholder as to the subject of the fiduciary obligation
In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196
- To adverse party
Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A, mod. 50 Cal.3d 205
Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330
- To clients
*GATX/Airlog Company v. Evergreen International Airlines, Inc. (1998) 8 F.Supp.2d 1182
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
advice attorney to in propria persona litigants
LA 502 (1999)
breach warrants discipline
Alborton v. State Bar (1984) 37 Cal.3d 1, 14-15
class action
-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
-counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
duty owed to client, not to potential beneficiary
Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]
good faith and fiduciary duty owed to clients
Van Sloten v. State Bar (1989) 48 Cal.3d 921 [258 Cal.Rptr. 235, 771 P.3d 1323], mod. 49 Cal.3d 38a
Gassman v. State Bar (1976) 18 Cal.3d 125, 130
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
LA 454
- To client's prior attorney
successor attorney's obligation to notify prior attorney of the existence of a settlement
CAL 2008-175
- To co-clients
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 146 [65 Cal.Rptr. 406]
- To co-counsel
specially appearing attorney undertakes a limited association with the litigant's attorney of record
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
LA 454
- To communicate
McMorris v. State Bar (1983) 35 Cal.3d 78
policy limits to client
LA 350 (1975)
with client
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- CAL 1983-77
-basis for calculating fees
OC 99-001
- To former client's insurer
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
- To honor medical lien when client consents
Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]
- To insured when retained by insurer
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
no duty to turn over portions of third-party recoveries made on behalf of client
Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]
- To judge
mislead about facts relating to actions of opposing counsel
Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]
- To non-clients
Silberg v. Anderson (1990) 50 Cal.3d 205
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
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 may be liable to a non-client if the attorney's actions went beyond his role as legal representative
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
attorney who overstates his client's rights or position violates no independent duty of care to the client's adversary
Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
duty to intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024

estate planning

-attorney has duty to act with due care as to the interests of the intended beneficiary

Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

-attorney has no duty of care to non-client potential beneficiary absent testator's express intent to benefit non-client

Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]

joint venture

Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

limitations on liability do not apply to liability for fraud

-non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable

Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]

no duty to third-party absent an intent to benefit third party

Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

no obligation to indemnify agent when no attorney-client relationship established between client's attorney and client's agency who negotiated a contract concurrently on behalf of their mutual client

Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]

unrepresented party to pre-marital agreement negotiation, duty to client requires attorney to take steps to ensure agreement will be enforceable and the best assurance of enforceability is independent representation for both parties

In re Marriage of Bonds (2000) 24 Cal.4th 1 [99 Cal.Rptr.2d 252]

wife, an attorney, was advised of potential conflict of interest orally and twice in writing, and wife voluntarily entered into the post-nuptial agreement while acting as her own attorney

In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]

To refrain from acquiring pecuniary interest adverse to former client

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

To third parties

estate planning

-attorney has duty to act with due care as to the interests of the intended beneficiary

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Truth, employ means only consistent with

Business and Professions Code section 6068(d)

Rule 5-200, California Rules of Professional Conduct

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

LA 504 (2000), LA 464 (1991)

Truthfulness

advice to client to terminate co-counsel

SF 2011-1

Undivided loyalty to client

Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934, 945 [155 Cal.Rptr. 393]

LA 428 (1984)

Unpaid

settlement negotiations do not require attorney to withdraw

CAL 2009-178

Use such skill and diligence as others in the profession commonly used

Harris v. Smith (1984) 157 Cal.App.3d 100, 103-104

Violations of California Rules of Professional Conduct

SD 1992-2, LA 440 (1986), SF 1977-1

Withdrawal [See Conflict of interest. Substitution. Withdrawal.]

foreseeable prejudice to client's rights

CAL 2014-190

reasonable steps to avoid reasonably foreseeable prejudice to client's rights

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

-attorney's active steps to prejudice client's rights

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

violation of professional responsibility

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

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(1)1973-8

SD 1974-21, SD 1974-16, SD 1969-8, SD 1969-6

ELECTIONS [See Political activity.]

ELECTRONIC SERVICE; ELECTRONIC TRANSMISSION;

ELECTRONIC NOTIFICATION

Defined

Code of Civil Procedure section 1010.6(1)(A)-(C)

ELECTRONIC SURVEILLANCE [See Recording.]

EMBEZZLEMENT [See Client trust fund, misappropriation. Misappropriation. Misconduct.]

EMPLOYEE [See Fee, lay person. Lay employee. Unauthorized Practice of Law.]

Disclosure of client confidences [See Confidences of the client.]

CAL 1979-50

Duty of attorney

to adequately supervise

-attorney is responsible for calendaring error regardless of whether the error was made by the attorney or paralegal

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

-attorney liable for overdrawn bank account

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

-attorney unaware collection procedures already initiated

Vaughn v. State Bar (1972) 6 Cal.3d 847, 857-858 [100 Cal.Rptr. 713, 494 P.2d 1257]

-calendaring paralegal

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

-employees' repeated neglect of client's case

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

-improper correspondence sent by staff

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]

-lapses in office procedure deemed willful

Trousil v. State Bar (1985) 38 Cal.3d 337, 342 [211 Cal.Rptr. 525]

Palomo v. State Bar (1984) 36 Cal.3d 785 [205 Cal.Rptr. 834]

-negligent office management

Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]

In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

EMPLOYEE ASSOCIATION

- regarding client trust account
 - no intent to defraud need be shown
Waysman v. State Bar (1986) 41 Cal.3d 452 [224 Cal.Rptr. 101]

- secretary's negligent management of client trust account
Gassman v. State Bar (1976) 18 Cal.3d 125 [132 Cal.Rptr. 675]

to instruct concerning preserving confidences and secrets of clients

CAL 1979-50

Duty to employer

Labor Code section 2650

Public agency attorney may be compelled, under threat of job discipline, to answer questions about the employee's job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers

Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]

EMPLOYEE ASSOCIATION [See Labor union.]

EMPLOYMENT [See Acceptance of employment. Attorney-client relationship. Confidences of the client. Conflict of interest.]

Of attorney by office secretary

SD 1972-3

EMPLOYMENT AGENCY

CAL 1992-126

EMPLOYMENT WANTED [See Advertising. Collections. Insurance company attorney. Lay intermediaries. Referral of legal business. Solicitation of business. Substitution of counsel.]

Accept employment from

committee of accident victims

LA 165 (1947)

customers of own business

LA 205 (1953), LA(l) 1977-2, LA(l) 1976-9, LA(l) 1976-7

group of property owners

LA 257 (1959)

lay person or entity to serve customers of

LA 327 (1972), LA(l) 1969-4, LA(l) 1963-5

SD 1974-20

-employees of

SD 1972-3

members of client association

LA(l) 1974-14, LA(l) 1947-8

participants in educational activity

CAL 1972-29

party when criticized work of counsel of

LA 313 (1969)

pro bono clients

LA(l) 1975-6

viewers of television program

LA 318 (1970)

Except when selected from list prepared by insurance agent

LA(l) 1964-3

ENVELOPE [See Advertising, Solicitation.]

ESCROW [See Real estate transaction.]

Agent

represents against grantor

LA 266 (1959)

-one party in dispute over escrow

LA(l) 1955-6

returns client's deposit after discovery that client was fraudulently induced into agreement

LA(l) 1957-1

Lawyer employee for escrow company prepares escrow documents for customers of employer

LA 205 (1953)

Sue client for damages while holding client's stock in

LA 266 (1959)

ESTATE [See Conflict of interest, estate. Fee. Will.]

Administrator

beneficiary under will

Probate Code section 21350 et. seq.

own employee for opponent's estate

LA 341 (1973)

Administrator's attorney

buys property for estate

LA 238 (1956)

extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

represents administrator in that capacity and in capacity as heir

CAL 1976-41

LA 237 (1956), LA 193 (1952), LA 144 (1943), LA 72 (1934), LA(l) 1967-6

takes assignment of administrator's interest in estate to secure loan

LA 228 (1955)

Attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Attorney for conservatee owes no duty to beneficiary of conservatee's estate

Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Attorney-client relationship does not extend to beneficiaries

Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]

trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client

Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]

Executor

beneficiary as

LA 219 (1954)

commission for sale of estate property

LA 317 (1970)

employs own lawyer employer as executor's attorney

LA 382 (1979)

in individual capacity against co-executor

LA 72 (1934)

lawyer's secretary as

LA 382 (1979)

represents

-beneficiaries in contest over heirship

LA(l) 1958-2

will contents revealed to after incompetency of client

LA 229 (1955)

Executor's attorney

acts as real estate broker in the sale of estate property

SD 1992-1

attorney-client relationship extends only to the executor not to the beneficiaries

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]

SD 1990-2

commission for sale of estate property

LA 317 (1970), SD 1992-1

fee for doing executor's work

Probate Code sections 10804 and 15687

LA 382 (1979), LA 347 (1975)

fees for services rendered to executor in individual capacity

Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]

offers to prepare claims of creditors of estate for fee

LA(l) 1961-6

own partnership

LA 219 (1954)

referral fee from broker listing estate property

SD 1989-2

represents beneficiaries against reopened estate

LA 269 (1960)

-estate as contestant in probate

LA 193 (1952)

- person in determination of heirship
LA 193 (1952), LA(I) 1965-8
- re-opened estate against
LA 269 (1960)

Independent review required under Probate Code section 21350
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Liability to intended beneficiaries of amended trust resulting from attorney's failure to deliver amendment to trustee prior to death of settlor

Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]

Liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary
Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

Partnership

represents member-executor/trustee
LA 219 (1954)

Personal representative

attorney for heir bills for services covered by statutory fees to be paid from estate
LA(I) 1956-7

Reasonableness of fees in trust administration, inefficient and duplicative not permitted

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

Successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice
Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Successor in interest may be liable for award of attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Trustee

as beneficiary
LA 219 (1954)

attorney-client relationship does not extend to beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]
Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282

-successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

attorney's fees

-denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust

Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]

-trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith

Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

mishandling of estate

Layton v. State Bar (1990) 50 Cal. 889 [789 P.2d 1026]
Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

partnership represents when member is
LA 219 (1954)

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

Will

will depository, Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent

CAL 2007-173

will registry, attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests

CAL 2007-173

ETHICS COMMITTEES

State Bar of California:

Committee on Professional Responsibility and Conduct
State Bar of California
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2107

Los Angeles County:

Professional Responsibility and Ethics Committee
Los Angeles County Bar Association
P. O. Box 55020
Los Angeles, California 90055
Telephone: (213) 627-2727

Orange County:

Professionalism and Ethics Committee
Orange County Bar Association
P.O. Box 6130
Newport Beach, CA 92658
Telephone: (949) 440-6700

San Diego:

Legal Ethics and Unlawful Practice Committee
San Diego County Bar Association
401 W. A. Street, Suite 1100
San Diego, California 92101
Telephone: (619) 231-0781

San Francisco:

Legal Ethics Committee
Bar Association of San Francisco
301 Battery Street
San Francisco, California 94111
Telephone: (415) 982-1600

EVIDENCE

Adverse credibility determination in a disciplinary proceeding
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Affirmative duty to reveal "fruit of crime" evidence to prosecution
United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084 LA 466 (1991)

Attorney-client privilege survives client's death

Swidler & Berlin v. United States (1998) 524 U.S. 399

Attorney-client privilege survives corporate merger

Venture Law Group v. Superior Court (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]

Conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme Court found the evidence of misconduct overwhelming

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Conclusiveness of a final disciplinary order in another jurisdiction unless the misconduct in that jurisdiction would not warrant discipline in California or unless the disciplinary proceeding in that jurisdiction lacked fundamental constitutional protection

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Discovery of critical evidence and improper vouching by federal prosecutor

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

EX PARTE COMMUNICATION WITH JUDGE

Duty to disclose altered evidence to opposing counsel
SD 1983-3

Immaterial that evidence used is embarrassing to opponent
[Rule](#) 5-220, Rules of Professional Conduct
LA 208 (1953)

Inadequate evidence to determine conflict of interest
[Pringle v. La Chappelle](#) (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
[Mylan Laboratories, Inc. v. Soon-Shiong](#) (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

No error in excluding evidence of attorney's willingness to stipulate to reasonable discipline
[In the Matter of Silver](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

Objections must be timely and specific
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

State rule of professional conduct cannot provide an adequate basis for a federal court to suppress evidence that is otherwise admissible
[United States v. Ruehle](#) (9th Cir. 2009) 583 F.3d 600

Substantial evidence in a standard 1.4(c)(ii) proceeding
[In the Matter of Terrones](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Waiver of a constitutional due process and equal protection argument against the application of B&P Code section 6049.1 respondent failed to argue before the hearing department or in his briefs that culpability in a Michigan disciplinary proceeding required proof only by a preponderance of the evidence
[In the Matter of Freydl](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

EX PARTE COMMUNICATION WITH JUDGE [See Judge, Communication with judicial officers]

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
[In re Freeman](#) (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]
[People v. Hundal](#) (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
SD 2013-2
"Judge" defined
[Zaheri Corp. v. New Motor Vehicle Board \(Mitsubishi Motor Sales of America\)](#) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
[CAL](#) 1984-82

Judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
[In the Matter of Jenkins](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Publication of article regarding pending case
LA 451 (1988), LA 343 (1974)

Regarding matter on appeal
[CAL](#) 1984-78

EXECUTOR [See Estate, executor.]

EXPENSES [See Advancement of funds. Costs. Reimbursement of attorney for expenses.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 4-210, Rules of Professional Conduct (operative effective May 27, 1989)
Advance
LA 379 (1979), LA 106 (1936)

Advanced costs by law firm per contingency fee agreement deductible as business expenses
[Boccardo v. Commissioner of Internal Revenue](#) (9th Cir. 1995) 56 F.3d 1016

Assigned counsel's duty with respect to
LA 379 (1979)

Court reporter fees
[CAL](#) 1979-48

Lawyer pays
LA 379 (1979), LA 158 (1945), LA 149 (1944), LA 106 (1936)
SF 1974-4

Of litigation
lawyer advances
LA 106 (1936)
-interest from payment until billing
LA 499 (1999)

Physician's lien
[CAL](#) 1988-101, LA 478 (1994), LA 368, LA 357

FACSIMILE TRANSMISSIONS

Filing via
[Rosenberg v. Superior Court](#) (1994) 25 Cal.App.4th 897

Solicitations via
faxing of unsolicited advertisements prohibited
[Destination Ventures Limited v. Federal Communications Commission](#) (9th Cir. 1995) 46 F.3d 54

FEE ARBITRATION

Business and Professions Code sections 6200-6206
Guidelines and Minimum Standards for the Operation of Mandatory Fee Arbitration Programs

Text is located in:

Deerings Annotated California Codes, Court Rules, and in West's Annotated California Codes, Court Rules, Rules of Procedure for Fee Arbitration and the Enforcement of Awards, vol. 23, pt 3, p. 679

Information about the State Bar Fee Arbitration Program is available from:

State Bar of California
Fee Arbitration Program
180 Howard Street
San Francisco, California 94105
Telephone: (415) 538-2020

Arbitration award becomes binding 30 days after notice of award
[Maynard v. Brandon](#) (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Attorney's dismissal of fee action was an attempt to evade both mandatory fee arbitration award and the arbitral process as a whole

[Corell v. Law Firm of Fox and Fox](#) (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]

Binding agreement

arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding
[Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff](#) (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

Binding clause in retainer agreement

[Schatz v. Allen Matkins Leck Gamble & Mallory LLP](#) (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
[Aguilar v. Lerner](#) (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

[Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson](#) (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Binding contract provision

[Ervin, Cohen & Jessup, LLP v. Kassel](#) (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
[CAL](#) 1981-56

Binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

[Schatz v. Allen Matkins Leck Gamble & Mallory LLP](#) (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]
[Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson](#) (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

Client waiver of arbitration rights

Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Client's fee guarantor entitled to arbitrate fee dispute

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

Correction of arbitration award

Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]

Insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

Notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

OC 99-002

dismissal is not automatic after attorney fails to give client arbitration right notice in fee dispute action

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Public policy

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

Untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

FEES [See Advancement of funds. Arbitration. Attorney's lien. Barter. Commission. Contingent fee. Contract for employment. Division of fees. Divorce, fee. Lien. Minimum fees. Solicitation of business.]

Business and Professions Code sections 6147-6149

Civil Code section 47(b)

did not bar plaintiff's claims because defendant engaged in a course of tortious conduct depriving plaintiff of attorney fees

Mancini & Associates v. Schwetz (2019) 39 Cal.App.5th 656 [252 Cal.Rptr.3d 315]

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

Accounting

failure to provide accounting under 4-100(b)(3)

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

In the Matter of Gonzalez (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632

Actions for recovery of compensation [See] 88 A.L.R.3d 246]

court cannot determine fees at ex parte or summary proceeding

Overell v. Overell (1937) 18 Cal.App.2d 499 [64 P.2d 483]

Additional compensation for unanticipated services

awarded if contract anticipated additional services

McKee v. Lynch (1940) 40 Cal.App.2d 216 [104 P.2d 675]

awarded where attorney employee performs unanticipated services

Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450 [342 P.2d 508]

awarded where contract silent on fees

Brooks v. Van Winkle (1958) 161 Cal.App.2d 734 [327 P.2d 151]

unavailable if attorney failed to notify client of additional services performed

Baldie v. Bank of America (1950) 97 Cal.App.2d 70 [217 P.2d 111]

unavailable where attorney's contract with client is a "bad bargain" on behalf of the attorney

Reynolds v. Sorosis Fruit Co. (1901) 133 Cal. 625 [66 P. 21]

"Additional fees" authorization could not be a contingency fee agreement because of failure to comply with Business and Professions Code section 6147, subdivision (a)

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Advance payment requested from client

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

CAL 1976-38, LA 360 (1976), LA(I) 1966-4, SF 1974-4

Advance payment retainer distinguished from true retainer

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

SF 2023-1

Agreement

acquisition of adverse interest, in general

Fletcher v. Davis (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]

CAL 2006-170

SF 1997-1

agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent and without the imposition of any unconscionable penalty fee

LA 505 (2000)

ambiguity is a question of law

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

arbitration clause

-binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA)

arbitration process is over

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machtinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

-binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

billing practices

CAL 1996-147, OC 99-001

FEES

charging liens
 -contingency fee agreements distinguished from hourly fee agreements
Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]
CAL 2006-170

confidential nature of
 Business and Professions Code section 6149

contract formation is governed by objective manifestations, not subjective intent of parties
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

court informed of
 LA 261 (1959)

divorce
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
 LA 261 (1959), LA 226 (1955)

evaluated at time of making
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
CAL 2006-170

fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding in bankruptcy matter
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

handle probate matter
 -for less than statutory fee
 LA 102 (1936)

hybrid, hourly and contingent
 SF 1999-1

hybrid, reverse contingency
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

illegality in performance did not invalidate the entire agreement because legal performance was also rendered under the agreement
Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]

prepayment required
 LA 360 (1976), LA(l) 1966-4

presumption of undue influence
 -contract between attorney and client giving attorney interest in subject matter of representation
Cooley v. Miller & Lux (1914) 168 Cal. 120 [142 P. 83]
 -fee contract with client after creation of attorney-client relationship – attorney carried burden to demonstrate fairness
Carlson, Collins, Gordon & Bold v. Banducci (1967) 257 Cal.App.2d 212, 227 [64 Cal.Rptr. 915]
 -lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to
 LA 496 (1998)
 -presumption does not attach where fee agreement reached before or at creation of attorney-client relationship
Berk v. Twenty-Nine Palms Ranchos Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
 -presumption of overreaching is rebuttable
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]
 -presumption that contract is without sufficient consideration
Lady v. Worthingham (1943) 57 Cal.App.2d 557, 560 [135 P.2d 205]

remove or revise violative provisions associated with authority/scope, client's files, nonrefundable fees, fees in excess of statutory limits, and withdrawal
 SF 2023-1

statutory clauses required
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]

strictly construed against attorney
Alderman v. Hamilton (1988) 205 Cal.App.3d 1033 [252 Cal.Rptr. 845]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
 -without specific agreement to do a major adjustment, agreement based on fixed hourly rate which provides for possible increase is valid, but only authorizes minor adjustments
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 to divide statutory award of attorney's fees between attorney and client
 LA 523 (2009)

Appeal of dismissal required to obtain appellate ruling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281

Appeal of order denying fees
Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
 on the basis of excusable negligence
Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
 order denying attorney's fees under Civil Code section 2424.12 is not appealable
Sese v. Wells Fargo Bank N.A. (2016) 2 Cal.App.5th 710 [206 Cal.Rptr.3d 715]
 order denying award of attorney fees to plaintiff who successfully opposes an anti-Slapp motion is not immediately appealable
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Appeal renders award not final
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032

Appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]

Appointment of counsel
Amarawansa v. Superior Court (1996) 49 Cal.App.4th 1251 [57 Cal.Rptr.2d 249]
Gilbert v. Superior Court (1985) 169 Cal.App.3d 148 [215 Cal.Rptr. 305]
 additional fees not available when case is not extended or complex
United States v. Diaz (1992) 802 F.Supp. 304
 billing for services rendered prior to appointment
In re Russell John Larson (9th Cir. 1994) 174 B.R. 797

Apportionment between attorneys
Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903
Walsh v. Woods (1982) 133 Cal.App.3d 764 [184 Cal.Rptr. 267]
 SD 1969-4

Apportionment between clients
 LA 424 (1984)

Apportionment of fee award between successful and unsuccessful claims
Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

Arbitration [See Fee Arbitration.]

Business and Professions Code section 6200 et seq.

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]

Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

Corell v. Law Firm of Fox and Fox (2005) 129 Cal.App.4th 531 [28 Cal.Rptr.3d 310]

Glassman v. McNab (2003) 112 Cal.App.4th 1593 [6 Cal.Rptr.3d 293]

Shepard v. Green (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]

Manatt, Phelps, Rothenberg & Tunney v. Lawrence (1984) 151 Cal.App.3d 1165 [199 Cal.Rptr. 246]

arbitration award becomes binding 30 days after notice of award

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]

arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award

Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

binding agreement

-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

clarification of award suggested that attorney's fees were not included

Bennett v. California Custom Coach, Inc. (1991) 234 Cal.App.3d 333

clause in retainer agreement

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

CAL 1981-56

client waived right to arbitration under Mandatory Fee Arbitration Act (MFAA) when he failed to request arbitration within the required 30 days

Levinson Arshonsky & Kurtz LLP v. Kim (2019) 35 Cal.App.5th 896 [247 Cal.Rptr.3d 777]

failure to comply with 6201(a) does not compel court to dismiss action

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

fee guarantor entitled to arbitrate fee dispute

Wager v. Mirzayance (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]

initiation of a State Bar-sponsored fee arbitration proceeding is protected petitioning activity covered by the anti-SLAPP statute

Phillipson & Simon v. Gulsvig (2007) 154 Cal.App.4th 347 [64 Cal.Rptr.3d 504]

insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred on behalf of an insured client

National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp. (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]

notice of client's right to arbitrate a dispute must be given after dispute has arisen

Huang v. Chen (1998) 66 Cal.App.4th 1230 [78 Cal.Rptr.2d 550]

LA 521 (2007), OC 99-002

public policy

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

-arbitration agreement is invalid and unenforceable if it is made as part of a contract that was invalid and unenforceable because it violated public policy

Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

trial court ordered to either assign the two attorneys the same rate of compensation or to articulate a reasonable basis for any difference

Bock et al. v. Baxter (2016) 247 Cal.App.4th 775 [202 Cal.Rptr.3d 323]

trial de novo after award of fees by arbitrator not preserved by client's filing of malpractice action

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041

unlicensed practice of law does not completely invalidate an agreement pursuant to which firm attorneys also engaged in the licensed practice of law, thereby rendering the agreement enforceable

Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]

untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act

Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]

Juodakis v. Wolfrum (1986) 177 Cal.App.3d 587

vacation of arbitration award where arbitrator refused to hear evidence that an issue material to the controversy had previously been resolved and where the arbitrator's refusal substantially prejudiced the party seeking to introduce such evidence

Burlage, et al. v. Superior Court (2009) 178 Cal.App.4th 524 [100 Cal.Rptr.3d 531]

Arrangement not subject to attorney-client privilege, no revelation of confidential information

Tornay v. U.S. (9th Cir. 1988) 840 F.2d 1424

Phaksuan v. U.S. (9th Cir. 1984) 722 F.2d 591, 594

Assigned counsel's private arrangement with client

SD 1969-9

Attempt to collect

Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

accrued interest on balance due

In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

confidences divulged in collection effort

LA 452 (1988)

discharge [See 24 Hastings Law Journal 771; 61 Cal.L.Rev. 397; 9 Cal.Western L. Rev. 355; 6 West L.A. L.Rev. 92; 3 G.G. L.Rev. 285; 92 L.L.R.3d 690.]

Abrams & Fox v. Briney (1974) 39 Cal.App.3d 604, 609 [114 Cal.Rptr. 328]

FEES

- contingent [See Fee, attempt to collect, discharge, quantum meruit.]
 - attorney properly discharged for cause entitled to enforce lien to extent of reasonable value of services performed to date of discharge
 - Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]
 - discharged attorney entitled only to reasonable value of services performed before discharge
 - Weiss v. Marcus (1975) 51 Cal.App.3d 590 [124 Cal.Rptr. 297]
 - right of discharged attorney to sue for agreed fee does not arise until recovery through services of the substituted attorney
 - Echlin v. Superior Court (1939) 13 Cal.2d 368, 375-376 [90 P.2d 63]
- quantum meruit [See Liens.]
 - attorney discharged with or without cause entitled to recover only reasonable value of services rendered prior to discharge
 - Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - SD 2019-3
 - calculation of quantum meruit for unearned flat fee
 - SD 2019-3
 - discharged attorney entitled to quantum meruit recovery for reasonable value of services, upon occurrence of contingency
 - Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 - Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]
 - discharged attorney refuses to accept offer of reasonable value of services from substituted attorney
 - Kallen v. Delug (1984) 157 Cal.App.3d 940, 947 [203 Cal.Rptr.879]
 - pro rata formula used where contingent fee insufficient to meet quantum meruit claims of both discharged and existing counsel
 - Spires v. American Buslines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- duty of succeeding attorney
 - Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
- action to recover
 - LA 109 (1937)
- award of attorney fees based on expert testimony fixing reasonable value of services
 - Mayock v. Splane (1943) 56 Cal.App.2d 563, 573 [132 P.2d 827]
- award of attorney fees based on reasonable value of services supported by expert testimony
 - Matthiesen v. Smith (1936) 16 Cal.App.2d 479-482 [60 P.2d 873]
- by associate attorney
 - Trimble v. Steinfeldt (1986) 178 Cal.App.3d 646 [224 Cal.Rptr. 195]
- *Civil Code section 2235 dealing with the presumption of invalidity in contracts between trustee and beneficiary does not apply to attorney/client contracts (Civil Code section 2235 was repealed 7/1/87)
 - Probate Code sections 16002 and 16004
 - Walton v. Broglio (1975) 52 Cal.App.3d 400, 403-404 [125 Cal.Rptr.123]
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- contracts between attorney-client; client cannot escape full payment of fees merely because attorney's services prove less valuable than contemplated
 - Berk v. Twentynine Palms Ranchos, Inc. (1962) 201 Cal.App.2d 625, 637 [20 Cal.Rptr. 144]
- determination of reasonable attorney fees primarily a question of fact for trial court; expert testimony unnecessary
 - Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
- discretion of trial court in setting value of services and in considering expert testimony; review by appeals court
 - Libby v. Kipp (1927) 87 Cal.App. 538 [262 P. 68]
- effect of express contract on fees where attorney performs additional services beyond contract
 - Biaggi v. Sawyer (1946) 75 Cal.App.2d 105, 111-112 [170 P.2d 678]
- evidence considered in determining attorney fees
 - Deberry v. Cavalier (1931) 113 Cal.App. 30, 35-36 [297 P. 611]
- expert opinion by attorney on value of services questions of fact for jury; overhead office expenses may be considered in fixing value of services
 - Tasker v. Cochrane (1928) 94 Cal.App. 361, 365-366, 368 [271 P. 503]
- expert testimony on value of services admissible, but not essential
 - Spencer v. Collins (1909) 156 Cal. 298, 306-307 [104 P. 320]
- factors considered by court in determining reasonable value of attorney fees; when appeals court may modify award
 - Boller v. Signal Oil & Gas Co. (1964) 230 Cal.App.2d 648, 652-653, 656 [41 Cal.Rptr. 206]
- fee arbitration
 - Business and Professions Code §§ 6200-6206
- power of jury to use independent judgment in fixing value of attorney services irrespective of expert testimony
 - Lady v. Ruppe (1931) 113 Cal.App. 606, 608 [298 P. 859]
- suit for reasonable value of services under oral contract; trial court's power to determine value independently
 - Elconin v. Yalen (1929) 208 Cal. 546, 548-550 [282 P. 791]
- trial court determines what constitutes reasonable attorney fees; factors considered
 - Melnyk v. Robledo (1976) 64 Cal.App.3d 618, 623-624 [134 Cal.Rptr.602]
- where no finding of fact made as to reasonable value of services by trial court, but evidence exists in records, Supreme Court will enter finding
 - Kirk v. Culley (1927) 202 Cal. 501, 508 [261 P. 994]
- from trustee in bankruptcy
 - post-petition services
 - In re Alcala (9th Cir. 1990) 918 F.2d 99
- judgment debtor was entitled to notice of judgment creditor's post judgment fee application
 - David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]
- post-judgment interest on attorney fees
 - Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]
 - In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
- quantum meruit
 - attorney's lien not payable in circumvention of the Bankruptcy Code
 - In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 - legal services rendered to executor in individual capacity
 - Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]

reasonable value of services

-attorney not entitled to lodestar multiplier in divorce action where seeking the reasonable value of his services and where there was no risk that attorney would not receive compensation under a contingency fee agreement

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

-effect of contract for attorney fees made after attorney-client relationship exists

Estate of Mallory (1929) 99 Cal.App. 96, 103 [278 P. 488]

Countryman v. California Trona Co. (1917) 35 Cal.App. 728, 735 [170 P. 1069]

-reasonable rate component of lodestar determination not required where the hourly rate is specified in a valid fee agreement

Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]

-reasonable rate component of lodestar determination not required where the attorney has entered into a valid fee agreement with the client

Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]

-under invalid contingent fee contract, attorney entitled to reasonable value of services

Calvert v. Stoner (1948) 33 Cal.2d 97, 104-105 [199 P.2d 297]

-under invalid contract with client, attorney may secure reasonable value of services

Hall v. Orloff (1920) 49 Cal.App. 745, 749-750 [194 P. 296]

Attorney

applies to all causes of action arising from malpractice claim
Waters v. Bourhis (1985) 40 Cal.3d 424 [220 Cal.Rptr. 666]

illegal

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Attorney obliged to do their best for their clients whatever the fee arrangement and are duty bound to maximize results and expedite resolution; anything less would be unethical and dishonorable

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client

Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]

Attorney's fees agreed to by contract

Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]

agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

allowed to oversecured creditor

In re Salazar (9th Cir. BAP 1988) 82 B.R. 538

authorization for attorney to keep any extra sums resulting from a compromise of the claims of medical care providers

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

contract formation is governed by objective manifestations, not subjective intent of parties

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)

vacation of judgment as part of post-judgment settlement effectively eliminates court awarded fees based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

Attorney/client interests

so great as to make both parties on appeal for attorney's fees

Kordich v. Marine Clerks Association (9th Cir. 1983) 715 F.2d 1392

Attorney's fees should be adequate to promote consumer class action

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 268, 271

Authority of arbitrator

Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]

Authority of arbitrator to award fees under the terms of the controlling arbitration agreement

Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

Authority of attorney

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

Authority of court to compensate counsel

court may appoint counsel, but may not compensate without statutory authorization

San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]

Award of attorney's fees

Civil Code section 51 (Unruh Civil Rights Act)

Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953

Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]

Civil Code section 54 et seq. (Disabled Persons Act)

Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953

Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]

absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney

Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]

LA 523 (2009)

-limited to cases where the parties do not have an agreement as to award of fees

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

adjustment of award to account for unsuccessful claims

Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

administrative hearings

-award of attorney fees under Welfare and Institutions Code section 10962 does not include fees incurred in administrative hearings

K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]

after dismissal of complaint

S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]

Parrott v. Mooring Townhomes Ass'n Inc. (2003) 112 Cal.App.4th 873 [6 Cal.Rptr.3d 116]

against government

Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]

Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803

FEES

- U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
- Hoang Ha v. Schweiker (9th Cir. 1983) 707 F.2d 1104, 1106
- McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
- Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
- County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
- conflict between city ordinance and state statute
 - City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 - denied where city ordinance conflicts with state law which forbids unilateral recovery of fees by city
 - City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 - denied where city ordinance had retroactive application, which changed the legal consequences of past conduct by imposing new or different liabilities based on that conduct
 - City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 - denied where city rent control ordinance authorizes recovery of attorney fees only between landlords and tenants
 - Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
 - fees awarded pursuant to a city council resolution
 - Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
 - fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state
 - Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]
 - plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees
 - Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
 - under Brown Act
 - Galbisio v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
 - court has discretion to deny fees if defendant can show the existence of special circumstances that would render the award unjust
 - Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
 - under California Tort Claims Act
 - CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
 - Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
 - defense fees and costs awarded to public entity under CCP § 1038
 - California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 - Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
 - under Civil Asset Forfeiture Reform Act
 - Anti-Assignment Act voids claimants' assignment of attorney fees to their attorney but attorney retains lien interest
 - U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
 - under Code of Civil Procedure 1021.5
 - Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
 - Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d. 882]
 - Burgess v. Coronado Unified School District (2020) 59 Cal.App.5th 1 [272 Cal.Rptr.3d 919]
 - Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]
 - City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 - San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
 - Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
 - Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]
 - denied in action brought under Government Code section 12974
 - Dept. of Fair Employment and Housing v. Cathy's Creations, Inc. (2020) 54 Cal.App.5th 404 [269 Cal.Rptr.3d 1]
 - attorney's fees can only be recovered against opposing parties
 - McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - denied because lawsuit did not cause defendant's change in behavior
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
 - Marine Forests Society v. California Coastal Commission (2008) 160 Cal.App.4th 867 [74 Cal.Rptr.3d 32]
 - denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement
 - People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
 - denied where benefit does not affect general public
 - Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
 - fees should sometimes be awarded even where litigant's own benefits exceed its' actual costs
 - City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 - must be successful party
 - Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]
 - not disqualified for fee award under private attorney general statute based on work done in proceedings
 - Robles v. Employment Development Department (2019) 38 Cal.App.5th 191 [250 Cal.Rptr.3d 611]
 - respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
 - City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
 - suspended corporation is not entitled to attorney fees
 - City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]
 - trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
 - Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]

-under Equal Access to Justice Act
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Le v. Astrue (9th Cir. 2008) 529 F.3d 1200
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
--award of fees should indicate exactly what fees are traceable to the government's bad faith litigation conduct
Rodriguez v. US (9th Cir. 2008) 542 F.3d 704
--fees award warranted when reckless conduct is combined with and additional factor, such as frivolousness, harassment, or improper purpose
Rodriguez v. US (9th Cir. 2008) 542 F.3d 704
--may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements
2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984
-under Government Code § 12989.2
--fees denied to prevailing defendants in housing discrimination action brought by non-party regulatory agency because Government Code § 12989.2 disallows an award of fees to or against the state
Department of Fair Employment and Housing v. Mayr et al. (2011) 192 Cal.App.4th 719 [120 Cal.Rptr.3d 938]
-under Hyde Amendment (18 U.S.C. § 3006A)
U.S. v. Hristov (9th Cir. (Nev.) 2005) 396 F.3d 1044
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
-under U.S.C.A. § 7430
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484 F.3d 1103
against party, not attorney, for "costs of proof" in discovery requests for admission
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
-Indian tribe sovereign immunity argument used in construction contract fee dispute
Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
allocation of fees
--not required where attorney also represented other parties who had no written contracts because work pertained to legal issues common to all the parties and separation of attorney's activities into compensable and non-compensable time units was impossible
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
"American Rule" that each party must bear its own legal fees
--city manager, analogous to a corporate employee, not liable for attorney's fees based upon conduct on behalf of employer
Golden West Baseball Co. v. Talley (1991) 232 Cal.App.3d 1294

--does not apply where each parties have agreed to allocate attorney fees by contract
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
--exceptions
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
--public interest and substantial benefit doctrine
---doctrine does not require a fee award merely because the litigation produced changes which were relatively minor and had no actual or concrete impact on the actions taken by the adverse party
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
-Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]
--prevailing party in nonpayment of wages action could not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
--no equitable exception where party prevailed in showing that written contract was voided for lack of mutual assent
Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078
--rule applies to regents of defendant university who are constitutionally immune from the statutory fee-shifting provision of Labor Code § 218.5
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
--statutory authority for
City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]
--"third-party tort" exception
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
Schneider, Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
Americans with Disabilities Act
--district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
--fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
--fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
--fees granted where plaintiff enters into legally enforceable settlement agreement with defendant
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Anti-SLAPP (Strategic Lawsuits Against Public Participation)
--arising out of defamation action
Murray v. Tran (2020) 55 Cal.App.5th 10 [269 Cal.Rptr.3d 231]
--arising out of malicious prosecution action
Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]

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- Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
- defined
- burden of proving fees were covered by award following successful motion
- Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
- court that lacks subject matter jurisdiction over a claim may grant motion to strike the claim under CCP § 425.15 and award attorney's fees to the defendant
- Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
- mandatory award may be based on attorney's declarations instead of time records
- Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
- the issue in an Anti-SLAPP motion (to strike) is whether the challenged action was one arising from an activity protected by the anti-SLAPP statute CCP § 426.16 (i.e. public interest, protected speech or petitioning activity)
- Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]
- Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
- Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
- Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
- Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
- Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
- Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
- Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
- Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
- complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
- Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
- appeal renders award not final
- Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032
- appellate review of order fixing amount of attorney fees not available until entry of final judgment
- Nimmagadda v. Krishnamurthy (1992) 3 Cal.App.4th 1505
- appellate work
- reduction in number of hours as duplicative unjustified where the court failed to take into account the differences between trial court and appellate work, which entails rigorous original work in its own right and which receives greater judicial scrutiny
- Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- apportionment of fees
- not required if successful and unsuccessful claims are interrelated
- Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]
- arbitration cases
- Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
- Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
- M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]
- arbitration award to attorney not an enforceable judgment where attorney failed to file petition for the court to confirm award or to request entry of judgment confirming award
- Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]
- arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
- Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
- arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
- Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
- Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]
- Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
- arbitrator's determination of prevailing party is not subject to appellate review
- Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
- Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]
- authority of arbitrator to amend or correct a final award
- Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]
- authority of arbitrator to award fees
- Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]
- pursuant to Civil Code section 1717
- Nemecek & Cole v. Horn (2012) 208 Cal.App.4th 641 [145 Cal.Rptr.3d 641]
- court properly corrected award and remanded to arbitrator to determine reasonable fees and costs
- Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]
- failure to comply with 6201(a) does not compel court to dismiss action
- Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]
- fees and costs awarded in proceeding to confirm or vacate an arbitration award
- Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
- plaintiffs cannot be required to pay arbitral expenses and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute
- D.C. a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- prevailing party
- Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]

-untimely request for trial following an arbitration conducted pursuant to the mandatory fee arbitration act
Maynard v. Brandon (2005) 36 Cal.4th 364 [30 Cal.Rptr.3d 558]

assignment

-Anti-Assignment Act voids claimants' assignment of attorney fees to their attorney but attorney retains lien interest
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696

-right to statutory award of attorney fees in civil rights case cannot be contractually assigned to attorney
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

attorney-client fee agreements may provide for reasonable
Franklin v. Appel (1992) 8 Cal.App.4th 875 [10 Cal.Rptr.2d 759]
Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

attorney-litigant representing self in pro se
Leaf v. City of San Mateo (1984) 150 Cal.App.3d 1184, 1189 [198 Cal.Rptr. 447]

attorney's fees and costs to prevailing party
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
In re Marriage of Ankola (2020) 53 Cal.App.5th 369 [267 Cal.Rptr.3d 569]
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]
Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
 -absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 -net monetary award to a party does not determine the prevailing party when there are two fee shifting statutes involved in one action
Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
 -no abuse of discretion where court failed to reduce award of attorney fees under Davis-Stirling Common Interest Development Act
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

-settlement offer that is silent on the issue of attorney fees and costs
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
 -trial court reduced an attorney fee award based on its' reasonable determination that routine, non-complex case was overstaffed to a degree that significant inefficiencies and inflated fees resulted
Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 -when there are two fee shifting statutes in separate causes of action, there can be a prevailing party for one cause of action and a different prevailing party for the other cause of action
Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

attorney's fees that are recoverable as compensatory damages
Mai v. HKT (2021) 66 Cal.App.5th 504 [281 Cal.Rptr.3d 255]

authority of arbitrator to award fees
 -may fashion relief that is just or fair
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]

authority of arbitrator to determine whether the filing of a complaint before mediation barred award of fees
Kahn v. Chetcuti (2002) 101 Cal.App.4th 61 [123 Cal.Rptr.2d 606]

bail bond forfeiture proceedings
 -motion of fees denied where there is no provision in the relevant statute to recover fees as costs
People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]

bankruptcy action
Lamie v. United States Trustee (2004) 540 U.S. 526 [124 S.Ct. 1023]
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Levander (9th Cir. 1999) 180 F.3d 1114
In re Auto Parts Club, Inc. (9th Cir. 1997) 211 B.R. 29
Bankruptcy of Harvey (9th Cir. 1994) 172 B.R. 314
 -attorney employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
 -attorney's fees and costs awarded against debtors for dragging proceedings for too long due to inaction
In re Starky (9th Cir. BAP 2014) 522 B.R. 220
 -attorney's fees and costs not dischargeable when awarded for debtor's willful and malicious conduct
In re Suarez (9th Cir. BAP 2009) 400 B.R. 732
 -attorney's fees are recoverable if they are linked to litigation seeking to enforce a contract
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
 -attorney's fees denied to debtor in discharging student loan debt
In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558
 -attorney's fees denied without court authorization
In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 -attorney's fees incurred during litigation after the confirmation of a Chapter 11 bankruptcy plan were discharged by that bankruptcy
In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028
 -attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court
In re Bertola (9th Cir. BAP 2004) 317 B.R. 95
 -authority of bankruptcy court to award fee enhancements
In re Pilgrim's Pride Corp. (5th Cir. (Texas) 2012) 690 F.3d 650

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-automatic stay of proceedings
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Stinson (9th Cir. BAP 2003) 295 B.R. 109
In re Hines (9th Cir. BAP 1998) 198 B.R. 769

-award of fees is void when underlying claim is in violation of stay
In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726

-award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract
In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204

-bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney
In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

-bankruptcy court erred in awarding debtor's their attorney fees and costs under statute
In re Fitalia (9th Cir. BAP 2016) 561 B.R. 767

-bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments
In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

-bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer
In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

-chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services
In re Jastrem (9th Cir. 2001) 253 F.3d 438 [37 Bankr.Ct.Dec. 275]
In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

-chapter 11 debtor's counsel entitled to attorney's fees only for services benefitting the estate
In re Xebec (9th Cir. 1992) 147 B.R. 518

-claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray
In re Ybarra (9th Cir. 2005) 424 F.3d 1018

-contingent fee agreement, pre-approved by the bankruptcy court, should control the amount of compensation awarded unless it is determined that the agreement was "improvident" in light of unforeseeable developments
In re Reimers (9th Cir. 1992) 972 F.2d 1127

-court may enhance fee in exceptional circumstance
In re Manoa Finance Company (9th Cir. 1988) 853 F.2d 687

-creditor may recover attorney's fees via proof of claim without need to file application for compensation
In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227

-creditor's efforts to recover post-judgment attorney's fees incurred to enforce a judgment
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

-debtor awarded appellate attorney's fees pursuant to 11 USCA § 362(k)
In re Schwartz-Tallard (9th Cir. 2014) 765 F.3d 1096

-discharge applies to attorney fees and costs awarded against a debtor in an unsuccessful post-petition state court suit based on pre-petition causes of action
In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

-dischargeability of a contempt judgment
Suarez v. Barrett (9th Cir. 2009) 400 B.R. 732

-disgorgement of attorney fees against firm and attorney employee is proper
Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490

-disgorgement of attorney fees against firm not proper where law firm representation was approved by court
In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

-disgorgement of attorney fees is allowed after violation of bankruptcy code and rules
Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926

-emergency nature of legal services provided before court appointment justifies fee award to former counsel
Bankruptcy of Larson (9th Cir. 1994) 174 B.R. 797

-expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

-failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt
In re Marriage of Sprague & Spiegel-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding
In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

-fees incurred in opposing objections to final fee application for winding up estate properly disallowed
In re Riverside-Linden Investment Co. (9th Cir. 1991) 945 F.2d 320

-fees recoverable if they are linked to litigation seeking to enforce a contract
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re LCO Enterprises, Inc. (9th Cir. 1995) B.R. 567 [27 Bankr.Ct.Dec. 201]
Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]

-in accordance with state law
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693

-involuntary, debtors entitled to fees, costs and punitive damages in obtaining dismissal under 11 U.S.C. 303, though not for post-dismissal motions themselves
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456

-not awarded to alleged tortfeasor who was wholly exonerated and sought attorney fees from co-defendant on theory of implied indemnity under CCP § 1021.6
Watson v. Department of Transportation (1998) 68 Cal.App.4th 885 [80 Cal.Rptr.2d 594]

-open book account attorney's fees claim not barred by statute of limitations
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248

-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

-"reasonable attorneys' fees" calculated by court only a small fraction of actual amount charged by plaintiff's attorneys
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]

-request must be scaled to expected recovery
In re Kitchen Factors, Inc. (9th Cir. 1992) 143 B.R. 560
Unsecured Creditors' Committee v. Puget Sound Plywood (9th Cir. 1991) 924 F.2d 955

-right to based on contract
Travelers Casualty & Surety Co. of America v. Pacific Gas & Electric Co. (2007) 549 U.S. 443 [127 S.Ct. 1199]
In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693-694

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-self-appointed monitor of appellate proceedings by creditor not entitled to fees on the grounds that the validity of creditor's liens and the prospect of full payment were never at issue

In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506

-totality of circumstance test applied when awarding attorney's fee

Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701

-trustee fees not proper for duties that are not practice of law

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

-waiver of fees and costs

--entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief

In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742

based on bad faith actions

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167

Association of Flight Attendants, AFL-CIO v. Horizon Air Industries, Inc. (9th Cir. 1992) 976 F.2d 541

Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]

Cassim v. Allstate Insurance Company (2004) 33 Cal.4th 780 [16 Cal.Rptr.3d 374]

Brandt v. Superior Court (1985) 37 Cal.3d 813 [210 Cal.Rptr. 211]

Byers v. Superior Court (2024) 101 Cal.App.5th 1003 [320 Cal.Rptr.3d 748]

Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]

United Services Automotive Association v. Dalrymple (1991) 232 Cal.App.3d 182 [283 Cal.Rptr. 330]

On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568 [272 Cal.Rptr. 535]

-bad faith cannot be inferred from fact that party was unsuccessful

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

-Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

-injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld

Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]

-trial court did not abuse its discretion in declining to assess attorney fees against colleague under objective standard

Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]

based on underlying suit

Stanwood v. Green (9th Cir. 1984) 744 F.2d 714

basis for court decision

-attorney conduct

--justified by the vexatious, oppressive, obdurate, and bad faith conduct of litigation

Landsberg v. Scrabble Crossword Game Players, Inc. (9th Cir. 1984) 736 F.2d 485

Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]

--limits zealous advocacy

Lone Ranger Television v. Program Radio Corp. (9th Cir. 1984) 740 F.2d 718, 727

-attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

-condition precedent must be met

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

-court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award

Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]

-court misapplied the factors on which it focused while omitting analysis of other factors that may have allowed award of attorney fees

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

-court must articulate factors used to calculate award

Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145

Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607

Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]

--no general rule requiring trial courts to explain their decisions on motions seeking attorney fees

Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]

-criteria for award of fees

Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188

-denial of attorney's fees in second case where primary benefit already conferred upon client in first case

Kerr v. Screen Extras Guild, Inc. (9th Cir. 1975) 526 F.2d 67; Cert. denied 425 U.S. 951 [96 S.Ct. 1726]

-district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

-district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

-explanation required of trial court's calculation in order to withstand review

United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403

-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

-in dissolution matter, award of post-judgment interest on attorney fees

In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

-in dissolution matter, denial of attorney's fees under CC § 4370 (Family Law Act)

Brink v. Brink (1984) 155 Cal.App.3d 218, 223 [202 Cal.Rptr. 57]

FEES

- in dissolution matter, denial of attorney's fees under Family Code § 2030
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- large fee reduction requires a relatively specific articulation of court's reasoning
 - Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
- plaintiff obtains some relief on merits of claim and is thus entitled to attorney's fees
 - Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
- sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
 - 569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]
- trial court has its own expertise in the value of legal services performed in a case; expert unnecessary
 - Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trial court may make its own determination of the value of the legal services performed; expert unnecessary
 - Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trial court properly reduced attorney fee award based on size of settlement
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- basis of computation
 - City of Burlington v. Dague (1992) 505 U.S. 557 [112 S.Ct. 2638]
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
 - Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
 - Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
 - Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 - McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167
 - Jones v. Espy (9th Cir. 1993) 10 F.3d 690
 - State of Florida v. Dunne (9th Cir. 1990) 915 F.2d 542
 - D'Emanuele v. Montgomery Ward & Co. (9th Cir. 1990) 904 F.2d 1379
 - United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
 - People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
 - Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 - Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804, 811-812 [204 Cal.Rptr. 727]
- award may be based on attorney's declarations instead of time records
 - Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
 - Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
- burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
 - Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
- consideration of indigent losing party's financial condition
 - People v. Rodriguez (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
 - Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- court must articulate factors used to calculate award
 - Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 - Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 - 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
 - Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]
 - Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
- no general rule requiring trial courts to explain their decisions on motions seeking attorney fees
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- degree of success achieved by civil rights plaintiff a critical factor in determining the proper amount of attorney's fees
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
- district court may cut the hours where lawyer does unnecessary duplicative work
 - Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
- extent of plaintiff's success
 - Cinevision Corp. v. City of Burbank (9th Cir. 1984) 745 F.2d 560, 581
 - In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
 - Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
 - Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- in Title VII action
 - Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
 - Maldonado v. Lehman (9th Cir. 1987) 811 F.2d 1341
- marital dissolution cases
 - In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
- negative multiplier decreasing the lodestar is justified where amount of time attorney spent on class action case was unreasonable and duplicative
 - Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- prevailing market rate in relevant community
 - Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
- action by corporate in-house counsel under Civil Code section 1717
 - PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)

--award may exceed actual hourly rate
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

--under USCS section 928 (Longshore and Harbor Workers' Compensation Act)
Shirrod v. Director, Office of Workers' Compensation Programs (9th Cir. 2015) 809 F.3d 1082
Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

--rule of practice, generally requires filing of cross-appeal to increase award
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054

--social security cases
 --lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

--trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

--under 18 U.S.C. § 3663A, bank fraud victim entitled to restitution of attorney's fees not limited to those incurred to participate in law enforcement's investigation and prosecution of a defendant but also including those incurred as direct and foreseeable result of the defendant's wrongful conduct
U.S. v. Eyraud (9th Cir. 2015) 809 F.3d 462

--under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

--value of an estate is a factor in setting fees in elder abuse cases
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

--where both frivolous and nonfrivolous claims are closely intertwined
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055

"benchmark" fee calculation
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Brown Act
 --court has discretion to award attorney fees where it found that legislative body of a local agency has violated the Brown Act
Galbisio v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]

--defendant must show that special circumstances exist to make award unjust
Galbisio v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]

catalyst theory
Skaff v. Rio Nido Roadhouse (2020) 55 Cal.App.5th 522 [269 Cal.Rptr.3d 578]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]

--did not apply since the merits of customer's claims were thoroughly litigated to a final judgment
Skaff v. Rio Nido Roadhouse (2020) 55 Cal.App.5th 522 [269 Cal.Rptr.3d 578]

civil rights cases
 Civil Code section 51 (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953

--fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn. of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]

Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]
Texas State Teachers Association v. Garland Independent School District (1989) 489 U.S. 782 [109 S.Ct. 1486]
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Stewart v. Gates (9th Cir. 1993) 987 F.2d 1450
Trevino v. Gates (1995) 888 F.Supp. 1509
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

--award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]

--consent decree's silence as to attorney's fees not waiver for prevailing party
Muckleshoot Tribe v. Puget Sound Power & Light Co. (9th Cir. 1989) 875 F.2d 695

--costs or out-of-pocket expenses are recoverable only with respect to claims for which attorney's fees are recoverable
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963

--court erred in granting fees to prevailing defendant by dividing general fees equally across both frivolous and non-frivolous claims and by attributing a pro-rata share of the total fees to frivolous civil rights claims
Harris v. Maricopa County Superior Court et al. (9th Cir. 2011) 631 F.3d 963

--denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163

--district court's enhancing the lodestar figure was justified when it found plaintiff's counsel achieved excellent results for clients under extreme pressure and with limited response
Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085

--fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

--fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions affecting state prisoners and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965

FEES

- fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
- no basis for a bright-line prohibition on awarding fees to successful civil rights plaintiffs who are represented by their attorney-spouses
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
- party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- party who wins nominal damages for violation of their civil rights may be denied attorney's fees from those they sue
Farrar v. Hobby (1992) 506 U.S. 103 [113 S.Ct. 566]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- three factors test
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
- party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
- federal common law, rather than California law, applied to activist's claim for attorney fees
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- plaintiff who filed a civil rights claim against a public entity and was subsequently awarded attorney's fees in an administrative proceeding may challenge the fees award in federal district court which is the proper forum for seeking those fees
Porter v. Winter (9th Cir. 2010) 603 F.3d 1113
- proportionality of a fees award to the amount of damages recovered not an issue where plaintiff is able to isolate the time spent on successful claim or claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- settlement offers containing a fee-waiver provision under fee shifting statutes
CAL 2009-176
- spouse, attorney who represents spouse entitled to fees
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
- waiver of
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
- claim for legal fees in Chapter 11 matter not time barred
In re Robert Farms, Inc. (9th Cir. 1992) 980 F.2d 1248
- class action
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
Sneede v. Coye (1994) 856 F.Supp. 526
Morganstein v. Esber (1991) 768 F.Supp. 725
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 LA 445 (1987)
- absent class members not liable for employer's attorney's fees in overtime dispute
Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
- amount of fees determined to be reasonable in light of quantity and quality
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
- attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
- attorney's fees for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
- award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
- awarded pursuant to Civil Code section 1717
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]
- basis of award to an unnamed member of putative class who defeats class certification is not entitled to attorney's fees
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
- extra award allowed lawyer who creates common fund
Paul v. Graulity (9th Cir. 1989) 886 F.2d 268
- fee allocation among co-counsel subject to court approval
In re FPI/Agretech Securities Litigation (9th Cir. 1997) 105 F.3d 469
- fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
- lodestar multiplier method
 --adjustment based on benefit conferred on class by class counsel
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935
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]
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- reduction is justified where amount of time attorney spent on case was unreasonable and duplicative
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
- settlement shall not include attorney fees as portion of common fund established for benefit of class
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

--trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

-no abuse of discretion where district court failed to increase the fee award to account for the class members' view of the requested fee award because there was an early settlement; the court used the lodestar method and applied a 1.5 multiplier for counsel's 100% success rate
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

-practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

-standing of objecting class member in securities fraud settlement is not needed for reconsideration and reduction of attorney fees award to class
Zucker v. Occidental Petroleum (9th Cir. 1999) 192 F.3d 1323

-standing to appeal awards of
Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

--class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class
Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084

-standing to pursue an award of fees
 --attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566

--standing to pursue claim for interest on award of attorney's fees
Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

-trial court has no inherent authority to sanction pro hac vice attorney for bad faith conduct by requiring payment of fees to opposing counsel
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

-when risk was slight
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

clear sailing agreements
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

client security fund
 -assisting applicant
Saleeby v. State Bar (1985) 39 Cal.3d 547 [216 Cal.Rptr. 367, 702 P.2d 525]

collections
 LA 522 (2009)

common fund/equitable apportionment doctrine
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

State of Florida ex rel. Butterworth v. Exxon Corp. (9th Cir. 1997) 109 F.3d 602

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

-exceptions
 --attorney acting in propria persona
Leiper v. Gallegos (2021) 69 Cal.App.5th 284 [284 Cal.Rptr.3d 349]

-passive beneficiary
Kavanaugh v. City of Sunnyvale (1991) 233 Cal.App.3d 903

computation of under Code of Civil Procedure 998 offer congressional intent
Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]

Kreutzer v. County of San Diego (1984) 153 Cal.App.3d 62, 75 [200 Cal.Rptr. 322]

constitutional immunity
 -regents of defendant university, as an arm of the state, are immune from the fee-shifting provision of Labor Code § 218.5
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]

contingency fee, court not limited to
Reynolds v. Ford Motor Company (2020) 47 Cal.App.5th 1105 [261 Cal.Rptr.3d 463]

Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]

contract for
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]

De La Cuesta v. Superior Court (1984) 152 Cal.App.3d 945 [200 Cal.Rptr. 1]

-agreement based on fixed hourly rate but provides for possible increase found valid
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]

-award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]

Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]

-basis for
Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

-complete mutuality of remedy when contract purports to make recovery of attorney fees available to one or more parties
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]

Harbor View Hills Community Association v. Torley (1992) 5 Cal.App.4th 343 [7 Cal.Rptr.2d 96]

-defendant-sellers in real estate case are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]

-did not provide for entitlement to fees award for either party under such facts
Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

-governed by equitable principles
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]

FEES

- reciprocal provision
 - Westwood Homes, Inc. v. AGCPII Villa Salerno Member (2021) 65 Cal.App.5th 922 [280 Cal.Rptr.3d 417]
 - Nasser v. Superior Court (1984) 156 Cal.App.3d 52 [202 Cal.Rptr. 552]
- recovery of attorney's fees may be awarded notwithstanding an invalid contract
 - Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
- except when parties are in pari delicto
 - Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]
- resolving ambiguity in contracts or insurance
 - American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]
- state reciprocity rule for attorney's fees by contract applies to damages based on federal law
 - United States v. Callahan (9th Cir. 1989) 884 F.2d 1180
- third party claimant who was not intended beneficiary of attorney fee clause in contract denied award
 - Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
- vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- contractual
 - Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]
 - Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
 - Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
 - PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
 - D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
 - Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
 - Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
 - Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
 - PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]
 - Share v. Casiano-Bel-Air Homeowners Assn. (1989) 215 Cal.App.3d 515 [263 Cal.Rptr. 753]
 - California Teachers Assn. v. Governor's Board of the Simi Valley Unified School District (1984) 161 Cal.App.3d 393 [207 Cal.Rptr. 659]
- absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
 - Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 - M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client
 - Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]
 - LA 523 (2009)
 - limited to cases where the parties do not have an agreement as to award of fees
 - Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- agreement requiring patent licensor to indemnify licensee for attorney's fees for alleged infringement or violation of any patent, copyright, trademark, or other right did not require licensor to pay licensee's fees incurred in successfully defending against licensor's claim
 - Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
 - Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
- attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
 - Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
 - Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- available for successfully defending or prosecuting an appeal
 - MST Farms v. C.G. 1464 (1988) 204 Cal.App.3d 304 [251 Cal.Rptr. 72]
- award may be proper under broadly-worded attorney fee provision even where claim did not arise out of the agreement
 - Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th 911 [184 Cal.Rptr.3d 326]
- award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
 - Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
- broadly worded attorney fee provision construed against drafting party
 - Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th 911 [184 Cal.Rptr.3d 326]
- claim for attorney's fees on a breach of contract action must be based on a specific right agreed to by the contracting parties
 - People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]
 - M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
- condition precedent must be met to recover attorney fees
 - Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
- denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
 - Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
- denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
 - Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
- did not provide for entitlement to fees award for either party under such facts
 - Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]
- fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
 - Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
- law firm not entitled to attorney fees incurred in suit to recover unpaid fees from client, who had already paid entire contractual debt to firm before trial
 - David S. Kartan, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

-members of dissolved LLC are liable for attorney fees up to amount distributed upon dissolution for breach of contract by LLC

CB Richard Ellis, Inc. v. Terra Nostra Consultants (2014) 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]

-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

-prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

-prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement

County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

-recovery of attorney's fees may be awarded notwithstanding an invalid contract

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

-under CC § 1717, provision for attorney's fees may be awarded even if contract is invalid or unenforceable

Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]

Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]

Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]

--party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-under CC § 1717, provision for attorney's fees must be applied mutually and equally to all parties even if written otherwise

MSY Trading, Inc. v Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

Kandy Kiss of California, Inc. v. Tex-Ellent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]

Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]

Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]

Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

Mix v. Tumanjian Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]

--decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

--no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor

In re Brosig (9th Cir. BAP 2014) 505 B.R. 903

-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

-where attorney's fees clause in contract is phrased broadly enough, it may support an award of fees to prevailing party in an action alleging both contractual and tort claims

Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]

Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

-where the attorney fee provision of a release agreement is narrowly drawn to actions to enforce the terms of a release, the provision cannot be extended to tort claims

Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]

-where written contract was found to be voided for lack of mutual assent, attorney fees not available to prevailing party

Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir. 2007) 495 F.3d 1078

contractual versus statutory

Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]

Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]

Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]

-attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees

Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]

-attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

-award on contract claims in accordance with Civil Code § 1717

In re Penrod (9th Cir. 2015) 802 F.3d 1084

Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]

Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]

MSY Trading, Inc. v Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]

Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]

Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

Kandy Kiss of California, Inc. v. Tex-Ellent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]
Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangariou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
Thompson v. Miller (2003) 112 Cal.App.4th 327 [4 Cal.Rptr.3d 905]
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
 --attorney fees may be awarded to more than one prevailing party in a breach of contract dispute
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
 --attorney's representation by associates of his firm precluded recovery of attorney fees after winning case against former client
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
 --does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
 --does not bar recovery of attorney's fees for non-contract claims voluntarily dismissed by the plaintiff if attorney's fees clause is broad enough to encompass non-contract claims
Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
 --generally applies in favor of the party prevailing on a contract claim whenever that party would have been liable under the contract for attorney fees had the other party prevailed
Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
 --no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]

--no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosig (9th Cir. BAP 2014) 505 B.R. 903
 --party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 --plaintiffs who were assigned developer's express indemnity cross-action against subcontractor were liable for attorney fees to subcontractor who prevailed in trial
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
 --prevailing party status irrelevant when defendant was not a party to the underlying contract
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
 --vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
 --computation of under CCP § 998 offer
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Simers v. Los Angeles Times Communications LLC (2024) 104 Cal.App.5th 940 [325 Cal.Rptr.3d 113]
Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
Varney Entertainment Group, Inc., v. Avon Plastics, Inc. (2021) 61 Cal.App.5th 222 [275 Cal.Rptr.3d 394]
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
Wilson's Heating & Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
Harvard Investment Co. v. Gap Stores, Inc. (1984) 156 Cal.App.3d 704, 712-714 [202 Cal.Rptr. 891]
 --when a Section 998 offer is silent on costs and fees, the prevailing party is entitled to costs and fees, if authorized by statute or contract
Wohlgenuth v. Caterpillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]
 --corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
 --effect of voluntary dismissal upon recovery of non-contractual causes of action
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
 --Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

-fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]

-indemnification agreement enforced
City of Watsonville v. Corrigan (2007) 149 Cal.App.4th 1542 [58 Cal.Rptr.3d 458]

-limitation on contingency contract under MICRA as codified in Bus. & Prof. Code § 6146
Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920, 925-926 [211 Cal.Rptr. 77]

-misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-prevailing party entitled to attorney's fees under Civil Code section 1717 if opposing party has sought attorney's fees under it
MSY Trading, Inc. v. Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 507-509

-prevailing party entitled to fees under Code of Civil Procedure section 1032 even where no net recovery by prevailing party
Pirkig v. Dennis (1989) 215 Cal.App.3d 1560

-prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

-statute containing a unilateral fee shifting provision controls where all causes of action arise out of one transaction, notwithstanding a contract containing a fee award to prevailing party
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]

Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]

-section 800 is a bond or security statute, not a liability statute, and as such, prevailing defendant was precluded from recovering fees and costs in excess of the posted bond
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

cost of litigation includes attorney fees and expert witness fees for purposes of applying automatic stay provisions
Pecsok v. Black (1992) 7 Cal.App.4th 456 [9 Cal.Rptr.2d 12]

court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]

court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous
Fabbri v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299

court has discretion to consider the success or failure of the litigation as one factor in assessing attorney fees
Beatty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

court may require declaration before ordering
Lang v. Superior Court (1984) 153 Cal.App.3d 510, 517 [200 Cal.Rptr. 526]

-depends upon whether plaintiff is entitled to fees and whether court has discretion
Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192

court of appeal will not disturb trial court's decision on a party's request for attorney fees unless it is clearly an abuse of discretion
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]

-trial judge in best position to evaluate value of attorney's services in courtroom
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]

criminal law
 -under Penal Code § 1202.4(f)(3)
In re Imran Q. (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
 --allows restitution only for that portion of attorney fees attributable to the victim's recovery of economic damages
People v. Kelly (2020) 59 Cal.App.5th 1172 [274 Cal.Rptr.3d 158]
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
 --victim's comparative negligence may reduce amount of restitution for economic losses
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

Davis-Stirling Common Interest Development Act
 -determination of reasonable attorney's fees and costs
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

default judgment
 -attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]

defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]

defendant employer's aborted appeal allows employee who prevailed in administrative hearing to recover attorney's fees
Royal Pacific Funding Corp. v. Arneson (2015) 239 Cal.App.4th 1275 [191 Cal.Rptr.3d 687]

defendants not entitled to attorney fees under the anti-SLAPP statute when plaintiff dismissed all claims against the moving defendants before they filed their motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]

delay enhancement
Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

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delay in payment should be considered in determining award
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

despite party's failure to file noticed motion
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]

Disabled Persons Act (Civil Code section 54 et seq)
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]

discretion of appellate court
Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]

discretion of arbitrator to award fees
Taylor v. Van-Catlin Construction (2005) 130 Cal.App.4th 1061 [30 Cal.Rptr.3d 690]

discretion of district court

- abuse where quality of representation was used to reduce lodestar amount
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

discretion of trial court

- Simers v. Los Angeles Times Communications LLC (2024) 104 Cal.App.5th 940 [325 Cal.Rptr.3d 113]
- Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]
- Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
- Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
- applying a contingent risk 1.4 multiplier to entire lodestar amount where the case is only partially contingent
The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- court failed to identify and consider the relevant community when determining the prevailing hourly rate for similar services by lawyers of comparable skill and experience
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
- court may appoint counsel, but may not compensate without statutory authorization
San Diego County Dept. of Social Services v. Superior Court (2005) 134 Cal.App.4th 761 [36 Cal.Rptr.3d 294]
- court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award
Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]
- court may determine need of spouse for award of attorney's fees – abuse of discretion where court exceeds bounds of reason
In re Marriage of Schaffer (1984) 158 Cal.App.3d 930, 935-936 [205 Cal.Rptr. 88]
- court may order one spouse to pay other spouse's attorney fees directly to attorney even after substitution form filed
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
- de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]

- determining number of hours attorneys reasonably expended for calculating lodestar
The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- district court abused its discretion when it denied attorney's fees based in part on court's exasperation with other, similar but unrelated suits
Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033
- FEHA matter
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
Simers v. Los Angeles Times Communications LLC (2024) 104 Cal.App.5th 940 [325 Cal.Rptr.3d 113]
- court denied plaintiff attorney fees even though plaintiff suffered adverse employment decision in which discrimination was a motivating factor
Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]
- filing deadline for fee award is not triggered by an order granting summary judgment
Saben, Earlix & Associates v. Fillet (2005) 134 Cal.App.4th 1024 [36 Cal.Rptr.3d 610]
- not required to reduce lodestar amount base on fees covered by insurance policy
The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]
- to apply hourly rates to lodestar analysis that exceeded hourly rate actually paid for attorney's defense
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- to award fees, but only when just
Martin v. Franklin Capital Corp. (2005) 546 U.S. 132 [126 S.Ct. 704]
- trial judge in best position to evaluate value of attorney's services in courtroom
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
Jones v. Union Bank of California (2005) 127 Cal.App.4th 542 [25 Cal.Rptr.3d 783]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
Vella v. Hudgins (1984) 151 Cal.App.3d 515, 522 [198 Cal.Rptr. 725]
- trial judge's discretion to issue a fee reduction
Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
Trask v. Superior Court (1994) 22 Cal.App.4th 346 [27 Cal.Rptr.2d 425]
- value of legal services a matter in which the trial court has its own expertise
PLMC Group, Inc. v. Drexler (2000) 22 Cal.4th 1084, 1096
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

dissolution proceedings
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]

district court required to consider twelve factors
Laborers' Clean-up Contract v. Uriarte Clean-up Service (9th Cir. 1984) 736 F.2d 516, 525
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

fees denied officers and directors who were not parties to a licensing agreement

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

each party is expected to pay own fees

Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509

effect of an appeal on

Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]

Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

elder abuse by attorney

Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]

elder abuse cases

Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]

-fees denied where plaintiffs failed to prove causation by clear and convincing evidence

Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]

-value of an estate is a factor in setting fees

Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

enforcement of foreign judgment

Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]

entitlement

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

-based on contract or statute

Medina v. South Coast Car Company, Inc. (2017) 15 Cal.App.5th 671 [223 Cal.Rptr.3d 566]

Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]

Wutzke v. Bill Reid Painting Service, Inc. (1984) 151 Cal.App.3d 36, 46-47

-entitlement to attorney's fees, but not the amount of the fee award is interlocutory. An appeal from a post judgment order awarding attorney's fees may be reviewed as to the entitlement and the amount of the fees awarded.

PR Burke Corp. v. Victor Valley Wastewater Reclamation Authority (2002) 98 Cal.App.4th 1047 [120 Cal.Rptr.2d 98]

-party is entitled to compensation for attorney's fees if opposing party would have been entitled to them

Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

Equal Access to Justice Act

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659

Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830

Le v. Astrue (9th Cir. 2008) 529 F.3d 1200

U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899

United States v. Rubin (9th Cir. 1996) 97 F.3d 373

Holt v. Shalala (9th Cir. 1994) 35 F.3d 376

-abuse of discretion not found

Williams v. Bowen (9th Cir. 1991) 934 F.2d 221; 966 F.2d 1259

-applies to contested petitions for naturalization

Abela v. Gustafson (9th Cir. 1989) 888 F.2d 1258

-award denied

Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

Gray v. Secretary, Health and Human Services (1993) 983 F.2d 954

-may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements

2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984

-award should encompass fees incurred in subsequent litigation to protect that fee award

Spurlock v. Sullivan (1992) 790 F.Supp. 979

Byrnes v. Riles (1984) 157 Cal.App.3d 1170 [204 Cal.Rptr. 100]

-award subject to offset to satisfy claimant's pre-existing debt to government

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable

Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894

-error to deny award on basis that the court lacked subject matter jurisdiction

United States v. 87 Skyline Terrace (9th Cir. 1994) 26 F.3d 923

-judicial relief required for prevailing party status to recover attorney fees under the Act

Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

-may be awarded only if it is an "adversary adjudication" governed by Administrative Procedure Act's formal adjudication requirements

2-Bar Ranch Limited Partnership v. United States Forest Service (9th Cir. 2021) 996 F.3d 984

-navy officer who successfully challenged his discharge for stating that he was gay is entitled to attorney fees

Meinhold v. U.S. Dept. of Defense (C.D. Cal. 1997) 123 F.3d 1275

-standing to contest an offset where attorney fees awarded to prevailing party not to attorney

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

ERISA matter

-either party may recover, not just prevailing party; claimant must show some degree of success on the merits

Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]

excessive

-attorney fee award not excessive

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

City of Santa Paula v. Narula (2003) 114 Cal.App.4th 485 [8 Cal. Rptr 3d 75]

-lodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

-social security cases

-collection of fees in excess of those allowed by the court is a criminal offense (42 U.S.C. § 406(b)(2))

Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

FEES

expert witness fees cannot be included as attorney fees or recovered as “necessary expense” under contract unless properly pled and proved

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion

Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]

failure to request fees at time that she requested and obtained default judgment did not forfeit right to seek attorney fees in landlord tenant breach of contract action, where trial court's grant of lessee's motion to vacate the default made case into contested adversarial proceeding, lessee filed an answer, became a party, and initiated litigation to which lessor had to respond, and lessor incurred attorney fees to protect her judgment

Vincent v. Sonkey (2020) 59 Cal.App.5th 160 [273 Cal.Rptr.3d 285]

Fair Debt Collections Practices Act (15 U.S.C. § 1692 et seq.)
Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

family law

-abuse of discretion where court refused and failed to exercise discretion; failed to make needs-based analysis and where court refused to review billing records

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

-bankruptcy court has exclusive jurisdiction in determining whether family law matters are exempted from the automatic bankruptcy stay

In re Marriage of Sprague & Spiegel-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]

-breach of spouse's fiduciary duty

In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]

-fees based on totality of the circumstances

In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]

--domestic violence restraining order

In re Marriage of Ankola (2020) 53 Cal.App.5th 369 [267 Cal.Rptr.3d 569]

-fees denied based on totality of the circumstances

Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]

-fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)

Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]

-fees denied where the litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation

Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]

-given wife's authorization, trial court had jurisdiction to order direct payment of attorney fees even after substitution form filed

In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

-no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities

In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

-order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

family law court fee awards must be reasonable and based on factual showings

Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]

In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]

fee arbitration

Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]

fee award for appeal proper after paternity adjudication

Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

FEHA matter

Snoeck v. ExakTime Innovations, Inc. (2023) 96 Cal.App.5th 908 [314 Cal.Rptr.3d 569]

Vines v. O'Reilly Auto Enterprises, LLC (2022) 74 Cal.App.5th 174 [289 Cal.Rptr.3d 310]

Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]

Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]

-courts discretion to deny attorney fees

Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]

Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]

-prevailing defendant under this statute can only recover fees upon a showing that the plaintiff's action was frivolous, unreasonable, or without foundation

Lopez v. Routt (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]

final judgment determining the prevailing party is a prerequisite for the district court to have jurisdiction to rule on a petition for fees

Scanlon v. Sullivan (9th Cir. 1992) 974 F.2d 107

final judgment for purposes of an order to pay attorney fees refers to a final determination made at trial

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Sherry H. v. Thomas B. (1988) 203 Cal.App.3d 1500 [250 Cal.Rptr. 830]

-vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

for number of hours worked

White v. City of Richmond (N.D. Cal. 1982) 559 F.Supp. 127, 131

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

frivolous appeal

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

general right to

In re Coast Trading Co., Inc. (9th Cir. 1984) 744 F.2d 686, 693

generally should be awarded pursuant to Equal Access to Justice Act (EAJA) where government's underlying action was unreasonable even if government advanced reasonable litigation position

Ibrahim v. U.S. Department of Homeland Security (9th Cir. 2019) 912 F.3d 1147

Handicapped Children's Protection Act

-retroactive application of attorney's fees recovery permissible

Abu-Sahyun v. Palo Alto Unified School District (9th Cir. 1988) 843 F.2d 1250

if party prevails against the United States

Lacy v. Lehman (S.D.Cal. 1983) 563 F.Supp. 111

in anti-trust cases

Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378

-award goes to successful plaintiff, not to plaintiff's counsel

Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354

in bankruptcy proceedings permitted unless court abused discretion or erroneously applied the law

In re Intern. Environmental Dynamics, Inc. (9th Cir. 1983) 718 F.2d 322

-interest in post-petition attorney fees

In re Riverside-Linden Investment Co. (9th Cir. BAP 1990) 111 B.R. 298

in collective bargaining contract arbitration case preempted by federal law

Warehouse, Processing, Distribution Workers Union Local 26 v. Hugo Neu Proler Company (1998) 65 Cal.App.4th 732 [76 Cal.Rptr.2d 814]

inappropriate when opponent lacked notice

Mayer v. Wedgewood Neighborhood Coalition (9th Cir. 1983) 707 F.2d 1020

-amended party must be given opportunity to respond and contest personal liability before judgment is entered against him

Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]

indemnification clause

-fees denied where clause makes no reference to attorney's fees which were incurred under circumstances not addressed in the agreement

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

Indian tribal law

Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]

Individuals with Disabilities Education Act

Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087

T.B. ex rel. Brenneise v. San Diego Unified School District (9th Cir. 2015) 806 F.3d 451

Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255

Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114

inherent power of federal court to amend

In re Levander (9th Cir. 1999) 180 F.3d 1114

INS matter

Commissioner, INS v. Jean (1990) 110 S.Ct. 2316

-entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable

Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894

insurance cases

Allstate Insurance Co. V. Superior Court (2007) 60 Cal.Rptr.3d 782

interest on award of attorney's fees pursuant to statutes governing post-judgment interest

Khazan v. Braynin (2012) 206 Cal.App.4th 796 [142 Cal.Rptr.3d 118]

In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

interest on fees, attorney has standing to seek

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

interest on prejudgment award of fees begins to accrue upon entry of judgment

Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]

interpleader funds

-award of attorney's fees from interest accrued on interpleader funds statutorily prohibited by Code of Civil Procedure section 386.6

Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]

-from dispute between client and medical providers

Shayan v. Spine Care and Orthopedic Physicians (2020) 44 Cal.App.5th 167 [257 Cal.Rptr.3d 437]

-interpleader action allows courts to adjudicate competing claims to disputed settlement funds under Code of Civil Procedure section 386.6

Shayan v. Spine Care and Orthopedic Physicians (2020) 44 Cal.App.5th 167 [257 Cal.Rptr.3d 437]

IRS matter

Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658

Estate of Cartwright v. Commissioner of Internal Revenue (9th Cir. 1999) 183 F.3d 1034

United States v. Blackman (9th Cir. 1995) 72 F.3d 1418

Smith v. Brady (9th Cir. 1992) 972 F.2d 1095

Huffman v. Commissioner of Internal Revenue (U.S. Tax Ct. 1992) 978 F.2d 1139

Bertolini v. Commissioner Internal Revenue Service (9th Cir. 1991) 930 F.2d 759

jurisdiction of court

-trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction

Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]

labor management dispute

-denial of fees where district court erred in remanding case to state court

Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074

landlord-tenant cases

Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

liability for, regardless who the recipient is

Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 21-22 [206 Cal.Rptr. 303]

limits on

Leslie Salt Co. v. St. Paul Mercury Ins. Co. (9th Cir. 1984) 637 F.2d 657, 662

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

Moore v. American United Life Ins. Co. (1984) 150 Cal.App.3d 610, 643-644 [197 Cal.Rptr. 878]

-prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800

West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

lis pendens action

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

"lodestar" multiplier method of fee calculation

Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097

Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

FEES

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Snoeck v. ExaktTime Innovations, Inc. (2023) 96 Cal.App.5th 908 [314 Cal.Rptr.3d 569]
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Pellegrino v. Robert Half International, Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
 -adjustment of a lodestar figure serves to fix the attorney's fee at the fair market value for the particular action
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -basic fee for comparable legal services in the community may be adjusted after consideration of several factors
People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041

-court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
 -court could not rely upon in camera review of time sheets and billing records that were not disclosed to opposing party in awarding attorney fees and costs
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
 -court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that hiring local counsel was impracticable
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -court must articulate factors used to calculate award
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145
Kerkeles v. City of San Jose (2015) 243 Cal.App.4th 88 [196 Cal.Rptr.3d 252]
Ramos v. Countrywide Home Loans, Inc. (2000) 82 Cal.App.4th 615 [98 Cal.Rptr.2d 388]
 -detailed billing statements are not always necessary to support award of attorney fees under lodestar method
Concepcion v. Amscan Holdings, Inc. (2014) 223 Cal.App.4th 1039 [168 Cal.Rptr.3d 40]
 -district court erred by awarding an inconsistent fee based on the lodestar and a flat fee method
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 -even though prevailing party was charged a reduced rate
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
 -federal district court in calculating lodestar amount for ERISA attorney fee, was required to explain its reduction in hourly rate
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
 -increase in fees
 --superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
 -limited success
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
 -lodestar enhancement is discretionary, not mandatory
Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]
 -lodestar methodology not applicable where fees are not shifted to the losing party
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 -reasonable rate component not required where the attorney's hourly rate is specified in a valid fee agreement
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
 -not required where the attorney has entered into a valid fee agreement with the client
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
 -propriety of a multiplier is based on contingent risk and the amount of the multiplier is an open question entrusted to the court's discretion
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]

- reduction in fees
 - Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
 - Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
 - Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
 - Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 - district court judge was required to provide more specific reasons for making such a significant reduction in fees (37%)
 - Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
 - no fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
 - reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
 - EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
 - trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
 - Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
 - trial court reduced attorney fee award based on its' reasonable determination that routine, non-complex case was overstaffed to a degree that significant inefficiencies and inflated fees resulted
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 - victim's comparative negligence may reduce amount of restitution for economic losses
 - People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
- related/unrelated claims
 - Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
 - trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
 - Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
- malpractice action
 - Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
 - alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
 - Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
 - denial of fees where district court erred in remanding case to state court
 - Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
- market rate prevailing in relevant community used to determine award of attorney's fees
 - Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
 - Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
 - Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 - United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 - Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
 - PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- may be imposed when the lawsuit is frivolous, unreasonable, or without foundation
 - Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
 - Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 - Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
 - *Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 - Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
 - Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
 - attorney fees may not be awarded as a sanction to an attorney representing himself
 - Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 - In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
- may include fees for appellate and post-remand services
 - court instructions not necessary
 - Newhouse v. Roberts' Ilima Tours, Inc. (9th Cir. 1983) 708 F.2d 436, 441
- Med-pay
 - Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
- memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
 - Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
- "more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- municipal court
 - court may award attorneys' fees in excess of \$25,000 jurisdictional amount
 - Stokus v. Marsh (1990) 217 Cal.App.3d 647
- must be reasonable
 - Sealy Inc. v. Easy Living, Inc. (9th Cir. 1984) 743 F.2d 1378, 1385
 - Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
 - district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
 - Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
 - fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
 - Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 - it is not unreasonable for amount of attorney fees to exceed the amount of client's recovery
 - Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
- mutuality of remedy when contract permits recovery of attorney fees
 - Jones v. Drain (1983) 149 Cal.App.3d 484, 490
- needy spouse when other spouse is able to pay
 - In re Marriage of Kerry (1984) 158 Cal.App.3d 456, 464 [204 Cal.Rptr. 660]

FEES

negligence of plaintiff's attorney does not entitle defendant's attorney to award

Sooy v. Peter (1990) 220 Cal.App.3d 1305 [270 Cal.Rptr. 151]

no fees where plaintiff did not seek fees in requesting default judgment

Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]

no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants

Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]

no recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights

Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]

no recovery of attorney's fees unless contractual condition precedent is met

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

no recovery of attorney's fees unless they are specifically authorized by contract, statute, or law

Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

no recovery of attorney's fees where petitioner fails to provide pre-lawsuit notification

Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]

nominal damages, no entitlement to attorney fees where only Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]

not imposed when plaintiff presents a colorable claim and adverse jury verdict is less than unanimous

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

not limited by terms of contingency fee contract

Clark & Bunker v. City of Los Angeles (9th Cir. 1986) 803 F.2d 987

Vella v. Hudgins (1984) 151 Cal.App.3d 515, 519 [198 Cal.Rptr. 725]

not recoverable beyond surety's penal sum

Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]

Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

not recoverable unless they are specifically authorized by contract, statute, or law

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Hasler v. Howard (2005) 130 Cal.App.4th 1168 [30 Cal.Rptr.3d 714]

Kangarliou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]

California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

nuisance abatement actions

City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]

out-of-state attorney

-out-of-state attorney who merely assists California lawyer may recover attorney fees

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

paid by surety

Lawrence Tractor Co., Inc. v. Carlisle Ins. Co. (1988) 202 Cal.App.3d 949 [249 Cal.Rptr. 150]

party awarded nominal damages not entitled to attorney fees where statute provided award of fees for actions to recover damages to personal or real property

Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]

Patent Act Section 145 specifying that expenses of proceedings shall be paid by applicant does not authorize the Patent and Trademark Office to recover a share of the salaries of attorney and paralegal employees of the PTO who worked on the case. The statutory language referencing expenses was not sufficient to rebut the "American Rule" presumption that parties are responsible for their own attorney's fees

Peter v. Nantkwest, Inc. (2019) ___ U.S. ___ [140 S.Ct. 365]

pension cases

Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

periodic payment

-attorney's fees not subject to

Orellana v. Mejia (1988) 203 Cal.App.3d 337 [249 Cal.Rptr. 828]

petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees

California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

pleading and proof required

No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]

plus cost

Smith v. CMTA-IAM Pension Trust (9th Cir. 1984) 746 F.2d 587

prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

-defendants denied recovery when anti-SLAPP motion filed after plaintiff's voluntary dismissal of entire action without prejudice

S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]

prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves

Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

prevailing parties

-defined

Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

- alter ego liability claim
MSY Trading, Inc. v. Saleen Automotive, Inc. (2020) 51 Cal.App.5th 395 [264 Cal.Rptr.3d 901]
- Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]
- party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable
Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
- petitioner whose writ of mandate and complaint against defendant university ended in a favorable settlement was not considered to be an action within the meaning of Labor Code § 218.5 nor was the petitioner considered to be the prevailing party
Goldbaum v. Regents of University of California (2011) 191 Cal.App.4th 703 [119 Cal.Rptr.3d 664]
- plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
- when trial court renders a simple, unqualified decision in favor of defendant on the only contract claim in the action, the defendant is the party prevailing on the contract as a matter of law and therefore entitled to reasonable attorney fees under section 1717
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
- party prevailing on a contract claim generally entitled to attorney's fees under the reciprocal contractual attorney fee statute
Westwood Homes, Inc. v. AGCPII Villa Salerno Member (2021) 65 Cal.App.5th 922 [280 Cal.Rptr.3d 417]
- proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- private attorney general doctrine
People ex rel. Becerra v. Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
- Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
- Samantha C. v. State Department of Developmental Services (2012) 207 Cal.App.4th 71 [142 Cal.Rptr.3d 625]
- Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
- Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
- Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
- advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
- exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
- award improper where de minimus public benefit
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
- Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
- Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
- Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]
- award improper where remand to reconsider a perceived procedural defect did not result in change in the decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- award of fees justified where court determined that vindication of a constitutional or statutory right fulfilled a fundamental legislative goal
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
- calculation for
Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538, 552-553 [207 Cal.Rptr. 705]
- class action judgment against bank warrants award of attorneys' fees
Beasley v. Wells Fargo Bank, N.A. (1991) 235 Cal.App.3d 1383, opn. mod. 235 Cal.App.3d 1407
- criteria for award of fees
Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925
- Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
- Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
- Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
- Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
- Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
- Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
- Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]
- Schmier v. Supreme Court (2000) 96 Cal.App.4th 873 [117 Cal.Rptr.2d 497]
- Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
- California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396 [4 Cal.Rptr.2d 35]
- Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 917]

- Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
- Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
- California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
- supplemental fees request based on greater success on appeal
- Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- denied on the grounds that in pro per party's petition for fees was untimely
- Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
- discovery may be allowed by the trial court
- Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
- effect of Budget Act on
- Green v. Obledo (1984) 161 Cal.App.3d 678 [207 Cal.Rptr. 830]
- entitled to fee award under private attorney general statute based on work done in proceedings
- Robles v. Employment Development Department (2019) 38 Cal.App.5th 191 [250 Cal.Rptr.3d 611]
- entitled to fees because action resulted in enforcement of an important right affecting the public interest
- Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
- Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
- Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
- fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
- Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- family law
- fees denied where litigant sought a judgment to settle only her private rights and those of her children notwithstanding the public benefit to others whose adoptions were validated by the litigation
- Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- fees
- Schwartz v. City of Rosemead (1984) 155 Cal.App.3d 547 [202 Cal.Rptr. 400]
- fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
- Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
- jurisdiction of trial court is retained to award costs and fees despite filing of compromise agreement by the parties
- Folsom v. Butte County Association of Governments (1982) 20 Cal.3d 668 [186 Cal.Rptr. 589, 652 P.2d 437]
- no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
- Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
- no award of attorney's fees under Code of Civil Procedure section 1021.5 where pecuniary interest of public entity outweighed burden of litigation
- Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
- no important right is vindicated
- Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
- Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
- California School Employees Association v. Del Norte Unified School District (1992) 2 Cal.App.4th 1396
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
- City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- standard for
- Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
- City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
- Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
- Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
- Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
- Slayton v. Pomona Unified School District (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
- Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]
- fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
- Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
- Supreme Court's exclusive discretion to fashion equitable awards of attorney fees
- Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
- Serrano v. Priest (1977) 20 Cal.3d 24 [141 Cal.Rptr. 315, 569 P.2d 1303]
- Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]
- test
- Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
- City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
- Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
- Slayton v. Pomona Unified School Dist. (1984) 161 Cal.App.3d 538 [207 Cal.Rptr. 705]
- burden to plaintiffs compared with personal cost
- Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
- Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
- California Teachers Assn. v. Cory (1984) 155 Cal.App.3d 494, 515 [202 Cal.Rptr. 611]
- unnamed member of putative class who defeats class certification
- Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
- Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
- Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]

pro bono fee arrangement not precluded from award of fees based on hourly rate of reasonable market value of attorney's services

Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

pro bono organization is entitled to an award of fees in child support cases

In re Marriage of Ward (1992) 3 Cal.App.4th 618 [4 Cal.Rptr.2d 365]

pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award

Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

pro se attorney litigant with an assisting counsel

Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

probate matters

-attorney fees are not awarded when matter is resolved or settled without the actual appointment of a conservator

Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]

-discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

-fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust

Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]

-includes work reasonably performed by attorney to establish and defend own fee claim

Estate of Trynin (1989) 49 Cal.3d 868

-no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative

In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]

-party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party

In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee

Pizarro v. Reynoso (2017) 10 Cal.App.5th 172 [215 Cal.Rptr.3d 701]

Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]

-trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith

Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

-under Probate Code 2640.1

Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]

-under Probate Code section 17211(b)

Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]

probation

-trial court may not require reimbursement for attorneys' fees as a condition of probation

People v. Faatiliq (1992) 10 Cal.App.4th 1276 [13 Cal.Rptr.2d 190]

proper despite party's failure to file noticed motion

California Recreation Industries v. Kierstead (1988) 199 Cal.App.3d 203 [244 Cal.Rptr. 632]

purpose of the cost-shifting settlement

-offer statute is to encourage the settlement of litigation without trial, by punishing the party who fails to accept a reasonable settlement offer from its opponent

Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]

purpose of the statute

Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193

qui tam action

-denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith

U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

reasonableness of

Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]

Martino v. Denevi (1986) 182 Cal.App.3d 553, 558-559 [227 Cal.Rptr. 354]

Glendora Community Redevelopment Agency v. Demeter (1984) 155 Cal.App.3d 465 [202 Cal.Rptr. 389]

-certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 U.S.C. § 1681o(a)(2); 28 U.S.C. § 1920 (the Fair Credit Reporting Act)

Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577

-compensation sought by creditor's attorney in connection with an involuntary bankruptcy was permissible so long as the creditor met the statutory standard

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

-consideration of indigent losing party's financial condition

Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]

-corporate in-house counsel entitled to reasonable fees under Civil Code section 1717

PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)

-court improperly considered an out-of-town attorney's higher rates as the basis for a fee multiplier without an adequate evidentiary showing that it was impracticable to hire local counsel

Nichols v. City of Taft (2007) 155 Cal.App.4th 1233 [66 Cal.Rptr.3d 680]

-court should look first to the contingent fee agreement, then test it for reasonableness

Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

-district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees

Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122

-district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

-district court must provide a concise but clear explanation of its reasons for the fee award, even though it has discretion to determine a reasonable fee

Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

-district court must provide more specific reasons for making such a significant reduction in fees (37%)

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

-factors of attorneys' skill and novelty and difficulty of case in determining lodestar and multiplier not impermissible double counting

The Sonoma Land Trust v. Thompson (2021) 63 Cal.App.5th 978 [278 Cal.Rptr.3d 324]

FEES

-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-fees award that was three times the compensatory damages awarded to plaintiff not necessarily a consideration in determining a reasonable fee
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]

-has to be reasonable in comparison to the actual damages award
Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]

-medical malpractice cases
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]

-monitoring state officials' compliance with settlement
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446

-no abuse of discretion found where court awarded fees even though attorney had about three years of licensure, had graduated from an unaccredited law school, and had experience mainly in another area of law
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

-rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446

-rate determined by lodestar calculation reasonable even where may have exceeded actual hourly rate
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

-rate determined by lodestar calculation reasonable even where may have exceeded actual hourly rate
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

-reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

-reduction of fees by trial court without identifying which factors made the requested hourly rates unreasonable
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

-trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

-trial judge in best position to determine value of services
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]

-under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

-under 42 U.S.C. § 1983, 1988
 --section 1988 vests the right to attorney's fees in the prevailing party, not the attorneys
Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188

-under 42 U.S.C. § 1988
Edmo v. Corizon, Inc. (9th Cir. 2024) 97 F.4th 1165

--amount requested was unreasonable in comparison to the actual damages award; trial court properly denied request
Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]

rebate portion to client
 LA 523 (2009), LA 447 (1987)

recoverable even where documents at issue not proven under the statute
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

recovery of costs and fees under a sister state judgment not prohibited under California law
Aspen International Capital Corporation v. Marsch (1991) 235 Cal.App.3d 1199

reviewable on appeal
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
Hadley v. Krepel (1985) 167 Cal.App.3d 677 [214 Cal.Rptr. 461]
Catello v. I.T.T. General Controls (1984) 152 Cal.App.3d 1009, 1012
Mackinder v. OSCA Development Co. (1984) 151 Cal.App.3d 728, 738-739

-appellate court has no jurisdiction to review an award of attorney fees made after entry of judgment unless the order awarding fees is separately appealed
Colony v. Ghamaty (2006) 143 Cal.App.4th 1156 [50 Cal.Rptr.3d 247]

-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs
Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

-arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration
Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]
Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

-arbitrator's determination of prevailing party is not subject to appellate review
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

-arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration
Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]

-authority of arbitrator to amend or correct a final award
Delaney v. Dahl (2002) 99 Cal.App.4th 647 [121 Cal.Rptr.2d 663]

risk factor analysis
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]

risk should be assessed when an attorney determines that there is merit to claim, likely before lawsuit is filed
Fischel v. Equitable Life Assurance Society of the U.S. (9th Cir. 2002) 307 F.3d 997

sanctions for delay
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

-attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 -award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
 sanctions imposed and expanded prefilling order on vexatious litigant and their attorney for filing frivolous appeals
Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
 sanctions order reversed where trial court improperly awards full compensation of all attorney fees as a sanction for violating a Rule of Court
Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
 sanctions where conduct frustrates a settlement and increases the cost of litigation
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 settlement agreement
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
 -agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
 -award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 -CCP § 998 offer invalid if settlement is conditioned on confidentiality
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
 -fees denied where the terms of the settlement agreement failed to establish that plaintiff was the prevailing party on the claims for which fees were sought
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
 -parties to settlement agreement can validly specify a prevailing party
Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]
 -settlement offer did not specify a particular amount of fees did not render it unenforceable
Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
 -statutory rule that there is no prevailing party where action is dismissed does not bar a fee award where prevailing party's right to recover fees arises under a fee-shifting statute
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 -trial court erred by modifying existing settlement agreement by reducing award of attorney fees and costs without parties mutual consent
Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
 -which include fee-waiver provisions under fee shifting statutes
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 settlement of class actions
In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935

shareholder derivative action
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 SLAPP action
Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
 -arising out of malicious prosecution action
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
 -attorney who acted pro se who litigates an anti-SLAPP motion on his own behalf may not recover attorney fees
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
 -law firm may not recover attorney fees after winning anti-SLAPP motion, even though it used 'contract attorney' to work on that motion
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
 -attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
 -burden of proving fees were covered by award following successful motion
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
 -defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
 -defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
 -defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
 -defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 -denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
 -despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
 -does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal
Wanland v. Law Offices of Mastagni, Holstedt & Chirazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
 -fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

FEES

-litigant who is only partially successful on anti-SLAPP motion entitled to recover attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]

-mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

-plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

-sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]

-time limits for filing motion for attorney's fees do not commence to run until entry of judgment at the conclusion of litigation
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]

-will revision considered protected activity for anti-SLAPP motion purposes
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

"SLAPPback"

-fees not recoverable
Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]

small claims court
Dorsey v. Superior Court (2015) 241 Cal.App.4th 583 [193 Cal.Rptr.3d 834]

social security

-determination
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

-determination of "reasonable fee" to attorney out of prevailing claimant's recovery
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]

-fees awarded in successful social security claims reversed and affirmed for various reasons
Straw v. Bowen (9th Cir. 1989) 866 F.2d 1167

-limit on the award of attorney's fees at court hearings under 42 U.S.C. § 406(b) is not applicable to hearings before the Administration
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211

special hearing required under FOIA
Church of Scientology v. U.S. Postal Service (9th Cir. 1983) 700 F.2d 486, 494

spousal support, subsequent proceedings

Civil Code section 4370
In re Marriage of Joseph (1989) 215 Cal.App.3d 416
Paduano v. Paduano (1989) 215 Cal.App.3d 346

standard for award of attorney fees under Probate Code 2640.1
Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]

statutory authority for
Forker v. Board of Trustees (1984) 160 Cal.App.3d 13, 20-21 [206 Cal.Rptr. 303]

statutory basis for

Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Jacobson v. Delta Airlines, Inc. (9th Cir. 1984) 742 F.2d 1202
Timms v. United States (9th Cir. 1984) 742 F.2d 489
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
Woodland Park Management LLC v. City of East Palo Alto Rent Stabilization Board (2010) 181 Cal.App.4th 915 [104 Cal.Rptr.3d 673]
Zuehlisdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
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-bail bond forfeiture proceedings

-motion of fees denied where there is no provision in the relevant statute to recover fees as costs
People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]

-defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]

-False Claims Act provides for award of fees under rare and special circumstances
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]

-family law
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]

-fees awarded pursuant to a city council resolution
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]

-SLAPP action
Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Wanland v. Law Offices of Mastagni, Holstedt & Churazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

Ampex Corp. v. Cargile (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
 --attorney fees incurred in enforcement of anti-SLAPP judgment recoverable
York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
 --standing to assert
Willard & Mitchell v. City of Los Angeles (9th Cir. 1986) 803 F.2d 526
 statutory limit
 --award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
 --in excess of
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Estate of Gikison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
 --prevailing party in a derivative action precluded from recovering fees and costs in excess of the bond posted pursuant to Corporations Code § 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
 --reasonably necessary
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
In re Marriage of Newport (1984) 154 Cal.App.3d 915, 918 [201 Cal.Rptr. 647]
 --under 42 U.S.C. § 406(b) (social security benefits)
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
 --courts should review the contract to ensure that its fee provisions do not exceed the limit
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 statutory threshold required to establish eligibility for fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
Filipino Accountants Assn. v. State Board of Accountancy (1984) 155 Cal.App.3d 1023 [204 Cal.Rptr. 913]
 statutory to prevailing party
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Oregon Natural Resources Council v. Madigan (1992) 980 F.2d 1330
Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Braun v. City of Taft (1984) 154 Cal.App.3d 332, 348-349 [201 Cal.Rptr. 654]
 --award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 --prevailing defendant not entitled to award of attorney fees where case brought under anti-hate crime statute
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

stipulations and settlements are controlling
Mitchell v. City of Los Angeles (9th Cir. 1984) 741 F.2d 281, 283
 subtraction of hours for discovery was not abuse of discretion
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
 temporary order to award
 Civil Code section 4370
 third-party actions
 --award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
 --entitled to attorney fees based on workman's compensation lien amount
Raisola v. Flower Street, Ltd. (1988) 205 Cal.App.3d 1004
 --under Code of Civil Procedure § 701.020 et seq.
 --fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
Ilshin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
 third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award
Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]
 --award of attorney fee provision in contract applies to third-party beneficiary
Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]
Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]
 third-party liability
 --judgment creditor entitled to recover fees and costs from third-party who helped judgment debtor hide assets
Cardinale v. Miller (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]
 third-party tortfeasor doctrine
Mega RV Corporation v. HWH Corporation (2014) 225 Cal.App.4th 1318 [170 Cal.Rptr.3d 861]
Vacco Industries, Inc. v. Van Den Berg (1992) 5 Cal.App.4th 34 [6 Cal.Rptr.2d 602]
 time limits
 --fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
 --fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
 --time limits for filing motion for attorney's fees do not commence to run until entry of judgment at the conclusion of litigation
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
 --under Family Code section 271, award of attorney fees as sanction against party who frustrates policy to promote settlement, encourage cooperation and reduce cost of litigation
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]
 timeliness for filing of fees
 --relief from default
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]

FEES

to prevailing party

Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]

Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]

Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]

Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

--absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney

Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]

--absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

--absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

--limited to cases where the parties do not have an agreement as to award of fees

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

--absent an express waiver of attorney's fees & costs in an CCP section 998 offer, prevailing party is entitled to compensation of expenses incurred in the lawsuit

Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]

Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

--action dismissed as part of post-judgment settlement effectively eliminates fee award based on contract

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

--action dismissed but fees awarded under contractual provision

Elms v. Builders Disbursements Inc. (1991) 232 Cal.App.3d 671 [283 Cal.Rptr. 515]

--action for negligent performance of contractual duties

Perry v. Robertson (1988) 201 Cal.App.3d 333 [247 Cal.Rptr. 74]

--action on contract

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems, Inc. (2007) 147 Cal.App.4th 424 [54 Cal.Rptr.3d 225]

Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

Bussey v. Affleck (1990) 225 Cal.App.3d 1162 [275 Cal.Rptr. 646]

Valley Bible Center v. Western Title Ins. Co. (1983) 138 Cal.App.3d 931, 933 [188 Cal.Rptr. 335]

--abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

--ADEA matter

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

--Americans with Disabilities Act

--district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the

litigation, but the court could consider prevailing party's actions in reducing fees

Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122

--anti-hate crime matter

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

--anti-SLAPP suits

--arising out of malicious prosecution action

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

--defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

--fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant

Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

--protected activity, fees permitted

G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

--will revision considered protected activity for anti-SLAPP motion purposes

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

--withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

--apportionment not required if successful and unsuccessful claims are interrelated

Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]

--arbitration cases

Kalai v. Gray (2003) 109 Cal.App.4th 768 [135 Cal.Rptr.2d 449]

--arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

--arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration

Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

--arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

--arbitrator's determination of prevailing party is not subject to appellate review

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

--court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award

Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]

- prevailing party in action to forestall arbitration
Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]
- attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
- attorney who acted per se in contract action may recover reasonable attorney fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
- attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- attorney's fees may be awarded to taxpayer who incurred attorney's fees even if initially paid by others
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
- bankruptcy matter
 - fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"
In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506
- bond not required to stay award pending an appeal
More Direct Response v. Callahan (1992) 10 Cal.App.4th 140 [12 Cal.Rptr. 573]
- California Public Records Act
Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- trial court abused its discretion by applying an inapposite decision to deny attorney fees without prior notice to the plaintiff
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
- class actions
 - absent class members not liable for employer's attorney's fees in overtime dispute
Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]
 - attorney's fees for securities class action suits should be based on individual case risk
In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254
 - attorney's fees should be adequate to promote consumer class action
Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271
In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]
 - district court presiding over settlement fund had equitable power to award attorney's fees for work outside litigation immediately before court where that work helped create settlement fund
Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
- trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees
Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]
- Clean Water Act matter
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
- fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012
- Code of Civil Procedure 1987.2
 - plaintiff awarded attorney fees when non-party refused to comply with subpoena to produce electronically stored information
Vasquez v. California School of Culinary Arts, Inc. (2014) 230 Cal.App.4th 35 [178 Cal.Rptr.3d 10]
- constitutional right to free exercise of religion at issue
Friend v. Kolodziejczak (9th Cir. 1992) 965 F.2d 682
- construction contract fee provision not applicable to breach of limited partnership agreement
Pilcher v. Wheeler (1992) 2 Cal.App.4th 352
- contrary provision in lease contract
Beverly Hills Properties v. Marcolino (1990) 221 Cal.App.3d Supp. 7 [270 Cal.Rptr. 605]
- corporate in-house counsel entitled to reasonable fees under Civil Code section 1717
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
- court was obligated to determine which of the litigants was the prevailing party where the statutory language makes a fees award mandatory, even though the lawsuit was resolved by a settlement agreement
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
- Davis-Stirling Common Interest Development Act
 - determination of reasonable attorney's fees and costs
Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]
- defendant entitled to reasonable attorney's fees arising from defendant's petition to compel arbitration of a dispute between the parties arising under a lease agreement
Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
- defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
- defendant prevails in Title VII action brought by EEOC
Equal Employment Opportunity Commission v. Bruno's Restaurant (9th Cir. 1992) 976 F.2d 521
- defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
- defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
- definition of prevailing party under Code of Civil Procedure § 1032 et seq.
deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]

FEES

-denied where litigant was unable to materially alter the legal relationship of the parties by judgment or by consent decree

Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178

-district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

-does not preclude recovery of appellate attorney fees by prevailing defendant-respondent on appeal

Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

-employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims

Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]

-enforcement of foreign judgment

Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]

-environmental groups are not "prevailing parties" since they do not prevail against EPA

Idaho Conservation League, Inc. v. Russell (9th Cir. 1991) 946 F.2d 717

-Equal Access to Justice Act

Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830

--entitled to fees and costs if litigant is prevailing party; the government fails to show its position was substantially justified; and the requested fees are reasonable

Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894

--standing to contest an offset where attorney fees awarded to prevailing party not to attorney

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

--under 28 U.S.C.A. 2412(d)(1)(A)

Medina Tovar v. Zuchowski (9th Cir. 2022) 41 F.4th 1085

Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215

Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

-ERISA matter

--computerized research may be recovered as attorney fees

Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253

--either party may recover, not just prevailing party; claimant must show some degree of success on the merits

Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]

--under 29 U.S.C. 1123(g)(1)

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

McElwaine v. US West, Inc. (9th Cir. (Ariz.) 1999) 176 F.3d 1167

Cann v. Carpenters' Pension Trust Fund for Northern California (1993) 989 F.2d 313

Downey Community Hospital v. Wilson (9th Cir. 1992) 977 F.2d 470

Bogue v. Ampex Corporation (9th Cir. 1992) 976 F.2d 1319

--under 29 U.S.C. 1332(g)(1)

Simonia v. Glendale Nissan/Infiniti Disability Plan (9th Cir. 2010) 608 F.3d 1118

--under 29 U.S.C. 1332(g)(2)(D)

Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253

-fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

-fees awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

-fees denied where plaintiff prevailed on some of the claims in the lawsuit, but did not prevail on other claims that provided for attorney's fees

Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

-fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions

Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965

-fees granted where plaintiff enters into legally enforceable settlement agreement with defendant

Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080

-fees reduced by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred

EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

-FEHA matter

Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607

Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

Snoeck v. ExakTime Innovations, Inc. (2023) 96 Cal.App.5th 908 [314 Cal.Rptr.3d 569]

Vines v. O'Reilly Auto Enterprises, LLC (2022) 74 Cal.App.5th 174 [289 Cal.Rptr.3d 310]

Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]

Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]

Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

Young v. Exxon Mobil Corp. (2008) 168 Cal.App.4th 1467 [86 Cal.Rptr.3d 507]

Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]

Vo v. Las Virgenes Municipal Water District (2000) 79 Cal.App.4th 440 [94 Cal.Rptr.2d 143]

Hon v. Marshall (1997) 53 Cal.App.4th 470 [62 Cal.Rptr.2d 11]

Cummings v. Benco Building Services (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]

--prevailing defendant under this statute can only recover fees upon a showing that the plaintiff's action was frivolous, unreasonable, or without foundation

Lopez v. Routt (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]

- Government Code section 970 et seq.
 - property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
 - Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
- Government Code section 6250
 - Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- Government Code section 6259(c)
 - Crews v. Willows Unified School District (2013) 217 Cal.App.4th 1368 [159 Cal.Rptr.3d 484]
 - Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
- Government Code section 6259(d)
 - Crews v. Willows Unified School District (2013) 217 Cal.App.4th 1368 [159 Cal.Rptr.3d 484]
 - Belth v. Garamendi (1991) 232 Cal.App.3d 896 [283 Cal.Rptr. 829]
- Government Code section 12965(b)
 - Beaty v. BET Holdings, Inc. (9th Cir. 2000) 222 F.3d 607
 - Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]
- Government Code section 25845
 - County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- Handicapped Children's Protection Act
 - Barlow/Gresham Union High School District v. Mitchell (9th Cir. 1991) 940 F.2d 1280
- hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority
 - MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
- IDEA (Individuals with Disabilities Education Act) matter
 - Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087
 - T.B. ex rel. Brenneise v. San Diego Unified School District (9th Cir. 2015) 806 F.3d 451
 - Weissburg v. Lancaster School District (9th Cir. 2010) 591 F.3d 1255
 - V.S. ex rel. A.O. v. Los Gatos-Saratoga Joint Union High School Dist. (9th Cir. 2007) 484 F.3d 1230
 - Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
 - Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
- attorney-parent not entitled to recover attorney fees for representing their children in IDEA proceedings
 - Ford v. Long Beach Unified School District (9th Cir. 2006) 461 F.3d 1087
- child and parent may be entitled to attorney fees as the prevailing party
 - Park, ex rel. Park v. Anaheim Union High School Dist. (9th Cir. 2006) 464 F.3d 1025
- includes a defendant in whose favor a dismissal is entered
 - Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
- Labor Code § 98.2
 - Nishiki v. Danko Meredith APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
- former employee's attorneys entitled to attorney's fees even if they represent party without charge
 - Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
- "more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
 - Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
- law providing for fees and cost to prevailing plaintiff applies to either party
 - Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- legal malpractice matter
 - Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
- lis pendens action
 - Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
 - Doyle v. Superior Court (1991) 226 Cal.App.3d 1355
- absent a definition of prevailing party under CCP § 405.38, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
 - Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
- multiple prevailing parties
 - Hunt v. Fahnestock (1990) 220 Cal.App.3d 628 [269 Cal.Rptr. 614]
- no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
 - Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
- no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants
 - Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
- no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
 - Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
- not entitled to award of attorney's fees under CC § 1717 where party brings tort action on the grounds that the action was not an action to enforce the contract
 - Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
- notice of appeal may subsume later order setting the amounts of the award
 - Grant v. List & Lathrop (1992) 2 Cal.App.4th 993
- out-of-state attorney who merely assists California lawyer may recover attorney fees
 - Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
- partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16
 - Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
- partially prevailing defendant not entitled following voluntary dismissal of entire action
 - Rosen v. Robert P. Warrington Co. (1988) 201 Cal.App.3d 939
- partially prevailing party subject to reduction in fees for counsel's work on unsuccessful or unrelated claims to the claim on which he succeeded
 - Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
- party entitled to costs on appeal may establish legal basis to recover attorney's appellate fees
 - Butler-Rupp v. Lourdeaux (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]

FEES

-party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable

Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]

-party prevails if he was able to achieve most or all of his litigation objectives

Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]

-party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]

-peer review lawsuit

Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]

-petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees

California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

-plaintiff not entitled to fees where request was not included in default judgment

Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]

-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees

Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]

-plaintiff obtained some relief on merits of claim

Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803

-pleadings

Manier v. Anaheim Business Center Co. (1984) 161 Cal.App.3d 503, 508 [207 Cal.Rptr. 508]

-prevailing defendant-attorneys on an anti-SLAPP motion are not entitled to attorney fees because they represented themselves

Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

-prevailing party as defined by statute versus one defined by contract

Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]

-prevailing party is ascertained by pragmatic assessment of the parties' ultimate positions vis à vis their litigation objectives, not by technicalities of pleading and procedure

In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding

Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

-prevailing party status irrelevant when defendant was not a party to the underlying contract

Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103

Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]

-pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case

Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943

-proper to award attorney fees to defendant attorney even though he was representing himself

*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

-attorney fees may not be awarded as a sanction to an attorney representing himself

Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

-proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute

Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

-property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city

Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]

Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]

-reasonable fees under Davis-Stirling Common Interest Development Act

Almanor Lakeside Villas Owners Association v. Carson (2016) 246 Cal.App.4th 761 [201 Cal.Rptr.3d 268]

-real estate purchase agreement

Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]

Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]

Xuereb v. Marcus & Millichap, Inc. (1992) 3 Cal.App.4th 1338

-settlement agreement

Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

-parties to settlement agreement can validly specify a prevailing party

Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]

-SLAPP action

--burden of proving fees were covered by award following successful motion

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

--partially successful motion constitutes prevailing party unless no practical benefit from bringing motion

Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]

-standard for awarding attorney's fees under Endangered Species Act

Carson-Truckee Water Conservancy District v. Secretary of the Interior (9th Cir. 1984) 748 F.2d 523, 525-526

--catalyst theory applied

Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879

-standard for awarding attorney's fees under Equal Access to Justice Act

Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]

Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830

Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128

U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146

U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156

U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899

Beach v. Smith (9th Cir. 1984) 743 F.2d 1303, 1306-1307

McQuiston v. Marsh (9th Cir. 1983) 707 F.2d 1082, 1085

-summary judgment on complaint not appealable final judgment
Day v. Papadakis (1991) 231 Cal.App.3d 503 [282 Cal.Rptr. 548]
 -trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
 -trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
 -under 18 U.S.C. § 3006(A)
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
 -under 35 U.S.C. § 285
Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]
 -under 42 U.S.C. §§ 1983, 1988
Buffin v. California (9th Cir. 2022) 23 F.4th 951
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
 -under 42 U.S.C. § 12205 (ADA)
 --fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
 -under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
 -under California Education Code § 44944(f)
 --application of lodestar methodology in determining reasonable attorney's fees
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
 -under California Tort Claims Act
 --CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
 -under Civil Asset Forfeiture Reform Act
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
 -under Civil Code section 798.85
Canyon View Ltd. v. Lakeview Loan Servicing, LLC (2019) 42 Cal.App.5th 1096 [256 Cal.Rptr.3d 233]
Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
 -under Civil Code section 1354
Grossman v. Park Fort Washington Association (2013) 212 Cal.App.4th 1128 [152 Cal.Rptr.3d 48]
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
 -under Civil Code section 1717
In re Penrod (9th Cir. 2015) 802 F.3d 1084
Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]
Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]

Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
Kandy Kiss of California, Inc. v. Tex-Elent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]
Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
 --absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 --arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
 --attorney fees may be awarded to more than one prevailing party in a breach of contract dispute
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
 --attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
 --decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
 --denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
 --denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
 --does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Kartan, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

FEES

- no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
- no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosio (9th Cir. BAP 2014) 505 B.R. 903
- prevailing party law firm not entitled to attorney fees when represented by their own of counsel
Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]
- voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]
- under Civil Code section 1942.4
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
- under Civil Code section 1942.5
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]
- under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
- under Civil Code section 5975
Champir, LLC v. Fairbanks Ranch Association (2021) 66 Cal.App.5th 583 [281 Cal.Rptr.3d 286]
Coley v. Eskaton (2020) 51 Cal.App.5th 943 [264 Cal.Rptr.3d 740]
- under Civil Rights 1983
Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020
- under Code of Civil Procedure section 128.7
 --attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
 --criteria for recovery of fees and costs in opposing motion for sanctions
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
- under Code of Civil Procedure section 340.1
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
- under Code of Civil Procedure section 405.38
 --in lis pendens action, court resorted to a practical approach by analyzing the extent to which each party realized its litigation objectives in determining which was the prevailing party
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]
 --in lis pendens action, to challenge attorney fee award to prevailing party on motion to expunge, requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]
- under Code of Civil Procedure section 425.16
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
- Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
- G.W. v. Intelligitor (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
- attorney's fees may be reduced if prevailing defendant in anti-SLAPP action claims work not related to the motion to strike
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
- defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
- does not authorize an award of attorney fees against plaintiff's counsel
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
- litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
- sufficient evidence supported court's decision to reduce prevailing party's award of attorney fees in anti-SLAPP motion
569 East County Boulevard LLC v. Backcountry Against the Dump, Inc. (2016) 6 Cal.App.5th 426 [212 Cal.Rptr.3d 304]
- withdrawal of funds was not protected conduct because it was neither communicative nor an issue of public interest
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
- under Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]

Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]--advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
 ---exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
 --application of catalyst theory
Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
 --apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
 --attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 --does not preclude award of such fees in a family law case
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
 --litigant's personal non-pecuniary interest may not be used to deny litigant recovery of legal fees under the statute
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
 --must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
 --no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
 --party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
 --requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]

--respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
 --right to attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
 --suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]
 --trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
 --under Code of Civil Procedure section 1021.9
Hoffman v. Superior Ready Mix Concrete (2018) 30 Cal.App.5th 474 [241 Cal.Rptr.3d 476]
 --under Code of Civil Procedure section 1032
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 --under Code of Civil Procedure section 1038
 --CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney
Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]
 --no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 --under Code of Civil Procedure section 1094.5
No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
 --under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 --under Endangered Species Act
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
 --under Fair Credit Reporting Act
 --certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USC § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)
Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577
 --under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay other spouse's attorney fees directly to attorney
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
 --under Federal Trade Commission's "Holder Rule" 16 C.F.R. § 433.2(a)
Pulliam v. HNL Automotive, Inc. (2022) 13 Cal.5th 127 [293 Cal.Rptr.3d 649]
Reyes v. Beneficial State Bank (2022) 76 Cal.App.5th 596 [291 Cal.Rptr.3d 657]
 --under Freedom of Information Act
Schoenberg v. Federal Bureau of Investigation (9th Cir. 2021) 2 F.4th 1270
Poulsen v. Department of Defense (9th Cir. 2021) 994 F.3d 1046

FEES

- under Government Code section 800
 - appeal of determination made in an administrative proceeding as resulting from arbitrary or capricious action encompasses "any civil action" as used in Gov't Code section 800 for authorizing an award of attorney fees to the prevailing party
 - Atkinson v. Dept. of Motor Vehicles (2024) 102 Cal.App.5th 997 [322 Cal.Rptr.3d 198]
 - finding of arbitrary and capricious action against school district
 - Zuehlisford v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
- under Health Care Decisions Law
 - Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]
- under Labor Code § 218.5
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
 - Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
 - fees denied when prevailing party fails to request in initial complaint
 - Shames v. Utility Consumers' Action Network (2017) 13 Cal.App.5th 29 [219 Cal.Rptr.3d 846]
 - Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
 - Kirby v. Immoos Fire Protection, Inc. (2012) 53 Cal.4th 1244 [140 Cal.Rptr.3d 173]
 - party is a prevailing party under section 218.5 when the party prevails on a claim for unpaid wages, even when such a claim is made with other claims on which attorney fees are not recoverable
 - Sharif v. Mehusa, Inc. (2015) 241 Cal.App.4th 185 [193 Cal.Rptr.3d 644]
 - salaried employee entitled to recover attorney's fees in action for non-payment of wages
 - On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698]
 - prevailing party in nonpayment of wages action could not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
 - Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
- under Labor Code § 1194
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
- under Labor Code § 4607
 - Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
- under Lanham Act
 - SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179
- under Penal Code section 496
 - Siry Investment, L.P. v. Farkhondehpour (2022) 13 Cal.5th 333 [296 Cal.Rptr.3d 1]
- under Penal Code section 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages
 - People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]
 - People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]
- under Probate Code section 17211(b)
 - Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]
- under Probate Code section 15642(d)
 - Bruno v. Hopkins (2022) 79 Cal.App.5th 801 [294 Cal.Rptr.3d 852]
- under Revenue and Taxation Code section 1611.6
 - Chinese Theatres, LLC v. County of Los Angeles (2021) 59 Cal.App.5th 484 [273 Cal.Rptr.3d 640]
- under Song Beverly Act
 - Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
 - Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]
 - Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- under Uniform Foreign Money Judgments Recognition Act
 - Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
- under Uniform Trade Secrets Act
 - Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- under Vehicle Leasing Act
 - Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]
- under Welfare and Institutions Code section 10962
 - K.L. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
- unsuccessful plaintiff
 - McLarand, Vasquez & Partners v. Downey Savings & Loan Assoc. (1991) 231 Cal.App.3d 1450 [282 Cal.Rptr. 828]
- to prevailing party buyers of real property denied attorney fees as offset against purchase price
 - Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
- to VA patient not proper where government's position is substantially justified
 - Foster v. Tourtellotte (9th Cir. 1983) 704 F.2d 1109
- tort claims
 - award of attorney fees in an action to enforce any provision of a contract under CC § 1717 does not extend to tort claims
 - Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
 - insured's assignment of a cause of action against an insurance company for tortious bad faith was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
 - Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
- under Code of Civil Procedure section 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
 - California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- "tort of another" theory
 - Mai v. HKT (2021) 66 Cal.App.5th 504 [281 Cal.Rptr.3d 255]
- trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
 - Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
- trial court properly denied request when it was unreasonable in comparison to the actual damages award
 - Guillory v. Hill (2019) 36 Cal.App.5th 802 [248 Cal.Rptr.3d 808]
- tribal law may require tribal remedy exhaustion in contract disputes
 - Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]
- under 11 U.S.C. § 303
 - In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456

under 11 U.S.C. § 330
In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
 under 15 U.S.C. § 15
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
 under 15 U.S.C. § 784(a)(6)
 -fee awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 under 15 U.S.C. § 1117(a), fees may be awarded in exceptional trademark cases
K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079
Watec Co., Ltd. v. Liu (9th Cir. 2005) 403 F.3d 645
 under 15 U.S.C. § 1117(c)
 -election of statutory damages precludes award
K and N Engineering, Inc. v. Bulat (9th Cir. 2007) 510 F.3d 1079
 under 15 U.S.C. § 1692 et seq.
 -determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices
Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973
 under 15 U.S.C. § 1692k(a)(3)
Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137
 under 17 U.S.C. § 505 (Copyright Act)
Shame On You Productions, Inc. v. Banks (9th Cir. 2018) 893 F.3d 661
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
 under 18 U.S.C. § 3006A (Hyde Amendment)
 -denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176
 under 28 U.S.C. § 1291
Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264
 under 28 U.S.C. § 1447(c)
Moore v. Permanente Medical Group, Inc. (9th Cir. 1992) 981 F.2d 443
 -standard for awarding fees turns on the reasonableness of the case from state court to federal court
Gardner v. UICI (9th Cir. 2007) 508 F.3d 559
 under 28 U.S.C. § 2412(d)
Medina Tovar v. Zuchowski (9th Cir. 2022) 41 F.4th 1085
Jones v. Espy (1993) 10 F.3d 690
Oregon Natural Resources Council v. Madigan (9th Cir. 1992) 980 F.2d 1330
 -social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
 under 29 U.S.C. § 621 et seq.
 -fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
 under 29 U.S.C. § 794 (Rehabilitation Act)
 -claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
 under 29 U.S.C. § 1132(g)(1)
Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]
 under 31 U.S.C. § 3729(a)(1), False Claims Act
 -court must provide detailed findings in support of any award
Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999

under 33 U.S.C. § 921(d)
Christensen v. Stevedoring Services of America, Inc. (9th Cir. (Or.) 2005) 430 F.3d 1032
 under 33 U.S.C. § 1365
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084
 under 35 U.S.C. § 285
Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]
 under 42 U.S.C. § 406(a)
Clark v. Astrue (9th Cir. 2008) 529 F.3d 1211
 under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 under 42 U.S.C. §§ 1983, 1988
Gonzalez v. City of Maywood (9th Cir. 2013) 729 F.3d 1196
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
 under 42 U.S.C. § 1988
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
Edmo v. Corizon, Inc. (9th Cir. 2024) 97 F.4th 1165
Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
Rickley v. County of Los Angeles (9th Cir. 2011) 654 F.3d 950
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Richard S. v. Department of Developmental Services of State of California (9th Cir. 2003) 317 F.3d 1080
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
Corder v. Gates (9th Cir. 1996) 104 F.3d 247
BFI Medical Waste Systems v. Whatcom (1993) 983 F.2d 911
Thomas v. Bible (1993) 983 F.2d 152
People ex rel. Becerra v. Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
CAL 1994-136
 -denied
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
 -lump sum settlement offer that includes attorney's fees may violate plaintiff's implied federal right to contract with an attorney for the right to seek statutory attorney's fees
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
 -plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
 -pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943

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- standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
- superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
- under 42 U.S.C. § 2996
 - fees award to legal foundation on the grounds that such awards violated the Legal Services Corporation Act cannot be challenged in private litigation; sole remedy is through an administrative complaint with Legal Services Corporation
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
- under 42 U.S.C. § 6972(e)
 - release of EPA records pursuant to FOIA
Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
- under 42 U.S.C. § 9607
Key Tronic Corp. v. U.S. (1993) 984 F.2d 1025
Stanton Road Associates v. Lohrey Enterprises (1993) 984 F.2d 1015
- under 42 U.S.C. § 12205 (ADA)
 - claim for equal treatment in remedial programs for disabled inmates and parolees
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
 - fees awarded to defendant required to defend against plaintiff's groundless state court claim following dismissal of federal court case
Molski v. Arciero Wine Group (2008) 164 Cal.App.4th 786 [79 Cal.Rptr.3d 574]
 - fees denied to prevailing defendant where such award under state law is pre-empted by federal law
Hubbard v. Sobreck, LLC (9th Cir. 2009) 554 F.3d 742
--Civil Code section 55 mandatory award of attorney fees is not preempted by the federal American with Disabilities Act
Les Jankey et al. v. Song Koo Lee etc. (2012) 55 Cal.4th 1038 [150 Cal.Rptr.3d 191]
 - prevailing party's conduct in unreasonably prolonging the litigation did not justify outright denial of fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
- under 11 U.S.C.A. § 503(b)(4)
 - statutory silence regarding expenses incurred by a creditor does not necessarily mean foreclosure of a fee award from the debtor estate
In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938
- under 28 U.S.C.A. § 2412(d)
 - Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
 - judicial relief required for prevailing party status to recover attorney fees under the Act
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
- under 28 U.S.C.A. § 2412(d)(1)(B)
 - fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
- under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
- under Business and Professions Code § 17200 (Unfair Competition)
 - denial of fees to city in its successful lawsuit against a landlord, as the city sued only under the unfair competition law, which does not allow for recovery of attorney's fees
People ex rel. City of Santa Monica v. Gabriel (2010) 186 Cal.App.4th 882 [112 Cal.Rptr.3d 574]
- district attorney may hire private counsel to pursue civil penalties under California's Unfair Competition Law
American Bankers Management Company, Inc. v. Heryford (9th Cir. 2018) 885 F.3d 629
- under California Education Code § 44944(f)
 - application of lodestar methodology in determining reasonable attorney's fees
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
- under California Environmental Quality Act
Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
- Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- under California Public Records Act
Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
- Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
- Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
- Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]
- under Civil code section 51 et seq. (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
- Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
- under Civil Code section 55
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
- Civil Code section 55 mandatory award of attorney fees is not preempted by the federal American with Disabilities Act
Les Jankey et al. v. Song Koo Lee etc. (2012) 55 Cal.4th 1038 [150 Cal.Rptr.3d 191]
- under Civil Code section 998(d)
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
- under Civil Code section 1354
Grossman v. Park Fort Washington Association (2013) 212 Cal.App.4th 1128 [152 Cal.Rptr.3d 48]
- untimely filing of motion for fees
 - attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
- under Civil Code section 1717
In re Penrod (9th Cir. 2015) 802 F.3d 1084
In re Baroff (9th Cir. 1997) 105 F.Supp. 439
Bankruptcy of Job (9th Cir. 1996) 198 B.R. 768
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
- Trope v. Katz (1995) 11 Cal.4th 274 [45 Cal.Rptr.2d 241]
- Hsu v. Abbata (1995) 9 Cal.4th 863 [39 Cal.Rptr.2d 824]
- Hom v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
- Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]
- Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
- Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
- Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]

Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]
Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
Snyder v. Marcus & Millichap (1996) 46 Cal.App.4th 1099 [54 Cal.Rptr.2d 268]
Republic Bank v. Marine National Bank (1996) 45 Cal.App.4th 919 [53 Cal.Rptr.2d 90]
Honey Baked Hams, Inc. v. E. Robert Dickens (1995) 37 Cal.App.4th 421 [43 Cal.Rptr.2d 595]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Hambrose Reserve, Ltd. v. Faitz (1992) 9 Cal.App.4th 129
Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
 -agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable
Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]
 -arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

-attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
 -attorney who acted pro se in contract action may recover reasonable attorney's fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 -attorney's fees denied because prevailing party's tort action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
 -attorney's fees denied to transferee of patent and trademark rights on the basis of reciprocity, because licensor would not have been entitled to recovery of fees if it had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
 -attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 -attorney's representation by associates of his firm precluded recovery of attorney fees after winning case against former client
Soni v. Wellmike Enterprises Co. Ltd. et al (2014) 224 Cal.App.4th 1477 [169 Cal.Rptr.3d 631]
 -California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
 -corporate in-house counsel entitled to reasonable fees
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
 -court rule permitted trial court to exercise its discretion in awarding higher fees based on "lodestar" method under statute authorizing attorney fee awards
Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]
 -denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
 -denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
 -denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
 -equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
 -memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

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- no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]
- no statutory authority to impose forfeiture. the forfeiture here barred plaintiff from her statutory right under section 1717 to seek attorney fees for ultimately prevailing post-default judgment on her contract cause of action
Vincent v. Sonkey (2020) 59 Cal.App.5th 160 [273 Cal.Rptr.3d 285]
- no 'prevailing party' fees for debtor when creditor voluntarily dismisses its own fee claim against debtor
In re Brosio (9th Cir. BAP 2014) 505 B.R. 903
- party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]
- plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
- precluded where plaintiff voluntarily dismisses unlawful detainer matter sounding in contract
Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9]
- trial court must determine if an attorney-client relationship existed between co-plaintiffs before awarding attorney fees to pro se attorney in contempt proceedings
Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
- vacation of judgment as part of post-judgment settlement effectively eliminates fee award based on contract
Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]
- where both contract and statute govern award of attorney's fees, prevailing party may also be entitled to recovery of appellate fees
Butler-Rupp v. Lourdeaux (2007) 154 Cal.App.4th 918 [65 Cal.Rptr.3d 242]
- under Civil Code section 1780
Hayward v. Ventura Volvo (2003) 108 Cal.App.4th 509 [133 Cal.Rptr.2d 514]
- prevailing party entitled to fees where statutory language which provides for such fees is mandatory
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
- under Civil Code section 1794
Patel v. Mercedes-Benz USA (2019) 43 Cal.App.5th 1007 [256 Cal.Rptr.3d 603]
- Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
- Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]
- under Civil Code section 1798.48(b)
 -application of lodestar methodology by court in determining "reasonable attorney's fees"
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]
- under Civil Code section 2981 (Rees-Levering Act)
 -award not barred by CCP § 1717
Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]
- under Civil Code section 3186
 -denied because public entity is not entitled to attorney fees under stop notice laws
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
- under Civil Code section 3260
 -claim to recover is a simple breach of contract claim and not a claim to recover a "retention," therefore fees are not recoverable
Yassin v. Solis (2010) 184 Cal.App.4th 524 [108 Cal.Rptr.3d 854]
- under Civil Code section 3426 et seq. (Uniform Trade Secrets Act)
Aeroteck v. Johnson Group Staffing Co. (2020) 54 Cal.App.5th 670 [269 Cal.Rptr.3d 147]
- denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
- prevailing defendant may recover attorney fees if the plaintiff pursued an action with subjective bad faith, regardless of whether there was some evidence supporting plaintiff's contentions
Sasco v. Rosendin Electric, Inc. (2012) 207 Cal.App.4th 837 [143 Cal.Rptr.3d 828]
- under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
- under civil rights statute
 -anti-hate crime matter
D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]
- denial of fees based on special circumstances under traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
- denied when plaintiff did not establish violation of protected right
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
- lodestar calculation
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
- 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]
- Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- Mahach-Watkins v. Depes (9th Cir. 2010) 593 F.3d 1054
- Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
- federal law, rather California law, applied to activist's claim for attorney's fees
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
- party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693

Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
 -partial success of prevailing attorneys may reduce amount of fee awarded
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
 --application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
 -waiver or limitation of attorney fees in section 1983 case must be clear and unambiguous
Aquirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
 under civil rights statute appropriate only when action was frivolous, unreasonable, or without foundation
Tutor-Saliba Corp. v. City of Hailey (9th Cir. 2006) 452 F.3d 1055
 -attorney's fees denied where opposing party's claims were not frivolous, unreasonable, or without foundation
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Boatowners and Tenants Ass'n, Inc. v. Port of Seattle (9th Cir. 1983) 716 F.2d 669, 674
Parks v. Watson (9th Cir. 1983) 716 F.2d 646, 665
 -party awarded attorney's fees to be paid by opposing counsel as sanction for filing frivolous brief
Hamblen v. County of Los Angeles (9th Cir. 1986) 803 F.2d 462, 465
 under Clayton Act § 4
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
 under Code of Civil Procedure 128.7
 -attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 -criteria for recovery of fees and costs in opposing motion for sanctions
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
 under Code of Civil Procedure 340.1
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
 under Code of Civil Procedure 386.6
 -award of attorney's fees from the interest accrued on interpleader funds statutorily prohibited
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
 -fees denied where party failed to satisfy criteria for interpleader action
Wells Fargo Bank, N.A. v. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
 under Code of Civil Procedure section 391.7 (vexatious litigant statute)
Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
 -not authorized where complaint was dismissed for failure to post security bond
Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]
 -sanctions imposed and expanded prefiling order on vexatious litigant and their attorney for filing frivolous appeals
Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]
 under Code of Civil Procedure section 425.16
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
Marshall v. Webster (2020) 54 Cal.App.5th 275 [268 Cal.Rptr.3d 530]
York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]
Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Hylton v. Frank E. Rogozlenski, Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Johnston v. Corrigan (2005) 127 Cal.App.4th 553 [25 Cal.Rptr.3d 657]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Rosenaur v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]
 -defendants entitled to attorney's fees even though plaintiffs dismissed appeal
Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]
 -defendants who fail to file an anti-SLAPP motion before the voluntary dismissal of all causes of actions against them cannot recover fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
 -defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
 -does not authorize an award of attorney fees against plaintiff's counsel
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]

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- litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
 - Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
 - Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
- motion to strike found to be frivolous or solely intended to cause unnecessary delay
 - Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
 - complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
 - Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]
- party prevailing on an anti-SLAPP motion may seek fee award through three different avenues
 - Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
- prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
 - Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]
- trial court had jurisdiction to award anti-SLAPP fees in dismissing attorney's challenge to State Bar discipline
 - Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]
- withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest
 - Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
- under Code of Civil Procedure section 425.18
 - fees not recoverable
 - Hutton v. Hafif (2007) 150 Cal.App.4th 527 [59 Cal.Rptr.3d 109]
- under Code of Civil Procedure section 473
 - attorney may not amend complaint during trial seeking more fees against former client
 - Duchrow v. Forrest (2013) 215 Cal.App.4th 1359 [156 Cal.Rptr.3d 194]
 - untimely filing of motion for fees
 - attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
 - Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
- under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
 - Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]
- under Code of Civil Procedure section 580
 - attorney's fees not required to be specified in a complaint where the prevailing party could not have predicted the amount of fees it would incur after the litigation commenced and prior to the court awarding terminating sanctions against the adverse party
 - Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]
- under Code of Civil Procedure section 685.020 et seq.
 - In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]
 - fees are recoverable where the prevailing party files a motion for attorney fees before a judgment is satisfied in full
 - Lucky United Properties Investments, Inc. et al. v. Lee (2010) 185 Cal.App.4th 125 [110 Cal.Rptr.3d 159]
- under Code of Civil Procedure section 685.040
 - Conservatorship of McQueen (2014) 59 Cal.4th 602 [174 Cal.Rptr.3d 55]
 - Highland Springs Conference etc. v. City of Banning (2019) 42 Cal.App.5th 416 [255 Cal.Rptr.3d 331]
 - York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]
 - Slates v. Gorabi (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]
 - Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]
 - Globalist Internet Technologies, Inc. v. Reda (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
- under Code of Civil Procedure § 701.020 et seq.
 - fees denied to prevailing creditor in an independent creditor's suit where there is no statutory authorization for such fee awards
 - Ishin Investments Co. Ltd. v. Buena Vista Home Entertainment Inc. (2011) 195 Cal.App.4th 612 [125 Cal.Rptr.3d 680]
- under Code of Civil Procedure section 720.260
 - attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
 - Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
- under Code of Civil Procedure section 907
 - Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
- under Code of Civil Procedure section 916
 - Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
 - former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal
 - Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]
- under Code of Civil Procedure section 998
 - Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
 - Varney Entertainment Group, Inc., v. Avon Plastics, Inc. (2021) 61 Cal.App.5th 222 [275 Cal.Rptr.3d 394]
 - Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
 - On-Line Power, Inc. v. Mazur (2007) 149 Cal.App.4th 1079 [57 Cal.Rptr.3d 698]
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
 - Elite Show Services, Inc. v. Staffpro, Inc. (2004) 119 Cal.App.4th 263 [14 Cal.Rptr.3d 184]
 - Carver v. Chevron U.S.A., Inc. (2002) 97 Cal.App.4th 132 [118 Cal.Rptr.2d 569]
 - denied where settlement offer did not provide for sufficient time for acceptance
 - Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]
 - entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
 - Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
 - plaintiff not liable for paying defendant's costs in defamation suit if defendant's offer of settlement is conditioned on confidentiality
 - Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
 - prevailing plaintiff in lemon law suit could recover only pre-offer fees and costs where compromise offer exceeded damage award
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]

-settlement offer silent as to right to recover fees and costs does not constitute a waiver of that right
Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]
Engle v. Copenbarger and Copenbarger (2007) 157 Cal.App.4th 165 [68 Cal.Rptr.3d 461]
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]
 -trial court erred in reducing of attorney's fees and costs in party's refusal to accept an unreasonable or invalid offer under CCP § 998
Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]
 under Code of Civil Procedure section 1021
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
 -party may receive attorney's fees incurred in an administrative hearing
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
 under Code of Civil Procedure section 1021.5
Cabrera v. Martin (9th Cir. 1992) 973 F.2d 735
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]
Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
Burgess v. Coronado Unified School District (2020) 59 Cal.App.5th 1 [272 Cal.Rptr.3d 919]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
In re State Water Resources Control Bd. Cases (2008) 161 Cal.App.4th 304 [73 Cal.Rptr.3d 842]

Hogar v. Community Development Com. of City of Escondido (2007) 157 Cal.App.4th 1358 [69 Cal.Rptr.3d 250]
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
Wal-Mart Real Estate Business Trust v. City Council of City of San Marcos (2005) 132 Cal.App.4th 614 [33 Cal.Rptr.3d 817]
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
Rosenman v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro (2001) 91 Cal.App.4th 859 [110 Cal.Rptr.2d 903]
Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]
Lerner v. Ward (1993) 13 Cal.App.4th 155 [16 Cal.Rptr.2d 486]
Planned Parenthood v. Aakhus (1993) 12 Cal.App.4th 1119
Cummings v. Benco (1992) 11 Cal.App.4th 1383 [15 Cal.Rptr.2d 53]
California Labor Federation AFL-CIO v. California Occupational Safety and Health Standards Board (1992) 221 Cal.App.3d 1547
MBNA America Bank, N.A. v. Gorman (2007) 147 Cal.App.4th Supp. 1 [54 Cal.Rptr.3d 724]
 -administrative appeal
Otto v. Los Angeles Unified School District (2003) 106 Cal.App.4th 328 [130 Cal.Rptr.2d 512]
 -advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees
Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]
 --exception when amicus brief advocates same position as asserted in another case in which amici is a party
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
 -against police department following plaintiff's voluntary release of civil liability by stipulation
Salazar v. Upland Police Department (2004) 116 Cal.App.4th 934 [11 Cal.Rptr.3d 22]
 -apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
 -attorney's fees can only be recovered against opposing parties
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]
 -family law
 --fees denied where litigant had done nothing to curtail a public right other than to raise an issue in private litigation that resulted in an important legal precedent
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
 -fees awarded to prevailing public entity against another public entity
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]

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- fees denied where benefit did not affect general public
Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]
- fees denied where remand to an administrative agency to reconsider a perceived procedural defect did not result in a change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- fees limited to persons who pursue public interest litigation at a cost that is out of proportion to any personal interests they might have in the outcome
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
- no provision under this statute, unlike CCP 128.5, giving courts authority to impose sanctions in the form of attorney fees for vexatious or "obdurate behavior"
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
- respondent's successful arguments resulted in significant public benefit, warranting private attorney general fee award
City of Los Angeles v. Metropolitan Water District (2019) 42 Cal.App.5th [255 Cal.Rptr.3d 202]
- right of attorney to intervene on own behalf in client's lawsuit to seek attorney's fees
Lindell v. San Anselmo (2006) 139 Cal.App.4th 1499 [43 Cal.Rptr.3d 707]
- significant public benefit
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
- supplemental fees request based on greater success on appeal
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
- suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703]
- time limit
 - attorney's fees incurred in post-judgment proceedings not time barred by rule 3.1702, California Rules of Court
Highland Springs Conference etc. v. City of Banning (2019) 42 Cal.App.5th 416 [255 Cal.Rptr.3d 331]
 - Crespin v. Shewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]
- under Code of Civil Procedure section 1021.7
 - no award of fees based on plaintiffs' pursuit of a legitimate appeal
Thompson v. City of Capitola (1991) 233 Cal.App.3d 465
- under Code of Civil Procedure section 1021.9
 - may be awarded for trespass on agricultural land being cultivated even where defendant did not damage crops or interfere with agricultural operations
Hoffman v. Superior Ready Mix Concrete (2018) 30 Cal.App.5th 474 [241 Cal.Rptr.3d 476]
- party awarded nominal damages not entitled to attorney fees where statute provided award of fees for actions to recover damages to personal or real property
Belle Terre Ranch Inc. v. Wilson (2015) 232 Cal.App.4th 1468 [185 Cal.Rptr.3d 393]
- under Code of Civil Procedure section 1032 et seq.
 - deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
 - Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 - County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
- under Code of Civil Procedure section 1033.5
 - memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
 - plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
- under Code of Civil Procedure section 1036
 - property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
 - Downen's, Inc., et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
- under Code of Civil Procedure section 1038
 - does not authorize attorney fees for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
- under Code of Civil Procedure section 1094.5
 - No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
- under Code of Civil Procedure section 1286.2
 - Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- under Code of Civil Procedure section 2030
 - attorney fees may not be awarded to prevailing attorney acting in pro per
Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]
 - Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
- under Code of Civil Procedure section 2033.420
 - Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]
- under Corporations Code section 317
 - fees denied on the grounds that employer is a limited liability company and as such is governed by the Limited Liability Company Act (Corporations Code § 17000 et seq.) which contains no provision similar to section 317 in mandating indemnification for claims against its agents and employees
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
 - outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- under Corporations Code section 800
 - West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]

under Corporations Code section 8337
 -failure to award fees to plaintiff wrongfully denied access to the defendant association's meeting minutes constituted abuse of discretion
Moran v. Oso Valley Greenbelt Association (2004) 117 Cal.App.4th 1029 [12 Cal.Rptr.3d 435]

under Corporations Code section 15634
Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]

under Corporations Code section 16701
 -no abuse of discretion found in denying discretionary attorney fees
Jones v. Goodman (2020) 57 Cal.App.5th 521 [271 Cal.Rptr.3d 487]

under Davis-Stirling Common Interest Development Act
Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

under Family Code section 271
 -award of attorney fees as sanction against party who frustrates policy to promote settlement, encourage cooperation and reduce cost of litigation
George v. Shams-Shirazi (2020) 45 Cal.App.5th 134 [258 Cal.Rptr.3d 476]

under Family Code section 272
In re Marriage of Green (2006) 143 Cal.App.4th 1312 [49 Cal.Rptr.3d 908]

under Family Code section 1101(g)
In re Marriage of Fossum (2011) 192 Cal.App.4th 336 [121 Cal.Rptr.3d 195]

under Family Code section 2030
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]
 -former wife entitled to recover attorney fees incurred to enforce spousal support agreement
In re Marriage of Bendetti (2013) 214 Cal.App.4th 863 [154 Cal.Rptr.3d 329]

under Federal Rule of Civil Procedure section 11
In re Southern California Sunbelt Developers, Inc. (9th Cir. 2010) 608 F.3d 456

under Federal Rule of Civil Procedure section 17(c) to guard the interests of minors
Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177

under Federal Rule of Civil Procedure section 23(h)
 -practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion
In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

under Federal Rule of Civil Procedure section 37(c)(2)
Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

under Federal Rule of Civil Procedure section 58(e)
 -under Lanham Act
Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068
 -untimely filing of motion for fees
Nutrition Distribution LLC v. IronMag Labs, LLC (9th Cir. 2020) 978 F.3d 1068

under Federal Rule of Civil Procedure section 69(a)
Carnes v. Zamani (9th Cir. 2007) 488 F.3d 1057

under Federal Trade Commission's "Holder Rule" 16 C.F.R. § 433.2(a)
Pulliam v. HNL Automotive, Inc. (2022) 13 Cal.5th 127 [293 Cal.Rptr.3d 649]
Reyes v. Beneficial State Bank (2022) 76 Cal.App.5th 596 [291 Cal.Rptr.3d 657]

under Freedom of Information Act
Schoenberg v. Federal Bureau of Investigation (9th Cir. 2021) 2 F.4th 1270
Poulsen v. Department of Defense (9th Cir. 2021) 994 F.3d 1046

under Government Code section 800
 -appeal of determination made in an administrative proceeding as resulting from arbitrary or capricious action encompasses "any civil action" as used in Gov't Code section 800 for authorizing an award of attorney fees to the prevailing party
Atkinson v. Dept. of Motor Vehicles (2024) 102 Cal.App.5th 997 [322 Cal.Rptr.3d 198]
 -finding of arbitrary and capricious action against school district
Zuehlsdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]

under Government Code section 6250
Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Los Angeles Times v. Alameda Corridor Transportation Authority (2001) 88 Cal.App.4th 1381 [107 Cal.Rptr.2d 29]
Fontana Police Dept. v. Villegas-Banuelos (1999) 74 Cal.App.4th 1249 [88 Cal.Rptr.2d 641]

under Government Code section 12989.1 et seq. (discrimination in housing)
Morrison v. Vineyard Creek (2011) 193 Cal.App.4th 1254 [123 Cal.Rptr.3d 414]

under Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

under Government Code section 38773 et seq.
 -city ordinance which provided for unilateral recovery of attorney fees found invalid because it conflicted with state statute permitting recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]

under Government Code section 51200 et seq. (the Williamson Act)
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]

under Health & Safety Code section 13009.1
 -fees not recoverable unless they are specifically authorized by contract, statute, or law
California Department of Forestry & Fire Protection v. LeBrock (2002) 96 Cal.App.4th 1137 [117 Cal.Rptr.2d 790]

under Health & Safety Code section 17980.7
City and County of San Francisco v. Ballard (2006) 136 Cal.App.4th 381 [39 Cal.Rptr.3d 1]

under Health Care Decisions Law
Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]

under Information Practices Act (California)
 -lodestar method in calculating attorney's fees
Meister v. Regents of the University of California (1998) 67 Cal.App.4th 437 [78 Cal.Rptr. 913]

under Labor Code § 98.2
Nishiki v. Danko Meredith, APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
 -former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]

under Labor Code § 218.5
Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]

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- under Labor Code § 510
 - failure to pay overtime compensation
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
- under Labor Code § 1194
 - Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
 - absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney
Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]
 - arbitrator improperly awarded defendant employer attorney's fees for defeating plaintiff's overtime claim prohibited by labor code
Ling v. P.F. Chang's China Bistro Inc. (2016) 245 Cal.App.4th 1242 [200 Cal.Rptr.3d 230]
 - manager who prevailed on employee's unpaid minimum and overtime claims on grounds he was not employee's employer was not entitled to recover attorney fees from employee even though manager and employee were employed by same employer
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
- under Labor Code § 2699
 - Harrington v. Payroll Entertainment Services, Inc. (2008) 160 Cal.App.4th 589 [72 Cal.Rptr.3d 922]
- under Labor Code § 2802
 - employer not required to pay fees and costs incurred by employee in defending against lawsuit when employees refuses to retain employer's attorney
Carter v. Entercom Sacramento, LLC (2013) 219 Cal.App.4th 337 [161 Cal.Rptr.3d 782]
 - fees denied on the grounds that the section 2802 is applicable to indemnification of employees sued by third parties, not to claims by employer against its own employees
Nicholas Laboratories, LLC v. Chen (2011) 199 Cal.App.4th 1240 [132 Cal.Rptr.3d 223]
- under Labor Code §§ 3856 and 3860
 - claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
- under Labor Code § 5801
 - attorney fees not automatically awarded to injured employee who prevailed in defending against employer's petition for writ of review
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
- under Lanham Act
 - SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179
- under Penal Code section 496
 - Siry Investment, L.P. v. Farkhondehpour (2022) 13 Cal.5th 333 [296 Cal.Rptr.3d 1]
- under Penal Code section 1202.4
 - lodestar method not applicable in determining attorney fees in crime victim restitution awards
People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]
- under Petroleum Marketing Practices Act
 - Chevron U.S.A. Inc. v. M&M Petroleum (9th Cir. 2011) 658 F.3d 948
- under Probate Code section 10810
 - Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
- no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative
In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]
- under Probate Code section 15642(d)
 - Bruno v. Hopkins (2022) 79 Cal.App.5th 801 [294 Cal.Rptr.3d 852]
- under Probate Code section 17211(b)
 - Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]
- under Proposition 65
 - Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
- under Proposition 103, section 1861.10
 - State Farm General Insurance Company v. Lara (2021) 71 Cal.App.5th 197 [286 Cal.Rptr.3d 124]
- under Public Utilities Code § 1757 et seq.
 - recalculation of fees to outside counsel retained by consumer group to assist in its work before a commission where outside counsel offered different services than in-house counsel
Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- under Public Utilities Code § 1806 et seq.
 - Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- under Revenue and Taxation Code section 1611.6
 - Chinese Theatres, LLC v. County of Los Angeles (2021) 59 Cal.App.5th 484 [273 Cal.Rptr.3d 640]
- under Song Beverly Act
 - Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]
 - Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]
 - Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]
 - Wohlgemuth v. Catepillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]
 - Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]
- under U.S.C.A. § 7430
 - Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
 - fees denied even though taxpayer prevailed on most significant issue on the grounds that statutory language does not include government's pre-litigation conduct
Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484 F.3d 1103
- under Uniform Foreign Money Judgments Recognition Act
 - Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
 - foreign order to pay attorney fees unenforceable where constitutes support
In re Marriage of Lyustiger (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
- under unlawful detainer action
 - Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
- under USCS section 928
 - Shirrod v. Director, Office of Workers' Compensation Programs (9th Cir. 2015) 809 F.3d 1082
 - Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049
- under Welfare and Institutions Code § 10962
 - K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]
- under Welfare and Institutions Code §§ 15600 et seq.
 - Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

-denial of fees to prevailing defendant where statute contains a unilateral fee shifting provision
Wood v. Santa Monica Escrow Co. (2007) 151 Cal.App.4th 1186 [60 Cal.Rptr.3d 597]
 under Welfare and Institutions Code § 15657
Conservatorship of McQueen (2014) 59 Cal.4th 602 [174 Cal.Rptr.3d 55]
Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
 undertaking action
 -attorney/lienholder could recover losses incurred in an action on an undertaking but not attorney's fees which were not authorized by statute (CCP §§ 720.260, 996.430)
Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]
 unilateral recovery of attorney fees by city under local ordinance found invalid where it conflicted with state statute which provides for recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 United States liability for
Lauritzen v. Lehman (9th Cir. 1984) 736 F.2d 551
 waiver of
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531] LA 445 (1987)
 -not presumed from silent record
Wakefield v. Mathews (9th Cir. 1988) 852 F.2d 482
 untimely filing of motion for fees
 -attorney's fees recoverable where the court found that there was excusable neglect because counsel made an honest and reasonable mistake of law, which was held to be complex and debatable
Lewow v. Surfside III Condominium Owners' Assn. Inc. (2012) 103 Cal.App.4th 128 [137 Cal.Rptr.3d 376]
 vexatious litigant statutes does not authorize attorney fees award where complaint is dismissed for failure to post security bond
Luckett v. Keylee (2007) 147 Cal.App.4th 919 [54 Cal.Rptr.3d 718]
 void
 -in violation of stay
In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726
 waiver of
 -settlement agreements which include fee-waiver provisions under fee shifting statutes
CAL 2009-176
 will not be disturbed absent abuse of discretion
 -Americans with Disabilities Act
 --district court could not deny fees based on a finding that prevailing party had unreasonably prolonged the litigation, but the court could consider prevailing party's actions in reducing fees
Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122
 -court abused discretion by denying attorney fees to successful party in copyright lawsuit
Traditional Cat Assn. Inc. v. Gilbreath (9th Cir. 2003) 340 F.3d 829
 -district court was required to provide more specific reasons for making such significant reduction in fees (37%)
Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866
 -federal securities fraud matter remanded because the trial court did not adequately explain the basis for the award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 -no abuse of discretion shown
Rite Nail Packaging Corp. v. Berry Fast (1983) 706 F.2d 933, 936
Binet v. California Health and Welfare Agency (9th Cir. 1983) 704 F.2d 1465, 1473

-trial court abused discretion in limiting award of attorney's fees
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Hadley v. Krepel (1985) 167 Cal.App.3d 677, 682-683, 686-687 [214 Cal.Rptr. 461]
 -Workers' Compensation lien fund and trial court's authority to allocate amount for attorney fees
Hartwig v. Farms (1992) 2 Cal.App.4th 1550
 Workers' Compensation
Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]
 -award of fees to employee justified on the grounds that employer's petition for writ of review indisputably lacked merit
Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]
 -burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)
Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
 -claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
 -non-attorney's law firm representative of injured employee may not be entitled to same fees as licensed attorney
99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]
 -successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act
Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066
Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044
 -under Labor Code § 4607
Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]
 Award of compensation for law clerk and paralegal time reasonably spent on plaintiff's case
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
 ERISA matter under 29 U.S.C. 1332(g)(2)(D)
Trustees of the Construction Industry v. Summit Landscape Companies, Inc. (9th Cir. 2006) 460 F.3d 1253
 Bankruptcy
 attorney award of fees and costs for bad faith
In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
 attorney cannot use confidences of former client to challenge client's discharge of fees owed
In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 attorney employed by a trustee is entitled to compensation for legal services
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
 attorney fees and costs awarded against debtors for dragging proceedings for too long due to inaction
In re Starky (9th Cir. BAP 2014) 522 B.R. 220
 attorney fees and costs not dischargeable when awarded for debtor's willful and malicious conduct
In re Suarez (9th Cir. BAP 2009) 400 B.R. 732
 attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor
In re Poole (9th Cir. BAP 2000) 222 F.3d 618
In re Mendez (9th Cir. BAP 1999) 231 B.R. 86

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attorney who provided debtor with pre-petition legal services in marital dissolution matter lacks standing to complain her unpaid fee is not dischargeable

In re Dollaga (9th Cir. BAP 2001) 260 B.R. 493 [5 Cal. Bankr. Ct. Rep. 91]

attorney's fees and costs awarded to defendant/creditor in a post-petition state court suit based on pre-petition causes of action were dischargeable as personal liability of debtor

In re Ybarra (9th Cir. BAP 2003) 295 B.R. 609

attorney's fees are administrative expenses that must be paid first

In re Shorb (1989) 101 B.R. 185

attorney's fees claim against lender's collateral barred where law firm negotiated and approved comprehensive waiver in loan agreement which bared surcharge or assessment against the collateral

In re Cooper Commons LLC (9th Cir. 2008) 512 F.3d 533
attorney's fees denied to debtor in discharging student loan debt

In re Hossoini (9th Cir. BAP 2014) 504 B.R. 558

attorney's fees denied without court authorization

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

attorney's fees recoverable under sections of the Bankruptcy Code regarding discharge exceptions for fraud, provided that successful plaintiff could recover such fees in non-bankruptcy court

In re Bertola (9th Cir. BAP 2004) 317 B.R. 95

authority of bankruptcy court to award fee enhancements

In re Pilgrim's Pride Corp. (5th Cir. (Texas) 2012) 690 F.3d 650

automatic stay not applicable to attorney's efforts to collect previously agreed-upon fees for post-petition services

In re Hines (9th Cir. BAP 1998) 198 B.R. 769

award of fees is void when underlying claim is in violation of stay

In re Miller (9th Cir. (Mont.) 2005) 397 F.3d 726

award of fees to unsecured creditor incurred post-petition but based on a pre-petition contract

In re SNTL Corp. (9th Cir. BAP 2007) 380 B.R. 204

awarding interim fees to attorney in bankruptcy action

In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322

bankruptcy court did not abuse its discretion in declining to decide post-dismissal motion to enforce fee agreement between debtor and attorney

In re Elias (9th Cir. BAP 1999) 188 F.3d 1160 [34 Bankr.Ct.Dec. 1229]

bankruptcy court erred in awarding debtor's their attorney fees and costs under statute

In re Fitalia (9th Cir. BAP 2016) 561 B.R. 767

bankruptcy court erred in discharging unpaid attorney fees when debtor agreed in writing to personally pay fees upon completion of plan payments

In re Johnson (9th Cir. BAP 2006) 344 B.R. 104

bankruptcy court has jurisdiction to approve post-petition attorney fees

In re Knudsen Corporation (1988) 84 B.R. 668

bankruptcy court's authority to order disgorgement of debtor's counsel's prepetition security retainer

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

bankruptcy court's jurisdiction to amend award of attorney's fees under CCP § 187 and the inherent power of federal courts

In re Levander (9th Cir. 1999) 180 F.3d 1114

Danko v. O'Reilly (2014) 232 Cal.App.4th 732 [181 Cal.Rptr.3d 304]

bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))

-bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services

Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

-BPP can only transcribe and type bankruptcy forms that debtor alone must prepare without assistance and may charge only what professional typists or word processors would charge

Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

chapter 7 debtor's attorney may receive professional fees from bankruptcy estate for post-petition services

In re Century Cleaning Services, Inc. (9th Cir. BAP 1999) 195 F.3d 1053 [35 Bankr.Ct.Dec. 63]

chapter 7 estate trustee's attorney may be denied fees if attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

chapter 9 fee agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

chapter 13

In re Eliapo (Boone v. Derham-Burk) (9th Cir. BAP 2006) 468 F.3d 592

claims for attorney fees and costs incurred in post-petition are not discharged where post-petition, the debtor voluntarily commences litigation or otherwise voluntarily returns to the fray

In re Ybarra (9th Cir. 2005) 424 F.3d 1018

court had authority under tax code to pay debtor's attorney fees

In re Germaine (1993) 152 B.R. 619

creditor may be ordered to pay chapter 11 debtor's fees upon dismissal of involuntary petition under Bankruptcy Code § 305

In re Macke International Trade, Inc. (9th Cir. BAP 2007) 370 B.R. 236

creditor's claim for attorney's fees incurred during the state court litigation after confirmation of debtor's Chapter 11 plan was discharged by debtor's bankruptcy

In re Castellino Villas, A. K. F. LLC (9th Cir. BAP 2016) 836 F.3d 1028

debtor awarded appellate attorney's fees pursuant to 11 USCA § 362(k)

In re Schwartz-Tallard (9th Cir. 2014) 765 F.3d 1096

delay in bankruptcy court's approval of payment does not entitle enhanced attorney's fees

In re Music Merchants, Inc. (C.D. Cal. 1997) 208 B.R. 944
disgorgement of attorney fees against firm and attorney employee is proper

Bankruptcy of Sandoval (9th Cir. 1995) 186 B.R. 490

disgorgement of attorney fees against firm not proper where law firm representation was approved by court

In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

disgorgement of attorney fees for professional misconduct

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

disgorgement of attorney fees is allowed after violation of bankruptcy code and rules

In re Peterson (1994) 163 B.R. 665

Bankruptcy of Basham (9th Cir. 1997) 208 B.R. 926

expenses incurred by petitioning creditors in connection with filing an involuntary bankruptcy petition may be reimbursed by debtor's estate

In re Wind N' Wave (9th Cir. 2007) 509 F.3d 938

failure to obtain court approval for employment of counsel may operate to deny payment of attorney fees

In re Shirley (1992) 134 B.R. 940

fee provision in security agreement did not serve as ground for awarding fees and costs to oversecured creditor following its successful defense of adversary preference proceeding

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

fees awarded to party who prevailed, not necessarily on all issues, but on "disputed main issue"

In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506

fees for wife's attorney in dissolution dischargeable in bankruptcy

In re Gibson (1989) 103 B.R. 218

fees recoverable if they are linked to litigation seeking to enforce a contract

Chinese Yellow Pages Company v. Chinese Overseas Marketing Service Corporation (2008) 170 Cal.App.4th 868 [88 Cal.Rptr.3d 250]

following dismissal of involuntary petition, debtor did not have to join all creditors in order to move for award of reasonable attorney fees and costs

In re Maple-Whitworth, Inc. (9th Cir. BAP 2007) 375 B.R. 558

no recovery of attorney's fees if chapter 7 bankruptcy estate trustee's attorney lacks disinterestedness or represents interests adverse to the interest of the estate

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding

Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]

Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]

pro rata sharing of attorney fees properly awarded against co-owners

In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

security retainer agreements require appropriate fee applications made to the court

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

totality of circumstance test applied when awarding attorney's fee

In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742

Higgins v. Vortex Fishing Systems Inc. (9th Cir. 2004) 379 F.3d 701

trustee expenses incurred in marketing & selling property & defending stay relief to prevent foreclosure properly chargeable to sales proceeds & trustee may withhold such proceeds pending resolution of claims by non-debtor, co-owner of property

In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

trustee fees not proper for duties that are not practice of law

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

trustee may withhold non-debtor, co-owner's share of proceeds from sale of property pending resolution of claims by co-owner relating to such sale

In re Flynn (9th Cir. BAP 2003) 297 B.R. 599 [41 Bankr.Ct.Dec. 211]

waiver of fees and costs

-entitlement to fees and costs upon dismissal of an involuntary bankruptcy petition may be waived if all parties consent or if debtor waives relief

In the Matter of Maple-Whitworth (9th Cir. 2009) 556 F.3d 742

Bankruptcy action

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

Based on agreement

Tarver v. State Bar (1984) 37 Cal.3d 122

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Based on bad faith action

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

Basis for court decision

In re DeVille (9th Cir. 2004) 361 F.3d 539, 58

large fee reduction requires a relatively specific articulation of court's reasoning

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

Between attorneys

the merits of a declaratory relief action must be resolved in the trial court's discretion

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

Billing

billing service, use of

LA 423 (1983), LA 374 (1978)

clients must understand and consent to billing practices

CAL 1996-147, OC 99-001

"double billing"

CAL 1996-147, OC 99-001

fee agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

justification

-in billing for paralegal work, court, in its discretion, may not allow hearsay by attorney as the sole justification for award such fees

Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214

"over-billing"

-district court may not reduce fees without identifying the hours spent inefficiently or providing any explanation of the particular degree of reduction

Ferland v. Conrad Credit Corp. (9th Cir. 2001) 244 F.3d 1145

-district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

OC 99-001

-fiduciary duty to clients, both civil and criminal, requires that fee agreements and billings be fair, reasonable, and fully explained to the client

Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

-preparation of false and misleading billing statements involves moral turpitude

In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

LA 522 (2009)

-trial court reduced the rates based on findings that the matter was not complex, that it did not go to trial, that the same partners were doing work that could have been done by lower-billing attorneys and that all attorneys were doing work that could have been done by paralegals

Morris v. Hyundai Motor America (2019) 41 Cal.App.5th 24 [253 Cal.Rptr.3d 592]

rates originally agreed to by a client may not be raised by a law firm without first notifying the client

Severson, Werson et. al. v. Bollinger (1991) 235 Cal.App.3d 1569

LA 479 (1994)

services of law clerks, legal assistants (paralegal), and secretaries

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

FEES

LA 522 (2009), LA 391 (1981)
 use of block billing rather than listing separately time expended to perform each task
Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
 Billing statements are not protected by attorney-client privilege
Clarke v. American Commerce National Bank (9th Cir. 1992) 974 F.2d 127
CAL 2002-159
 Bonus
 to lay employee
 LA 457
 Brandt fees
R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
Byers v. Superior Court (2024) 101 Cal.App.5th 1003 [320 Cal.Rptr.3d 748]
 Charge interest
 CA Constitution Art. 15, Usury § 1, par. 2
 -on past due receivables
CAL 1980-53, LA 374 (1978), LA 370 (1978), SD 1983-1, SD 1976-8, SF 1970-1
 Child custody cases
 fee-shift of attorney's fees pursuant to Family Code section 7605
C.T. v. K.W. (2021) 71 Cal.App.5th 679 [286 Cal.Rptr.3d 409]
 post-divorce child custody fee order requires trial court to first consider parties' relative circumstances
Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
 Child support
Boutte v. Nears (1996) 50 Cal.App.4th 162 [57 Cal.Rptr.2d 655]
 attorney's fees not classified as gross income in calculating child support obligations
M.S. v. O.S. (2009) 176 Cal.App.4th 548 [97 Cal.Rptr.3d 812]
 child support act
 -putative father's successful defense of paternity/reimbursement action does not include right to attorney fees
County of Santa Barbara v. David R. (1988) 200 Cal.App.3d 98 [245 Cal.Rptr. 836]
 no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities
In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]
 Civil Code section 51 et seq. (Unruh Civil Rights Act)
Kittok v. Leslie's Poolmart, Inc. (C.D. Cal. 2012) 687 F.Supp.2d 953
 fees denied where prevailing defendant intertwined its claims under two related but different code sections that permitted fee awards only to prevailing plaintiffs
Turner v. Assn of American Medical Colleges (2011) 193 Cal.App.4th 1047 [123 Cal.Rptr.3d 395]
 Civil Code section 1717
 absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

attorney litigating in propria persona
 -attorney litigating in propria persona cannot be said to incur compensation for his time and lost business opportunities
Richards v. Sequioa Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
 -award of discovery sanctions under CCP § 2030(1) analogized to award of attorney's fees under CC § 1717
Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]
 -may recover reasonable attorney fees for legal services of assisting counsel
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]
 attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
 attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
 award of attorney's fees applies mutually and equally to all parties even if written otherwise
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
 California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
 denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
 distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
 limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]
 mutuality of remedy when contract permits recovery of attorney fees
Jones v. Drain (1983) 149 Cal.App.3d 484, 490 [196 Cal.Rptr. 827]
 party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]

plaintiffs who were assigned developer's express indemnity cross-action against subcontractor were liable for attorney fees to subcontractor who prevailed in trial

Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]

standard third-party indemnity clause not within scope

Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]

voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim

CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]

Class action

absent class members not liable for employer's attorney's fees in overtime dispute

Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]

amount of attorney's fees determined to be reasonable in light of quantity and quality

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

attorney's fees approved by the trial court in a class action settlement are presumed to be reasonable where defendant agreed not to oppose award of certain amount to class counsel

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

attorney's fees for securities class action suits should be based on individual case risk

In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254

attorney's fees should be adequate to promote consumer class action

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271

award of attorney's fees denied where shareholder's class action against corporation did not confer sufficient benefits to shareholders under the substantial benefit doctrine and where plaintiff did not engage in reasonable effort to resolve dispute prior to litigation

Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]

awarded pursuant to Civil Code section 1717

Acree v. General Motors Acceptance Corp. (2001) 92 Cal.App.4th 385 [112 Cal.Rptr.2d 99]

basis for court decision

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

basis of award to an unnamed member of putative class who defeats class certification

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

clear sailing agreements

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

common fund doctrine defined

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

dispute among class counsel

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

district court presiding over settlement fund had equitable power to award attorney fees for work outside litigation immediately before court where that work helped create settlement fund

Wininger v. SI Management, L.P. (9th Cir. 2002) 301 F.3d 1115

large fee reduction requires a relatively specific articulation of court's reasoning

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

"lodestar" multiplier method when risk was slight

In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]

negative multiplier decreasing the lodestar is justified where amount of time attorney spent on case was unreasonable and duplicative

Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]

no abuse of discretion where trial court granted a temporary restraining order to prevent firm from distributing fees to itself without court approval

Lofton v. Wells Fargo Home Mortgage (2014) 230 Cal.App.4th 1050 [179 Cal.Rptr.3d 254]

settlement shall not include attorney fees as portion of common fund established for benefit of class

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Staton v. Boeing Co. (9th Cir. (Wash.) 2003) 327 F.3d 938

In re Consumer Privacy Cases (2009) 175 Cal.App.4th 545 [96 Cal.Rptr.3d 127]

standing to appeal awards of

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142 -class member lacks standing to object to attorney's fees and costs because attorney failed to demonstrate how the award adversely affected that member or the class

Glasser v. Volkswagen of America, Inc. (9th Cir. 2011) 645 F.3d 1084

-objector has standing to appeal denial of own claim for fees even if objector did not submit a settlement claim

Stetson v. Grissom (9th Cir. 2016) 821 F.3d 1157

trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

under Code of Civil Procedure section 916

-former attorneys enjoined from prosecuting suit for fees against litigants while judgment was pending on appeal

Franklin & Franklin v. 7-Eleven Owners for Fair Franchising (2000) 85 Cal.App.4th 1168 [102 Cal.Rptr.2d 770]

under Federal Rule of Civil Procedure 23(h), the practice of setting the deadline for class members to object to fee awards before the actual motion for fees borders on denial of due process in that the class is denied the full and fair opportunity to examine and oppose the motion

In re Mercury Interactive Corp. (9th Cir. 2010) 618 F.3d 988

Collection of [See Collections.]

CAL 1982-68

attorney collection agency

-Business and Professions Code section 6077.5

-Fair Debt Collection Practices Act applies to attorneys regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]

bankruptcy action

In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

bankruptcy court must scrutinize a law firm's unsecured claim for attorney's fees

In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462

billing service, use of

LA 423 (1983), LA 374 (1978)

FEES

collection agency, use of
 LA 522 (2009), LA 373 (1978)
 use of state procedure to execute federal judgment
In re Levander (9th Cir. 1999) 180 F.3d 1114
 Confession of judgment signed by client to assure fee collection
 improper
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr.
 152]
In the Matter of Lane (Review Dept. 1994) 2 Cal. State
 Bar Ct. Rptr. 735
 Conflict of interest
Image Technical Services v. Eastman Kodak Co. (9th Cir.
 1998) 136 F.3d 1354
United States ex. Rel. Alnoor Virani v. Jerry M. Truck Parts
 & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52
 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Asbestos Claims Facility v. Berry & Berry (1990) 219
 Cal.App.3d 9, 36-37 [267 Cal.Rptr. 896, 906-907]
Jeffry v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr.
 373, 377]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120
 Cal.Rptr. 253, 254-255]
Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86
 Cal.Rptr. 860, 866]
 attorney engaged in conflicting representation without
 obtaining informed written consent not entitled to recover
 fees
Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
Image Technical Services v. Eastman Kodak Co. (9th
 Cir. 1998) 136 F.3d 1354
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal.
 1994) 858 F.Supp. 1442
 fees paid by third-party
 -litigation funding
CAL 2020-204
 lump sum payment of fees and costs does not create inherent
 conflict
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d
 209]
 no recovery of attorney's fees where attorney engaged in
 conflicting representation without obtaining informed written
 consent
Rodriguez v. Disner (9th Cir. 2012) 688 F.3d 645]
Image Technical Services v. Eastman Kodak Co. (9th
 Cir. 1998) 136 F.3d 1354
Sheppard, Mullin, Richter & Hampton, LLP v. J-M
 Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237
 Cal.Rptr.3d 424]
 where the attorney's ethical violation in question is a conflict
 of interest between the attorney and the client, the appropriate
 fee is zero
Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125
 Cal.Rptr.3d 765]
 Conflict of interest, fees paid by co-defendant
U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725
 Conflict of interest, fees paid by third party
Strolow v. Strolow, Inc. (9th Cir. 1987) 813 F.2d 997
CAL 1975-35
 Conservatorship
 attorney fees are not awarded when matter is resolved or
 settled without the actual appointment of a conservator
Conservatorship of Brokken (2021) 61 Cal.App.5th 944
 [275 Cal.Rptr.3d 892]
 conservatee cannot obligate conservatorship estate for
 payment of attorney's fees
Young, etc. v. Thomas (1989) 210 Cal.App.3d 812 [258
 Cal.Rptr. 574]
 Contingent [See Contingent Fee.]

Contract

attorney fees awarded under contract to law firm seeking to
 collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th
 608 [184 Cal.Rptr.3d 225]
 award of fees may be proper under broadly-worded attorney
 fee provision even where claim did not arise out of the
 agreement
Hemphill v. Wright Family, LLC (2015) 234 Cal.App.4th
 911 [184 Cal.Rptr.3d 326]
 contingency lawyer may negotiate a fee contract that gives first
 proceeds to the lawyer and imposes on client greater risk of
 non-payment
 LA 526 (2015)
 contract making material changes to existing contingency fee
 contract must comply with Business and Professions Code §
 6147
Stroud v. Tunzi (2008) 160 Cal.App.4th 377 [72
 Cal.Rptr.3d 756]
 contrary to law, policy, or morals
Bird, Marella, Boxer & Wolpert v. Superior Court (2003)
 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
Kallen v. Delug (1984) 157 Cal.App.3d 940, 949-950 [203
 Cal.Rptr. 879]
 defendant-sellers in real estate case are not required to seek
 mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53
 Cal.Rptr.3d 491]
 denial of attorney fees where party is non-signatory under
 contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation
 (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
 denial of award of fees where each party agreed under written
 contract to pay their own attorney's fees for arbitration and
 ancillary judicial proceedings
California Union Square, L.P. v. Saks & Co. LLC (2021) 71
 Cal.App.5th 136 [286 Cal.Rptr.3d 115]
 denial of fees where contract is deemed to be entirely voided
 versus award of fees where a contract is found to be divisible,
 voidable, or rescindable
Golden Pisces, Inc. v. Wahl Marine Construction (9th Cir.
 2007) 495 F.3d 1078
 denial of fees where party prevailed in enforcing contract that
 contained no attorney's fees provision while losing party
 championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153
 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
 fee agreements and billings must be fair, reasonable, and fully
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Bird, Marella, Boxer & Wolpert v. Superior Court (2003)
 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal.
 State Bar Ct. Rptr. 980
 members of dissolved LLC are liable for attorney fees up to
 amount distributed upon dissolution for breach of contract by
 LLC
CB Richard Ellis, Inc. v. Terra Nostra Consultants (2014)
 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]
 no recovery of attorney's fees when contractual condition of
 mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78
 Cal.Rptr.3d 356]
Leamon v. Krajewicz (2003) 106 Cal.App.4th 570 [131
 Cal.Rptr.2d 115]
 recovery of attorney's fees may be awarded notwithstanding
 an invalid contract except when parties are in pari delicto
Mountain Air Enterprises v. Sundowner Towers, LLC
 (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]
 social security cases
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct.
 1817, 152 L.Ed.2d 996]
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142

under Civil Code § 1717

In re Penrod (9th Cir. 2015) 802 F.3d 1084
Scott Co. of California v. Blount Co. (1999) 20 Cal.4th 1103 [86 Cal.Rptr.2d 614]
Horn v. Petrou (2021) 67 Cal.App.5th 459 [282 Cal.Rptr.3d 209]
Yoon v. Cam IX Trust (2021) 60 Cal.App.5th 388 [274 Cal.Rptr.3d 506]
Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]
Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]
PNEC Corporation v. Meyer (2010) 190 Cal.App.4th 66 [118 Cal.Rptr.3d 730]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
Carr Business Enterprises, Inc. v. City of Chowchilla (2008) 166 Cal.App.4th 25 [82 Cal.Rptr.3d 135]
Pueblo Radiology Medical Group, Inc. v. J. Dalton Gerlach et al. (2008) 163 Cal.App.4th 826 [77 Cal.Rptr.3d 880]
Dell Merk, Inc. v. Franzia (2005) 132 Cal.App.4th 443 [33 Cal.Rptr.3d 694]
Kangarlou v. Progressive Title Co., Inc. (2005) 128 Cal.App.4th 1174 [27 Cal.Rptr.3d 754]
Erickson v. R.E.M. Concepts, Inc. (2005) 126 Cal.App.4th 1073 [25 Cal.Rptr.3d 39]
Fairchild v. Park (2001) 90 Cal.App.4th 919 [109 Cal.Rptr.2d 442]
Manier v. Anaheim Business Center Co. (1984) 61 Cal.App.3d 503
 -attorney fees may be awarded to more than one prevailing party in a breach of contract dispute
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
 -attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
 -denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]
 -denial of fees where party prevailed in enforcing contract that contained no attorney's fees provision while losing party championed another contract with a fees provision
Brittalia Ventures v. Stuke Nursery Co., Inc. (2007) 153 Cal.App.4th 17 [62 Cal.Rptr.3d 467]
 -distinction between prevailing in the underlying claim of breach of contract and prevailing in proving the contract contains an applicable attorney fee provision
M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]
 -equitable principles applied to reduce fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsels time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
 -limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

-misuse of attorney fee claims sometimes leads to protracted litigation that consumes judicial resources and client money, serves no public purpose, and impairs image of legal profession

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

-party claiming entitlement to fees estopped from later challenging the fees provision

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

International Billing Services, Inc. v. Emigh (2000) 84 Cal.App.4th 1175 [101 Cal.Rptr.2d 532]

-party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed

Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

M. Perez Company Inc. v. Base Camp Condominiums Assn No. One, et al. (2003) 111 Cal.App.4th 456 [3 Cal.Rptr.3d 563]

Copyright Act

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142

court misapplied the factors on which it focused while emitting analysis of other factors that may have allowed award of attorney fees

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

does not preempt California law permitting contractual fee-shifting provisions

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

use of block billing rather than listing separately time expended to perform each task

Ryan v. Editions Limited West, Inc. (9th Cir. 2015) 786 F.3d 754

Costs

bail bond forfeiture proceedings

-motion of fees denied where there is no provision in the relevant statute to recover fees as costs

People v. United States Fire Insurance Company (2012) 210 Cal.App.4th 1423 [149 Cal.Rptr.3d 196]

certain non-taxable costs, such as clerk and docketing fees, copying costs, can be awarded as part of a reasonable attorney's fees under 15 USCA § 1681o(a)(2); 28 U.S.C.A. § 1920 (the Fair Credit Reporting Act)

Grove v. Wells Fargo Financial California, Inc. (9th Cir. 2010) 606 F.3d 577

district erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes

Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955

unless bad faith is proven, Federal Rule of Civil Procedure 41(d) "costs" do not include attorney's fees as a matter of right

Moskowitz v. American Savings Bank, F.S.B. (9th Cir. 2022) 37 F.4th 538

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

FEES

Criminal law matter

court imposed on criminal defendant [a criminal laboratory analysis fee] and a drug program fee under Penal Code § 182(a) which constituted punishment pursuant to Legislature's intent

People v. Ruiz (2018) 4 Cal.5th 1100 [232 Cal.Rptr.3d 714]
court may award crime victim attorney's fees in a restitution order when the victim incurred the expenses to participate in law enforcement's investigation and prosecution of defendant
U.S. v. Eyraud (9th Cir. 2015) 809 F.3d 462

lodestar method not applicable in determining attorney fees in crime victim restitution awards

People v. Taylor (2011) 197 Cal.App.4th 757 [128 Cal.Rptr.3d 399]

Delay of client's matter to collect [See Unpaid fee.]

Business and Professions Code section 6128

CAL 1968-16

when court awards none

LA(l) 1962-4

Demand from third party

LA 226 (1955)

award of attorney fee provision in contract applies to third-party beneficiary

Cargill Inc. v. Souza (2011) 201 Cal.App.4th 962 [134 Cal.Rptr.3d 39]

Loduca v. Polyzos (2007) 153 Cal.App.4th 334 [62 Cal.Rptr.3d 780]

third-party claimant who was not intended beneficiary of attorney fee clause in contract denied award

Sessions Payroll Management, Inc. v. Noble Construction (2000) 84 Cal.App.4th 671 [101 Cal.Rptr.2d 127]

Derivative action

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

Cziraki v. Thunder Cats, Inc. (2003) 111 Cal.App.4th 552 [3 Cal.Rptr.3d 419]

First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]

Determination of [See Bid for legal work.]

agreement

-in divorce

LA 226 (1955)

by statute and contract

Code of Civil Procedure section 1021

charge less than

-allowed by court

LA 65 (1931)

-schedule, custom, or statute

LA 102 (1937)

charge more than allowed by court

LA(l) 1962-4

quote specific amount for certain services

LA 342 (1973)

rate increased during representation

Severson, Werson, Berke & Melchior v. Bollinger (1991) 235 Cal.App.3d 1569

LA 479 (1994)

-fee agreement based on fixed hourly rate but provides for possible increase found valid

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Discharge of attorney with cause

attorney entitled to collect for services rendered prior to misconduct

Moore v. Fellner (1958) 50 Cal.2d 330 [325 P.2d 857]

Jeffry v. Pounds (1977) 67 Cal.App.3d 6 [136 Cal.Rptr. 373]

attorney's behavior which undermines trust may be grounds for discharge

Moser v. Western Harness Racing Association (1948) 89 Cal.App.2d 1, 8 [200 P.2d 7]

client has implied right to discharge

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385]

failure to use ordinary care furnishes cause for discharge

Salopek v. Schoemann (1942) 20 Cal.2d 150, 153 [124 P.2d 21]

Disclosure in bankruptcy proceeding

LA 452

lien against client file

-void

Academy of Calif. Opt. Inc. v. Superior Court (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]

Discounted as consideration for referrals

CAL 1983-75

Discretion of trial judge to award in county actions for recovery of support payments

County of Kern v. Ginn (1983) 146 Cal.App.3d 1107 [194 Cal.Rptr. 512]

Disgorgement of excessive fees by bankruptcy petition preparer for engaging in unauthorized practice of law

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

Disgorgement of fees and costs as equitable relief

In re S.S. Retail Stores (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]

funds derived from illegal activity and used to pay attorney's fees may be subject to forfeiture

Federal Trade Commission v. Network Services Depot, Inc., et al. (9th Cir. 2010) 617 F.3d 1127

Disgorgement of fees in bankruptcy matter as amount paid exceeded reasonable value of work performed

Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886

Dispute

absent a contract determining a different disposition, attorney fees awarded under Labor Code section 1194, should be made payable directly to the attorney

Henry M. Lee Law Corporation v. Superior Court (Chang) (2012) 204 Cal.App.4th 1375 [139 Cal.Rptr.3d 712]

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

-limited to cases where the parties do not have an agreement as to award of fees

Beard v. Gary Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

action brought by criminal defendant against former counsel for billing improprieties is not necessarily a claim of legal malpractice

Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

between law firm and former shareholder

-former shareholder has no ownership or lien interest upon fees owed to firm by client

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

binding private arbitration clause in attorney-client fee agreement may be enforced under the California Arbitration Act (CAA) once the Mandatory Fee Arbitration Act (MFAA) arbitration process is over

Schatz v. Allen Matkins Leck Gamble & Mallory LLP (2009) 45 Cal.4th 1034 [87 Cal.Rptr.3d 700]

Greenberg Glusker Fields Claman & Machitinger LLP v. Rosenson (2012) 203 Cal.App.4th 688 [137 Cal.Rptr.3d 489]

binding private arbitration clause in attorney-client fee agreement not effective where client requested mandatory arbitration pursuant to State Bar rules for fee disputes

*Alternative Systems, Inc. v. Carey (1998) 67 Cal.App.4th 1034 [79 Cal.Rptr.2d 567]

client given benefit of doubt regarding modified contract for fees

Baron v. Mare (1975) 47 Cal.App.3d 304[120 Cal.Rptr. 675]

conflict of interest not created by

LA 521 (2007)

criminal defendant need not allege that he was innocent of the crime charged in order to bring an action against former law firm over a fee dispute

Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

funds properly withdrawn from a client trust account under rule 4-100(A)(2) and later disputed by the client do not need to be re-deposited into the trust account

CAL 2006-171

governmental entity

-municipal indebtedness or liability limitations under article XVI, section 18 of the California Constitution

--contingency fee contract between attorney and city did not violate the constitutional municipal debt limitation because attorney's fees were neither a charge against the city's general fund nor an obligation to be by tax levies

Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]

jurisdiction issues

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

settlement check issued only to client, but delivered to attorney who has a lien

OC 99-002

under Civil Code section 2860 "cumis counsel" fee dispute requires mandatory arbitration

Long v. Century Indemnity Co. (2008) 163 Cal.App.4th 1460 [78 Cal.Rptr.3d 483]

unnamed class member who failed to intervene at trial in a securities fraud action had standing to appeal the trial court's award of attorney fees

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

with co-counsel

-terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with rule 2-200

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Dissolution

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

In re Marriage of Jovel (1996) 49 Cal.App.4th 575 [56 Cal.Rptr.2d 740]

In re Marriage of 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

no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities

In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

post-divorce child custody fee order requires trial court to first consider parties' relative circumstances

Alan S. Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]

rationale for awarding attorney's fees in dissolution of marriage cases

In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]

rights of spouse to

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

In re Marriage of Askren (1984) 157 Cal.App.3d 205, 212 [203 Cal.Rptr. 606]

District court

determination of

Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214

Jeff D. v. Evans (9th Cir. 1984) 743 F.2d 648, 650-651

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Diversity cases

award of fees based on the reasonableness of removal of the case from state court to federal court

Gardner v. UICI et al. (9th Cir. 2007) 508 F.3d 559

Division of, between attorneys or law firms associated on a particular matter

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

attorney may not prevent law firm from obtaining client consent in order to render contract nonexistent

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

dispute among class counsel

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

merits of a declaratory relief action must be resolved in the trial court's discretion

Carder v. Patten (2010) 189 Cal.App.4th 92 [116 Cal.Rptr.3d 652]

Division of, when partnership dissolves

Fox v. Abrams (1985) 163 Cal.App.3d 610 [21 Cal.Rptr. 260]

Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]

post-dissolution profits from unfinished partnership business

Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]

*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]

-dissolved law firm no property interest in the fees or profits associated with unfinished hourly fee matters

Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]

Division of, when shareholder leaves firm

former shareholder has no right on interpleader to contingency fee from cases which shareholder settled while working for firm

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

duty to submit to bar association arbitration committee

LA 309 (1969)

hold client's papers

LA 330 (1972), LA(l) 1970-6

SD 1977-3, SF 1973-12

unilateral withdrawal of funds by attorney

LA 438 (1985)

Division when partnership dissolves

valuation of buyout price for dissociating partner

Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]

Donation of legal fees

LA 434 (1984)

contingent upon bequest to certain organization

LA 428 (1984)

FEES

for charitable auction
CAL 1982-65, SF 1973-27

Driver License Compact
 no award of attorney's fees under Code of Civil Procedure section 1021.5 where benefit did not affect general public
Villarreal v. Gordon (2020) 44 Cal.App.5th 233 [256 Cal.Rptr.3d 940]

Due an attorney on matters unrelated to the malpractice issue at bar
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310

Each party must pay own
 Code of Civil Procedure section 1021
Gray v. Don Miller & Associates, Inc. (1984) 35 Cal.3d 498, 504-509

Elder Abuse and Dependent Adult Civil Protection Act
Bickel v. Sunrise Assisted Living (2012) 206 Cal.App.4th 1 [141 Cal.Rptr.3d 586]
Perlin v. Fountain View Management, Inc. (2008) 163 Cal.App.4th 657 [77 Cal.Rptr.3d 743]
 value of an estate is a factor in setting fees and is consistent with rule 4-200
Conservatorship of Levitt (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

Employees of government may recover certain costs of defense if the action arose from acts or omissions in course of employment
City of Redondo Beach v. Delong (1981) 123 Cal.App.3d 1035 [177 Cal.Rptr. 77]

Environmental Quality Act
Center for Biological Diversity et al. v. County of San Bernardino (2010) 188 Cal.App.4th 603 [115 Cal.Rptr.3d 762]
Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]

Equal Access to Justice Act
 against government
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Decker v. Berryhill (9th Cir. 2017) 856 F.3d 659
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 -factors considered under CCP § 1021.5
 --social security claimant timely files for attorney fees
 Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
 -fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
 Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 -prevailing market rates
 Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]

reasonable market rates
Brown v. Sullivan (9th Cir. 1990) 916 F.2d 492

recovery of paralegal time at prevailing market rates
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]

requires attorney's fees absent substantially justified government position
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
Thomas v. Peterson (9th Cir. 1988) 841 F.2d 332

standard for awarding attorney's fees under Equal Access to Justice Act
Richlin Sec. Service Co. v. Chertoff (2008) 553 U.S. 571 [128 S.Ct. 2007]
 standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
 statutory basis for
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

to prevailing party
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 -must show that counsel's distinctive knowledge and skill were needful to the litigation in order to justify attorney fees above statutory cap
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
 -standard for awarding attorney's fees under Equal Access to Justice Act
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Marolf (9th Cir. 2002) 277 F.3d 1156
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977

under 28 U.S.C. section 2412(d)
Medina Tovar v. Zuchowski (9th Cir. 2022) 41 F.4th 1085
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. One 1997 Toyota Land Cruiser (9th Cir. 2001) 248 F.3d 899
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 -fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
 Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 -standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
 value of plaintiff's assets determined
United States v. 88.88 Acres of Land (9th Cir. 1990) 907 F.2d 106

warranted full award of reasonable attorney fees and costs where government authority acted in bad faith
Ibrahim v. U.S. Department of Homeland Security (9th Cir. 2019) 912 F.3d 1147

ERISA matter
 either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]

Error in awarding fees
 court erred in awarding attorney fees given limited success of plaintiffs' enforcement of consent decree
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous

Fabbrini v. City of Dunsmuir (9th Cir. 2011) 631 F.3d 1299
district court abused its discretion in including attorney's fees in its award of costs under Federal Rule of Civil Procedure 41(d)

Moskowitz v. American Savings Bank, F.S.B. (9th Cir. 2022) 37 F.4th 538

district court erred by reducing attorney fee award by almost 37% without sufficiently explaining its reason for the reduction

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

district court erred in allowing for award of pro hac vice fees as taxable costs and costs for editing and synchronizing deposition video tapes

Kalitta Air L.L.C. v. Central Texas Airborne System Inc. (9th Cir. 2013) 741 F.3d 955

district court erred in reducing attorney's fees under ERISA statute to amount well below prevailing market rate for ERISA plaintiff's attorneys of comparable skill

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

family law court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias

In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

in civil rights case, district court abused discretion in reducing attorney fee award

Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106

Estate

abuse of discretion in determining

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

administrator's attorney's fee for representing administrator as heir

LA 237 (1956)

attorney for administrator claiming fees for extraordinary services

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

attorney for personal representative bills heir for services for which estate is liable

LA(l) 1956-7

decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent

Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]

executor's attorney charges for performance of delegable duties of executor

Probate Code sections 10804 and 15687

LA 347 (1975)

executor's attorney's fee when secretary is executor

LA 382 (1979)

independent review required under Probate Code section 21350 et seq. is not met when attorney may be entitled to executor fees and the so called independent attorney shared office space with drafter

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

legal fees for administration chargeable to estate

Houghton v. Coberly (1962) 201 Cal.App.2d 820 [20 Cal.Rptr. 489]

no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative

In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]

reasonableness of fees in trust administration, inefficient and duplicative not permitted

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

Excellent work does not justify enhanced fee; inadequate work may serve to reduce fee

Southwestern Media Inc. v. Rau (9th Cir. 1983) 708 F.2d 419

Grossman v. State Bar (1983) 34 Cal.3d 73 [192 Cal.Rptr. 397]

In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

Excessive

Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

Alexander v. Superior Court (1994) 22 Cal.App.4th 901 [27 Cal.Rptr.2d 732]

Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]

Goldstone v. State Bar (1931) 214 Cal. 490, 497 [6 P.2d 513]

argument that fees were too high unpersuasive where defendants were unable to point to any particular fee entries or claimed hours

Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965

award of fees in excess of damages justified where successful litigation causes conduct to be exposed and corrected

Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214

Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]

lodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

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]

plaintiff failed to provide sufficient record on appeal to support its claim that the amount of fees awarded to defendant's attorneys for time spent on prior appeal was unreasonable

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

Exorbitant

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

exorbitant and unconscionable fee charged

Recht v. State Bar (1933) 218 Cal. 352, 354 [23 P.2d 273]

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980

CAL 1996-147, CAL 1994-135

OC 93-002

fee charged in excess of reasonable value of services does not of itself warrant discipline

Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402 [49 P.2d 832]

gross overcharge by attorney may warrant discipline

Bushman v. State Bar (1974) 11 Cal.3d 558, 562, 564 [113 Cal.Rptr. 904, 522 P.2d 312]

Shaffer v. Superior Court (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980

test for impermissible overcharge – "shock the conscience"

Tarver v. State Bar (1984) 37 Cal.3d 122, 134 [207 Cal.Rptr. 302]

FEES

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Expert witness fees

expert witness fees cannot be included as attorney fees or recovered as "necessary expense" under contract unless properly pled and proved

First Nationwide Bank v. Mountain Cascade Inc. (2000) 77 Cal.App.4th 871 [92 Cal.Rptr.2d 145]

Extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Failure to return unearned fees

Bernstein v. State Bar (1990) 50 Cal.3d 221

Bowles v. State Bar (1989) 48 Cal.3d 100 [255 Cal.Rptr. 846]

Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Ballard v. State Bar (1983) 35 Cal.3d 274

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

more than minimal preliminary services required to justify retention of advanced fees

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

until after disciplinary action initiated

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Fair Debt Collection Practice Act

authorizes award of costs to debt collectors only after determination that debtor's action was brought in bad faith and for the purpose of harassment

Rouse v. Law Offices of Rory Clark (9th Cir. 2010) 603 F.3d 699

does not authorize award of attorney's fees against attorneys representing debtors

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

False Claims Act provides for award of fees under rare and special circumstances

Pfingston v. Ronan Engineering Co. (9th Cir. 2002) 284 F.3d 999

defendant entitled to attorney's fees when claim filed by county found to be frivolous and brought to harass defendant

County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]

Family law

In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]

Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]

abuse of discretion where court refused and failed exercise discretion; failed to make needs-based analysis and where court refused to review billing records

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

child support obligations ordered by family court have priority over fees deposited in client trust account to retain criminal defense attorney

Brothers v. Kern (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]

failure to seek relief from the bankruptcy court to characterize fees owing in a family law matter as non-dischargeable resulted in a dischargeable debt

In re Marriage of Sprague & Spiegall-Sprague (2003) 105 Cal.App.4th 215 [129 Cal.Rptr.2d 261]

fees denied under Code of Civil Procedure 1021.5 where litigant had done nothing to curtail a public right, but sought a judgment only to settle her private rights and those of her children, notwithstanding the public benefit to others whose

Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]

fees denied where the court determined that the party requesting an award of fees had the marketable skills and the potential earning capacity to pay her own fees (Family Code §§ 7604 and 7605)

Kevin Q. v. Lauren W. (2011) 195 Cal.App.4th 633 [124 Cal.Rptr.3d 676]

if the attorney has ceased to be the attorney for the party in whose behalf the order was made, the attorney may enforce the order only if it appears of record that the attorney has given to the former client or successor counsel 10 days' written notice of the application for enforcement of the order. During the 10-day period, the client may file in the proceeding a motion directed to the former attorney for partial or total reallocation of fees and costs to cover the services and cost of successor counsel. On the filing of the motion, the enforcement of the order by the former attorney shall be stayed until the court has resolved the motion

Family Code section 722

no abuse of discretion when award of attorney fees to mother in child support dispute was based on parties' needs, income, assets and abilities

In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support

Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

subject to subdivision (c), the order providing for payment of the attorney's fees and costs may be enforced directly by the attorney in the attorney's own name or by the party in whose behalf the order was made

Family Code section 722

where the court orders one of the parties to pay attorney's fees and costs for the benefit of the other party, the fees and costs may, in the discretion of the court, be made payable in whole or in part to the attorney entitled thereto

Family Code section 722

Fee arbitration

Business and Professions Code sections 6200-6206

Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]

Pickens v. Weaver (1985) 173 Cal.App.3d 550 [219 Cal.Rptr. 91]

Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]

arbitration award becomes binding 30 days after notice of award

Giorgianni v. Crowley (2011) 197 Cal.App.4th 1462 [129 Cal.Rptr.3d 546]

arbitrator's authority to determine own jurisdiction

-authority to rule on the issue does not always mean authority to make a binding (and hence unreviewable) ruling on the issue

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

binding agreement

-arbitration in accordance with Business and Professions Code section 6200 et seq. is non-binding unless parties agree in writing to make it binding

Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]

-independent review on issue of whether the parties agreed to binding arbitration
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 binding clause in retainer agreement
Ervin, Cohen & Jessup, LLP v. Kassel (2007) 147 Cal.App.4th 821 [54 Cal.Rptr.3d 685]
 correction of arbitration award
Law Offices of David S. Karton v. Segreto (2009) 176 Cal.App.4th 1 [97 Cal.Rptr.3d 329]
 notice of client's right to arbitrate a dispute must be given after dispute has arisen
 OC 99-002
 rejection of offer of binding arbitration
 -where one party offers binding arbitration and the offeree rejects the offer, the offeror's offer is effectively rejected and cannot later be accepted by the offeree
Glaser, Weil, Fink, Jacobs and Shapiro, LLP v. Goff (2011) 194 Cal.App.4th 423 [125 Cal.Rptr.3d 26]
 waiver of due to filing pleading for affirmative relief
Aguilar v. Lerner (2004) 32 Cal.4th 974 [12 Cal.Rptr.3d 287]
Fagelbaum & Heller LLP v. Smylie (2009) 174 Cal.App.4th 1351 [95 Cal.Rptr.3d 252]
Juodakis v. Wolftrum (1986) 177 Cal.App.3d 587 [223 Cal.Rptr. 95]
 Financing
CAL 2007-172, CAL 2002-159, CAL 1980-53
 LA 308 (1968), SD 1983-1
 Board Policy Statement (April 20, 1967) III.A.1., supra
 credit card
 LA(I) 1972-26
 SD 1974-6, SD 1972-13, SD 1972-10
 Board of Governors Policy Statement (April 20, 1967)
 III.A.1., supra.
 through banks
 LA 288 (1965)
 through lending institutions
 LA 288 (1965)
 Finder's fee
Tuohey & Barton v. Anaheim Memorial Hospital (1986) 187 Cal.App.3d 609 [231 Cal.Rptr. 706]
 For
 alimony payments, processing of
 LA(I) 1969-1
 child support payments, processing of
 LA(I) 1969-1
 collections
 LA 275 (1963), LA 263 (1959), LA(I) 1955-1
 service of process by lay employee
 LA(I) 1968-4
 Foreclosures
 attorney fees awarded where borrowers obtained TRO
Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]
 in an action seeking to prevent a nonjudicial foreclosure, the borrowers "prevailed" for purposes of attorney fees pursuant to Civ. Code § 2924.12, subd. (i), because they obtained preliminary, not solely permanent, injunctive relief against a trustee's sale of their home
Monterossa v. Superior Court (2015) 237 Cal.App.4th 747 [188 Cal.Rptr.3d 453]
 statutory fees limitation applies to both judicial and non-judicial foreclosures
Bruntz v. Alfaro (1989) 212 Cal.App.3d 411 [260 Cal.Rptr. 488]
 Forwarding fees
 Rule 2-108(A), Rules of Professional Conduct (operative until May 26, 1989)
Rule 2-200, Rules of Professional Conduct (operative as of May 27, 1989)
Compagna v. City of Sanger (1996) 42 Cal.App.4th 533 [49 Cal.Rptr.2d 676]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 635]
Moran v. Harris (1982) 131 Cal.App.3d 913 [182 Cal.Rptr. 519]
Dunne & Gaston v. Keltner (1975) 50 Cal.App.3d 560 [123 Cal.Rptr. 430]
CAL 1994-138, LA 486, LA 467
 Freedom of Information Act
Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
 fees awardable if public benefit outweighs economic benefit
United Assn. of Journeymen Apprentices v. Department of the Army (9th Cir. 1988) 841 F.2d 1459
 Frivolous action under Code of Civil Procedure section 128.7
McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270 Cal.Rptr.3d 803]
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
 Government
 Anti-Assignment Act voids claimants' assignment of attorney fees to their attorney but attorney retains lien interest
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
 city ordinance which provided for unilateral recovery of attorney fees found invalid because it conflicted Government Code section 38773 et seq. permitting recovery of fees by a prevailing party
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 defense of city employees pursuant to Gov. Code § 995 et seq.
 -city is not obligated to provide for defense of employees separate from that retained to jointly represent the city and the employees
City of Huntington Beach v. Peterson Law Firm (2002) 95 Cal.App.4th 562 [115 Cal.Rptr.2d 568]
 -public employees are entitled to reimbursement of attorney fees in defense of civil judicial proceedings but not for preliminary investigations that do not result in civil judicial proceedings
Thornton v. California Unemployment Insurance Appeals Board (2012) 204 Cal.App.4th 1403 [139 Cal.Rptr.3d 737]
 exception to award of attorney's fees
 -where the public entity is the state itself & acts through its Attorney General whose public responsibility is to serve the interests of the state at large
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
 fee application timely filed pursuant to 28 U.S.C.A. § 2412(d)(1)(B) may be amended after filing period has run may still qualify for consideration and determination on the merits
Scarborough v. Principi (2004) 541 U.S. 401 [124 S.Ct. 1856]
 fees awarded to city retirement board of members pursuant to a city council resolution authorizing payment of all expenses incurred in connection with any claim arising from any act or omission in the scope of their duties as board members
Torres v. City of San Diego (2007) 154 Cal.App.4th 214 [64 Cal.Rptr.3d 49]
 municipal indebtedness or liability limitations under article XVI, section 18 of the California Constitution
 -contingency fee contract between attorney and city did not violate the constitutional municipal debt limitation because attorney's fees were neither a charge against the city's general fund nor an obligation to be by tax levies
Lapidus v. City of Wasco (2004) 114 Cal.App.4th 1361 [8 Cal.Rptr.3d 680]
 property owner is entitled to attorney's fees as prevailing party in action to enforce inverse condemnation judgment against city
Mix v. Tumanjan Development Corp. (2002) 102 Cal.App.4th 1318 [126 Cal.Rptr.2d 267]

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Andre v. City of West Sacramento (2001) 92 Cal.App.4th 532 [111 Cal.Rptr.2d 891]
Downen's, Inc. et al. v. City of Hawaiian Gardens Redevelopment Agency (2001) 86 Cal.App.4th 856 [103 Cal.Rptr.2d 644]
 retroactive application of city ordinance providing for recovery of attorney fees found invalid on the grounds that the ordinance changed the legal consequences of past conduct
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 social security claimant timely files for attorney fees
Van v. Barnhart (9th Cir. 2007) 483 F.3d 600
 under 26 U.S.C.A. § 7430
Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658
Pacific Fisheries Inc. v. U.S. (9th Cir. (Wash.) 2007) 484 F.3d 1103
 under Code of Civil Procedure § 1021.5, prevailing public entity entitled to collect fees from another public entity
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
 under Code of Civil Procedure § 1038, the California Torts Claims Act does not authorize attorney fees for successful defense of section 1983 claims
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 Gross overcharge
Bushman v. State Bar (1974) 11 Cal.3d 558, 563 [113 Cal.Rptr. 904]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
 Group legal services
 LA(l) 1971-9
 SD 1973-7
 Guidelines for courts to follow [See Award of attorneys' fees. Sanctions.]
 29 U.S.C section 1132(q)
Hummell v. S.E. Rykoff & Co. (9th Cir. 1980) 634 F.2d 446, 452-453
 Guidelines for setting attorneys' fees
 retirement branch
Sapper v. Lenco Blade, Inc. (9th Cir. 1983) 704 F.2d 1069, 1073
 Handicapped Children's Protection Act
 attorney's fees recoverable by plaintiff
McSomebodies v. San Mateo School District (9th Cir. 1990) 886 F.2d 1559
McSomebodies v. Burlingame Elementary School District (9th Cir. 1990) 886 F.2d 1558
 Homeowners Bill of Rights (HOBR)
 request for attorney fees
Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]
 Hybrid, hourly and contingent
 OC 99-001
 SF 1999-1
 Illegal fee
Coviello v. State Bar (1953) 41 Cal.2d 273
Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 2 [77 Cal.Rptr.2d 463]
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Berg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
 *Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 LA 466 (1991), OC 99-001

award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
 counsel for plaintiffs "practiced law in California" without pro hac vice admission therefore fee section of settlement deemed illegal
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
 fee contract between an attorney and an applicant in a workers' compensation case, is not prohibited by the Labor Code; instead, the Workers' Compensation Appeals Board has authority to approve, increase, or reduce the fees within the contract
Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
 fees collected while engaged in UPL in another jurisdiction constitute
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
 loan modification services
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
 -collecting pre-performance fees in violation of the law
In the Matter of Gordon (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
 Immigration cases
 Equal Access to Justice Act
Carbonell v. I.N.S. (9th Cir. 2005) 429 F.3d 894
 Improper billing
 billing for paralegal work, court, in its discretion, may not allow hearsay by attorney as the sole justification for award of such fees
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
 district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 LA 391 (1981), OC 99-001
 Improper for court to withhold past-due SSI benefits for payment of attorney's fees
Bomen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
 In propria persona client and advisor counsel share handling of case
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
 Indigent person
 Business and Professions Code section 6068(h)
CAL 1981-64, SF 1974-4
 additional fee from family of
 LA 245 (1957)
 county hospital lien against indigent patient's tort recovery from third party subject to pro rata reduction for patient's reasonable attorney's fees
City and County of San Francisco v. Sweet (1995) 32 Cal.App.4th 1483 [38 Cal.Rptr.2d 620]
 court should consider indigent losing party's financial condition before awarding reasonable attorney's fees to prevailing party
People v. Rodriguez (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]

- Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- criminal cases
- right to ancillary defense services under Penal Code section 987.9
- Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]
- litigation cost not limited as tool to deny pro per litigant access to court
- Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]
- representation by legal aid foundation
- award of fees to legal aid foundation pursuant to contract, not by statute or common law right, does not violate ban on awards to recipients of Legal Services Corporation funding under 45 C.F.R. § 1642.2
- Peretz v. Legal Aid Foundation of Los Angeles (2004) 122 Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
- Insurance agent may be liable for attorney fees incurred by insured
- Saunders v. Cariss (1990) 224 Cal.App.3d 905 [274 Cal.Rptr. 186]
- Insurance cases
- Civil Code section 2860 – reactivity
- San Gabriel Valley Water Company v. Hartford Accident and Indemnity Company (2000) 82 Cal.App.4th 1230 [98 Cal.Rptr.2d 807]
- award of attorney's fees to insurance company from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6
- Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
- Civil Code section 2860(c)
- defense costs and attorney's fees distinguished for purposes of arbitration of disputes between Cumis counsel and insurer
- Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
- Compulink Management Center, Inc. v. St. Paul Fire and Marine Ins. Co. (2008) 169 Cal.App.4th 289 [87 Cal.Rptr.3d 72]
- Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
- disputes over attorney's fees and expenses between parties other than Cumis counsel for insured and insurer cannot be arbitrated under this code section
- Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
- insurer failed to provide a defense which precluded invocation of statutory arbitration remedy for Cumis' attorney fee dispute
- Housing Group v. PMA Capital Insurance Co. (2011) 193 Cal.App.4th 1150 [123 Cal.Rptr.3d 603]
- no right to fee dispute where no determination of whether insurer has duty to defend
- Intergulf Development v. Superior Court (2010) 183 Cal.App.4th 16 [107 Cal.Rptr.3d 162]
- Cumis counsel
- insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
- Gray Cary Ware & Freidenrich v. Vigilant Insurance Company (2004) 114 Cal.App.4th 1185
- fees not recoverable from insurer in suits filed outside scope of policy terms
- Olson v. Federal Insurance Co. (1990) 219 Cal.App.3d 252 [268 Cal.Rptr. 90]
- landlord's intentional discrimination in renting was willful conduct which precluded indemnification by liability insurer for costs and attorney fees
- Combs v. State Farm Fire & Casualty Company (2006) 143 Cal.App.4th 1338 [49 Cal.Rptr.3d 917]
- injured third party who had been assigned insured's bad faith action against liability insurer was entitled to recover attorney fees incurred in recovering policy benefits wrongfully withheld
- Essex Insurance Co. v. Five Star Dye House Inc. (2006) 38 Cal.4th 1252 [45 Cal.Rptr.3d 362]
- insured entitled to reimbursement of attorney's fees incurred in a forfeiture proceeding
- American Alternative Ins. Corp. v. Superior Court (2006) 135 Cal.App.4th 1239 [37 Cal.Rptr.3d 918]
- insurer's ability to recover attorney fees from insured
- Hartford Casualty Ins. Co. vs. J.R. Marketing LLC (2015) 61 Cal.4th 988 [190 Cal.Rptr.3d 599]
- Buss v. Superior Court (1996) 42 Cal.App.4th 1663 [50 Cal.Rptr.2d 447]
- Interest on unpaid [See Charge interest.]
- California Constitution Art. 15
- Usury section 1, par. 2
- CAL 1980-53
- LA 370 (1978), LA 374 (1978)
- SD 1983-1, SD 1976-8
- SF 1970-1
- in the absence of an agreement as to any accrued interest, the interest belongs to the attorney who owns the fee judgment upon which interest is accruing
- Hernandez v. Siegal (2014) 230 Cal.App.4th 165 [178 Cal.Rptr.3d 417]
- interest on prejudgment award of fees begins to accrue upon entry of judgment
- Lucky United Properties Investments Inc. v. Lee (2013) 213 Cal.App.4th 635 [152 Cal.Rptr.3d 641]
- standing to pursue claim for interest on award of attorney's fees
- Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]
- Interim award of attorney's fees not an appealable collateral order
- Hillery v. Rusher (9th Cir. 1983) 702 F.2d 848
- Interim awards appropriate to party substantially prevailing
- Powell v. United States Dept. of Justice (N.D. Cal. 1983) 569 F.Supp. 1192
- Interim bankruptcy
- In re International Environmental Dynamics (9th Cir. 1983) 718 F.2d 322
- Interpleader funds
- award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure 386.6
- Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
- fees denied where party failed to satisfy criteria for interpleader action pursuant to Code of Civil Procedure section 386.6
- Wells Fargo Bank, N.A. v. Zinnel (2004) 125 Cal.App.4th 393 [22 Cal.Rptr.3d 750]
- fees denied where public entity failed to file interpleader action pursuant to Code of Civil Procedure 386.6
- Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
- Invalid contract
- Mountain Air Enterprises v. Sundowner Towers, LLC (2014) 231 Cal.App.4th 805 [180 Cal.Rptr.3d 840]
- Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
- IRS matter
- Morrison v. Commissioner of Internal Revenue (9th Cir. 2009) 565 F.3d 658

FEES

Jurisdiction of federal court

district court that presided over the underlying action denied law firm's motion to enforce a note on the grounds that the note was not collateral to the action and therefore outside of the court's supplemental jurisdiction

Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

over Title VII claim for attorney's fees for legal work performed in state, local or administrative proceedings

Porter v. Winter (9th Cir. 2010) 603 F.3d 1113

Labor Management Act (§ 301)

Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074

Law clerks and paralegals

district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

LA 391 (1981)

non-attorney collection agency employees

LA 522 (2009)

Lien

absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)

Loeb v. Record (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

client may by agreements to secure fees

United States v. Stonehill (9th Cir. 1983) 702 F.2d 1288

common fund doctrine does not apply to contractual medical lien holders in personal injury matters

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

declaratory relief action to determine prior attorney's right to fees is not subject to anti-SLAPP motion because suit does not arise from a protected activity

Drell v. Cohen (2014) 232 Cal.App.4th 24 [181 Cal.Rptr.3d 191]

duty to pay medical lien with client's consent

Rule 4-210(A), Rules of Professional Conduct

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

equitable lien for fees

Winslow v. Harold G. Ferguson Corp. (1944) 25 Cal.2d 274, 277 [153 P.2d 714]

County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co. (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

equitable lien theory does not apply to contractual lienholders in personal injury matters

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to

satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

no lien in absence of contract

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

physician's

CAL 1988-101

LA 368 (1977), LA 357 (1976)

prior attorney's lien

CAL 2008-175

priority of attorney liens

Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

Cappa v. K & F Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

-attorney's lien is subordinate to an adverse party's right to offset judgments

Pou Chen Corporation v. MTS Products (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]

-attorney's lien superior to claims of other creditors against a bankruptcy distribution

Franke v. BAM Building Company, et al. (2009) 172 Cal.App.4th 224 [91 Cal.Rptr.3d 212]

-attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

-in relation to medical lien in contingency fee case

Gilman v. Dalby (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

security for fees

Fletcher v. Davis (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]

Plummer v. Day/Eisenberg, LLP (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

CAL 2006-170, CAL 1981-62

settlement check issued only to client, but delivered to attorney who has a lien

OC 99-002

Loan modification services

collecting pre-performance fees in violation of the law

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

"Lodestar" multiplier method of fee calculation

Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]

Carter v. Caleb Brett LLC (9th Cir. 2014) 757 F.3d 866

Christensen v. Stevedoring Services of America (9th Cir. 2009) 557 F.3d 1049

Welch v. Metropolitan Life Ins. Co. (9th Cir. 2007) 480 F.3d 942

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Snoeck v. ExakTime Innovations, Inc. (2023) 96 Cal.App.5th 908 [314 Cal.Rptr.3d 569]

Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]

Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]
Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Khazan v. Braynin (2012) 206 Cal.App.4th 796 [142 Cal.Rptr.3d 118]
Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Pellegrino v. Robert Half International Inc. (2010) 182 Cal.App.4th 278 [106 Cal.Rptr.3d 265]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 abuse of discretion where quality of representation was used to reduce
Van Gerwin v. Guarantee Mutual Life Co. (9th Cir. 2000) 214 F.3d 1041
Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]
 class action cases
Wininger v. SSI Management, L.P. (9th Cir. 2002) 301 F.3d 1115
In re Vitamin Cases (2003) 110 Cal.App.4th 1041 [2 Cal.Rptr.3d 358]
Thayer v. Wells Fargo Bank (2001) 92 Cal.App.4th 819, mod. at 93 Cal.App.4th 324A [112 Cal.Rptr.2d 284]
Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]
 court abused discretion in using cost-plus method of determining attorney fees where the lodestar method was the appropriate method
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]
 probate matters
Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]
 reduction of fees by 90% where court found prevailing litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
 trial court did not abuse its' discretion in reducing the attorney fees award when it determined that many of the hours were duplicative
Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
 trial court is not permitted to use a public entity's status to negate a lodestar that would otherwise be appropriate
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
 Malpractice action
Dahl v. Rosenfeld (9th Cir. 2003) 316 F.3d 1074
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
 Mandatory arbitration
 Witkin, California Procedure 2d, Supp., Attorneys, section 106(A)ff.
 Med-pay
Attorney Grievance Commission v. Kemp (1984) 496 A.2d 672
 Mediation
 agreement containing attorney fee provision was inadmissible, judicial estoppels provides no exception to mediation confidentiality
Rael v. Davis (2008) 166 Cal.App.4th 1608 [83 Cal.Rptr.3d 745]

defendant-sellers in real estate case are not required to seek mediation prior to recovery of attorney fees
Van Slyke v. Gibson (2007) 146 Cal.App.4th 1296 [53 Cal.Rptr.3d 491]
 no recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajkiewicz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
 party refusing request to mediate due to incomplete discovery responses cannot recover attorney fees under contract provision conditioning recovery of attorney's fees upon acceptance of mediation
Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]
 party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
 Medical malpractice
 attorney not automatically entitled to the maximum contingency percentages under Business and Professions Code section 6146, which establishes caps on the recovery, not guarantees of the attorney's fees
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
 calculation under Business and Professions Code section 6146 when attorney has multiple clients
Yates v. Law Offices of Samuel Shore (1991) 229 Cal.App.3d 583 [280 Cal.Rptr. 316]
 contract contingency fee limits in Business and Professions Code section 6146 are constitutional and to be followed even when clients agree to a higher fee contract
Shultz v. Harney (1994) 27 Cal.App.4th 1611
Roa v. Lodi Medical Group, Inc. (1985) 37 Cal.3d 920 [211 Cal.Rptr. 77]
Shepard v. Browne, Greene, et al. (1986) 185 Cal.App.3d 989 [230 Cal.Rptr. 233]
Hathaway v. Baldwin Park (1986) 168 Cal.App.3d 1247
 federal tort claims act preempts California Business and Professions Code section 6146 fee limitation
Jackson v. United States (9th Cir. 1989) 881 F.2d 707
 medical-legal consulting services entitlement to a contingent fee may be restricted by MICRA limitations
Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
 MICRA not applicable to medical procedure performed without patient's consent by doctor acting as agent of law enforcement
Ellis v. City of San Diego (9th Cir. 1999) 176 F.3d 1183
 Membership fees
 Business and Professions Code section 6140 et seq.
 Minimum fee schedules
Goldfarb v. Virginia State Bar (1975) 421 U.S. 773 [95 S.Ct. 2004]
Trout v. Carleson (1974) 37 Cal.App.3d 337 [112 Cal.Rptr. 282]
 no longer in effect
 SD 1973-7
 Minors' compromise
 Probate Code sections 3500 et seq., 3600 et seq.
Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]
Gonzalez v. Chen (2011) 197 Cal.App.4th 881 [128 Cal.Rptr.3d 604]
Sisco v. Cosgrove, Michelizzi, Schwabacher, Ward & Bianchi (1996) 51 Cal.App.4th 1302 [59 Cal.Rptr.2d 647]

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Law Offices Of Stanley J. Bell v. Shine, Browne & Diamond (1995) 36 Cal.App.4th 1011 [43 Cal.Rptr.2d 717]
Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 276]
Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]
 court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case
Robidoux v. Rosengren (9th Cir. 2011) 638 F.3d 1177
 trial court erred in awarding only 10% recovery for attorney's fees in a complex aviation case where it failed to look at other factors such as one attorney had 47 years of experience in aviation accidents and both attorneys had many years of experience as pilots
Schulz v. Jeppesen Sanderson, Inc. (2018) 27 Cal.App.5th 1167 [238 Cal.Rptr.3d 737]
 trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
 Must be licensed at time services performed to recover
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]
 failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership
Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]
Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]
 out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
 Mutuality of remedies
Smith v. Krueger (1983) 150 Cal.App.3d 752, 757 [198 Cal.Rptr. 174]
 No attorney's fees as obligated under contract that was not assumed
Wilson's Heating and Air Conditioning v. Wells Fargo Bank (1988) 202 Cal.App.3d 1326 [249 Cal.Rptr. 553]
 No award of attorney's fees when government takes no affirmative legal action
League of Women Voters of California v. F.C.C. (N.D. Cal. 1983) 568 F.Supp. 295, 301
 No recovery of attorney's fees if a violation of Rules of Professional Conduct occurs
United States ex rel. Alnoor Virani v. Jerry M. Truck Parts & Equipment, Inc. (9th Cir. 1996) 89 F.3d 574
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Asbestos Claims Facility v. Berry & Berry (1990) 219 Cal.App.3d 9, 26-27 [267 Cal.Rptr. 896, 906-907]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 12 [136 Cal.Rptr. 373, 377]
Goldstein v. Lees (1975) 46 Cal.App.3d 614, 617-618 [120 Cal.Rptr. 253, 254-255]
Conservatorship of Chilton (1970) 8 Cal.App.3d 34, 43 [86 Cal.Rptr. 860, 866]
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

denial of forfeiture motion on grounds that alleged ethical violations are irrelevant to the value of attorney's services to client
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
 serious ethical violation required, forfeiture never automatic
Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
 No recovery of attorney's fees when contractual condition of mediation prior to court action not satisfied
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Leamon v. Krajewicz (2003) 106 Cal.App.4th 570 [131 Cal.Rptr.2d 115]
 No recovery of attorney's fees where attorney voluntarily withdraws without cause
Rus. Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
 Nominal fee
 printed upon professional card
 LA 131 (1940)
 None charged
 charitable, educational, and religious organizations
 SD 1974-19
 for referrals from health plan
 LA(I) 1931-3
 for will
 -leaving money for cause
 LA 314 (1970), LA 196 (1952)
 -to bank's customers
 SD 1974-21 ½
 -to insurance broker's clients
 SD 1976-6
 labor union members
 LA 151 (1944)
 when client can pay
 SD 1983-6
 Non-payment of
 by client
 -attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
 -lawyer declines to perform further services
 SD 1973-3, LA 32 (1925)
 Non-statutory award of attorney's fees
 reasonable lodestar/risk factor
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 [rule](#) 3-300
 SF 1997-1
 Out-of-state attorney's
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
 LA(I) 1969-3
 out-of-state attorney who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
 Paid by others
[Rule](#) 1.8.6

- litigation funding
[CAL](#) 2020-204
- [Rule](#) 3-310(F), Rules of Professional Conduct
- accessory of client in felony
LA(l) 1964-1
- by corporation to minority shareholder's attorney
[Strolow v. Strolow, Inc.](#) (9th Cir. 1987) 813 F.2d 997
- by fee guarantor
[Wager v. Mirzayance](#) (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
- by former employer
[Morrison v. Commissioner of Internal Revenue](#) (9th Cir. 2009) 565 F.3d 658
- by government
 - defending duties of legal services lawyer
[CAL](#) 1981-64
- by individual homeowners of a condominium association
 - payment of fees does not determine ownership of the attorney-client privilege
[Smith v. Laguna Sur Villas Community Association](#) (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]
- by insurer of client
 - counsel is acting on the insurer's behalf and representing the insurer's own rights and interest as well as those of its insured
[Gafcon, Inc. v. Ponsor & Associates](#) (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
 - Cumis counsel
 - insurer is not obligated to pay fees and expenses incurred by insured in the representation of a third-party co-defendant who is not a policyholder
[Gray Cary Ware & Freidenrich v. Vigilant Insurance Company](#) (2004) 114 Cal.App.4th 1185
 - insurer is not a "client" for purposes of mandatory fee arbitration and may not demand an arbitration of attorney's fees incurred by on behalf of an insured client
[National Union Fire Insurance Co. of Pittsburgh v. Stites Professional Law Corp.](#) (1991) 235 Cal.App.3d 1718 [1 Cal.Rptr.2d 570]
LA 439 (1986)
- by non-lawyer immigration service providers
[People v. Salcido](#) (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]
[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- by parent of client
[Wager v. Mirzayance](#) (1998) 67 Cal.App.4th 1187 [79 Cal.Rptr. 661]
- by trust beneficiaries
 - payment of fees does not determine ownership of the attorney-client privilege
[Wells Fargo Bank v. Superior Court \(Boltwood\)](#) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
- disclosure of identity
[United States v. Blackman](#) (1995) 72 F.3d 1418
[Ralls v. U.S.](#) (9th Cir. 1995) 52 F.3d 223
- fee financing plan
[CAL](#) 2002-159, OC 93-002
- head of criminal organization
 - to represent subordinate
[CAL](#) 1975-35
- litigation funding
[CAL](#) 2020-204
- not privileged information
[Ralls v. U.S.](#) (9th Cir. 1995) 52 F.3d 223
[United States v. Hirsch](#) (9th Cir. 1986) 803 F.2d 493
- third party agrees to indemnify client's legal fees but not entitled to confidences or secrets
LA 471 (1992), LA 456 (1990)
- Paid with funds belonging to receivership
[PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP](#) (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]

- Paid with funds illegally gained
 - funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
[People v. Superior Court \(Clements\)](#) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
- Partnership agreement to divide fee upon partner leaving firm held unconscionable
 - former firm entitled to quantum meruit
[Champion v. Superior Court](#) (1988) 201 Cal.App.3d 777
- Partnership dissolution
[CAL](#) 2020-201, [CAL](#) 1985-86
 - division of post-dissolution profits from unfinished partnership business
[*Dickson, Carlson & Campillo v. Pole](#) (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
- Party must substantially prevail and government must have acted in bad faith to get attorney's fees
[Guam Contractors Association v. U.S. Dept. of Labor](#) (N.D. Cal. 1983) 570 F.Supp. 163, 170
- Periodic payments
 - client recovery is annuity, attorney is entitled to percentage of periodic payments
[Sayble v. Feinman](#) (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
- Permissive intervention by client's former attorney concerning attorneys' fees
[Venegas v. Skaggs](#) (9th Cir. 1989) 867 F.2d 527
- Physician's
 - client's duty with respect to
LA 368 (1977), LA 357 (1976)
- Post-judgment
 - fee awarded where one party petitioned to enforce judgment, even if settlement agreement did not provide for post-judgment fees
[Berti v. Santa Barbara Beach Properties et al.](#) (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]
 - fees going to post-judgment collection costs not covered under terms of fees provision in pre-judgment contract
[Chelios v. Kaye](#) (1990) 219 Cal.App.3d 75 [268 Cal.Rptr. 38]
 - judgment creditor authorized to recover attorney fees incurred in enforcing underlying judgment against sureties
[Rosen v. Legacy Quest](#) (2014) 225 Cal.App.4th 375 [170 Cal.Rptr.3d 1]
 - judgment creditor entitled to attorney's fees incurred in the defense of an a separate action on the enforcement of the judgment
[Globalist Internet Technologies, Inc. v. Reda](#) (2008) 167 Cal.App.4th 1267 [84 Cal.Rptr.3d 725]
 - judgment creditor entitled to recover attorney fees from third-party who helped judgment debtor hide assets and evade enforcement
[Cardinale v. Miller](#) (2014) 222 Cal.App.4th 1020 [166 Cal.Rptr.3d 546]
 - judgment creditor must request post-judgment attorney fees before the underlying judgment is fully satisfied
[Carnes v. Zamani](#) (9th Cir. 2007) 488 F.3d 1057
 - limitation on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act
[Martin v. Hadix](#) (1999) 527 U.S. 343 [119 S.Ct. 1998]
 - limits imposed by Prison Litigation Reform Act did not burden prisoners' fundamental right of access to courts
[Madrid v. Gomez](#) (9th Cir. 1999) 190 F.3d 990
 - limits imposed by Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
[Kimbrough v. California](#) (9th Cir. 2010) 609 F.3d 1027
 - members of dissolved LLC are liable for attorney fees up to amount distributed upon dissolution for breach of contract by LLC
[CB Richard Ellis, Inc. v. Terra Nostra Consultants](#) (2014) 230 Cal.App.4th 405 [178 Cal.Rptr.3d 640]

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petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees

California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575

waiver

-unenforceable where statutory language specifically does not permit waiver of right to fees, notwithstanding an agreement to the contrary

Berti v. Santa Barbara Beach Properties et al. (2006) 145 Cal.App.4th 70 [51 Cal.Rptr.3d 364]

Prevailing defendant in SLAPP action despite plaintiff's voluntary dismissal with prejudice

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

Prevailing parties

Code of Civil Procedure section 1038

-CCP § 1038 does not authorize imposition of defense costs against the plaintiff's attorney

Settle v. State of California (2014) 228 Cal.App.4th 215 [174 Cal.Rptr.3d 925]

Lucero v. Municipal Court (1993) 15 Cal.App.4th 784 [19 Cal.Rptr.2d 143]

absent agreement, fees awarded pursuant to California FEHA belong to attorneys who labored on case and not to client

Flannery v. Prentice (2001) 26 Cal.4th 572 [110 Cal.Rptr.2d 809, 28 P.3d 860]

-limited to cases where the parties do not have an agreement as to award of fees

Beard v. Goodrich (2003) 110 Cal.App.4th 1031 [2 Cal.Rptr.3d 160]

abuse of discretion where the court held there was no prevailing party even though the result was lopsided in favor of the plaintiff

Glacier Films (USA), Inc. v. Turchin (9th Cir. 2018) 896 F.3d 1033

De La Cuesta v. Benham et al. (2011) 193 Cal.App.4th 1287 [123 Cal.Rptr.3d 453]

administrative hearings

Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]

Hospital Systems, Inc. v. Office of Statewide Health Planning and Development (1994) 25 Cal.App.4th 1686 [30 Cal.Rptr.2d 922]

-award of attorney fees under Welfare and Institutions Code section 10962 does not include fees incurred in administrative hearing

K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]

-party may receive attorney's fees incurred in an administrative hearing

Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]

agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable

Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

amended party must be given opportunity to respond and contest personal liability before judgment is entered against him

Nelson v. Adams USA, Inc. (2000) 529 U.S. 460 [120 S.Ct. 1579]

American with Disabilities Act

-defined

--plaintiff in an ADA (Americans with Disabilities Act) claim is the prevailing party if he achieves a material alteration of the legal relationship between the parties and that alteration is judicially sanctioned

Jankey v. Poop Deck (9th Cir. 2008) 537 F.3d 1122

anti-SLAPP motion

-arising out of malicious prosecution action

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

-burden of proving fees were covered by award following successful motion to strike

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

-defendants who fail to file an anti-SLAPP motion before the plaintiff's voluntary dismissal of all causes of actions against them cannot recover fees or costs

S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]

-does not preclude anti-SLAPP defendant from recovering appellate attorney fees upon prevailing on appeal

Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

-fees awarded to defendant following plaintiff's failure to perfect an appeal from the judgment in favor of defendant

Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]

-fees awarded to plaintiff where plaintiff showed a probability of prevailing on the merits and motion was found to be meritless

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

-mandatory award may be based on attorney's declarations instead of time records

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

-no prevailing defendant when plaintiff dismissed all claims against defendants before motion to strike was filed by defendants

Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]

-prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney

Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]

Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]

-prevailing defendant-attorneys on an anti-SLAPP motion to strike are not entitled to attorney fees because they represented themselves

Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]

Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

-will revision considered protected activity for anti-SLAPP motion purposes

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

-withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

apportionment not required if successful and unsuccessful claims are interrelated

Akins v. Enterprise Rent-A-Car of San Francisco (2000) 79 Cal.App.4th 1127 [94 Cal.Rptr.2d 448]

arbitration cases

-arbitration award may be modified where arbitrator inadvertently failed to rule on prevailing party's claim to attorney's fees and costs

Century City Medical Plaza v. Sperling, Issacs & Eisenberg (2000) 86 Cal.App.4th 865 [103 Cal.Rptr.2d 605]

-arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration

Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]

-arbitrator's denial of attorney's fees was not subject to judicial review where issue of fees was within scope of matters submitted for binding arbitration

Moore v. First Bank of San Luis Obispo (2000) 22 Cal.4th 782 [94 Cal.Rptr.2d 603]

Moshonov v. Walsh (2000) 22 Cal.4th 771 [94 Cal.Rptr.2d 597]

Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]

-arbitrator's determination of, not subject to appellate review

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

-arbitrator's failure to apply contract definition of prevailing party not subject to judicial review where determination of prevailing party was within scope of issues submitted for arbitration

Safari Associates v. Superior Court (Tarlov) (2014) 231 Cal.App.4th 1400 [182 Cal.Rptr.3d 190]

-attorney fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

-court may award costs and reasonable attorney fees in a judicial proceeding to confirm or vacate an arbitration award

Marcus & Millichap Real Estate Investment Brokerage Co. v. Woodman Investment Group (2005) 129 Cal.App.4th 508 [28 Cal.Rptr.3d 584]

--plaintiffs cannot be required to pay arbitral expense and attorney fees that would not be imposed were the dispute adjudicated in court; invalid award of fees against plaintiff when case brought under anti-hate crimes statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

-prevailing party in action to forestall arbitration

Turner v. Schultz (2009) 175 Cal.App.4th 974 [96 Cal.Rptr.3d 659]

attorney fee awarded to party who obtained court order incorporating settlement agreement which includes the requested remedy

Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892

award of fees proper where statute provides for fees in action to enforce documents, even where documents not proven under the statute

Tract 19051 Homeowners Assn. v. Kemp (2015) 60 Cal.4th 1135 [184 Cal.Rptr.3d 701]

bankruptcy matter

In re Starky (9th Cir. BAP 2014) 522 B.R. 220

In re Hoopai (9th Cir. BAP 2007) 369 B.R. 506

civil rights cases

Lefemine v. Wideman (2012) 568 U.S. 1 [133 S.Ct. 9]

class actions

-absent class members not liable for employer's attorney's fees in overtime dispute

Earley v. Superior Court (2000) 79 Cal.App.4th 1420 [95 Cal.Rptr.2d 57]

-attorney's failure to disclose fee-splitting agreement to court before obtaining approval of attorney's fees in class action settlement barred later enforcement of the agreement

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

-attorney's fees for securities class action suits should be based on individual case risk

In re Quantum Health Resources, Inc. (C.D. Cal. 1997) 962 F.Supp. 1254

-attorney's fees should be adequate to promote consumer class action

Feuerstein v. Burns (S.D. Cal. 1983) 569 F.Supp. 271

-fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

-trial court acted within its discretion in awarding 33.33 percent of common fund as reasonable attorney fees

Lafitte v. Robert Half International, Inc. (2014) 231 Cal.App.4th 860 [180 Cal.Rptr.3d 136]

contract clear that party must attempt mediation before commencing litigation to recover attorney fees

Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]

costs not awarded under F.R. Civ. Proc. 54 where underlying claim was dismissed for lack of subject matter jurisdiction

Miles v. State of California (9th Cir. 2003) 320 F.3d 986

costs of suit that are routine and non-routine

Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]

defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.

Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]

defendant must show that original suit frivolous to recover

Fogerty v. Fantasy (1994) 114 S.Ct. 1023

defendants entitled to attorney's fees even though plaintiffs dismissed appeal

Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

defendants not entitled to award of attorney fees where case brought under anti-hate crime statute

D.C., a Minor v. Harvard-Westlake School (2009) 176 Cal.App.4th 836 [98 Cal.Rptr.3d 300]

definition of prevailing party under Civil Code § 1780 et seq.

Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]

definition of prevailing party under Civil Rights 1983

Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020

definition of prevailing party under Code of Civil Procedure § 1021.5

Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]

Pacific Merchant Shipping Association v. Board of Pilot Commissioners (2015) 242 Cal.App.4th 1043 [195 Cal.Rptr.3d 358]

Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]

definition of prevailing party under Code of Civil Procedure § 1032 et seq.

deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]

Goodman et al. v. Lozano et al. (2010) 47 Cal.4th 1327 [104 Cal.Rptr.3d 219]

Maynard v. BTI Group, Inc. (2013) 216 Cal.App.4th 984 [157 Cal.Rptr.3d 148]

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Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
 denied where litigant is unable to materially alter the legal relationship of the parties by judgment or by consent decree
Kasza v. Whitman (9th Cir. (Nev.) 2003) 325 F.3d 1178
 entitled to attorney's fees even without formal judgment
Rutherford v. Pitchess (9th Cir. 1983) 713 F.2d 1416
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
 entitled to award of attorney's fees where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
 ERISA matter
 -either party may recover, not just prevailing party; claimant must show some degree of success on the merits
Hardt v. Reliance Standard Life Insurance Co. (2010) 560 U.S. 242 [130 S.Ct. 2149]
 -under 29 U.S.C. section 1132(a)(3)
Castillo v. Metropolitan Life Insurance Co. (9th Cir. 2020) 970 F.3d 1224
 family law
 -court ordered attorney's fees and costs
 Family Code section 272
 FEHA matter
Muniz v. United Parcel Services Inc. (9th Cir. 2013) 738 F.3d 214
Snoeck v. ExakTime Innovations, Inc. (2023) 96 Cal.App.5th 908 [314 Cal.Rptr.3d 569]
Chavez v. City of Los Angeles (2010) 47 Cal.4th 970 [104 Cal.Rptr.3d 710]
Vines v. O'Reilly Auto Enterprises, LLC (2022) 74 Cal.App.5th 174 [289 Cal.Rptr.3d 310]
Caldera v. Department of Corrections and Rehabilitation (2020) 48 Cal.App.5th 601 [261 Cal.Rptr.3d 835]
Robert v. Stanford University (2014) 224 Cal.App.4th 67 [168 Cal.Rptr.3d 539]
 -court denied plaintiff attorney fees even though plaintiff suffered adverse employment decision in which discrimination was a motivating factor
Bustos v. Global P.E.T., Inc. (2018) 19 Cal.App.5th 558 [227 Cal.Rptr.3d 205]
 -prevailing defendant under this statute can only recover fees upon a showing that plaintiff's action was frivolous, unreasonable, or without foundation
Lopez v. Routt (2017) 17 Cal.App.5th 1006 [225 Cal.Rptr.3d 851]
 fees awarded under CCP § 1021.5-rationale for award
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 fees granted for action that served to vindicate an important right
City of Oakland v. Oakland Police and Fire Retirement System (2018) 29 Cal.App.5th 688 [240 Cal.Rptr.3d 571]
 fees granted for litigating a separate case in which defendants were not parties, but where the issue was central to both actions
Armstrong v. Davis (9th Cir. 2003) 318 F.3d 965
 general rule that pro se litigants, attorneys or not, cannot recover statutory attorney's fees
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
 homeowner association dispute over election of board of directors
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]

jurisdiction of court
 -trial court has jurisdiction to rule on defendant's motion for attorney fees after motion to quash granted for lack of personal jurisdiction
Shisler v. Sanfer Sports Cars, Inc. (2008) 167 Cal.App.4th 1 [83 Cal.Rptr.3d 771]
 legal malpractice matter
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
 may seek attorney's fees notwithstanding an invalid contract
Yuba Cypress Housing Partners, Ltd. v. Area Developers (2002) 98 Cal.App.4th 1077 [120 Cal.Rptr.2d 273]
 need not be named in contract to be entitled to fees
Plemon v. Nelson (1983) 148 Cal.App.3d 720 [190 Cal.Rptr. 196]
 no fees to prevailing party where planning committee did not have the authority to enact attorney fees as part of the CC&Rs
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
 no prevailing party status
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142
Escobar v. Bowen (9th Cir. 1988) 857 F.2d 644
Harris v. Rojas (2021) 66 Cal.App.5th 817 [281 Cal.Rptr.3d 452]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Jue v. Patton (1995) 33 Cal.App.4th 456 [39 Cal.Rptr.2d 364]
Bankes v. Lucas (1992) 9 Cal.App.4th 365
 -de minimus damages award merits de minimus fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
 -defendant who successfully completed diversion program in exchange for dismissal of charges not entitled to attorney fees
U.S. v. Campbell (9th Cir. 2002) 291 F.3d 1169
 -no prelitigation attempt to settle
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 -plaintiff failed to meet the statutory requirements of a successful party where remand of the litigation to the administrative agency to reconsider a perceived procedural defect did not result in change in the agency's decision
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
 -plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]
 -prevailing party must be determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
 -voluntary dismissal
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
 -defendant awarded attorney fees for defending voluntarily dismissed claims when dismissal is based on plaintiff's poor reasoning.
Salehi v. Surfside III Condominium Owner's Association (2011) 200 Cal.App.4th 1146 [132 Cal.Rptr.3d 886]
 -no prevailing defendant where dismissal without prejudice by plaintiff in copyright case does not alter the legal relationship of the parties
Cadkin v. Loose (9th Cir. 2009) 569 F.3d 1142

-voluntary dismissal of suit against defendant did not necessarily establish defendant's entitlement to attorney's fees as prevailing party
Topanga and Victory Partners v. Toghia (2002) 103 Cal.App.4th 775 [127 Cal.Rptr.2d 104]
Galan v. Wolfriver Holding Corporation (2000) 80 Cal.App.4th 1124 [96 Cal.Rptr.2d 112]
 -voluntary dismissal of suit after defendant withdrew disputed rule
Citizens for Better Forestry v. U.S. Dept. of Agriculture (9th Cir. 2009) 567 F.3d 1128
 partially prevailing plaintiff in civil rights action awarded fees where successful claim is isolated from unrelated or unsuccessful claims
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
 party prevails if he was able to achieve most or all of his litigation objectives
Bernardi v. County of Monterey (2008) 167 Cal.App.4th 1379 [84 Cal.Rptr.3d 754]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
 party refusing to mediate where contract provision conditioning recovery of attorney's fees upon acceptance of mediation is barred from recovering such fees
Cullen v. Corwin (2012) 206 Cal.App.4th 1074 [142 Cal.Rptr.3d 419]
Lange v. Schilling (2008) 163 Cal.App.4th 1412 [78 Cal.Rptr.3d 356]
Frei v. Davey (2004) 124 Cal.App.4th 1506 [22 Cal.Rptr.3d 429]
 petition for relief from fee judgment permitted if underlying merits of judgment is reversed and party has paid adversary's attorney fees
California Medical Association v. Shalala (9th Cir. 2000) 207 F.3d 575
 prevailing buyers of real property denied attorney fees as offset against purchase price
Behniwal v. Mix (2007) 147 Cal.App.4th 621 [54 Cal.Rptr.3d 427]
 prevailing party as defined by statute versus one defined by contract
Wakefield v. Bohlin (2006) 145 Cal.App.4th 963 [52 Cal.Rptr.3d 400]
 prevailing party in preliminary injunction entitled to attorney fees
Watson v. County of Riverside (9th Cir. 2002) 300 F.3d 1092
 prevailing party may recover attorney fees in state court following dismissal of bankruptcy proceeding
Jaffe v. Pacelli (2008) 165 Cal.App.4th 927 [82 Cal.Rptr.3d 423]
Circle Star Center Associates, L.P. v. Liberate Technologies (2007) 147 Cal.App.4th 1203 [55 Cal.Rptr.3d 232]
 Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
 proper to award attorney fees to defendant attorney even though he was representing himself
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 -attorney fees may not be awarded as a sanction to an attorney representing himself
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 recovery under purchase and sale agreements
The 3250 Wilshire Blvd. Building v. W.R. Grace and Co. (1993) 990 F.2d 487
Pacific Preferred Properties v. Moss (1999) 71 Cal.App.4th 1456 [84 Cal.Rptr.2d 500]
 settlement agreement
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515

-parties to settlement agreement can validly specify a prevailing party
Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]
 -which include fee-waiver provisions under fee shifting statutes
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 SLAPP action
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Russell v. Foglio (2008) 160 Cal.App.4th 653 [73 Cal.Rptr.3d 87]
 -conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]
 -law firm may not recover attorney fees after winning anti-SLAPP motion, even though it used 'contract attorney' to work on that motion
Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]
 -partially successful motion constitutes prevailing party unless no practical benefit from bringing a motion
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
 -prevailing defendant under CCP § 425.16 denied an award of attorney fees against plaintiff's attorney
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
 -withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest
Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]
 successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
 trial court abused its discretion by applying an inapposite decision to deny attorney fees without prior notice to the plaintiff
Law Offices of Marc Grossman v. Victor Elementary School District (2015) 238 Cal.App.4th 1010 [190 Cal.Rptr.3d 86]
 trial court must adequately explain the basis for the attorney fees award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Gorman v. Tassajara Development Corp. (2009) 178 Cal.App.4th 44 [100 Cal.Rptr.3d 152]
 under 29 U.S.C. § 621 et seq.
 -fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756
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Octane Fitness, LLC v. Icon Health & Fitness, Inc. (2014) 572 U.S. 545 [134 S.Ct. 1749]
Highmark Inc. v. Allcare Health Management Systems, Inc. (2014) 572 U.S. 559 [134 S.Ct. 1744]

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- under 42 U.S.C. §§ 1983, 1988
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Beames v. City of Visalia (2019) 43 Cal.App.5th 741 [256 Cal.Rptr.3d 841]
- under Business and Professions Code § 809.9
Smith v. Selma Community Hospital (2010) 188 Cal.App.4th 1 [115 Cal.Rptr.3d 416]
- under California Education Code § 44944(f)
 -application of Iodestar methodology in determining reasonable attorney's fees
Walent v. Commission on Professional Competence of the LAUSD (Los Angeles Unified School District) (2017) 9 Cal.App.5th 745 [214 Cal.Rptr.3d 891]
- under Civil Asset Forfeiture Reform Act
U.S. v. Kim (9th Cir. 2015) 797 F.3d 696
- under Civil Code section 798.85
Canyon View Ltd. v. Lakeview Loan Servicing, LLC (2019) 42 Cal.App.5th 1096 [256 Cal.Rptr.3d 233]
Employers Mut. Cas. Co. v. Philadelphia Indem. Ins. Co. (2008) 169 Cal.App.4th 340 [86 Cal.Rptr.3d 383]
- under Civil Code section 1354
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]
- under Civil Code section 1717
In re Penrod (9th Cir. 2015) 802 F.3d 1084
PLCM Group, Inc. v. Drexler (2000) 22 Cal.4th 1084 [95 Cal.Rptr.2d 198] as modified (June 2, 2000)
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Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
Hjelm v. Prometheus Real Estate Group, Inc. (2016) 3 Cal.App.5th 1155 [208 Cal.Rptr.3d 394]
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Syers Properties III, Inc. v. Rankin (2014) 226 Cal.App.4th 691 [172 Cal.Rptr.3d 456]
Eden Township Healthcare District v. Eden Medical Center (2013) 220 Cal.App.4th 418 [162 Cal.Rptr.3d 932]
Windsor Pacific LLC v. Samwood Co. Inc. (2013) 213 Cal.App.4th 263 [152 Cal.Rptr.3d 518]
Kandy Kiss of California, Inc. v. Tex-Elent, Inc. (2012) 209 Cal.App.4th 604 [146 Cal.Rptr.3d 899]
Zintel Holdings LLC v. McLean (2012) 209 Cal.App.4th 431 [147 Cal.Rptr.3d 157]
Rickley v. Goodfriend (2012) 207 Cal.App.4th 1528 [145 Cal.Rptr.3d 13]
SCI California Funeral Services Inc. v. Five Bridges Foundation (2012) 203 Cal.App.4th 549 [137 Cal.Rptr.3d 693]
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Mepco Services, Inc. v. Saddleback Valley Unified School District (2010) 189 Cal.App.4th 1027 [117 Cal.Rptr.3d 494]
Silver Creek, LLC v. Blackrock Realty Advisors, Inc. (2009) 173 Cal.App.4th 1533 [93 Cal.Rptr.3d 864]
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First Security Bank of California, N.A. v. Paquet (2002) 98 Cal.App.4th 468 [119 Cal.Rptr.2d 787]
Silver v. Boatwright Home Inspection, Inc. (2002) 97 Cal.App.4th 443 [118 Cal.Rptr.2d 475]
Wong v. Thrifty Corp. (2002) 97 Cal.App.4th 261 [118 Cal.Rptr.2d 276]
Del Cerro Mobile Estates v. Proffer (2001) 87 Cal.App.4th 943 [105 Cal.Rptr.2d 5]
Pacific Custom Pools, Inc. v. Turner Construction Co. (2000) 79 Cal.App.4th 1254 [94 Cal.Rptr.2d 756]
Oliver v. Bradshaw (1999) 68 Cal.App.4th 1515
Excess Electronix v. Heger Realty Corp. (1998) 64 Cal.App.4th 698 [75 Cal.Rptr.2d 376]
Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]
Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]
Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92
- absent a contractual fees provision, a party cannot recover attorney's fees, even if it prevails in litigation
Ferwerds v. Bordon (2011) 193 Cal.App.4th 1178 [122 Cal.Rptr.3d 304]
- arbitration must be completed and prevailing party determined when awarding attorney fees on motion to compel arbitration
Roberts v. Packard, Packard & Johnson (2013) 217 Cal.App.4th 822 [159 Cal.Rptr.3d 180]
- attorney fees may be awarded to more than one prevailing party in a breach of contract dispute
Burkhalter Kessler Clement & George LLP v. Hamilton (2018) 19 Cal.App.5th 38 [228 Cal.Rptr.3d 154]
- attorney fees may not be awarded to a prevailing attorney acting in pro se
Richards v. Sequoia Insurance Co. (2011) 195 Cal.App.4th 431 [124 Cal.Rptr.3d 637]
- attorney represented by other members of his law firm is entitled to recover attorney fees where the representation involved the attorney's personal interests and not those of the firm
Gilbert v. Master Washer & Stamping Co., Inc. (2000) 87 Cal.App.4th 212 [104 Cal.Rptr.2d 461]
- attorney's fees denied because prevailing party's tort action was not an action to enforce the contract
Gil v. Mansano (2004) 121 Cal.App.4th 739 [17 Cal.Rptr.3d 420]
- attorney's fees may be awarded to attorneys who represent each other in fee dispute with client that attorneys jointly represented
Farmers Insurance Exchange v. Law Offices of Conrado Joe Sayas, Jr. (9th Cir. 2001) 250 F.3d 1234
Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]
- California law applies if its' interest in the matter is greater than that of the other state (to prevent unfair litigation tactics through one-sided attorney fee provisions)
ABF Capital Corp. v. Grove Properties Co. (2005) 126 Cal.App.4th 204 [23 Cal.Rptr.3d 803]
- decendent's successor in interest may be liable for attorney's fees under a contract entered into by decedent
Exarhos v. Exarhos (2008) 159 Cal.App.4th 898 [72 Cal.Rptr.3d 409]
- denial of attorney fees where party is non-signatory under contract and denied third-party beneficiary status
Hyduke's Valley Motor v. Lobel Financial Corporation (2010) 189 Cal.App.4th 430 [117 Cal.Rptr.3d 19]

-denied where action was voluntarily dismissed
Aronson v. Advanced Cell Technology (2011) 196 Cal.App.4th 1043
Glencoe v. Neue (2008) 168 Cal.App.4th 874 [85 Cal.Rptr.3d 800]

-does not allow firm to recover fees incurred in suit to recover unpaid fees from client when client had already paid entire contractual debt to firm before trial
David S. Karton, A Law Corporation v. Dougherty (2014) 231 Cal.App.4th 600 [180 Cal.Rptr.3d 55]

-limited success of plaintiff's enforcement of consent decree should have resulted in denial of attorney fees
In re Tobacco Cases I (2011) 193 Cal.App.4th 1591 [124 Cal.Rptr.3d 352]

-memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]

-no apportionment of fees between co-defendants is necessary when calculating attorney fees because same defenses applied to both of them
Hill v. Affirmed Housing Group (2014) 226 Cal.App.4th 1192 [172 Cal.Rptr.3d 811]

-party that prevails is entitled to attorney's fees only if it can prove it would have been liable for such fees if the opposing party had prevailed
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

-party that scored procedural victory not deemed to be prevailing party
In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

-plaintiff not prevailing party entitled to attorney fees when successful on defendant's appeal from denial of attorney fees
Wood v. Santa Monica Escrow Co. (2009) 176 Cal.App.4th 802 [97 Cal.Rptr.3d 909]

-plaintiffs are not entitled to recover attorney fees because attorneys who represent themselves in litigation cannot recover attorney fees based on such representation
Carpenter & Zuckerman v. Cohen (2011) 195 Cal.App.4th 373 [124 Cal.Rptr.3d 598]

-prevailing defendant attorneys are not entitled to attorney fees because they incurred no attorney fees in representing themselves
Witte v. Kaufman (2006) 141 Cal.App.4th 1201 [46 Cal.Rptr.3d 845]

-prevailing party law firm not entitled to attorney fees when represented by their own of counsel
Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

-reduction of fees by 90% where court found litigant had unnecessarily prolonged the litigation and counsel's time was not reasonably incurred
EnPalm, LLC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]

-voluntary dismissal of one contract claim does not preclude recovery of attorney's fees on another claim
CDF Firefighters v. Maldonado (2011) 200 Cal.App.4th 158 [132 Cal.Rptr.3d 544]

under Civil Code section 3496
City of Santa Rosa v. Patel (2010) 191 Cal.App.4th 65 [119 Cal.Rptr.3d 585]

under Civil Rights 1983
Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020

-criteria for award of fees
Roberts v. City and County of Honolulu (9th Cir. 2019) 938 F.3d 1020

under Civil Code section 5975
Champir, LLC v. Fairbanks Ranch Association (2021) 66 Cal.App.5th 583 [281 Cal.Rptr.3d 286]

Coley v. Eskaton (2020) 51 Cal.App.5th 943 [264 Cal.Rptr.3d 740]

under civil rights statutes
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114

-in civil rights case, district court abused discretion in reducing attorney fee award
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106

under Clean Water Act
Morris-Smith v. Moulton Niguel Water District (2000) 44 F.Supp.2d 1084

-fees incurred by defendant during its unsuccessful defense of a private party Clean Water Act lawsuit are not allowable as costs under the Federal Acquisition Regulation statute
Southwest Marine, Inc. v. U.S. (9th Cir. 2008) 535 F.3d 1012

under Code of Civil Procedure section 340.1
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]

under Code of Civil Procedure section 405.38
 -in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal
Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]

-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust
Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

under Code of Civil Procedure section 527.6, defendant or plaintiff may recover
Krug v. Maschmeier (2009) 172 Cal.App.4th 796 [91 Cal.Rptr.3d 452]

under Code of Civil Procedure section 916 et seq
Chapala Management Corporation v. Stanton (2010) 186 Cal.App.4th 1532 [113 Cal.Rptr.3d 617]

under Code of Civil Procedure section 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
San Diego Municipal Employees Association v. City of San Diego (2016) 244 Cal.App.4th 906 [198 Cal.Rptr.3d 355]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Rogel v. Lynwood Redevelopment Agency (2011) 194 Cal.App.4th 1319 [125 Cal.Rptr.3d 267]
Environmental Protection Information Center v. California Department of Forestry and Fire Protection (2010) 190 Cal.App.4th 217 [118 Cal.Rptr.3d 352]
McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]

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- Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
 -apportionment of attorney's fees may be appropriate under the statute if the court concludes that the successful litigant's reasonably expected financial benefits were sufficient to warrant placing part of the fee burden on the litigant
Collins v. City of Los Angeles (2012) 205 Cal.App.4th 140 [139 Cal.Rptr.3d 880]
 -must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
 -suspended corporation is not entitled to attorney fees
City of San Diego v. San Diegans for Open Government (2016) 3 Cal.App.5th 568 [207 Cal.Rptr.3d 703] under Code of Civil Procedure section 1032
deSaulles v. Community Hospital of the Monterey Peninsula (2016) 62 Cal.4th 1140 [202 Cal.Rptr.3d 429]
Mundy v. Neal (2010) 186 Cal.App.4th 256 [111 Cal.Rptr.3d 551]
 under Code of Civil Procedure section 1033.5
 -memorandum of costs not required where party seeking contractual attorney fees pursuant to Civil Code section 1717 and Code of Civil Procedure section 1033.5
Kaufman v. Diskeeper Corp. (2014) 229 Cal.App.4th 1 [176 Cal.Rptr.3d 757]
 -plaintiff not entitled to fees where request was not included in default judgment
Garcia v. Politis (2011) 192 Cal.App.4th 1474 [122 Cal.Rptr.3d 476]
 under Code of Civil Procedure section 1038, no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 -no attorney fees are to be paid for successful defense of section 1983 claims, a federal civil rights law
California Correctional Peace Officers v. Virga (2010) 181 Cal.App.4th 30 [103 Cal.Rptr.3d 699]
 under Code of Civil Procedure section 1094.5
No Toxic Air Inc. v. Lehigh Southwest Cement Co. (2016) 1 Cal.App.5th 1136 [205 Cal.Rptr.3d 535]
 under Corporations Code section 800
West Hills Farms, Inc. et al. v. RCO AG Credit, Inc. (2009) 170 Cal.App.4th 710 [88 Cal.Rptr.3d 458]
Donner v. Schaffer (2006) 142 Cal.App.4th 1296 [48 Cal.Rptr.3d 534]
 under Endangered Species Act
 -catalyst theory applied
Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879
 under Equal Access to Justice Act
Tobeler v. Colvin (9th Cir. 2014) 749 F.3d 830
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152
U.S. v. Real Property at 2659 Roundhill Drive, Alamo, California (9th Cir. 2002) 283 F.3d 1146
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
 -standing to contest an offset where attorney fees awarded to prevailing party not to attorney
Astrue v. Ratliff (2010) 560 U.S. 586 [130 S.Ct. 2521]
 under Family Code section 272, subdivision (a), authorizes the court, in its discretion, to order one spouse to pay the other spouse's attorney fee directly to attorney
In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]
In re Marriage of Erickson and Simpson (2006) 141 Cal.App.4th 707 [46 Cal.Rptr.3d 253]
 under Family Code section 2030
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
 under Government Code section 800
 -finding of arbitrary and capricious action against school district
Zuehlisdorf v. Simi Valley Unified School Dist. (2007) 148 Cal.App.4th 249 [55 Cal.Rptr.3d 467]
 under Government Code section 25845
County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]
 under Health Care Decisions Law
Humboldt County Adult Protective Services v. Superior Court (2016) 4 Cal.App.5th 548 [208 Cal.Rptr.3d 666]
 under Individuals with Disabilities Education Act
Irvine Unified School District v. K.G. (9th Cir. 2017) 853 F.3d 1087
 under Labor Code § 98.2
Nishiki v. Danko Meredith, APC (2018) 25 Cal.App.5th 883 [236 Cal.Rptr.3d 626]
 -former employee's attorneys entitled to attorney's fees even if they represent party without charge
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Glaviano v. Sacramento City Unified School Dist. (2018) 22 Cal.App.5th 744 [231 Cal.Rptr.3d 849]
 -"more favorable judgment" test determines whether an appellant is "unsuccessful in the appeal"
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
 under Labor Code § 218.5
Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
 -fees denied when prevailing party fails to request in initial complaint
Shames v. Utility Consumers' Action Network (2017) 13 Cal.App.5th 29 [219 Cal.Rptr.3d 846]
 -Labor Code § 218.5's award of attorney's fees not applicable to claims brought by former employees for failure to provide statutorily mandated meal and rest periods
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
 -prevailing party in nonpayment of wages action could not recover attorney fees despite the wage claim's overlap with a breach of contract claim for which fees were also incurred
Dane-Elec Corp. v. Bodkh (2019) 35 Cal.App.5th 761 [248 Cal.Rptr.3d 163]
 under Labor Code § 1194
Cruz v. Fusion Buffet, Inc. (2020) 57 Cal.App.5th 221 [271 Cal.Rptr.3d 269]
Aleman v. AirTouch Cellular (2012) 209 Cal.App.4th 556 [146 Cal.Rptr.3d 849]
 -manager who prevailed on employee's unpaid minimum and overtime claims on grounds he was not employee's employer was not entitled to recover attorney fees from employee even manager and employee were employed by same employer
Ramos v. Garcia (2016) 248 Cal.App.4th 778 [204 Cal.Rptr.3d 214]
 under Lanham Act
SunEarth Inc. v. Sun Earch Solar Power Co. (9th Cir. 2016) 839 F.3d 1179

under Penal Code § 182(a), fees imposed on conviction for 'conspiracy' to commit crime constituted punishment pursuant to Legislature's intent

People v. Ruiz (2018) 4 Cal.5th 1100 [232 Cal.Rptr.3d 714] under Penal Code § 1202.4(f)(3), trial court has authority to order a criminal defendant to pay restitution, including actual and reasonable attorney's fees directly to the victim

People v. Kelly (2020) 59 Cal.App.5th 1172 [274 Cal.Rptr.3d 158]

People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

-victim's comparative negligence may reduce amount of restitution for economic losses

People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

under Rees-Levering Auto Sales Financing Act

Damian v. Tamondong (1998) 65 Cal.App.4th 1115 [77 Cal.Rptr.2d 262]

under Song-Beverly Consumer Warranty Act

Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]

Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]

Patel v. Mercedes-Benz USA (2019) 43 Cal.App.5th 1007 [256 Cal.Rptr.3d 603]

Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]

Etcheson v. FCA US LLC (2018) 30 Cal.App.5th 831 [242 Cal.Rptr.3d 35]

Wohlgemuth v. Caterpillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]

Dominquez v. American Suzuki Motor Corporation (2008) 160 Cal.App.4th 53 [72 Cal.Rptr.3d 354]

Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]

Nightingale v. Hyundai Motor America (1994) 31 Cal.App.4th 99 [37 Cal.Rptr.2d 149]

under Uniform Foreign Money Judgments Recognition Act

Java Oil Ltd. v. Sullivan (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]

under Vehicle Leasing Act

Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]

under Welfare and Institutions Code section 10962

K.I. v. Wagner (2014) 225 Cal.App.4th 1412 [170 Cal.Rptr.3d 916]

Workers' Compensation

Summers, et al. v. Newman, et al. (1999) 20 Cal.4th 1021 [86 Cal.Rptr.2d 303]

-non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

-successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act

Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066

Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044

-under Labor Code § 4607

Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]

Prior attorney's claim for fees

Baca v. State Bar (1990) 52 Cal.3d 294 [276 Cal.Rptr. 169]

Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374] no violation found when successor attorney fails to reserve funds in trust to satisfy the prior attorney

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

Private Attorney General Doctrine

Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]

Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

attorney's fees can only be recovered against opposing parties

McGuigan v. City of San Diego (2010) 183 Cal.App.4th 610 [107 Cal.Rptr.3d 554]

Nestande v. Watson (2003) 111 Cal.App.4th 232 [4 Cal.Rptr.3d 18]

calculation for lodestar or touchstone fees

-amount and items allowable – factors

In re Washington Public Power Supply Systems Securities Litigation (1994) 19 F.3d 1291

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Press v. Lucky Stores, Inc. (1983) 34 Cal.3d 311, 317-318 [193 Cal.Rptr. 900, 667 P.2d 704]

Greene v. Dillingham Construction, N.A., Inc. (2002) 101 Cal.App.4th 418 [124 Cal.Rptr.2d 250]

LA 515 (2005)

-based on time spent and reasonable hourly compensation

San Bernardino Valley Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 754-756 [202 Cal.Rptr. 423]

-cannot be based on contingent fee – must be based on time spent on base

Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1313-1314

-contingency fee agreement cannot justify lowering an otherwise reasonable lodestar fee

Quesada v. Thomason (9th Cir. 1988) 850 F.2d 537

-discovery may be allowed by the trial court

Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]

-fee award subsumes novelty, experience, complexity, and results obtained

Hunt v. County of Los Angeles (1988) 203 Cal.App.3d 87 [249 Cal.Rptr. 660]

-fees awarded under CCP § 1021.5 – rationale for award

Conservatorship of Whitley (2010) 50 Cal.4th 1206 [117 Cal.Rptr.3d 342]

Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

-limited success against defendants may not warrant reduction of lodestar

Corder v. Gates (9th Cir. 1991) 947 F.2d 374

-multiplier to lodestar ensures counsel's acceptance of civil rights contingency cases

Bernardi v. Yeutter (9th Cir. 1991) 942 F.2d 562

-multiplier to lodestar no necessary to attack lawyers to meritorious contingency fee cases

Gomez v. Gates (1992) 804 F.Supp. 69

-objective

Hull v. Rossi (1993) 13 Cal.App.4th 1763 [17 Cal.Rptr.2d 457]

-over billing by attorney

Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300

-state obligation to reimburse county

County of Fresno v. Lehman (1991) 229 Cal.App.3d 340 [280 Cal.Rptr. 310]

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-trial court must make findings to show lodestar calculation applied in welfare benefits litigation
Burkholder v. Kizer (1991) 235 Cal.App.3d 297

-trial court need not issue a statement of decision if record reflects lodestar or touchstone method was used
Rebney v. Wells Fargo Bank, N.A. (1991) 232 Cal.App.3d 1344

-under Civil Code section 1717
Brusso v. Running Springs Country Club (1991) 228 Cal.App.3d 92

causal connection between lawsuit and relief obtained required
Westside Community for Independent Living, Inc. v. Obledo (1983) 33 Cal.3d 348 [188 Cal.Rptr. 873, 657 P.2d 365]
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
Boccatto v. City of Hermosa Beach (1984) 158 Cal.App.3d 804 [204 Cal.Rptr. 727]

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Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
Adoption of Joshua S. (2008) 42 Cal.4th 945 [70 Cal.Rptr.3d 372]
People ex rel. Becerra v Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Sweetwater Union High School Dist. v. Julian Union Elementary School Dist. (2019) 36 Cal.App.5th 970 [249 Cal.Rptr.3d 309]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Wilson v. San Luis Obispo County Democratic Central Committee (2011) 192 Cal.App.4th 918 [121 Cal.Rptr.3d 731]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
Leiserson v. City of San Diego (1988) 202 Cal.App.3d 725 [249 Cal.Rptr. 28]

denied on the grounds that in pro per party's petition for fees was untimely
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]

denied when no important right or interest was vindicated by the plaintiff's action
Roybal v. Governing Bd. of Salinas City Elementary School Dist. (2008) 159 Cal.App.4th 1143 [72 Cal.Rptr.3d 146]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
King v. Lewis (1990) 219 Cal.App.3d 552 [268 Cal.Rptr. 277]
Brennan v. Board of Supervisors (1984) 153 Cal.App.3d 193

-lawsuit to compel an agency to give a detailed explanation of its decision did not qualify as either a significant benefit or enforcement of an important right affecting the public interest
Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]

denied where Attorney General, although the prevailing party, is the branch of government whose function is to represent the general public and to enforce proper enforcement
People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]

discretion of trial court
Gold v. Schwab (1986) 187 Cal.App.3d 1297, 1311

enforcement effort alone did not justify fee award
Concerned Citizens of La Habra v. City of La Habra (2005) 131 Cal.App.4th 329 [31 Cal.Rptr.3d 599]

entitled to fees because action resulted in enforcement of an important right affecting the public interest
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]

fee award improper where de minimus public benefit
Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
Save Open Space Santa Monica Mountains v. Superior Court (County of Los Angeles) (2000) 84 Cal.App.4th 235 [100 Cal.Rptr.2d 725]
Mandicino v. Maggard (1989) 210 Cal.App.3d 1413 [258 Cal.Rptr. 7]

fees allowed where court held that proceedings involving modification of a permanent injunction were not "final judgments" that would trigger time limits for attorney fees
Crespin v. Shrewry (2004) 125 Cal.App.4th 259 [22 Cal.Rptr. 696]

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 -factors considered under CCP § 1021.5
Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]
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People v. Investco Managemnt & Development LLC (2018) 22 Cal.App.5th 443 [231 Cal.Rptr.3d 595]
Carian v. Dept. Fish & Wildlife (2015) 235 Cal.App.4th 806 [185 Cal.Rptr.3d 594]
Bui v. Nguyen (2014) 230 Cal.App.4th 1357 [179 Cal.Rptr.3d 523]
Healdsburg Citizens for Sustainable Solutions v. City of Healdsburg (2012) 206 Cal.App.4th 988 [142 Cal.Rptr.3d 250]
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
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Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
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Mejia v. City of Los Angeles (2007) 156 Cal.App.4th 151 [67 Cal.Rptr.3d 228]
County of Colusa v. California Wildlife Conservation Board (2006) 145 Cal.App.4th 637 [52 Cal.Rptr.3d 1]
Abouab v. City and County of San Francisco (2006) 141 Cal.App.4th 643 [46 Cal.Rptr.3d 206]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]

- Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
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 --attorney's fees can only be recovered against opposing parties
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 --award of fees improper when plaintiff has personal interest or individual stake in the matter
Punsly v. Ho (2003) 105 Cal.App.4th 102 [129 Cal.Rptr.2d 89]
 --must be successful party
Ebbetts Pass Forest Watch v. California Department of Forestry and Fire Protection (2010) 187 Cal.App.4th 376 [114 Cal.Rptr.3d 351]
 -fee awarded under CCP § 1021.5 – rationale for award
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Early v. Becerra (2021) 60 Cal.App.5th 726 [274 Cal.Rptr.3d 866]
La Mirada Ave. v. City of Los Angeles (2018) 22 Cal.App.5th 1149 [232 Cal.Rptr.3d 338]
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Riverwatch v. County of San Diego Dept. of Environmental Health (2009) 175 Cal.App.4th 768 [96 Cal.Rptr.3d 362]
Choi v. Orange County Great Park Corporation (2009) 175 Cal.App.4th 524 [96 Cal.Rptr.3d 90]
Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]
Riverside Sheriff's Ass'n v. County of Riverside (2007) 152 Cal.App.4th 414 [61 Cal.Rptr.3d 295]
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Board of Supervisors (2000) 79 Cal.App.4th 505 [94 Cal.Rptr.2d 205]
Satrap v. Pacific Gas & Electric (1996) 42 Cal.App.4th 72 [49 Cal.Rptr.2d 348]
Hospital Systems, Inc. v. Office of Statewide Health, Planning and Development (1994) 25 Cal.App.4th 1686
Urbaniak v. Newton (1993) 19 Cal.App.4th 1837 [24 Cal.Rptr.2d 333]
Christward Ministry v. County of San Diego (1993) 13 Cal.App.4th 31
Zambrano v. Oakland Unified School District (1991) 229 Cal.App.3d 802 [280 Cal.Rptr. 454]
Bartling v. Glendale Adventist Medical Center (1986) 184 Cal.App.3d 97, 102-103 [228 Cal.Rptr. 847]
 --award of fees improper when plaintiff has personal interest or individual stake in the matter
Adoption of Joshua S. (2008) 42 Cal.App.4th 945 [70 Cal.Rptr.3d 372]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
 --non-pecuniary aesthetic interest are sufficient to block an award of attorney's fees otherwise appropriate under section 1021.5
Conservatorship of Whitley (2010) 50 Cal.App.4th 1206 [117 Cal.Rptr.3d 342]
Williams v. San Francisco Board of Permit Appeals (1999) 74 Cal.App.4th 961 [88 Cal.Rptr.2d 565]
 --requires a full fee award unless special circumstances would render such award unjust
Lyons v. Chinese Hospital Association (2006) 136 Cal.App.4th 1331 [39 Cal.Rptr.3d 550]
 -fees and costs awarded for sheriff's distribution of anti-Bird material
California Common Cause v. Duffy (1987) 200 Cal.App.3d 730 [246 Cal.Rptr. 285]
 -indirect benefit not sufficient
Smith v. County of Fresno (1990) 219 Cal.App.3d 532 [268 Cal.Rptr. 351]
 -limited to successful litigants utilizing judicial process
Crawford v. Board of Education of the City of Los Angeles (1988) 200 Cal.App.3d 1397 [246 Cal.Rptr. 806]
 -on remand, trial court to reevaluate fee award in light of party's success on appeal
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601
 includes fees for appeal
Schmid v. Lovette (1984) 154 Cal.App.3d 466, 480 [201 Cal.Rptr. 424]
 must be reconsidered on remand of case
Robinson v. City of Chowchilla (2011) 202 Cal.App.4th 382 [134 Cal.Rptr.3d 696]
Guardians of Turlock's Integrity v. Turlock City Council (1983) 149 Cal.App.3d 584, 601-602, mod. 150 Cal.App.3d 1141c
 no award of attorney's fees under Code of Civil Procedure section 1021.5 where pecuniary interest of public entity outweighed burden of litigation
Children and Families Commission of Fresno County v. Brown (2014) 228 Cal.App.4th 45 [174 Cal.Rptr.3d 874]
 prison inmate's case, successfully litigated
Daniels v. McKinney (1983) 146 Cal.App.3d 42 [193 Cal.Rptr. 842]
 statutory authority
No Oil, Inc. v. City of Los Angeles (1984) 153 Cal.App.3d 998, 1005 [200 Cal.Rptr. 768]
 under Code of Civil Procedure 1021.5
Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
 -denied in action brought under Government Code section 12974
Dept. of Fair Employment and Housing v. Cathy's Creations, Inc. (2020) 54 Cal.App.5th 404 [269 Cal.Rptr.3d 1]
 -fees awarded under CCP § 1021.5 – rationale for award
Heron Bay Homeowners Assn. v. City of San Leandro (2018) 19 Cal.App.5th 376 [227 Cal.Rptr.3d 885]
 Pro bono
 appointment of counsel for incarcerated, indigent civil defendant
Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]
 court impressing attorney to represent pro bono an indigent client denies attorney equal protection under Fourteenth Amendment
Cunningham v. Superior Court (1986) 177 Cal.App.3d 336, 347-349 [222 Cal.Rptr. 854]

FEES

partial pro bono fee arrangement did not preclude award of fees under C.C.P. § 425.16

Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

Rosenauro v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]

public service obligation of the bar

Bradshaw v. U.S. Dist. Court (9th Cir. 1984) 742 F.2d 515, 518-519

Peter L. Adam v. Linda C. Powers (1995) 31 Cal.App.4th 708 [37 Cal.Rptr.2d 195]

Moallem v. Coldwell Banker Commercial Group (1994) 25 Cal.App.4th 1827 [31 Cal.Rptr.2d 253]

Hambrose Reserve, Ltd. v. Faiz (1992) 9 Cal.App.4th 129

when attorney knows pro bono client has sufficient funds to pay legal fees

SD 1983-6

Probate

Probate Code section 17211(b)

Soria v. Soria (2010) 185 Cal.App.4th 780 [111 Cal.Rptr.3d 94]

abuse of discretion in determining

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

attorney fees are not awarded when matter is resolved or settled without the actual appointment of a conservator

Conservatorship of Brokken (2021) 61 Cal.App.5th 944 [275 Cal.Rptr.3d 892]

attorney fees denied where a trustee voluntarily becomes a party to a contest between the beneficiaries over who should control and benefit from the trust

Whittlesey v. Aiello (2002) 104 Cal.App.4th 1221 [128 Cal.Rptr.2d 742]

extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

extraordinary attorneys' fees for settlement of claim of estate of decedent determined by probate court, not settlement agreement

Estate of Baum (1989) 209 Cal.App.3d 744 [257 Cal.Rptr. 566]

no written fee contract necessary to pay statutory attorney fees out of probate estate for services rendered to personal representative

In re Estate of Wong (2012) 207 Cal.App.4th 366 [143 Cal.Rptr.3d 342]

ordinary/extraordinary fees distinguished

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Estate of Gilkison (1998) 65 Cal.App.4th 1443, fn. 1 [77 Cal.Rptr.2d 463]

Estate of Hilton (1996) 44 Cal.App.4th 890, 895

party that prevailed on change in forum from probate court to another court to hear petition for fees not deemed prevailing party

In re Estate of Drummond (2007) 149 Cal.App.4th 46 [56 Cal.Rptr.3d 691]

petition for reimbursement of attorney's fees not subject to 60-day limit

Holloway v. Edwards (1998) 68 Cal.App.4th 94 [80 Cal.Rptr.2d 166]

probate code permits attorney's fees for out-of-state attorney rendering services for a California estate

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

probate court has equitable power to charge attorney fees against beneficiaries who instigate unfounded proceeding against trustee

Pizarro v. Reynoso (2017) 10 Cal.App.5th 172 [215 Cal.Rptr.3d 701]

Rudnick v. Rudnick (2009) 179 Cal.App.4th 1328 [102 Cal.Rptr.3d 493]

reasonableness of fees in trust administration, inefficient and duplicative not permitted

Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

sanctions for filing frivolous appeal on denial of extraordinary fee request

Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]

trust beneficiaries are entitled to attorney fees from trustee whose opposition to the contest was without reasonable cause and in bad faith

Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

Probate fee, statutory scale

Probate Code section 10800

Estate of Hilton v. Conrad N. Hilton (1996) 44 Cal.App.4th 890 [52 Cal.Rptr.2d 491]

Probate Code section 10810

out-of-state attorney entitled to statutory and extraordinary fees as deemed reasonable by the court

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

Probate Code section 10811

-discharged attorney not entitled to recover the reasonable value of services rendered up to discharge where probate court approval of fees was required, but not obtained

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

-extraordinary attorney's fees for settlement of claims against estate of decedent under a contingency fee agreement must be approved by the court after noticed hearing

Estate of Stevenson (2006) 141 Cal.App.4th 1074 [46 Cal.Rptr.3d 573]

Promissory note or deed of trust

attorney take as security for fees

CAL 1981-62

LA 492, SF 1997-1

enforcement of a promissory note in federal court

Federal Savings and Loan Insurance Corporation v. Ferrante (9th Cir. 2004) 364 F.3d 1037

Prosecutorial misconduct

denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith

U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

Public defenders

reimbursable cost of public defender's service is actual cost to county, not reasonable attorneys' fees

People v. Cruz (1989) 209 Cal.App.3d 560 [257 Cal.Rptr. 417]

Public interest case

Rey v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

attorney's fees paid by losing party in Code of Civil Procedure section 1021.5

Serrano v. Stefan Merli Plastering Co., Inc. (2011) 52 Cal.4th 1018 [132 Cal.Rptr.3d 358]

-advocacy groups filing amicus briefs are not opposing parties within meaning of section 1021.5 and therefore not liable for attorney fees

Connerly v. State Personnel Board (2006) 37 Cal.4th 1169 [39 Cal.Rptr.3d 788]

--exception when amicus brief advocates same position as asserted in another case in which amici is a party

Ramon v. County of Santa Clara (2009) 173 Cal.App.4th 915 [93 Cal.Rptr.3d 278]

- party may receive attorney's fees incurred in an administrative hearing
 - Edna Valley v. County of San Luis Obispo (2011) 197 Cal.App.4th 1312 [129 Cal.Rptr.3d 249]
- exception to award of attorney's fees
 - denial of fees to shareholder who brought shareholder class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - where the public entity is the state itself & acts through its Attorney General whose public responsibility is to serve the interests of the state at large
 - People ex rel. Brown v. Tehama County Board of Supervisors (2007) 149 Cal.App.4th 422 [56 Cal.Rptr.3d 582]
- fee shifting
 - Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
 - Serrano v. Priest (1977) 20 Cal.3d 25 [141 Cal.Rptr. 315, 569 P.2d 1303]
 - Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
 - no fee shifting in a class action suit against corporation where the shareholder failed to show an actual and concrete impact on corporate action
 - Pipefitters Local No. 636 v. Oakley, Inc. (2010) 180 Cal.App.4th 1542 [104 Cal.Rptr.3d 78]
 - successful Brown Act plaintiffs may be denied attorney's fees if defendant can show the existence of special circumstances that would render the award unjust
 - Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]
 - trial court ruled that because County Committee did not violate the California Voting Rights Act, it was not liable for attorney fees and costs
 - Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
- fees award to consumer group for its participation and work before a public utilities commission on rate stabilization
 - Utility Reform Network v. Public Utilities Commission of the State of California (2008) 166 Cal.App.4th 522 [82 Cal.Rptr.3d 791]
- fees denied where remand to an agency of the litigation under the California Endangered Species Act to reconsider a perceived procedural defect did not result in change in the agency's decision
 - Center for Biological Diversity v. California Fish and Game Commission (2011) 195 Cal.App.4th 128 [124 Cal.Rptr.3d 467]
- under Proposition 103, section 1861.10
 - State Farm General Insurance Company v. Lara (2021) 71 Cal.App.5th 197 [286 Cal.Rptr.3d 124]
- Quantum meruit
 - attorney's lien not payable in circumvention of the Bankruptcy Code
 - In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 - award upheld and not prejudicial even though trial court erred in voiding the contingent fee contract
 - Franklin v. Appel (1992) 8 Cal.App.4th 875
 - discharged attorney attempts to enforce contingent fee contract made with substituted counsel
 - Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]
 - discharged attorney entitled to reasonable value of services
 - Fracasse v. Brent (1972) 6 Cal.3d 784, 792 [100 Cal.Rptr. 385, 494 P.2d 9]
 - Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
- In the Matter of Feldsott (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754
- In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- CAL 2009-177
- division of fees when amount allowed is insufficient for quantum meruit claims of past and existing counsel
 - Spires v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]
- failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement
 - Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]
 - Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- attorney precluded from recovering from client
 - Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]
- failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery
 - Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]
- legal services rendered to executor in individual capacity
 - Miller v. Campbell, Warburton, Fitzsimmons, Smith, Mendel & Pastore (2008) 162 Cal.App.4th 1331 [76 Cal.Rptr.3d 649]
- newspaper did not bring an action against the city to compel disclosure under the Public Records Act and, therefore, not entitled to fees
 - National Conference of Black Mayors v. Chico Community Publishing, Inc. (2018) 25 Cal.App.5th 570 [236 Cal.Rptr.3d 1]
- no obligation for successor attorney to reserve funds in trust to satisfy the prior attorney's lien
 - Shalant v. State Bar (1983) 33 Cal.3d 485 [189 Cal.Rptr. 374]
- In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- partnership entitled to
 - for unfinished cases taken by departing partner
 - Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]
 - Champion v. Superior Court (1988) 201 Cal.App.3d 777
- precise calculations of an attorney's time spent on a client's matters are not required to support a claim for attorney fees; fair approximations based on personal knowledge will suffice
 - Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]
- prior counsel not required to endorse a settlement check that is jointly payable to attorney pending resolution of dispute. Attorney has affirmative duty to seek arbitration or judicial determination of the amount attorney is entitled to receive without delay
 - CAL 2009-177
- proper basis for calculating quantum meruit value of client referral is how much of a benefit the previous attorney conferred on successor attorney that the latter unjustly retained
 - Crockett & Myers, Ltd. v. Napier, Fitzgerald & Kirby, LLP (9th Cir. 2011) 664 F.3d 282
- substituted-out attorney may recover for full performance under employment contract
 - Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149 [1 Cal.Rptr.2d 636]
- succeeding attorney's duty to advise client concerning prior attorney's quantum meruit claim
 - SF 1989-1

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succeeding attorney's duty to honor withdrawing attorney's lien

Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16, 18-20 [158 Cal.Rptr. 762]

successor attorney's obligation to notify prior attorney of the existence of a settlement

CAL 2008-175

under Code of Civil Procedure 1021.5

Doe v. Westmont College (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d. 882]

under contingent fee contract, discharged attorney limited to quantum meruit recovery

Spire v. American Bus Lines (1984) 158 Cal.App.3d 211 [204 Cal.Rptr. 531]

under occurrence of contingency, discharged attorney entitled to quantum meruit recovery for reasonable value of services

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Hensel v. Cohen (1984) 155 Cal.App.3d 563, 567 [202 Cal.Rptr. 85]

voluntary withdrawal without cause forfeits recovery

Rus. Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]

Cal Pak Delivery, Inc. v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]

Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

where services have been rendered under a contract which is unenforceable as against public policy

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

where services have been rendered under a contract which is unenforceable because it was not in writing

Leighton v. Forster (2017) 8 Cal.App.5th 467 [213 Cal.Rptr.3d 899]

Iverson, Yoakum, Papiano & Hatch v. Berwald (1999) 76 Cal.App.4th 990 [90 Cal.Rptr.2d 665]

-not signed by client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

Real estate transactions

partner in a law firm may represent seller in a real estate transaction and accept a commission in lieu of legal fees so long as no one in the firm who does not hold a real estate broker's license performs any act for which a license is required (the Real Estate Law, Bus. & Prof. Code §§ 10000-10580)

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

payment of a real estate commission in lieu of hourly legal fee is not per se illegal

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

Reasonable number of hours times reasonable fee (community standards) for civil rights cases

White v. City of Richmond (9th Cir. 1983) 713 F.2d 458

Reasonable only

despite contract when contract is invalid

Denton v. Smith (1951) 101 Cal.App.2d 841 [226 P.2d 723]

entitled if discharged

In re Aesthetic Specialties, Inc. (Bkrptcy.App.Cal. 1984) 37 B.R. 679

fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

Reasonableness of

59 A.L.R.3d 152; 58 A.L.R.3d 235; 58 A.L.R.3d 201;

57 A.L.R.3d 584; 57 A.L.R.3d 550; 57 A.L.R.3d 475

People v. Millard (2009) 175 Cal.App.4th 7 [95 Cal.Rptr.3d 751]

Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]

Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]

Robbins v. Alibrandi (2005) 127 Cal.App.4th 438 [25 Cal.Rptr.3d 387]

approach factors considered

In re Bluetooth Headset Products Liability Litigation (9th Cir. 2011) 654 F.3d 935

Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152

Association of California Water Agencies v. Evans (9th Cir. 2004) 386 F.3d 879

Shannon v. North Counties Trust Ins. Co. (1969) 270 Cal.App.2d 686, 689 [76 Cal.Rptr. 7]

Cline v. Zappettini (1955) 131 Cal.App.2d 723, 728 [281 P.2d 35]

Matthiesen v. Smith (1936) 16 Cal.App.2d 479, 483 [60 P. 873]

-whether contingent fee contract is unconscionable must be determined on situation as it appeared to parties at time it was entered into

Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688-689 [149 P.2d 404]

bankruptcy

In re County of Orange (C.D. Cal. 1999) 241 B.R. 212 [4 Cal. Bankr. Ct. Rep. 117]

-attorney employed by a trustee is entitled to compensation for legal services

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

-creditor has burden of proving reasonableness of attorney fee claim

In re Atwood (9th Cir. BAP (Nev.) 2003) 293 B.R. 227

-trustee fees not proper for duties that are not practice of law

In re Garcia (9th Cir. BAP 2005) 335 B.R. 717

class action

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

Class plaintiffs v. Jaffe & Schlesinger, P.A. (9th Cir. 1994) 19 F.3d 1306

Lealao v. Beneficial California Inc. (2000) 82 Cal.App.4th 19 [97 Cal.Rptr.2d 797]

Jutkowitz v. Bourns, Inc. (1981) 118 Cal.App.3d 102, 108 [173 Cal.Rptr. 248]

Werchkull v. United California Bank (1978) 85 Cal.App.3d 981, 1005 [149 Cal.Rptr. 829]

-determination of a reasonable hourly rate based on the prevailing rates in the community in which local counsel practices

Camacho v. Bridgeport Financial, Inc. (9th Cir. 2008) 523 F.3d 973

-fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery

Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249

-unnamed member of putative class who defeats class certification

Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]

contingent

Rule 2-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-200, Rules of Professional Conduct (operative as of May 27, 1989)

-because contract gambles on result, it may ask for greater compensation than would otherwise be reasonable

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Rader v. Thrasher (1962) 57 Cal.2d 244, 253 [18 Cal.Rptr. 736, 368 P.2d 360]

Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]

-contract presumptively invalid where attorney did not explain and client did not understand contract
Denton v. Smith (1951) 101 Cal.App.2d 841, 844 [226 P.2d 723]

-court construes ambiguous contract language to provide for reasonable compensation
Jackson v. Campbell (1932) 215 Cal. 103, 106 [9 P.2d 845]

-court may consider "open question" of reasonableness of contingent fee charged – factors considered
Blattman v. Gadd (1931) 112 Cal.App. 76, 92-93 [296 P. 681]

-evidence on reasonableness inadmissible where only dispute concerns whether agreement even exists
Ellis v. Woodburn (1891) 89 Cal. 129, 133 [26 P. 963]

-evidence supports find that fee agreement was fair and equitable – factors considered
Hendricks v. Sefton (1960) 180 Cal.App.2d 526, 532 [4 Cal.Rptr. 218]
Estate of Raphael (1951) 103 Cal.App.2d 792, 796 [230 P.2d 436]

-reasonableness judged by situation as it appeared to parties at time contract was entered
Youngblood v. Higgins (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
Swanson v. Hempstead (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]

corporations
Fed Mart Corp. v. Pell Enterprises, Inc. (1980) 111 Cal.App.3d 215, 224 [168 Cal.Rptr. 525]

court may consider settlement negotiations in deciding a reasonable attorney fee award
Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925

court may rely on its own familiarity with legal market and customary rates in determining reasonableness of fees
Ingram v. Oroudjian (9th Cir. 2011) 647 F.3d 925

dissolution proceedings
 -attorney's fees not matter of right but rests in discretion of trial court – standard of review by appellate court
Hicks v. Hicks (1967) 249 Cal.App.2d 964, 969 [58 Cal.Rptr. 63]

-award of attorney's fees made at inception of divorce proceedings
Collins v. Welsh (1934) 2 Cal.App.2d 103, 109-110 [37 P.2d 505]

-award of excessive fee
Howard v. Howard (1956) 141 Cal.App.2d 233, 244 [296 P.2d 592]

-lodestar multiplier in divorce action was both excessive and inequitable where there was no risk that attorney would not receive compensation under a contingency fee arrangement
Chodos v. Borman (2014) 227 Cal.App.4th 76 [173 Cal.Rptr.3d 266]

-burden of and standard for establishing abuse of discretion
Crevolin v. Crevolin (1963) 217 Cal.App.2d 565, 572 [31 Cal.Rptr. 622]

-circumstances affecting award – court may consider financial conditions of parties
Pope v. Pope (1951) 107 Cal.App.2d 537, 539-540 [237 P.2d 312]

-court erred in accepting commissioner's findings as to attorney fees and costs where commissioner provided no notice to affected attorney and had recused himself for bias
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79 Cal.Rptr.2d 39]

-court may determine fee from its own experience – no testimony necessary
Lipka v. Lipka (1963) 60 Cal.2d 472, 479-480 [35 Cal.Rptr. 71]

-discretion and experience to determine fees vested in trial court
Thiesen v. Keough (1931) 115 Cal.App. 353, 362 [1 P.2d 1015]
Busch v. Busch (1929) 99 Cal.App. 198, 201 [278 P. 456]

-factors considered by trial court
Dietrich v. Dietrich (1953) 41 Cal.2d 497, 506 [261 P.2d 269]
In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

-family law court fee awards must be reasonable and based on factual showings
Alan S., Jr. v. Superior Court (2009) 172 Cal.App.4th 238 [91 Cal.Rptr.3d 241]
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]

-inadequate fee award shows abuse of discretion
Hurst v. Hurst (1964) 227 Cal.App.2d 859, 871-872 [39 Cal.Rptr. 162]

-modification of court order allowing attorney's fee – circumstances affecting right to and amount of allowance
Warner v. Warner (1950) 34 Cal.2d 838, 841-842 [215 P.2d 20]

-modification of custody award – determination of reasonable attorney's fees
Straub v. Straub (1963) 213 Cal.App.2d 792, 799-800 [29 Cal.Rptr. 183]

-no abuse of discretion – factors considered by appeals court on review
In re Marriage of Aylesworth (1980) 106 Cal.App.3d 869, 879-880 [165 Cal.Rptr. 389]

-reasonable fees – factors considered by trial court
Anthony v. Anthony (1968) 156 Cal.App.2d 157-158 [66 Cal.Rptr. 420]

-reasonableness is a question of fact in discretion of trial court
Jones v. Jones (1955) 135 Cal.App.2d 52, 64 [286 P.2d 908]

-reasonableness of attorney's fee – discretion of trial court – factors considered – standard of review
In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 113-114 [113 Cal.Rptr. 58]

-reasonableness of attorney's fees – evidence – review by appellate court
In re Marriage of Keech (1999) 75 Cal.App.4th 860 [89 Cal.Rptr.2d 525]
In re Marriage of Cueva (1978) 86 Cal.App.3d 290, 297-304 [149 Cal.Rptr. 918]
Smith v. Smith (1969) 1 Cal.App.3d 952, 958 [82 Cal.Rptr. 282]

-test for determining reasonable attorney's fees
Palmquist v. Palmquist (1963) 212 Cal.App.2d 322, 338-339 [27 Cal.Rptr. 744]

eminent domain proceedings
 -may include factors other than hourly rates charged by top law firms
City of Oakland v. The Oakland Raiders (1988) 203 Cal.App.3d 78 [249 Cal.Rptr. 606]

-scope of appellate review
State of California v. Westover Co. (1956) 140 Cal.App.2d 447, 450 [295 P.2d 96]

-trial judge has discretion to set reasonable fee – factors considered – appellate standard of review
Mountain View Union High School District v. Ormonde (1961) 195 Cal.App.2d 89, 96 [15 Cal.Rptr. 461]
County of Riverside v. Brown (1939) 30 Cal.App.2d 747, 749-750 [87 P.2d 60]
People v. Thompson (1935) 5 Cal.App.2d 668, 670-672 [43 P.2d 606]
Los Angeles v. Los Angeles-Inyo Farms Co. (1933) 134 Cal.App. 268, 274-275 [25 P.2d 224]

FEES

- under Code Civ. Proc. § 1255, trial courts, experience allows it to set reasonable value of attorney's services
California Interstate Telephone Co. v. Prescott (1964) 228 Cal.App.2d 408, 411 [39 Cal.Rptr. 472]
- fee stipulation
 - limited by reasonableness requirement
In re 268 Limited (9th Cir. BAP 1988) 85 B.R. 101
- filiation proceeding
Berry v. Chaplin (1946) 74 Cal.App.2d 669, 678 [169 P.2d 453]
- injunctions
Moore v. Maryland Casualty Co. (1929) 100 Cal.App. 658, 666 [280 P. 1008]
- level of success
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
- malicious prosecution
Peebler v. Olds (1945) 71 Cal.App.2d 382, 389 [162 P.2d 953]
Mills v. Friedman (1931) 119 Cal.App. 74, 81 [5 P.2d 901]
- monitoring state officials' compliance with settlement
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
- mortgage foreclosure proceedings
 - amount of fee within discretion of trial court – factors considered
Craw v. Craig (1914) 168 Cal. 351, 352 [143 P. 604]
Patten v. Pepper Hotel Co. (1908) 153 Cal. 460, 471-472 [96 P. 296]
 - fee award not inadequate – factors considered in determining reasonable fee
Nevin v. Salk (1975) 45 Cal.App.3d 331, 343-344 [119 Cal.Rptr. 370]
 - no evidence of value of services necessary for trial court to fix reasonable fee
Woodward v. Brown (1897) 119 Cal. 283, 309 [51 P.2d 542]
 - where fee issue properly put before jury, jury may fix fee without independent testimony as to reasonableness
Liebenguth v. Priester (1944) 64 Cal.App.2d 343, 345 [148 P.2d 893]
- offer opinion about reasonableness of other attorney's fee
LA 311 (1969)
- partition proceeding
Watson v. Sutro (1894) 103 Cal. 169, 171 [37 P. 201]
- pro bono [See Appointment of attorney by court, pro bono. Duties of attorney, pro bono.]
- probate proceedings
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
LA 68 (1932), LA 66 (1931)
 - court has discretion knowledge and experience to set reasonable fee without hearing evidence
Estate of Straus (1904) 144 Cal. 553, 557 [77 P. 1122]
 - court has power to set fees independent of expert testimony
Estate of Duffill (1922) 188 Cal. 536, 552-554 [206 P. 42]
 - evidence considered by jury in fixing reasonable fee
Mitchell v. Towne (1939) 31 Cal.App.2d 259, 265-267 [87 P.2d 908]
 - evidence on reasonable value of services offered by witness attorneys
Freese v. Pennie (1895) 110 Cal. 467, 468-470 [42 P. 978]
 - fees of attorneys for executors, administrators and guardians fixed by court – court has discretionary power to set fee
Pennie v. Roach (1892) 94 Cal. 515, 518-519 [29 P. 956, 30 P. 106]
 - opinions of professional witnesses not binding on court
Estate of Dorland (1883) 63 Cal. 218, 282
- reasonable fee primarily question of fact for trial court expert testimony unnecessary – appellate standard of review
Bunn v. Lucas, Pino & Lucas (1959) 172 Cal.App.2d 450, 468 [342 P.2d 508]
Estate of Schnell (1947) 82 Cal.App.2d 170, 175-176 [185 P.2d 854]
- superior court has discretion to determine fee – standard of review by higher court
Estate of Adams (1901) 131 Cal. 415, 418-419 [63 P. 838]
- public interest litigation
 - Attorney General may appeal attorney fees in a settlement under Proposition 65
Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]
 - awarding fees under “substantial benefit rule” – factors considered in setting reasonable fees
*Mandel v. Lackner (1979) 92 Cal.App.3d 747, 756-757 [155 Cal.Rptr. 269]
Coalition for L.A. County Planning etc. Interest v. Board of Supervisors (1977) 76 Cal.App.3d 241, 251 [142 Cal.Rptr. 766]
 - discretion of trial court to set fees
Excelsior etc. School Dist. v. Lautrup (1969) 269 Cal.App.2d 434, 447 [74 Cal.Rptr. 835]
 - trial court has unquestioned power to appraise value of services
Independent Iron Works, Inc. v. County of Tulare (1962) 207 Cal.App.2d 164, 167 [24 Cal.Rptr.361]
 - trial judge in best position to determine value of services – appellate standard of review – factors considered
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Serrano v. Priest (1977) 20 Cal.3d 25, 48-49 [141 Cal.Rptr. 315, 569 P.2d 1303]
Rev v. Madera Unified School District (2012) 203 Cal.App.4th 1223 [138 Cal.Rptr.3d 192]
Consumer Cause, Inc. v. Mrs. Gooch's Natural Food Markets, Inc. (2005) 127 Cal.App.4th 387 [25 Cal.Rptr.3d 514]
- rate determined by current rates where there was delay, rather than by adding interest, and hourly rates were based on relevant community of attorneys engaged in similar complex litigation was not abuse of discretion
Prison Legal News v. Schwarzenegger (9th Cir. 2010) 608 F.3d 446
- reduction of fees by 90% where court determined that prevailing litigant had unnecessarily prolonged the litigation and that the majority of counsel's time was not reasonably incurred
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
- securities fraud action
 - fees awards in federal securities fraud actions must be reasonable in relation to plaintiffs' recovery
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 - trial court must adequately explain the basis for the award in a federal securities fraud action
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
- to respective parties
In re Marriage of McNeill (1984) 160 Cal.App.3d 548, 560 [206 Cal.Rptr. 641]
- trial judge in best position to determine value of services
Pech v. Morgan (2021) 61 Cal.App.5th 841 [276 Cal.Rptr.3d 97]
- trusts
Crocker v. Crocker First National Bank of San Francisco (1943) 60 Cal.App.2d 725, 730 [141 P.2d 482]
-inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

under 42 U.S.C. § 406(b) (social security benefits)
Gisbrecht v. Barnhart (2002) 535 U.S. 789 [122 S.Ct. 1817, 152 L.Ed.2d 996]
Parrish v. Commissioner of Social Sec. Admin. (9th Cir. 2012) 698 F.3d 1215
Crawford v. Astrue (9th Cir. 2009) 586 F.3d 1142
 under Civil Code 3186, "reasonable cost of any litigation thereunder" excludes attorney fees
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]
 unrelated claims, unsuccessful
McCown v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
 welfare proceedings
Horn v. Swoap (1974) 41 Cal.App.3d 375, 384 [116 Cal.Rptr. 113]
 whole amount of the recovery
 SD 1975-4
 Reduced to match award
Chromalloy American Corp. v. Fischmann (9th Cir. 1983) 716 F.2d 683
 Reduction of 90% of attorney's fees is not intended to punish a party's litigation conduct; rather, it is to reflect fees that were not reasonably expended
EnPalm, LCC, et al. v. Teitler Family Trust (2008) 162 Cal.App.4th 770 [75 Cal.Rptr.3d 902]
 Referee's
 Code of Civil Procedure section 1023
 Referral fees [See Division of fees.]
 Rules of Professional Conduct 2-200
 Refund of fee advanced
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
 SD 2019-3
 attorney who undertakes representation of conflicting interests without consent must refund fees received after conflict arose
Blecher & Collins v. Northwest Airlines, Inc. (C.D. Cal. 1994) 858 F.Supp. 1442
 flat fee advanced
 SD 2019-3
 if unearned, except true retainer fee
United States v. Veon (1982) 549 F.Supp. 274, 283
Dickson v. Mann (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]
In the Matter of Roger M. Lindmark (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 Represent in settlement when fee owed by client comes out of settlement
 SD 1975-4
 Represent self and co-counsel re contingent fee assigned to third party
 SD 1972-1
 Request for attorney's fees under Code of Civ. Proc. § 4370
 standing to appeal denial of appeal
In re Marriage of Tushinsky (1988) 203 Cal.App.3d 136, mod. 203 Cal.App.3d 895e
 Retainer
In re Montgomery Drilling Co. (Bankr. Ct. E.D. Cal. 1990) 121 B.R. 32, 37
In re C & P Auto Transport, Inc. (Bankr. Ct. E.D. Cal. 1988) 94 Bankr. Rptr. 682, 687
Matthew v. State Bar (1989) 49 Cal.3d 784, 787-788
Baranowski v. State Bar (1979) 24 Cal.3d 153, 164, fn. 4
Knight v. Russ (1888) 77 Cal. 410, 412 [19 P. 698]
T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1, 7 [56 Cal.Rptr.2d 41]
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752, 757

earned portion to be removed from trust account
 SF 1973-14
 paid by insurance broker to provide free wills to clients
 SD 1976-6
 "true" retainer is paid to secure an attorney's availability over a given time period and is not billed against as services are performed
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 Retroactive application of city ordinance providing for recovery of attorney's fees found invalid
City of Monte Sereno v. Padgett (2007) 149 Cal.App.4th 1530 [58 Cal.Rptr.3d 218]
 RICO
 funds for retention of private counsel not exempted from forfeiture of drug defendant's assets
People v. Superior Court (Clements) (1988) 200 Cal.App.3d 491 [246 Cal.Rptr. 122]
 Sanctions [See Sanctions.]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 829
Cornerstone Realty Advisors, LLC v. Summit Healthcare (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]
 criteria for recovery of fees and costs in opposing motion for sanctions
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
Musaelian v. Adams (2011) 197 Cal.App.4th 1251 [130 Cal.Rptr.3d 32]
 frivolous appeal challenging trial court's denial of an extraordinary fee request
Estate of Gilkison (1998) 65 Cal.App.4th 1443 [77 Cal.Rptr.2d 463]
 frivolous appeal challenging trial court's denial of anti-SLAPP statute
Clarity Co. Consulting, LLC v. Gabriel (2022) 77 Cal.App.5th 454 [292 Cal.Rptr.3d 532]
 for delay
In re Silberkraus (9th Cir. 2003) 336 F.3d 864
Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 -attorney's fees may not be awarded as a sanction under CCP § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
 -award of "reasonable expenses" as sanction under CCP § 437(c) does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
 frivolous action
 -action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
 improper when awarded as full compensation of all attorney fees for violation of a Rule of Court
Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
 information in report was protected by confidentiality statute and attorney's disclosure was intentional, malicious, reckless, and not in the best interest of the child
In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]

FEES

no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

Security for

LA 492 (1998), LA 407 (1982), LA 398 (1982), LA(l) 1975-8, LA(l) 1972-2

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

client's property falsely reported as stolen

LA 329 (1972)

confession of judgment

Hulland v. State Bar (1972) 8 Cal.3d 440, 450

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

debtor's counsel's prepetition security retainer are funds that generally remain the client's property until applied to the attorney's charges for services actually rendered

In re Dick Cepek, Inc. (9th Cir. BAP 2006) 339 B.R. 730

financing fees by attorney recommending client take out mortgage loan on client's real property

CAL 2002-159

in general

SF 1997-1

insure collection of, inimical to client

Kallen v. Delug (1984) 157 Cal.App.3d 940, 951

lien as

CAL 1981-62

note secured by deed of trust

-family law attorney's real property lien expunged

In re the Marriage of Turkanis (2013) 213 Cal.App.4th 332 [152 Cal.Rptr.3d 498]

-may be invalid if the encumbrance is on community property and the act of the client/spouse constitutes a prohibited unilateral transfer under Civil Code section 5127

Droeger v. Friedman, Sloan & Ross (1991) 54 Cal.3d 26 [283 Cal.Rptr. 584]

-requires compliance with rule 3-300

Hawk v. State Bar (1988) 45 Cal.3d 589 [247 Cal.Rptr. 599]

In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

LA 492 (1998)

priority of attorney's liens

Cappa v. F & K Rock & Sand, Inc. (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

promissory note

Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]

CAL 1981-62, SF 1997-1

security agreements

-fee provision in security agreement did not serve as ground for awarding fees and costs to over-secured creditor following its successful defense of adversary preference proceeding in bankruptcy matter

In re Connolly (9th Cir. BAP 1999) 238 B.R. 475 [34 Bankr.Ct.Dec. 1219]

trial court's award of attorney's fees against plaintiff's counsel for violation of an in limine order was neither within the court's inherent powers nor was authorized by statute

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

trust deed

LA(l) 1975-8, LA(l) 1972-2, SD 1976-8

unsecured promissory note does not give attorney a present interest in client's property to trigger rule 3-300

Law Offices of Dixon R. Howell v. Valley (2005) 129 Cal.App.4th 1076 [29 Cal.Rptr.3d 499]

Settlement

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

award of fees to prevailing plaintiff in an action brought by the Consumer Legal Remedies Act is mandatory, even where the litigation was resolved by a pretrial settlement agreement

Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]

condition settlement on plaintiff's attorney waiving fees

Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

CAL 2009-176

LA 445 (1987)

employer entitled to attorney's fees from employee suing for employment discrimination where employee initiated litigation following signing of general release of all claims

Linsley v. Twentieth Century Fox Films Corp. (1999) 75 Cal.App.4th 762 [89 Cal.Rptr.2d 429]

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

lump sum settlement that includes attorney's fees may hinder plaintiff's ability to retain counsel

Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138

Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920

offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right

Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]

parties to settlement agreement can validly specify a prevailing party

Khavarian Enterprises Inc. v. Commline Inc. (2013) 216 Cal.App.4th 310 [156 Cal.Rptr.3d 657]

prior settlement agreement allowing recovery of attorney's fees over statutorily permitted amount in subsequent action to enforce settlement

County of Sacramento v. Sandison (2009) 174 Cal.App.4th 646 [95 Cal.Rptr.3d 30]

structured settlement, use of

CAL 1987-94

trial court erred by modifying existing settlement agreement by reducing award of attorney fees and costs without parties mutual consent

Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]

trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval

Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]

SLAPP action

Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]

Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]

Lunada Biomedical v. Nunez (2014) 230 Cal.App.4th 459 [178 Cal.Rptr.3d 784]

Ellis Law Group, LLP v. Nevada Sugar Loaf Properties, LLC (2014) 230 Cal.App.4th 244 [178 Cal.Rptr.3d 490]

Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]

Hylton v. Frank E. Rogozlenski Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Christian Research Institute v. Alnor (2008) 165 Cal.App.4th 1315 [81 Cal.Rptr.3d 866]
Melbostad v. Fisher (2008) 165 Cal.App.4th 987 [81 Cal.Rptr.3d 354]
Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
Maughan v. Google Technology (2006) 143 Cal.App.4th 1242 [49 Cal.Rptr.3d 861]
Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]
Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]
Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]
burden of proving fees were covered by award following successful motion to strike
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
defendants not entitled to attorney fees when plaintiff dismissed all claims against defendants prior to motion to strike
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
defendants who fail to file an anti-SLAPP motion before plaintiff's voluntary dismissal of all causes of actions against them may not recover attorney fees or costs
S.B. Beach Properties v. Berti (2006) 39 Cal.4th 374 [46 Cal.Rptr.3d 380]
defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion
Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]
fees denied where litigant failed to show anti-SLAPP motion was frivolous or was intended to cause unnecessary delay
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
litigant who only partially successful on anti-SLAPP motion entitled to recover attorney fees
Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]
Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]
mandatory award may be based on attorney's declarations instead of time records
Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]
to prevailing party
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
under Code of Civil Procedure 425.16
Changsha Metro Group Co. v. Xufeng (2020) 57 Cal.App.5th 1 [270 Cal.Rptr.3d 853]
Tourgeman v. Nelson & Kennard (2014) 222 Cal.App.4th 1447 [166 Cal.Rptr.3d 729]
Chambers v. Miller (2006) 140 Cal.App.4th 821 [44 Cal.Rptr.3d 777]
-complaint did not arise from protected speech or petitioning activities, but from the nonpayment of a bill
Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

-does not authorize an award of attorney fees against plaintiff's counsel
Rudisill v. Cal. Coastal Commission (2019) 35 Cal.App.5th 1062 [247 Cal.Rptr.3d 840]
Moore v. Kaufman (2010) 189 Cal.App.4th 604 [117 Cal.Rptr.3d 19]
-plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute
Stenehjem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]
-pro bono fee arrangement did not preclude award of fees
Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]
Splitting [See Division of fees.]
attorney conducting real estate business
SD 1969-2
with franchisor
LA 423 (1983)
Sports service contracts
Business and Professions Code section 6106.7
Standards applicable to attorney's fees
Church of Scientology of California v. United States Postal Service (9th Cir. 1983) 700 F.2d 486
Statutory attorney's fees to prevailing party
Corporations Code section 317
-outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
Labotest, Inc. v. Bonta (9th Cir. 2002) 297 F.3d 892
U.S. v. Real Property Known as 22249 Dolorosa Street (9th Cir. 2000) 190 F.3d 977
Smith v. Rae-Venter Law Group (2002) 29 Cal.4th 345 [127 Cal.Rptr.2d 516]
Lolley v. Campbell (2002) 28 Cal.4th 367 [121 Cal.Rptr.2d 571]
Ketchum v. Moses (2001) 24 Cal.4th 1122 [104 Cal.Rptr.2d 377]
John PD Doe v. San Diego-Imperial Council, et al. (2017) 16 Cal.App.5th 301 [224 Cal.Rptr.3d 273]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
Kim v. Euromotors West/The Auto Gallery (2007) 149 Cal.App.4th 170 [56 Cal.Rptr.3d 780]
Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]
Kaplan v. Fairway Oaks Homeowners Ass'n (2002) 98 Cal.App.4th 715 [120 Cal.Rptr.2d 158]
Burge v. Dixon (1984) 152 Cal.App.3d 1120, 1128 [199 Cal.Rptr. 899]
client may not keep fees which are measured by and paid on account of attorney's services
Image Technical Services v. Eastman Kodak Co. (9th Cir. 1998) 136 F.3d 1354
defendant who brings a successful motion to strike under the anti-SLAPP statute is entitled to mandatory attorney fees
Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]
Premier Medical Management Systems, Inc. v. California Ins. Guarantee Ass'n (2008) 163 Cal.App.4th 550 [77 Cal.Rptr.3d 695]
district court may review attorney's "billing judgment" and reduce fees if some tasks should have been delegated to associate or paralegal
MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101
Equal Access Act
Natural Resources Defense Council, Inc. v. Winter (9th Cir. 2008) 543 F.3d 1152

FEES

Hoopa Valley Tribe v. Watt (N.D. Cal. 1983) 569 F.Supp. 943

hours that are not properly billed to one's client are also not properly billed to one's adversary pursuant to statutory authority

MacDougal v. Catalyst Nightclub (1999) 58 F.Supp.2d 1101

plaintiff mandatorily entitled to fees where defendant's anti-SLAPP motion failed to meet threshold burden of establishing the challenged cause of action arose from protected activity and motion was found to be frivolous

Personal Court Reporters, Inc. v. Rand (2012) 205 Cal.App.4th 182 [140 Cal.Rptr.3d 301]

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

SLAPP action

Summerfield v. Randolph (2011) 201 Cal.App.4th 127 [133 Cal.Rptr.3d 487]

Vargas v. City of Salinas (2011) 200 Cal.App.4th 1331 [134 Cal.Rptr.3d 244]

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]

Ampex Corp. v. Cargle (2005) 128 Cal.App.4th 1569 [27 Cal.Rptr.3d 863]

Wilkerson v. Sullivan (2002) 99 Cal.App.4th 443 [121 Cal.Rptr.2d 275]

Dowling v. Zimmerman (2001) 85 Cal.App.4th 1400 [103 Cal.Rptr.2d 174]

Kyle v. Carmon (1999) 71 Cal.App.4th 901 [84 Cal.Rptr.2d 303]

-anti-SLAPP defendant may recover appellate attorney fees upon prevailing on appeal

Wanland v. Law Offices of Mastagni, Holstedt & Chiurazz (2006) 141 Cal.App.4th 15 [45 Cal.Rptr.3d 633]

-attorney fees incurred in enforcement of anti-SLAPP judgment recoverable

York v. Strong (2015) 234 Cal.App.4th 1471 [184 Cal.Rptr.3d 845]

-conduct by attorneys that would otherwise come within the scope of the anti-SLAPP statute does not lose its coverage simply because it is alleged to have been unlawful or unethical

Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

-defendant's motion to strike under the anti-SLAPP statute was frivolous, thus the granting of plaintiff's attorney fee request was not an abuse of discretion

Baharian-Mehr v. Smith (2010) 189 Cal.App.4th 265 [117 Cal.Rptr.3d 153]

-mandatory award may be based on attorney's declarations instead of time records

Raining Data Corp. v. Barrenechea (2009) 175 Cal.App.4th 1363 [97 Cal.Rptr.3d 196]

-partially successful motion constitutes prevailing party unless no practical benefit from bringing motion

Richmond Compassionate Care Collective v. 7 Stars Holistic Foundation (2019) 33 Cal.App.5th 38 [244 Cal.Rptr.3d 636]

Mann v. Quality Old Time Service, Inc. (2006) 139 Cal.App.4th 328 [42 Cal.Rptr.3d 607]

-trial court has authority to require plaintiff to compensate the defendant for the undue burden of defending against the non-meritorious claim when it dismisses plaintiff's action on grounds court lacked jurisdiction

Barry v. State Bar (2017) 2 Cal.5th 318 [212 Cal.Rptr.3d 124]

-withdrawal of funds was not protected conduct because it was neither communicative nor connected with an issue of public interest

Old Republic Construction Program Group v. Boccardo Law Firm (2014) 230 Cal.App.4th 859 [179 Cal.Rptr.3d 129]

under Civil Code section 3426

Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

under Code of Civil Procedure section 405.38

-in action to expunge a lis pendens, challenging attorney fee award to prevailing party requires petition for writ of mandate, not appeal

Shah v. McMahon (2007) 148 Cal.App.4th 526 [55 Cal.Rptr.3d 792]

-in action to expunge a lis pendens, court has discretion to award attorney fees based on several considerations: which party would have prevailed on the motion, whether lis pendens claimant acted justifiably in withdrawing the lis pendens, or whether the imposition of fees would be unjust

Castro v. Superior Court (2004) 116 Cal.App.4th 1010 [10 Cal.Rptr.3d 865]

under Penal Code § 1202.4(f)(3), victim of convicted drunk driver was entitled to restitution for attorney services incurred to recover both economic and noneconomic damages

People v. Fulton (2002) 99 Cal.App.4th 1292 [121 Cal.Rptr.2d 828]

under Song Beverly Act

Reck v. FCA US LLC (2021) 64 Cal.App.5th 682 [279 Cal.Rptr.3d 175]

Pulliam v. HNL Automotive Inc. (2021) 60 Cal.App.5th 396 [274 Cal.Rptr.3d 547]

Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]

Duale v. Mercedes-Benz USA, LLC (2007) 148 Cal.App.4th 718 [56 Cal.Rptr.3d 19]

under Vehicle Leasing Act

Hart v. Autowest Dodge (2007) 147 Cal.App.4th 1258 [55 Cal.Rptr.3d 249]

Statutory limit

SF 2023-1

Fair Debt Collection Practice Act (FDCPA), does not authorize award of attorney's fees against attorneys representing debtors

Hyde v. Midland Credit Management, Inc. (9th Cir. 2009) 567 F.3d 1137

litigation of prison lawsuits

-limitations for services performed before and after effective date of Prison Litigation Reform Act

Madrid v. Gomez (9th Cir. 1999) 190 F.3d 990

-limitations on attorney fees for post-judgment monitoring services performed after effective date of Prison Litigation Reform Act

Martin v. Hadix (1999) 527 U.S. 343 [119 S.Ct. 1998]

-Prison Reform Litigation Act does not apply to fees incurred by prisoner who successfully defended verdict on appeal

Woods v. Carey (9th Cir. 2013) 722 F.3d 1177

-Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027

Statutory prohibition
 award of attorney's fees from interest accrued on interpleader funds statutorily prohibited under Code of Civil Procedure section 386.6
Canal Insurance Company v. Tackett (2004) 117 Cal.App.4th 239 [11 Cal.Rptr.3d 626]
 denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc. (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]

Stipulated attorneys' fees
 Workers' Compensation matter
Price v. Workers' Compensation Appeals Board (1992) 10 Cal.App.4th 959 [12 Cal.Rptr.2d 831]

Stocks pledged to secure fees improperly sold
Hartford v. State Bar (1990) 50 Cal.3d 1139 [791 P.2d 598]

Stock promise to attorney is unenforceable because of a violation of [rule](#) 3-300
Passante, Jr. v. McWilliam (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]

Stop Notice Laws
 public entity is not entitled to attorney's fees under stop notice laws
Tri-State, Inc. v. Long Beach Community College District (2012) 204 Cal.App.4th 224 [138 Cal.Rptr.3d 529]

Substantial benefit doctrine
 award of challenging beneficiary's attorney and expert fees and costs from assets of trust did not violate non-participating beneficiary's due process and evidence supported action substantially benefitted all beneficiaries
Smith v. Szezyler (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]

Substituted counsel's
 attorney had no right to file proposed fee order after discharge and substitution out of case
In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
 entitlement to recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
 unpaid [[See](#) Fee, attempt to collect, discharge.]
 LA 183 (1951)
 SD 1972-17
 -lien on client's settlement does not create any automatic rights to disputed fees
 LA 438
 -refuse substitution until paid
 LA(I) 1966-10

Succession planning
[CAL](#) 2024-209

Suit to recover
 LA 362 (1976), LA 212 (1953)
 claim in bankruptcy proceeding
In re Marquam Investment Corporation (9th Cir. 1991) 942 F.2d 1462
 LA 452 (1988)
 court appointed attorney representing indigent clients is statutory not contractual
 -may not sue for more
Arnelle v. City and County of San Francisco (1983) 141 Cal.App.3d 693
 disclosure of confidential information
 LA 498 (1999)
 judgment debtor was entitled to notice of judgment creditor's post judgment fee application
David S. Karton, a Law Corp. v. Dougherty (2009) 171 Cal.App.4th 133 [89 Cal.Rptr.3d 506]

United States District Court has ancillary jurisdiction over fee disputes arising from litigation pending before the district court
Curry v. Del Priore (9th Cir. 1991) 941 F.2d 730
 unnamed class member who failed to intervene at trial in a federal securities fraud action had standing to appeal the trial court's award of attorney fees
Powers v. Eichen (9th Cir. 2000) 229 F.3d 1249
 withdraw before suing for fees
 LA 476 (1994) LA 407 (1982), LA 362 (1976)
 Trial court improperly withheld past due SSI benefits for payment of attorney's fees
Bowen v. Galbreath (1988) 485 U.S. 74 [108 S.Ct. 892]
 Trial court's discretion to grant under Brown Act
Galbiso v. Orosi Public Utility Dist. (2008) 167 Cal.App.4th 1063 [84 Cal.Rptr.3d 788]
Common Cause v. Stirling (1983) 147 Cal.App.3d 518
 court has discretion to deny fees if defendant can show the existence of special circumstances that would render such an award unjust
Los Angeles Times Communications v. Los Angeles County Board of Supervisors (2003) 112 Cal.App.4th 1313 [5 Cal.Rptr.3d 776]

Tribal law may require tribal remedy exhaustion in contract disputes
Findleton v. Coyote Valley Band of Pomo Indians (2018) 27 Cal.App.5th 565 [238 Cal.Rptr.3d 346]

Trustee
 entitled to reimbursement for attorney's fees only if litigation is necessary to preserve the trust
Terry v. Conlan (2005) 131 Cal.App.4th 1445 [33 Cal.Rptr.3d 603]
 reasonableness of fees in trust administration, inefficient and duplicative not permitted
Donahue v. Donahue (2010) 182 Cal.App.4th 259 [105 Cal.Rptr.3d 723]

Unconscionable
In re Silverton (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]
 agreement providing that attorney waives specified fees if client agrees not to accept a confidentiality clause in any settlement permitted if client retains the authority to settle the case without the lawyer's consent
 LA 505 (2000)
 contingent fee percentage calculation in view of de minimis time and labor
 LA 458
 court may refuse to enforce unconscionable contingent fee
Seltzer v. Robinson (1962) 57 Cal.2d 213, 218
 discipline imposed for unconscionable fee
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 "double billing"
[CAL](#) 1996-147
 exorbitant and disproportionate
Tarver v. State Bar (1984) 37 Cal.3d 122, 134
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904
In the Matter of Van Sickle (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
 exorbitant and unconscionable fee charged
Recht v. State Bar (1933) 218 Cal. 352, 353
 extraordinary complex litigation required a high level of legal skills to obtain a favorable result, was not
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
 fee charged in excess of reasonable value of services does not of itself warrant discipline
Herrscher v. State Bar (1935) 4 Cal.2d 399, 401-402

FEES

- fee financing plan
 - OC 93-002
- forty-five percent of the total judgment plus court awarded fees exceeded the limits of [rule](#) 4-200
 - [In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
- gross overcharge by attorney may warrant discipline
 - [Bushman v. State Bar](#) (1974) 11 Cal.3d 558, 562-564 [113 Cal.Rptr. 904]
 - [Ramirez v. Sturdevant](#) (1994) 21 Cal.App.4th 904
- hybrid, hourly and contingent
 - OC 99-001, SF 1999-1
- informed consent of client not obtained
 - [In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
- law firm's costs are irrelevant to claim of unconscionable attorney fees charged to client
 - [Shaffer v. Superior Court](#) (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]
 - LA 518 (2006)
- loan modification services
 - [In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
 - [In the Matter of Swazi Elkanzi Taylor](#) (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- minors' compromise
 - court's discretion on settlements should be limited to whether the net recovery for each minor plaintiff is fair and reasonable in light of the facts of the case
 - [Robidoux v. Rosengren](#) (9th Cir. 2011) 638 F.3d 1177
- offset recovery used as basis for contingent fee calculation
 - LA 458
- "over-billing"
 - preparation of false and misleading billing statements involves moral turpitude
 - [In the Matter of Berg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725
 - OC 99-001
- partnership agreement
 - allocation of fees for unfinished cases taken by departing partner
 - [Anderson, McPharlin & Connors v. Yee](#) (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
 - [Champion v. Superior Court](#) (1988) 201 Cal.App.3d 777
 - contract term providing that if attorney leaves firm and takes clients, then 80% of the subsequent fees shall be paid to the firm may be enforceable
 - [Moncharsh v. Heily & Blase](#) (1992) 3 Cal.4th 1
- patent prosecution
 - LA 507 (2001)
- procedural and substantive element
 - [Cotchett, Pitre & McCarthy v. Universal Paragon Corp.](#) (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
- unauthorized and unnecessary research
 - [In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
- unconscionable fee found to violate [rule](#) 4-200, Rules of Professional Conduct
 - [Warner v. State Bar](#) (1983) 34 Cal.3d 36 [192 Cal.Rptr. 244, 664 P.2d 148]
 - [In the Matter of Van Sickle](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980
 - [In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - *[Matter of Harney](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
 - [CAL](#) 1994-135, OC 93-002, SF 1999-1
- whether contingent fee charged is unconscionable determined at time contract entered into
 - [Youngblood v. Higgins](#) (1956) 146 Cal.App.2d 350, 352 [303 P.2d 637]
 - [Swanson v. Hempstead](#) (1944) 64 Cal.App.2d 681, 688 [149 P.2d 404]
- wholly disproportionate as to shock the conscience
 - [In the Matter of Wells](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
- Under Code of Civil Procedure section 1021
 - trust beneficiaries must generally pay their own attorney's fees incurred challenging a trustee's conduct, even if they succeed
 - [Smith v. Szezyller](#) (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]
 - under the substantial benefit exception, trial court may award attorney fees to challenging beneficiary where the action substantially benefited all beneficiaries
 - [Smith v. Szezyller](#) (2019) 31 Cal.App.5th 450 [242 Cal.Rptr.3d 585]
- Under Code of Civil Procedure section 1021.5
 - [Doe v. Westmont College](#) (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
 - court must examine the necessity and financial burden of private enforcement
 - [Doe v. Westmont College](#) (2021) 60 Cal.App.5th 753 [274 Cal.Rptr.3d 882]
- Under Penal Code section 987.8
 - criminal court may order defendant to reimburse attorney's fees if ability to pay
 - [People v. Rodriguez](#) (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
 - defendant did not receive the required notice so his failure to object to the court's reimbursement order did not forfeit the claim that he cannot pay the fees assessed under section 987.8
 - [People v. Rodriguez](#) (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]
- Under Welfare and Institutions Code section 730.6(a)
 - juvenile court's discretion to determine if actual and reasonable attorney fees and costs expended in collecting restitution even if some portion of these were spent in recovering general damages where economic damages are recoverable
 - [In re Imran Q.](#) (2008) 158 Cal.App.4th 1316 [71 Cal.Rptr.3d 121]
- Undue influence, presumption of
 - [Sayble v. Feinman](#) (1978) 76 Cal.App.3d 509 [142 Cal.Rptr. 895]
 - lien agreement assigning anticipated statutory fees in one case to satisfy fees incurred in another unrelated case does not give rise to
 - LA 496 (1998)
- Uniform Foreign Money Judgments Recognition Act
 - enforcement of foreign judgment
 - [Java Oil Ltd. v. Sullivan](#) (2008) 168 Cal.App.4th 1178 [86 Cal.Rptr.3d 177]
 - foreign order to pay attorney fees unenforceable where constitutes support
 - [In re Marriage of Lyustiger](#) (2009) 177 Cal.App.4th 1367 [99 Cal.Rptr.3d 922]
- Uniform Trade Secrets Acts (CC § 3426 et seq.)
 - [Aerotek v. Johnson Group Staffing Co.](#) (2020) 54 Cal.App.5th 670 [269 Cal.Rptr.3d 147]
 - denial of fees to defendant who prevailed against plaintiff's claim of misappropriation of patents and trademarks as patents and trademarks are not trade secrets
 - [Cytodyn, Inc. v. Amerimmune Pharmaceuticals, Inc.](#) (2008) 160 Cal.App.4th 288 [72 Cal.Rptr.3d 600]
 - prevailing defendant may recover attorney fees if the plaintiff pursued an action with subjective bad faith, regardless of whether there was some evidence supporting plaintiff's contentions
 - [Sasco v. Rosendin Electric, Inc.](#) (2012) 207 Cal.App.4th 837 [143 Cal.Rptr.3d 828]
- United States civil rights actions
 - 42 U.S.C. § 1983 actions

- Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
Holland v. Roeser (9th Cir. 1994) 37 F.3d 501
 -calculation of fee award must be explained
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Patton v. County of Kings (9th Cir. 1988) 857 F.2d 1379
 -"degree of success" versus "proportionality" approaches in determining award of attorney's fees
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Harman v. City and County of San Francisco (2007) 158 Cal.App.4th 407 [69 Cal.Rptr.3d 750]
 -fees awards in civil rights case reviewed for abuse of discretion
Buffin v. California (9th Cir. 2022) 23 F.4th 951
 -party who wins nominal damages may receive attorney's fees with showing that lawsuit achieved other tangible results
Guy v. City of San Diego (9th Cir. 2010) 608 F.3d 582
 -plaintiff unsuccessful at a stage of litigation necessary to an ultimate victory is entitled to attorney's fees even for the unsuccessful stage
Cabral v. County of Los Angeles (1991) 496 U.S. 924 [110 S.Ct. 2615]
 -prevailing party's statutory right to seek attorney's fees is a substantive cause of action which shall not be assigned contractually
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
 42 U.S.C. § 1988 actions
 -calculation must be explained
Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
Vargas v. Howell (9th Cir. 2020) 949 F.3d 1188
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Wilcox v. City of Reno (9th Cir. 1994) 42 F.3d 550
Gates v. Deukmejian (9th Cir. 1992) 977 F.2d 1300
People ex rel. Becerra v. Shine (2020) 46 Cal.App.5th 288 [259 Cal.Rptr.3d 700]
Graciano v. Robinson Ford Sales, Inc. (2006) 144 Cal.App.4th 140 [50 Cal.Rptr.3d 273]
 -computation of fees
Texas State Teachers Assn. v. Garland Indep. School Dist. (1989) 489 U.S. 1005 [109 S.Ct. 1486]
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Edmo v. Corizon, Inc. (9th Cir. 2024) 97 F.4th 1165
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
 -de minimis damages award merits de minimis fee award
Choate v. County of Orange (2001) 86 Cal.App.4th 312 [103 Cal.Rptr.2d 339]
 -denial of fees based on special circumstances under the traditional prevailing party analysis
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
 -determining prevailing party status
Sole v. Wyner (2007) 551 U.S. 74 [127 S.Ct. 2188]
 -Eleventh Amendment permits attorneys' fees enhancement to compensate for payment delay
Missouri v. Jenkins (1989) 491 U.S. 274 [109 S.Ct. 2463]
 -federal official may be liable
Merritt v. Mackey (9th Cir. 1991) 932 F.2d 1317
 -fee award denied when precedent did not clearly signal that questionable claim should not have been brought
Gibson v. Office of the Attorney General (9th Cir. 2009) 561 F.3d 920
 -fees awards in civil rights case reviewed for abuse of discretion
Hensley v. Eckerhart (1983) 461 U.S. 424, 437
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
McCowan v. City of Fontana (9th Cir. 2009) 565 F.3d 1097
Moreno v. City of Sacramento (9th Cir. 2008) 534 F.3d 1106
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
Rock Creek Limited Partnership v. State Water Resources Control (9th Cir. 1992) 972 F.2d 274
United Steelworkers of America v. Phelps Dodge Corp. (9th Cir. 1990) 896 F.2d 403
Benigni v. City of Hemet (9th Cir. 1988) 853 F.2d 1519
Hardin v. White Mountain Apache Tribe (9th Cir. 1985) 779 F.2d 476, 480
 -fees not precluded by failure to achieve remedy sought when constitutional violations remedied
Sokolow v. County of San Mateo (1989) 213 Cal.App.3d 231 [261 Cal.Rptr. 520]
 -hospital's wrongful life-sustaining efforts not "state action" for § 1988 fees
McMahon v. Lopez (1988) 199 Cal.App.3d 829 [245 Cal.Rptr. 172]
 -nominal award of one dollar
Romberg v. Nichols (9th Cir. 1992) 953 F.2d 1152; amended at 970 F.2d 512
 -partial attorney fees awarded
Erdman v. Cochise County (9th Cir. 1991) 926 F.2d 877
 --application of "degree of success" standard
Hensley v. Eckerhart (1983) 461 U.S. 424, 429 fn. 2
Klein v. City of Laguna Beach (9th Cir. 2016) 810 F.3d 693
Aguirre v. Los Angeles Unified School District (9th Cir. 2006) 461 F.3d 1114
 -party that won consent decree but was later unsuccessful in defending decree in a separate action not entitled to award of fees and costs
San Francisco N.A.A.C.P. v. San Francisco Unified School District (9th Cir. 2002) 284 F.3d 1163
 -plaintiff obtained some relief on merits of claim
Gerling Global Reinsurance Corp. of America v. Garamendi (9th Cir. 2005) 400 F.3d 803
 -plaintiff who wins state claim but loses federal claim not awarded attorney fees
McFadden v. Villa (2001) 93 Cal.App.4th 235 [113 Cal.Rptr.2d 80]
 -plaintiff's environmental challenge to nuclear plant operations are entitled to unenhanced attorney's fees
Earth Island Institute v. Southern California Edison (1993) 838 F.Supp. 458
Guinn v. Dotson (1994) 23 Cal.App.4th 262
 -Prison Reform Litigation Act does not entitle former inmate to award of attorney fees merely by obtaining prevailing party status
Kimbrough v. California (9th Cir. 2010) 609 F.3d 1027
 -pro se attorney-defendant cannot recover statutory attorney fees as prevailing party in civil rights case
Elwood v. Drescher (9th Cir. 2006) 456 F.3d 943
 -reduction of "fees-on-fees" is warranted for counsel's time spent on unsuccessful "merits fees" request
Thompson v. Gomez (9th Cir. 1995) 45 F.3d 1365
 -standing to pursue an award of fees, attorneys lack
Churchill Village LLC v. General Electric (9th Cir. 2004) 361 F.3d 566
 -successful challenge to application of city ordinance
Segundo v. Rancho Mirage City (9th Cir. 1989) 873 F.2d 1277

FEES

- superior performance in appropriate civil rights cases may allow for increase in fees beyond amount determined by lodestar calculation
 - Perdue v. Kenny A. (2010) 559 U.S. 542 [130 S.Ct. 1662]
- Unlawful detainer action
 - Mitchell Land and Improvement Co. v. Ristorante Ferrantelli, Inc. (2007) 158 Cal.App.4th 479 [70 Cal.Rptr.3d 9]
 - Drybread v. Chipain Chiropractic Corp. (2007) 151 Cal.App.4th 1063 [60 Cal.Rptr.3d 580]
 - Acosta v. Kerrigan (2007) 150 Cal.App.4th 1124 [58 Cal.Rptr.3d 865]
 - Harrington v. Department of Real Estate (1989) 214 Cal.App.3d 394
 - Simpson v. Smith (1989) 214 Cal.App.3d Supp.7
- Unpaid [See Attorney's lien.]
 - attachment motion
 - Loeb & Loeb v. Beverly Glen Music, Inc. (1985) 166 Cal.App.3d 1110 [212 Cal.Rptr. 830]
 - attempt to collect unreasonable fee, issue of entitlement to award of fees and costs
 - Schneider v. Friedman, Collard, Poswell & Virga (1991) 232 Cal.App.3d 1276
 - attorney fees awarded under contract to law firm seeking to collect unpaid legal bills
 - Calvo Fisher & Jacob LLP v. Lujan (2015) 234 Cal.App.4th 608 [184 Cal.Rptr.3d 225]
 - bankruptcy action
 - attorney's fees denied without court authorization
 - In re Monument Auto Detail, Inc. (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]
 - default against client without consulting
 - LA 174 (1950)
 - delaying client's case until fees paid
 - Business and Professions Code section 6128(b)
 - LA 356 (1976), LA 261 (1959)
 - finance charge added to
 - CAL 1980-53, LA 374 (1978), SD 1983-1
 - foreclose note for
 - LA(I) 1975-8
 - future services conditional on payment of fees due
 - LA 360 (1976)
 - hold client's papers
 - LA 330 (1972), LA(I) 1970-6
 - SD 1997-1, SD 1984-3, SD 1977-3, SF 1973-12
 - Board Policy Statement (Sept. 1971) III.A.2., supra
 - levy on client's spouse's property
 - LA(I) 1971-17
 - lien asserted [See File.]
 - LA 47 (1927), LA(I) 1970-1, SD 1997-1, SD 1984-3, SD 1977-3
 - notification to opposing counsel
 - SD 1969-3
 - paid with check not covered with funds
 - LA(I) 1947-3
 - refuse to continue or begin case
 - Business and Professions Code section 6128
 - LA 360 (1976), LA 356 (1976), LA 261 (1959), LA(I) 1967-9
 - SD 1978-7, SD 1973-3
 - service charge added to
 - LA 370 (1978), LA(I) 1972-4
 - SF 1970-1
 - substituted counsel's
 - LA 521 (2007), LA 183 (1951), LA 50 (1927)
 - SD 1972-17
 - attorney had no right to file proposed fee order after discharge and substitution out of case
 - In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]
 - suit for, requires attorney to withdraw
 - LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
 - threaten "dire consequences" and "increased costs" if not paid
 - LA(I) 1966-12
 - threaten to "take up with authorities"
 - LA(I) 1947-3
 - unconscionable
 - Priester v. Citizens National Trust & Savings Bank of Los Angeles (1955) 131 Cal.App.2d 314 [280 P.2d 835]
 - use confidences of client to collect
 - LA 452, LA 159 (1945), LA(I) 1961-3
 - use of criminal process to collect
 - Bluestein v. State Bar (1974) 13 Cal.3d 162 [118 Cal.Rptr. 175, 529 P.2d 599]
 - withdraw
 - LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA 211 (1953), LA(I)1936-1
 - before suing client for fees
 - LA 407 (1982), LA 362 (1976), LA 212 (1953)
 - withdrawal of client trust account funds to pay disputed represents executor for fee
 - LA 382 (1979)
 - Untimely filing of motion for fees
 - Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298
 - Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel
 - may not be applicable to defendant's motion to withdraw plea containing the waiver
 - People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]
 - White collar crime
 - under Penal Code § 186.11
 - attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute
 - People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]
 - Withdrawal by attorney
 - attorney entitled to quantum meruit
 - Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
 - not available if attorney abandoned case
 - Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
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 - Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041
 - claimant's attorney is not entitled to fees from settlement proceeds if claimant received no benefit from the settlement
 - Richardson v. Continental Grain Co. (9th Cir. 2003) 336 F.3d 1103
 - Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]
 - fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906
 - Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]
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People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
 LA 502 (1999), LA 483 (1995)
 Client as co-counsel
People v. Dale (1978) 78 Cal.App.3d 722 [144 Cal.Rptr. 338]
 Client assistance to counsel
People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

Defendant represented by counsel may not have a constitutional right to act as a co-counsel
People v. Pena (1992) 7 Cal.App.4th 1294 [9 Cal.Rptr.2d 550]
 Deputy public defender cannot serve as "stand-by counsel" under Government code section 27706 in the event defendant cannot continue with self-representation
Dreiling v. Superior Court (2000) 86 Cal.App.4th 380 [103 Cal.Rptr.2d 70]
Littlefield v. Superior Court (1993) 18 Cal.App.4th 856 [22 Cal.Rptr.2d 659]
 Ineffective assistance of counsel claim based on failure of court to appoint an advisory counsel
People v. Wolden (1991) 227 Cal.App.3d 529 [278 Cal.Rptr. 205]
 Knowing and intelligent waiver of right to counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
United States v. Erskine (9th Cir. 2004) 355 F.3d 1161
 Limited representation of in pro per litigants
Ricotta v. State of California (S.D. Cal. 1998) 4 F.Supp.2d 961, 987-988
 LA 502 (1999), LA 483 (1995)
 Limited scope of representation
 collaborative family law, negotiation and facilitation of settlement
 OC 2011-01
 Non-attorney allowed to represent himself as sole trustee, sole settlor and beneficiary in litigation involving trust property
Aulisio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]
 Non-attorney in pro per litigant may assert statutory work product privilege
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
 Refusal to appoint counsel for pro se prisoner/plaintiff not an abuse of discretion
Terrell v. Brewer (9th Cir. 1991) 935 F.2d 1015
 Relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]
 Right to self-representation
McCormick v. Adams (9th Cir. 2010) 621 F.3d 970
U.S. v. Farias (9th Cir. 2010) 618 F.3d 1049
People v. Dent (2003) 30 Cal.4th 213 [132 Cal.Rptr.2d 52]
 allowing criminal defendant to self-representation improper when defendant forced to choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 Sixth Amendment right
 -not applicable
 --to parole revocations proceedings
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
 --to certain probation revocation proceedings
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
 Standby counsel appointed
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
 Trial court may grant motion for self-representation without warning defendant of the risks of proceeding in pro per
People v. Grayson (1992) 8 Cal.App.4th 168
 Trial court may refuse to allow disruptive capital murder defendant to represent himself
People v. Welch (1999) 20 Cal.4th 701 [85 Cal.Rptr.2d 203]
 Unauthorized practice of law
 pro se litigant may not represent another
Simon v. Hartford Life, Inc. (9th Cir. 2008) 546 F.3d 661
 Waiver of right to counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
United States v. Erskine (9th Cir. 2004) 355 F.3d 1161

INACTIVE LAWYER

INACTIVE LAWYER [See Advertising, return to practice.]

Business and Professions Code sections 6003(b), 6005-6007, 6126

Bound by State Bar Act in California

LA(l) 1962-4

Federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court

In re North (9th Cir. 2004) 383 F.3d 871

Practice by

LA 98 (1938)

"Resuming" practice if not previously admitted in state

LA 161 (1946)

INCAPACITATED LAWYER [See Competence.]

Business and Professions Code section 6190 et seq.

CAL 2021-206

INDIGENT PERSONS [See Fee, indigent. Legal aid. Withdrawal.]

CAL 1981-64

Appointment of pro bono attorney for paternity action

Tulare County v. Ybarra (1983) 143 Cal.App.3d 580, 586 [192 Cal.Rptr. 49]

Appointment of pro bono counsel

Bradshaw v. U.S. District Court for Southern District of California (9th Cir. 1984) 742 F.2d 515

Award of attorney's fees against

court should consider indigent losing party's financial condition before awarding reasonable attorney's fees to prevailing party

People v. Rodriguez (2019) 34 Cal.App.5th 641 [246 Cal.Rptr.3d 392]

Garcia v. Santana (2009) 174 Cal.App.4th 464 [94 Cal.Rptr.3d 299]

Congressional restriction on funding of organizations that represent indigent clients in loss of welfare benefits suits violates First Amendment

Legal Services Corp. v. Velazquez (2001) 531 U.S. 533 [121 S.Ct. 1043]

Criminal defendant has statutory right to assistance of counsel

Arnelles v. City and County of San Francisco (1983) 141 Cal.App.3d 693 [190 Cal.Rptr. 490]

in civil action

Yarbrough v. Superior Court (1985) 39 Cal.3d 197 [216 Cal.Rptr. 425]

Data about indigency of disclosed

LA 358 (1976)

Disclosure of information to authorities concerned with legal aid

Code of Civil Procedure sections 285.2, 285.3, 285.4

LA 358 (1976)

Federal courts may require members of its Indigent Defense Panel also be licensed members of the State Bar of California

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Federal law may not compel attorneys to represent poor

Mallard v. District Court (1989) 490 U.S. 296 [109 S.Ct. 1814]

In fact not indigent

contract for private employment

LA(l) 1972-14, SD 1969-9

Juvenile delinquency proceedings

indigent juvenile delinquent has right to appointed counsel on a first appeal

In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]

Not entitled to appointment of counsel in civil action to abate public nuisance

Iraheta v. Superior Court (1999) 70 Cal.App.4th 1500 [83 Cal.Rptr.2d 471]

Not entitled to public defender representation in appeal

Erwin v. Appellate Department (1983) 146 Cal.App.3d 715 [194 Cal.Rptr. 328]

Presumption of indigency is rebuttable not conclusive for purposes of appellate counsel appointment

Hernandez v. Superior Court (1992) 9 Cal.App.4th 1183 [12 Cal.Rptr.2d 55]

Professional responsibility to represent where county cannot pay in civil cases

Waltz v. Zumwalt (1985) 167 Cal.App.3d 835 [213 Cal.Rptr. 529]

Separate counsel required for indigent criminal defendants

People v. Mrozko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]

Test of indigency for purpose of funding ancillary defense services under Penal Code section 987.9

Tran v. Superior Court (People) (2001) 92 Cal.App.4th 1149 [112 Cal.Rptr.2d 506]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES [See Prosecutorial misconduct.]

California Constitution Art. I, § 15

Rule 6-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-110, Rules of Professional Conduct (operative as of May 27, 1989)

United States Constitution, Amendment VI

United States v. Schaflander (9th Cir. 1984) 743 F.2d 714

People v. O'Connell (1984) 152 Cal.App.3d 548 [199 Cal.Rptr. 542]

ABA Guidelines for capital defense counsel

Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Abandonment

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

Absence of Defense counsel at pretrial status conference

U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228

Abuse of discretion in denying criminal defendant's request for substitution

People v. Ferenz (2024) 99 Cal.App.5th 1032 [318 Cal.Rptr.3d 301]

Admonishment of defense counsel for expressing personal belief in client's innocence

People v. Tyler (1991) 231 Cal.App.3d 1692 [283 Cal.Rptr. 268]

Advising client not to talk to probation officer for pre-sentence report is not ineffective assistance of counsel

U.S. v. Benlian (9th Cir. 1995) 63 F.3d 824

Advising client not to testify

People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]

Advising client to cooperate with police

People v. Murphy (1982) 127 Cal.App.3d 743, 749 [179 Cal.Rptr. 732]

People v. Wong (1973) 35 Cal.App.3d 812, 823 [111 Cal.Rptr. 314]

Advising client to limited waiver of attorney-client privilege considered proper if defendant would not otherwise testify

Aguilar v. Alexander (9th Cir. 1997) 125 F.3d 815

Advising client to plead guilty

U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205

In re Watson (1972) 6 Cal.3d 831, 839 [100 Cal.Rptr. 720, 494 P.2d 1264]

In re Hawley (1967) 67 Cal.2d 824 [63 Cal.Rptr. 83, 433 P.2d 919]

People v. Rainey (1954) 125 Cal.App.2d 739 [271 P.2d 144]

People v. Avilez (1948) 86 Cal.App.2d 289 [194 P.2d 829]

Advising client to reject plea bargain

Lafler v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

U.S. v. Day (9th Cir. 2002) 285 F.3d 1167

In re Alvernaz (1992) 2 Cal.4th 924 [8 Cal.Rptr.2d 713]

Advisory counsel

standard of adequate representation

People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]

Antiterrorism and Effective Death Penalty Act of 1996

Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

Sanders v. Davis (9th Cir. 2022) 23 F.4th 966

Cannedy v. Adams (9th Cir. 2013) 706 F.3d 1148

Avila v. Galaza (9th Cir. 2002) 297 F.3d 911

Appeal

abandonment by appellate counsel for good cause was substantial delay in filing of habeas petition

In re Sanders (1999) 21 Cal.4th 697 [87 Cal.Rptr.2d 899]

appellate counsel should not be placed in the untenable position of urging his own incompetency at the trial level

United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078

People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]

-issue may be raised on habeas corpus

Leavitt v. Arave (9th Cir. 2004) 383 F.3d 809

appellate court has the obligation to ensure adequate representation of counsel even to the extent of removing retained counsel

People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]

appellate court ordinarily will not consider defenses, arguments or objections not presented to the lower court

People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]

attorney's professional misconduct was extraordinary circumstance that prevented petitioner from timely filing petition, as required for equitable tolling

Luna v. Kernan (9th Cir. 2015) 784 F.3d 640

California's use of Wendt no-issue briefs is acceptable procedure for protecting indigent defendant when appointed attorney concludes that appeal would be without merit and otherwise frivolous

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

certificate of probable cause required for appeal from conviction after entry of plea

People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

client entitled to habeas relief when trial attorney's conflict of interest results in failure of attorney to file direct appeal

Manning v. Foster (9th Cir. (Idaho) 2000) 224 F.3d 1129

counsel fails to raise multiple punishments issue

In re Granville (1991) 234 Cal.App.3d 155

counsel must consult defendant about appeal when either a rational defendant would appeal or defendant shows interest in appealing

Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]

Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]

United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216

-despite appeal waivers, counsel's performance was deficient by disregarding defendant's express request for an appeal

Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]

United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216

district court did not abuse its discretion in granting habeas relief giving state option to adjudge petitioner "Not Guilty By Reason of Insanity" or retry him

Rogers v. Dzurenda (9th Cir. (Nevada) 2022) 25 F.4th 1171

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. Gruffy (9th Cir. 1990) 895 F.2d 561

trial court's failure to make further inquiry when defendant expressed dissatisfaction with trial counsel found harmless

People v. Mack (1995) 38 Cal.App.4th 1484 [45 Cal.Rptr.2d 1484]

waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel

U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956

-may not be applicable to defendant's motion to withdraw plea containing the waiver

People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]

Appearance by defendant in propria persona

People v. Longwith (1981) 125 Cal.App.3d 400

People v. Harris (1977) 65 Cal.App.3d 978 [135 Cal.Rptr. 668]

Appointed counsel's inactive status does not deny effective assistance of counsel

People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]

Appointment of trial counsel to represent defendant on appeal

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]

standard of adequate representation by advisory counsel

People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]

As grounds for reversal

People v. Pangelina (1984) 153 Cal.App.3d 1, 9-10 [199 Cal.Rptr. 916]

Attorney as material witness

People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]

Attorney disciplinary proceedings

does not presumptively mean that the attorney is incapable of providing effective assistance

Young v. Runnels (9th Cir. 2006) 435 F.3d 1038

Authority of counsel to exclusively control judicial proceedings

People v. Sims (1984) 158 Cal.App.3d 469, 482-483 [205 Cal.Rptr. 31]

Authority of court to order second defense counsel

Corenevsky v. Superior Court (1984) 36 Cal.3d 307, 317-318 [204 Cal.Rptr. 165]

Based on divided loyalty does not require showing of prejudice as a result of defense counsel's actual conflict

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

Based on duty of loyalty

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

Basis for a motion for new trial, may be asserted as

People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]

Bizarre closing argument prejudicial to defendant and co-defendant

People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]

Breached duty of trust in egregious long term acts of deception intended to prevent defendant from discovering defalcations

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

Burden on client defendant to prove

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]

United States v. Julian (9th Cir. 2021) 12 F.4th 937

Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843

U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]

People v. Young (1984) 159 Cal.App.3d 138, 155 [205 Cal.Rptr. 402]

People v. Harpool (1984) 155 Cal.App.3d 877, 886 [202 Cal.Rptr. 467]

People v. Zikorus (1983) 150 Cal.App.3d 324 [197 Cal.Rptr. 509]

proof required

People v. Saldana (1984) 157 Cal.App.3d 443, 459 [204 Cal.Rptr. 465]

showing of prejudice required where defendant was not denied assistance of counsel at a critical stage of criminal proceedings

People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Certificate of probable cause required for appeal from conviction after entry of plea

People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

Claim of ineffective assistance for counsel's failure to timely present plea offer cannot be considered as a mitigating factor in sentencing

U.S. v. Dibe (9th Cir. 2015) 776 F.3d 665

Claim of ineffective assistance is more appropriate in habeas corpus proceeding

counsel not given opportunity to explain failure to renew suppression of evidence

People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr.2d 196]

Client right to effective counsel

People v. Ruiz (2023) 89 Cal.App.5th 324 [305 Cal.Rptr.3d 803]

People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]

People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]

People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a

right dependent on constitutional right to counsel

Miller v. Keeney (9th Cir. 1989) 882 F.2d 1428

Sixth Amendment right violated where attorney pursued defenses that did not comport with defendant's insistence that he did not commit the alleged criminal act

People v. Flores (2019) 34 Cal.App.5th 270 [246 Cal.Rptr.3d 77]

Client's claim lacks merit

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]

People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]

claim not guilty by reason of insanity lacked credible evidentiary support

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

client cannot show that attorney's representation fell below objective standard of reasonableness

United States v. Freeny (9th Cir. 1988) 841 F.2d 1000

People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]

client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim

People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]

"confessions and avoidance" tactic used by counsel does not constitute ineffective assistance of counsel

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

Closing argument did not demonstrate prejudice

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

district attorney did not misstate intent element of charged offense in closing so defense attorney's failure to object could not constitute ineffective assistance of counsel

People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]

Closing argument not given at penalty phase was tactical, application of *Strickland* standard was not objectively unreasonable

Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

Closing argument unfocused and undercut own client's case

Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Competence

U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151

U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005

People v. Shaw (1984) 35 Cal.3d 535 [198 Cal.Rptr. 788]

generally demanded of attorneys

U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576

tactical error results in incompetence

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Complete denial of counsel requires no showing of prejudice

People v. Ruiz (2023) 89 Cal.App.5th 324 [305 Cal.Rptr.3d 803]

Conceding cause of death

competent attorney would not have conceded the cause of death, where there were "tantalizing indications" that autopsy specimens had been contaminated, serious questions raised, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens

Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262

Conceding that his client was guilty of felony murder charge

People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]

Conflict of interest

United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078

People v. Hardy (1992) 2 Cal.4th 86, 135

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

Levenson v. Superior Court (1983) 34 Cal.3d 530, 538

People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]

People v. Amaya (1986) 180 Cal.App.3d 1 [225 Cal.Rptr. 313] active representation of conflicting interests deprives defendant of effective assistance of counsel

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

appellate counsel should not be placed in the untenable position of urging his own incompetency at the trial level

United States v. Del Muro (9th Cir. 1996) 87 F.3d 1078

People v. Bailey (1992) 9 Cal.App.4th 1252 [12 Cal.Rptr.2d 339]

attorney's performance unaffected by fee arrangement whereby attorney's fees were paid by the co-defendant

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

complete breakdown in communication with defendant

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

defendant deprived of effective assistance of counsel at preliminary hearing when his own attorney is being prosecuted by the same entity following his arrest by same officer

Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

defense attorney's "intimate" relationship with client found not to be a conflict

Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158

defense counsel and district attorney personal relationship

People v. Jackson (1985) 167 Cal.App.3d 829 [213 Cal.Rptr. 521]

defense counsel good friend of defendant's roommate who was also a suspect

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel left public defender's office and went to DA's office during case

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel testifies at penalty phase

People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

defense counsel told defendant that he needed psychiatric treatment when counsel denied the existence of a bail order, later produced by DA's office

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

defense counsel's actual conflict of interest was not adverse for ineffective assistance

U.S. v. Walter-Eze (9th Cir. 2017) 869 F.3d 891

defense counsel's prior attorney-client relationship with a co-defendant who is a witness for the prosecution may be a conflict of interest

Bonin v. Vasquez (1992) 794 F.Supp. 957

defense counsel's secretary dating plaintiff's attorney

Gregori v. Bank of America (1989) 207 Cal.App.3d 291 [254 Cal.Rptr. 853]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

denial of Sixth Amendment claim not unreasonable where defendant claimed irreconcilable conflict based on petitioner's dismissed lawsuit against the public defender's office and appointed pre-trial counsel

Foot v. Del Papa (9th Cir. (Nev.) 2007) 492 F.3d 1026
ineffective assistance based on attorney performance in unrelated case before the same judge

People v. Perez (2018) 4 Cal.5th 421 [229 Cal.Rptr.3d 303]

limited conflict does not taint defense counsel's entire representation of defendant

People v. Dancer (1996) 45 Cal.App.4th 1677 [53 Cal.Rptr.2d 282]

lump sum payment of fees and costs does not create inherent conflict

People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]

mere threat of malpractice suit against defense attorney insufficient to create actual conflict of interest

United States v. Moore (9th Cir. 1998) 159 F.3d 1154

no actual representation of conflicting interests when attorney was involved in his own unrelated legal matter

U.S. v. Baker (9th Cir. 2001) 256 F.3d 855

no ineffective assistance of counsel unless attorney's performance was adversely affected by the conflict of interest

Campbell v. Rice (9th Cir. 2005) 408 F.3d 1166

not found where alleged racial epithets were not used to describe appellant and did not affect representation

Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

potential irreconcilable conflict between attorney and client requires inquiry

Schell v. Witek (9th Cir. 2000) 218 F.3d 1017

public defender's prior representation of witness created conflict because of the inability of counsel to use the prior to impeach the witness, although, the conflict was not prejudicial, as counsel was able to impeach the witness with other convictions

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

test for entitlement to a hearing on a conflict of interest Sixth Amendment claim by habeas petitioner

U.S. v. Rodrigues (9th Cir. 2003) 347 F.3d 818

threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant

People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

waiver

Maxwell v. Superior Court (1982) 30 Cal.3d 606, 612 [180 Cal.Rptr. 177, 639 P.2d 248]

People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]

People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]

Alcocer v. Superior Court (1988) 206 Cal.App.3d 951 [254 Cal.Rptr. 72]

In re Darr (1983) 143 Cal.App.3d 500, 509 [191 Cal.Rptr. 882]

-court has latitude to remove counsel where potential conflict exists, over objection by defendant

People v. Jones (2004) 33 Cal.4th 234 [14 Cal.Rptr.3d 579]

-may waive right to conflict-free counsel so long as he understands the specific ramifications of his waiver

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

-no valid waiver found

Wheat v. U.S. (1988) 486 U.S. 153 [108 S.Ct. 1692]

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

People v. Peoples (1997) 51 Cal.App.4th 1592 [60 Cal.Rptr.2d 173]

-no waiver found

People v. Orozco (2010) 180 Cal.App.4th 1279 [103 Cal.Rptr.3d 646]

Conflict of interest not found

Foot v. Del Papa (9th Cir. (Nevada) 2007) 492 F.3d 1026

*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878

People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]

defendant's exclusion from in camera hearing related to defense counsel's potential conflict of interest constituted a structural error mandating a finding of prejudice

*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878

Constitutional requirement of competence

Olson v. Superior Court (1984) 157 Cal.App.3d 780, 790 [204 Cal.Rptr. 217]

Control of proceedings

People v. Cretsinger (1984) 160 Cal.App.3d 938, 947 [207 Cal.Rptr. 40]

Counsel's deficient performance prejudiced defendant

People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]

Court's failure to inquire into potential conflicts, requires defendant to establish that conflict adversely affected counsel's performance

Mickens v. Taylor (2002) 535 U.S. 1074 [122 S.Ct. 1237]

*Campbell v. Rice (9th Cir. 2001) 265 F.3d 878

Cross examination by defense counsel

order prohibiting counsel from sharing information in a sealed witness' declaration with his client did not hamper counsel's ability to impeach the witness

People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]

prior representation of government witness, who had offered to pay defendant's legal fees, impaired defense counsel's duty to fully cross examine witness

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

reinforcing prosecutors evidence

People v. Mastin (1981) 115 Cal.App.3d 978, 987 [171 Cal.Rptr. 780]

Cumulative effect of errors results in prejudice

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

Decision to not identify third party's DNA to the jury prejudiced defendant and constituted ineffective assistance of counsel

People v. Smothers (2021) 66 Cal.App.5th 829 [281 Cal.Rptr.3d 409]

Decision to place defendant on the stand

Allen v. Woodford (9th Cir. 2005) 395 F.3d 979

Decision to present testimony of court-appointed psychiatrist

People v. Haskett (1982) 30 Cal.3d 841, 864 [180 Cal.Rptr. 640, 640 P.2d 776]

Defendant counsel failed to read opponent's trial memorandum which contained the opening statement

Stewart v. C.I.R. (9th Cir. 1983) 714 F.2d 977

Defendant entitled to counsel free of conflicts

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

Lockhart v. Terhune (9th Cir. 2001) 250 F.3d 1223

U.S. v. Christakis (9th Cir. 2001) 238 F.3d 1164

In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]

*People v. Miramontes (1984) 161 Cal.App.3d 1108

Defendant not entitled to any specific appointed attorney

People v. Barr (1984) 159 Cal.App.3d 1129, 1146-1147 [206 Cal.Rptr. 331]

Defendant's agreement with counsel's tactical decision precludes ineffective assistance of counsel claim

Ames v. Endell (9th Cir. 1988) 856 F.2d 1441

Defendant's claim that attorney lacked professional experience did not constitute basis for granting new trial motion

People v. Hoyt (2020) 8 Cal.5th 892 [257 Cal.Rptr.3d 784]

Defendant's refusal to present a case in mitigation

People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

People v. Howard (1992) 1 Cal.4th 1132 [5 Cal.Rptr.2d 713]
 Defendant's right in criminal case to assistance of counsel
 California Constitution, Art. I, § 15
 Defense attorney's illness with Alzheimer's disease during criminal trial does not make counsel ineffective per se
Dows v. Wood (9th Cir. 2000) 211 F.3d 480
 Defense attorney's mistaken theory of liability no basis for reversal
United States v. Cruz-Mendoza (9th Cir. 1998) 147 F.3d 1069
 Defense attorney's performance was ineffective when attorney failed to adequately investigate, develop, and present mitigating evidence to the jury at the penalty phase of defendant's capital punishment trial
Washington v. Ryan (9th Cir. 2019) 922 F.3d 419
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
 Delay, defendant not prejudiced where counsel required time to adequately prepare
People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]
 Denial of effective assistance of counsel
People v. Barr (1984) 159 Cal.App.3d 1129, 1156-1158 [206 Cal.Rptr. 331]
 Dependency proceedings
 ineffective assistance of counsel claim requires showing of likelihood of more favorable ruling
In re Dawn L. (1988) 201 Cal.App.3d 35 [246 Cal.Rptr. 766]
 Disbarred or suspended attorney before trial began
 status of attorney at time of trial was not dispositive of ineffective assistance of counsel
U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054
 Dishonesty
 habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
 Disqualification
 *People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]
 Drug addiction is not per se ineffective assistance of counsel
Bonin v. Vasquez (1992) 794 F.Supp. 957
 Duty to consult with client about whether to appeal
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
 Duty to pursue meritorious defenses
People v. Monzingo (1983) 34 Cal.3d 926 [196 Cal.Rptr. 212]
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
 Effect of tactical decision
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
People v. Trotter (1984) 160 Cal.App.3d 1217, 1224-1226 [207 Cal.Rptr. 165]
 Entry of plea bargain
In re Artis (1982) 127 Cal.App.3d 699 [179 Cal.Rptr. 811]
 Erroneous advice
U.S. v. Day (9th Cir. 2002) 285 F.3d 1167
 Evidentiary hearing
 not required where claims were grounded in speculation, no mitigating evidence
Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006
 Ex parte communication between defendant attorney and sentencing court
People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]
 Excessive caseload and/or limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 Failure by public defender to introduce newly-discovered evidence
Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Failure of appellate defense attorney to file intelligible and supporting briefs has unreasonably interfered with and disrupted the orderly process of the appeal
People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
 Failure of counsel to point out to court that defendant had not been warned that prior conviction would constitute a strike where court presumed the defendant had been warned
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
 Failure of court to substitute appointed counsel
Gressett v. Superior Court (2010) 185 Cal.App.4th 114 [109 Cal.Rptr.3d 919]
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]
People v. Rhines (1982) 131 Cal.App.3d 498 [182 Cal.Rptr. 478]
People v. Missin (1982) 128 Cal.App.3d 1015 [180 Cal.Rptr. 750]
 Failure of defense counsel to assert objection to an erroneous prior enhancement constituted forfeiture of right to appeal and ineffective assistance of counsel
People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]
 Failure of defense counsel to disclose he was being prosecuted by same district attorney and was arrested by same police officer
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]
 Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel
Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095
 Failure on appeal to raise failure of trial counsel to request certain jury instruction
 *People v. Scobie (1973) 36 Cal.App.3d 97 [111 Cal.Rptr. 600]
 Failure to act as an advocate at the probation and sentence hearing
People v. Kozel (1982) 133 Cal.App.3d 507, 534 [184 Cal.Rptr. 208]
People v. Cropper (1979) 89 Cal.App.3d 716 [152 Cal.Rptr. 555]
 Failure to act on behalf of client at trial after defendant expressed desire to represent himself
 *People v. McKenzie (1983) 34 Cal.3d 616 [194 Cal.Rptr. 462, 668 P.2d 769]
 Failure to adequately consult with client
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]
 *People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]
 Failure to adequately investigate
Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Avila v. Galaza (9th Cir. 2002) 297 F.3d 911
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067
Johnson v. Baldwin (9th Cir. 1997) 114 F.3d 835

Thompson v. Calderon (C.D. Cal. 1997) 120 F.3d 1045
In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
People v. Spring (1984) 153 Cal.App.3d 1199, 1208 [200 Cal.Rptr. 849]
attorney declined trial court's offer of continuance to allow for investigation of new evidence
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
cause of death, "tantalizing indications" that autopsy specimens had been contaminated raised serious questions, additionally, an alternative cause of death was readily apparent and there had been a lapse in chain of custody of the autopsy specimens
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 1262
childhood abuse
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
childhood mitigation
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159
Bonin v. Vasquez (1992) 794 F.Supp. 957
confession
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
People v. Sanders (1990) 221 Cal.App.3d 350 [271 Cal.Rptr. 534]
crime scene
Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
defendant's physical condition
Caro v. Calderon (9th Cir. 1999) 165 F.3d 1223
delay, not deficient under professional standards
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
diminished capacity defense
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]
People v. Deere (1991) 53 Cal.3d 705 [808 P.2d 1181]
In re Sixto (1989) 48 Cal.3d 1247 [259 Cal.Rptr. 491]
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
due to excessive caseload and/or limited resources
-one investigator shared among 12 contract defenders
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
evidence of organic brain damage, head trauma, borderline mental retardation from transcript of previous trial and CYA records
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
inattention, not reasoned strategic judgment
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]

interview surviving witness
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
investigator not obtained
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
jailhouse informants
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
In re Jackson (1992) 4 Cal.4th 1107
mental impairment
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
mental condition
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
mental defenses and drug abuse
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
mitigating evidence
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
-carefully tailored to preserve exclusion of damaging evidence
Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]
pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
possibility of a defense based on mental incapacity
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Lambright v. Stewart (9th Cir. (Ariz.) 2001) 241 F.3d 1201
Hendricks v. Calderon (9th Cir. 1995) 64 F.3d 1340
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
In re Hwamei (1974) 37 Cal.App.3d 554 [112 Cal.Rptr. 464]
possible exculpatory circumstantial evidence
Jones v. Wood (9th Cir. (Wash.) 2000) 207 F.3d 557
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
potential alibi defense
In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]
potential exculpatory evidence
Cannedy v. Adams (9th Cir. 2013) 706 F.3d 1148
potential exculpatory evidence, medical evidence of alleged victim
In re Hill (2011) 198 Cal.App.4th 1008 [129 Cal.Rptr.3d 856]
reasonable professional judgment does not require interviewing all living relatives and therapists who treated defendant's parents
Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]
reward, whether witnesses knew that they would receive
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
serological evidence potentially exculpatory as to the penalty phase, although not to the conviction as there was other evidence placing the defendant at the crime scene
Duncan v. Ornoski (9th Cir. 2008) 528 F.3d 1222
social history
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
strategy only, not ineffective assistance
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
Failure to adequately investigate or prepare for penalty phase
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Andrews v. Davis (9th Cir. 2015) 798 F.3d 759
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979

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- Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
- Failure to adequately prepare for criminal trial
U.S. v. Tucker (9th Cir. 1983) 716 F.2d 576
- Failure to adequately research relevant law
 *People v. McDowell (1968) 69 Cal.2d 737 [71 Cal.Rptr. 1]
People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]
- Failure to advise client in immigration matters
Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
- Failure to advise client that making false statements on rental property application did not support conviction for making falsified financial statement
People v. 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 of consequences of guilty plea, record does not provide evidence of whether attorney was ineffective or not
U.S. v. Jeronimo (9th Cir. 2005) 398 F.3d 1149, 1155
- Failure to advise or inform client whether to accept plea bargain
Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]
- Failure to advise plea offer was an incorrect calculation of sentence enhancements
Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238
- Failure to advise that conviction rendered deportation virtually certain as opposed to advising of the potential for deportation constitutes ineffective assistance of counsel
U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]
- Failure to advise/misadvise regarding immigration consequences of guilty plea
Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]
U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205
U.S. v. Rodriguez-Vega (9th Cir. 2015) 797 F.3d 781
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005
People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]
In re Resendiz (2001) 25 Cal.4th 230 [105 Cal.Rptr.2d 431]
People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]
In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]
- People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
People v. Camacho (2019) 32 Cal.App.5th 998 [244 Cal.Rptr.3d 398]
People v. Espinoza (2018) 27 Cal.App.5th 908 [238 Cal.Rptr.3d 619]
People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]
People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]
People v. Aguilar (2014) 227 Cal.App.4th 60 [173 Cal.Rptr.3d 473]
People v. Chien (2008) 159 Cal.App.4th 1283 [72 Cal.Rptr.3d 448]
People v. Bautista (2004) 115 Cal.App.4th 229 [8 Cal.Rptr.3d 862]
 a person whose conviction is already final may not benefit from a new rule of criminal procedure on collateral review
Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]
U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151
 because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
 not shown when client signed a form with boilerplate language about immigration consequences of guilty plea
People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]
- Failure to anticipate that criminal offenses would be grouped together for sentencing and then failure to advise client to withdraw his plea agreement resulted in deficient performance
U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204
- Failure to appeal
In re Anthony J. (2004) 117 Cal.App.4th 718 [11 Cal.Rptr.3d 865]
- Failure to appear at pretrial status conference
U.S. v. Benford (9th Cir. 2009) 574 F.3d 1228
- Failure to argue all arguable issues
Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]
In re Spears (1984) 157 Cal.App.3d 1203, 1210-1211 [204 Cal.Rptr. 333]
- Failure to argue for dismissal of additional charges
People v. Santos (1990) 222 Cal.App.3d 723 [271 Cal.Rptr. 811]
- Failure to argue mitigating circumstances
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
- Failure to argue potentially meritorious defense
People v. Diggs (1986) 177 Cal.App.3d 958 [223 Cal.Rptr. 361]
- Failure to ascertain the truth of an allegation of a prior felony conviction
People v. Shells (1971) 4 Cal.3d 626 [94 Cal.Rptr. 275]
- Failure to assert client's right
People v. (2017) 7 Cal.App.5th 1261 [212 Cal.Rptr.3d 895]
People v. Amerson (1984) 151 Cal.App.3d 165 [198 Cal.Rptr. 678]
- Failure to assert diminished capacity defense
People v. Pensinger (1991) 52 Cal.3d 1210 [805 P.2d 899]
- Failure to assert prosecutorial misconduct claim (which court deemed meritless)
Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093
- Failure to assist client in providing substantial assistance to the government
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
- Failure to assure presence of a defense witness at trial
People v. Demerson (1970) 4 Cal.App.3d 263 [84 Cal.Rptr. 202]
- Failure to attack composition of jury
 *People v. Standifer (1974) 38 Cal.App.3d 733, 745 [113 Cal.Rptr. 653]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- Failure to brief best argument for appeal
United States v. Griffy (9th Cir. 1990) 895 F.2d 561
- Failure to bring motion
People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]
- Failure to call addictionologist during penalty phase was not deficient
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
- Failure to call certain witnesses
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
U.S. v. Gonzalez (9th Cir. 2012) 669 F.3d 974
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
In re Gay (2020) 8 Cal.5th 1059 [258 Cal.Rptr.3d 363]
In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]
People v. Mayfield (1993) 5 Cal.4th 142
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
*People v. Ottombrino (1982) 127 Cal.App.3d 574, 583 [179 Cal.Rptr. 674]
 defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138
 expert on unreliability of eyewitness testimony
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
 surviving victim of crime charged
Howard v. Clark (9th Cir. 2010) 608 F.3d 563
- Failure to call self-defense witnesses
Wilson v. Henry (9th Cir. 1999) 185 F.3d 986
- Failure to call the defendant to testify
People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]
- Failure to challenge improper ruling of court
People v. Davis (1984) 160 Cal.App.3d 970 [207 Cal.Rptr. 18]
- Failure to challenge suggestive lineup identifications on appeal
In re Smith (1970) 3 Cal.3d 192 [90 Cal.Rptr. 1]
- Failure to challenge witness' invocation of Fifth Amendment
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
- Failure to claim privilege in camera to admission of critical evidence
People v. Dorsey (1975) 46 Cal.App.3d 706, 718 [120 Cal.Rptr. 508]
- Failure to communicate plea bargain accurately
U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205
Nunes v. Mueller (9th Cir. 2003) 350 F.3d 1045
- Failure to communicate with client
Summerlin v. Schiro (9th Cir. 2005) 427 F.3d 623
U.S. v. Leonti (9th Cir. (Hawaii) 2003) 326 F.3d 1111
 court restricted defendant from conferring, consulting or communicating with counsel
People v. Hernandez (2009) 178 Cal.App.4th 1510 [101 Cal.Rptr.3d 414]
- Failure to communicate with client between arraignment and sentencing
People v. Goldman (1966) 245 Cal.App.2d 376 [53 Cal.Rptr. 810]
- Failure to communicate with non-English speaking clients
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
- Failure to consult and present experts in firearms evidence, serology and pathology, no prejudice shown therefore no need to decide whether counsel acted unreasonably
Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222
- Failure to consult blood evidence expert within wide range of reasonable professional assistance
Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]
- Failure to consult client about whether to appeal
Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029]
- despite appeal waivers, counsel's performance was deficient by disregarding defendant's express request for an appeal
Garza v. Idaho (2019) ___ U.S. ___ [139 S.Ct. 738]
United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216
- Failure to consult fingerprint expert
Schell v. Witek (1999) 181 F.3d 1094
- Failure to consult time of death expert regarding time of victim's death
In re Long (2020) 10 Cal.5th 764 [272 Cal.Rptr.3d 33]
- Failure to contact alleged alibi witness
Luna v. Cambra (9th Cir. 2002) 306 F.3d 954
Lord v. Wood (9th Cir. 1999) 184 F.3d 1083
In re 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 correct courts mistaken belief that defendant had been warned that prior conviction would constitute a strike
People v. Thimmess (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
- Failure to deny defendant's guilt during closing argument to the jury
People v. Wade (1987) 43 Cal.3d 366, 375-378 [233 Cal.Rptr. 48]
People v. Jackson (1980) 28 Cal.3d 264, 292 [168 Cal.Rptr. 603, 618 P.2d 149]
- Failure to develop relationship of trust with petitioner and his family
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
- Failure to disclose parole consequences of a guilty plea
Doganieri v. United States (9th Cir. 1990) 914 F.2d 165
- Failure to disclose various pre-sentence reports to expert neurologist
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
- Failure to elicit through cross-examination, that the witnesses knew they would receive a reward
Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099
- Failure to enter pleas of not guilty by reason of insanity
People v. Henning (2009) 178 Cal.App.4th 388 [100 Cal.Rptr.3d 419]
In re Kubler (1975) 53 Cal.App.3d 799 [126 Cal.Rptr. 25]
 withdrawal of insanity claim at NGI phase that had almost no chance of success
Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]
- Failure to examine court file on defendants prior conviction
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
- Failure to examine probation file before revocation hearing
People v. Gayton (2006) 137 Cal.App.4th 96 [40 Cal.Rptr.3d 40]
- Failure to exercise peremptory challenges
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982
- Failure to explain elements of not guilty by reason of insanity defense to jury in opening statement
Rogers v. Dzurenda (9th Cir. (Nevada) 2022) 25 F.4th 1171
- 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

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to file a notice of appeal after client requests to do so, even if client signed appeal waiver

United States v. Fabian-Baltazar (9th Cir. 2019) 931 F.3d 1216

Failure to file an opening brief

In re Gruanu (2008) 169 Cal.App.4th 997 [86 Cal.Rptr.3d 908]

Failure to file timely notice of appeal

Roe v. Flores-Ortega (2000) 528 U.S. 470 [120 S.Ct. 1029] due to abandonment by counsel

Brooks v. Yates (9th Cir. 2016) 818 F.3d 532

Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247

no presumed prejudice

Canales v. Roe (9th Cir. 1998) 151 F.3d 1226 [949 F.Supp. 762]

Failure to file written statement required by Penal Code section 1237.5

People v. Ivester (1991) 235 Cal.App.3d 328

Failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel

Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

Failure to give timely notice of motion to suppress evidence

People v. Lewis (1977) 71 Cal.App.3d 817, 821 [139 Cal.Rptr. 673]

Failure to have semen sample taken from victim subjected to genetic typing

People v. Wilson (1982) 128 Cal.App.3d 132 [179 Cal.Rptr. 898]

Failure to impeach witness

Reynoso v. Giurbino (9th Cir. 2006) 462 F.3d 1099

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

with expert on unreliability of eyewitness testimony

Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Failure to inform client of the possible defenses available

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]

trial counsel's failure to inform defendant of the defense of consent was not ineffective assistance of counsel

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

Failure to inform defendant that prior felony convictions that were admitted could be used to impeach him if he testified

People v. Hill (1976) 64 Cal.App.3d 16, 30 [134 Cal.Rptr. 443]

Failure to interview eyewitnesses

Avila v. Galaza (9th Cir. 2002) 297 F.3d 911

People v. Bess (1984) 153 Cal.App.3d 1053 [200 Cal.Rptr. 773]

surviving victim of crime charged

Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Failure to introduce evidence, defendant's statement to investigators

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

Failure to introduce evidence which did not result in undermining of confidence in the outcome

Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

Failure to introduce exculpatory evidence

Avila v. Galaza (9th Cir. 2002) 297 F.3d 911

Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067

Jones v. Wood (9th Cir. (Wash.) 2000) 207 F.3d 557

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

by interviewing and calling surviving victim of crime charged

Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Failure to investigate purported childhood sexual abuse

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

Failure to investigate/research

Jones v. Shinn (9th Cir. 2019) 943 F.3d 1211

Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843

Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103

Miranda v. Clark County, Nevada (9th Cir. (Nevada) 2003) 279 F.3d 1102

United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573

In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]

attorney was ineffective when he failed to seek psychological testing for a minor

Weeden v. Johnson (9th Cir. 2017) 854 F.3d 1063

client's competence to accept plea bargain while under the influence of prescribed pain killers

United States v. Howard (9th Cir. 2004) 381 F.3d 873

immigration consequences of guilty plea

People v. Vivar (2019) 43 Cal.App.5th 216 [256 Cal.Rptr.3d 443]

In re Hernandez (2019) 33 Cal.App.5th 530 [244 Cal.Rptr.3d 894]

People v. Ogunmowo (2018) 23 Cal.App.5th 67 [232 Cal.Rptr.3d 529]

Failure to make a closing argument

People v. Espinoza (1979) 99 Cal.App.3d 44 [159 Cal.Rptr. 803]

Failure to make all objections possible to prosecutor's questioning of witnesses

People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]

Failure to make an opening statement

Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100

People v. Hayes (1971) 19 Cal.App.3d 459, 471 [96 Cal.Rptr. 879]

Failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal

People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

Failure to make motions

People v. Saldana (1984) 157 Cal.App.3d 443, 459, 462-463 [204 Cal.Rptr. 465]

Failure to move for a change of venue

People v. Green (1980) 27 Cal.3d 1, 44 [164 Cal.Rptr. 1, 609 P.2d 468]

Failure to move for a continuance

People v. Adams (1974) 43 Cal.App.3d 697, 705 [117 Cal.Rptr. 905]

Failure to move for a dismissal of charges untimely raised in a superceding indictment

U.S. v. Palomba (9th Cir. 1994) 31 F.3d 1456

Failure to move for a mistrial following revelation of jurors' premature discussion of case

Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006

People v. Steger (1976) 16 Cal.3d 539, 551 [128 Cal.Rptr. 161]

Failure to move for a severance

People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]

People v. Reeder (1978) 82 Cal.App.3d 543, 556 [147 Cal.Rptr. 275]

People v. Campbell (1976) 63 Cal.App.3d 599, 613 [133 Cal.Rptr. 815]

People v. Simms (1970) 10 Cal.App.3d 299, 313 [89 Cal.Rptr. 1]

People v. Doebeke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]

Failure to move for acquittal during trial

no error when motion was obviously a losing motion

U.S. v. Ross (9th Cir. 2003) 338 F.3d 1054

Failure to move for substitution

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Failure to move for the identity of an informant to be disclosed

People v. Cooper (1979) 94 Cal.App.3d 672, 681 [156 Cal.Rptr. 646]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to move that victim be ordered to submit to psychiatric examination

People v. Belasco (1981) 125 Cal.App.3d 974 [178 Cal.Rptr. 461]

Failure to move to dismiss case based on precharging delay

People v. Booth (2016) 3 Cal.App.5th 1284 [209 Cal.Rptr.3d 1]

Failure to move to disqualify judge

People v. Beaumaster (1971) 17 Cal.App.3d 996, 1009 [95 Cal.Rptr. 360]

Failure to move to suppress evidence - Counsel not given opportunity to explain failure to renew suppression of evidence

Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165

Toomey v. Bunnell (9th Cir. 1990) 898 F.2d 741

People v. Martinez (1975) 14 Cal.3d 533 [121 Cal.Rptr. 611]

People v. Jenkins (1975) 13 Cal.3d 749, 753 [119 Cal.Rptr. 705]

People v. Ibarra (1963) 60 Cal.2d 460 [34 Cal.Rptr. 863]

People v. Hinds (2003) 108 Cal.App.4th 897 [134 Cal.Rptr. 196]

People v. Turner (1992) 7 Cal.App.4th 913

People v. Berry (1990) 224 Cal.App.3d 162 [273 Cal.Rptr. 509]

People v. Howard (1986) 182 Cal.App.3d 670, 674 [227 Cal.Rptr. 362]

People v. Shope (1982) 128 Cal.App.3d 816 [180 Cal.Rptr. 567]

People v. Shelburne (1980) 104 Cal.App.3d 737, 743 [163 Cal.Rptr. 767]

People v. Willis (1980) 104 Cal.App.3d 433, 439 [163 Cal.Rptr. 718]

*People v. Piper (1980) 103 Cal.App.3d 102, 106 [162 Cal.Rptr. 833]

People v. Perry (1979) 100 Cal.App.3d 251, 264 [161 Cal.Rptr. 108]

In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]

People v. Eckstrom (1974) 43 Cal.App.3d 996 [118 Cal.Rptr. 391]

People v. Constancio (1974) 42 Cal.App.3d 533, 539 [116 Cal.Rptr. 910]

In re Golia (1971) 16 Cal.App.3d 775, 779 [94 Cal.Rptr. 323]

*People v. Hoffmann (1970) 7 Cal.App.3d 39 [86 Cal.Rptr. 435]

Failure to move to suppress witness in-court identification of defendant

People v. Harpool (1984) 155 Cal.App.3d 877, 885 [202 Cal.Rptr. 467]

Failure to move to withdraw guilty plea

United States v. Alvarez-Tautimez (9th Cir. 1998) 160 F.3d 573

Failure to move to withdraw guilty pleas when court failed to treat offense as misdemeanor as part of a plea bargain

People v. Ham (1975) 44 Cal.App.3d 288, 292 [188 Cal.Rptr. 591]

Failure to move to withdraw where defender was provided inadequate investigative services by county

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

Failure to object and request an admonition on each occasion that hearsay evidence was offered which was admissible only against a co-defendant

People v. Doebke (1969) 1 Cal.App.3d 931, 937 [81 Cal.Rptr. 391]

Failure to object to a structural error, not a frivolous claim

United States v. Withers (9th Cir. 2010) 638 F.3d 1055

Failure to object to admission of confession

Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175

Failure to object to admission of evidence

Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159

Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

People v. Jackson (1980) 28 Cal.3d 264, 291 [168 Cal.Rptr. 603, 618 P.2d 149]

People v. Gordon (1982) 136 Cal.App.3d 519 [186 Cal.Rptr. 373]

People v. Frausto (1982) 135 Cal.App.3d 129 [185 Cal.Rptr. 314]

*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]

People v. Adams (1980) 101 Cal.App.3d 791 [162 Cal.Rptr. 72]

In re Lower (1979) 100 Cal.App.3d 144, 147 [161 Cal.Rptr. 24]

People v. Sundlee (1977) 70 Cal.App.3d 477 [138 Cal.Rptr. 834]

People v. Gaulden (1974) 36 Cal.App.3d 942, 952 [111 Cal.Rptr. 803]

People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]

Failure to object to admission of evidence of other crimes allegedly committed by defendant

People v. Lanphear (1980) 26 Cal.3d 814 [163 Cal.Rptr. 601, 608 P.2d 689]

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

People v. Stiltner (1982) 132 Cal.App.3d 216, 225 [183 Cal.Rptr. 790]

Failure to object to admission of identification made as result of an allegedly suggestive lineup

In re Banks (1971) 4 Cal.3d 337 [93 Cal.Rptr. 591, 482 P.2d 215]

People v. Mixon (1982) 129 Cal.App.3d 118 [180 Cal.Rptr. 772]

People v. Flores (1981) 115 Cal.App.3d 67, 80 [171 Cal.Rptr. 365]

Failure to object to admission of incriminating statements made by defendant

Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]

Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

In re Wilson (1992) 3 Cal.4th 945 [13 Cal.Rptr.2d 269]

People v. Green (1982) 134 Cal.App.3d 587 [184 Cal.Rptr. 652]

People v. Borba (1980) 110 Cal.App.3d 989 [168 Cal.Rptr. 305]

People v. Jones (1979) 96 Cal.App.3d 820 [158 Cal.Rptr. 415] to cellmate

People v. Whitt (1984) 36 Cal.3d 724 [205 Cal.Rptr. 810]

Failure to object to admission of *Miranda* waiver and subsequent statement

People v. Thomas (1974) 43 Cal.App.3d 862, 868 [118 Cal.Rptr. 226]

defendant's attorney was ineffective for failing to file suppression motion on *Miranda* grounds while defendant was in custody and interrogated by police

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]

Failure to object to admission of prior convictions

People v. Taylor (1990) 52 Cal.3d 719 [801 P.2d 1142]

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

Failure to object to filing of amended information

People v. Lavoie (2018) 29 Cal.App.5th 875 [240 Cal.Rptr.3d 825]

People v. Peyton (2009) 176 Cal.App.4th 642 [98 Cal.Rptr.3d 243]

Failure to object to improper impeachment of defendant by prosecutor

People v. Duran (1982) 132 Cal.App.3d 156 [183 Cal.Rptr. 99]

Failure to object to introduction into evidence of arguably suggestive pretrial identifications of defendant

People v. Nation (1980) 26 Cal.3d 169 [161 Cal.Rptr. 299, 604 P.2d 1051]

People v. Smith (1982) 134 Cal.App.3d 574 [184 Cal.Rptr. 765]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to object to jury instructions did not violate due process
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
 defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138

Failure to object to jury instructions given
People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]

Failure to object to motion to amend the information
People v. Robinson (2004) 122 Cal.App.4th 275 [18 Cal.Rptr.3d 744]

Failure to object to prejudicial judicial conduct
People v. Thimmes (2006) 138 Cal.App.4th 1207 [41 Cal.Rptr.3d 925]
People v. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]

Failure to object to prosecutor as witness and prosecutor's statements
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

Failure to object to prosecutor's closing argument commenting on defendant's decision not to testify
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]

Failure to object to prosecutor's misconduct defendant must establish trial attorney's performance was both deficient and prejudicial
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

Failure to object to prosecutor's prejudicial remarks during closing argument
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390

Failure to object to prosecutor's questions to defendant
People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

Failure to object to prosecutor's reference to inculpatory testimony
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440

Failure to object to prosecutorial misconduct
 defendant must establish trial attorney's performance was both deficient and prejudicial
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]

Failure to object to relevancy of drug use
Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190

Failure to object to service of juror not ineffective assistance of counsel
Kimes v. United States (9th Cir. 1991) 939 F.2d 776

Failure to object to testimony of witness, who identified defendant as killer in recording but changed story at trial, results in effective assistance
Griffin v. Harrington (9th Cir. 2013) 727 F.3d 940

Failure to object to the shackling of defendant during the trial
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
*People v. Pena (1972) 25 Cal.App.3d 414, 424 [101 Cal.Rptr. 804]

Failure to object to witness
 defendant must establish trial attorney's performance was both deficient and prejudicial
Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138

Failure to obtain blood test
People v. Ackerman (1991) 230 Cal.App.3d 1 [280 Cal.Rptr. 887]

Failure to obtain certificate of probable cause for appeal of conviction after guilty plea may result in dismissal
People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

Failure to obtain complete transcript of motion to suppress for purposes of appeal
People v. Barton (1978) 21 Cal.3d 513 [146 Cal.Rptr. 727, 579 P.2d 1043]

Failure to obtain DNA test in rape case did not constitute ineffective assistance of counsel
People v. Bravo (1993) 18 Cal.App.4th 1493

Failure to obtain investigator
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

Failure to participate in trial proceedings
People v. Shelly (1984) 156 Cal.App.3d 521 [202 Cal.Rptr. 874]

Failure to perform with reasonable competence
People v. Parsons (1984) 156 Cal.App.3d 1165, 1172-1173 [203 Cal.Rptr. 412]

Failure to persuade a defendant to plead guilty by insanity
People v. Geddes (1991) 1 Cal.App.4th 448

Failure to prepare
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Failure to prepare adequately for change of venue motion
In re Miller (1973) 33 Cal.App.3d 1005

Failure to prepare mental health expert at penalty phase
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

Failure to prepare witnesses
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834

Failure to present and explain to jury the significance of all mitigating evidence
Cox v. Ayers (9th Cir. 2010) 613 F.3d 883
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

Failure to present any mitigating evidence during death penalty phase of trial
Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]
Sanders v. Davis (9th Cir. 2022) 23 F.4th 966
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
Pinholster v. Ayers (9th Cir. 2008) 525 F.3d 742
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Summerlin v. Schriro (9th Cir. 2005) 427 F.3d 623
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
Stankewitz v. Woodford (9th Cir. 2004) 365 F.3d 706
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Wallace v. Stewart (9th Cir. 1999) 184 F.3d 1112
Clabourne v. Lewis (9th Cir. 1995) 64 F.3d 1373
Mak v. Blodgett (9th Cir. 1992) 970 F.2d 614
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
In re Lucas (2004) 33 Cal.4th 682 [16 Cal.Rptr.3d 331]
People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]
In re Visciotti (1996) 14 Cal.4th 325 [58 Cal.Rptr.2d 801]
In re Marquez (1992) 1 Cal.4th 584
People v. Jackson (1980) 28 Cal.3d 264, 293 [168 Cal.Rptr. 603]
People v. Durham (1969) 70 Cal.2d 171, 192 [74 Cal.Rptr. 262, 449 P.2d 198]
In re Jackson (1992) 4 Cal.App.4th 1107
People v. Diaz (1992) 2 Cal.App.4th 1275

chronic substance abuse
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982

did not constitute basis for granting new trial motion
People v. Hoyt (2020) 8 Cal.5th 892 [257 Cal.Rptr.3d 784]

evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]

evidence that is potentially cumulative, not necessary
Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

halfhearted mitigation only
Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

- no ineffective assistance of counsel when defendant makes informed, voluntary, and intelligent decision to forgo presenting mitigating evidence after defense counsel's extensive background examination pointing to mitigating facts
People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]
- Failure to present at jury trial defendant's own theories that the effect of tax laws did not render ineffective assistance of counsel
United States v. Cochrane (1993) 985 F.2d 1027
- Failure to present battered woman syndrome defense
In re Walker (2007) 147 Cal.App.4th 533 [54 Cal.Rptr.3d 411]
People v. Romero (1992) 15 Cal.App.4th 1519 [13 Cal.Rptr.2d 332]
- Failure to present diminished capacity defense
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Frierson v. Woodford (9th Cir. 2006) 463 F.3d 982
In re Cordero (1988) 46 Cal.3d 161, mod. 46 Cal.3d 795b [249 Cal.Rptr. 342]
People v. Haskett (1982) 30 Cal.3d 841, 852 [180 Cal.Rptr. 640, 640 P.2d 776]
*People v. Ramos (1982) 30 Cal.3d 553, 584-85 [180 Cal.Rptr. 266, 639 P.2d 908]
People v. Jackson (1980) 28 Cal.3d 264, 289 [168 Cal.Rptr. 603, 618 P.2d 149]
People v. Cook (1982) 135 Cal.App.3d 785, 795 [185 Cal.Rptr. 576]
People v. Stiltner (1982) 132 Cal.App.3d 216, 223 [183 Cal.Rptr. 790]
People v. Moringlove (1982) 127 Cal.App.3d 811, 821 [179 Cal.Rptr. 726]
- Failure to present evidence of childhood abuse
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
McGill v. Shinn (9th Cir. 2021) 16 F.4th 666
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
evidence of childhood sexual abuse could not have been discovered where defendant did not mention it until after conviction
In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]
- Failure to present evidence of mental instability
Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]
White v. Ryan (9th Cir. 2018) 895 F.3d 641
Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100
Lambright v. Schriro (9th Cir. 2007) 490 F.3d 1103
United States v. Howard (9th Cir. 2004) 381 F.3d 873
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
Lambright v. Stewart (9th Cir. (Ariz.) 2001) 241 F.3d 1201
Hendricks v. Vasquez (9th Cir. 1992) 974 F.2d 1099
Evans v. Bramlett (9th Cir. 1988) 855 F.2d 631
defendant not prejudiced by attorney's failure to present a mental state defense where proffered evidence does not undermine confidence in the jury's findings of guilt
Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095
failure to prevent client's guilty plea before client understood whether the case was defensible rendered potential mental state defense meaningless
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
- prejudicial
People v. O'Hearn (2020) 57 Cal.App.5th 280 [270 Cal.Rptr.3d 901]
- Failure to present evidence of pesticide and chemical exposure
Caro v. Woodford (9th Cir. 2002) 280 F.3d 1247
- Failure to present evidence of time and date of alibi
Alcala v. Woodford (9th Cir. 2003) 334 F.3d 862
- Failure to present evidence on ability to form intent necessary for first-degree murder
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
- Failure to present evidence when there is no demonstration of any substantial or credible evidence is not ineffective assistance
In re Cudjo (1999) 20 Cal.4th 673 [85 Cal.Rptr.2d 436]
- Failure to present exculpatory expert testimony on blood evidence
Richter v. Hickman (9th Cir. 2009) 578 F.3d 944
- Failure to present exculpatory statement
People v. Foster (1992) 6 Cal.App.4th 1 [7 Cal.Rptr.2d 748]
- Failure to present psychiatric testimony at guilt phase did not prejudice defendant at penalty phase
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
- Failure to present psychiatric testimony at penalty phases of capital cases did not constitute ineffective assistance of counsel
Pinholster v. Ayers (9th Cir. 2009) 590 F.3d 651
Bonin v. Calderon (9th Cir. 1996) 77 F.3d 1155
*Bonin v. Calderon (9th Cir. 1995) 59 F.3d 815
- Failure to present psychiatric testimony at penalty phase of capital case was ineffective assistance of counsel
White v. Ryan (9th Cir. 2018) 895 F.3d 641
Stankewitz v. Wong (9th Cir. 2012) 698 F.3d 1163
Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834
- Failure to press for specific finding on what evidence was to be suppressed
People v. Ellers (1980) 108 Cal.App.3d 943, 951 [166 Cal.Rptr. 888]
- Failure to prevent defendant from testifying
People v. Stiltner (1982) 132 Cal.App.3d 216, 227 [183 Cal.Rptr. 790]
- Failure to promptly bring a discovery motion to compel production of crucial defense witnesses
In re Schiering (1979) 92 Cal.App.3d 429 [154 Cal.Rptr. 847]
- Failure to protect marital privilege
Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121
- Failure to raise an ineffective assistance of counsel claim on direct appeal does not bar the claim from being brought in a later appropriate proceeding under Section 2255
Massaro v. United States (2003) 538 U.S. 500 [123 S.Ct. 1690]
United States v. Withers (9th Cir. 2010) 638 F.3d 1055
- Failure to raise contentions of arguable merit on appeal
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Lang (1974) 11 Cal.3d 134 [113 Cal.Rptr. 9]
In re Walker (1974) 10 Cal.3d 764, 782 [112 Cal.Rptr. 177]
- Failure to raise crucial defense
Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006
People v. Frierson (1979) 25 Cal.3d 142, 157 [158 Cal.Rptr. 281]
People v. Stanworth (1974) 11 Cal.3d 588, 607 [114 Cal.Rptr. 250]
In re Downs (1970) 3 Cal.3d 694 [91 Cal.Rptr. 612]
*People v. McDowell (1968) 69 Cal.2d 737 [73 Cal.Rptr. 1]
People v. Pinsky (1979) 95 Cal.App.3d 194 [157 Cal.Rptr. 13]
People v. Farley (1979) 90 Cal.App.3d 851, 864 [153 Cal.Rptr. 695]
In re Grissom (1978) 85 Cal.App.3d 840, 846 [150 Cal.Rptr. 96]
People v. Corona (1978) 80 Cal.App.3d 684 [145 Cal.Rptr. 894]
People v. Rodriguez (1977) 73 Cal.App.3d 1023 [141 Cal.Rptr. 118]
In re Miller (1973) 33 Cal.App.3d 1005 [109 Cal.Rptr. 648]
*People v. Welborn (1967) 257 Cal.App.2d 513 [65 Cal.Rptr. 8]
People v. Pineda (1967) 253 Cal.App.2d 443, 465 [62 Cal.Rptr. 144]
People v. Amado (1959) 167 Cal.App.2d 345 [334 P.2d 254]
autopsy specimen contamination was a possibility, further testing could have proven if it has occurred
Rossum v. Patrick (9th Cir. 2010) 622 F.3d 126

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Failure to raise defense of double jeopardy

People v. Belcher (1974) 11 Cal.3d 91, 101 [113 Cal.Rptr. 1]
People v. Medina (1980) 107 Cal.App.3d 364, 370 [165 Cal.Rptr. 622]

Failure to raise every defense

People v. Tirado (1984) 151 Cal.App.3d 341, 354-356 [198 Cal.Rptr. 682]

not required where almost no chance of success

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]

Failure to raise potentially meritorious defense

Jennings v. Woodford (9th Cir. 2002) 290 F.3d 1006

Brubaker v. Dickson (1962) 310 F.2d 30

People v. Collie (1981) 30 Cal.3d 43, 49-58 [177 Cal.Rptr. 458, 634 P.2d 534]

People v. Pope (1979) 23 Cal.3d 412 [152 Cal.Rptr. 732]

People v. Rhoden (1972) 6 Cal.3d 519 [99 Cal.Rptr. 751]

People v. Rosales (1984) 153 Cal.App.3d 353, 361-362 [200 Cal.Rptr. 310]

People v. Ceballos (1980) 107 Cal.App.3d 23, 27 [165 Cal.Rptr. 430]

People v. Zimmerman (1980) 102 Cal.App.3d 647 [161 Cal.Rptr. 669]

People v. Avalos (1979) 98 Cal.App.3d 701, 712 [159 Cal.Rptr. 736]

People v. Chapman (1975) 47 Cal.App.3d 597, 608 [121 Cal.Rptr. 315]

People v. Langley (1974) 41 Cal.App.3d 339, 348 [116 Cal.Rptr. 80]

People v. Cortez (1970) 13 Cal.App.3d 317, 327 [91 Cal.Rptr. 660]

People v. Saidi-Tabatabai (1970) 7 Cal.App.3d 981, 987 [86 Cal.Rptr. 866]

People v. Glover (1967) 257 Cal.App.2d 502, 507 [65 Cal.Rptr. 219]

not found

In re Alcox (2006) 137 Cal.App.4th 657 [40 Cal.Rptr.3d 491]

Failure to raise statute of limitations argument on appeal

People v. Rose (1972) 28 Cal.App.3d 415 [104 Cal.Rptr. 702]

Failure to request a crucial jury instruction

People v. Camden (1976) 16 Cal.3d 808 [129 Cal.Rptr. 438]

Failure to request jury instructions as to lesser offenses

People v. Allison (1966) 245 Cal.App.2d 568 [54 Cal.Rptr. 148]

Failure to require prosecution to elect

People v. Dunnahoo (1984) 152 Cal.App.3d 548 [199 Cal.Rptr. 542]

Failure to research the law

Hernandez v. Chappell (9th Cir. 2018) 878 F.3d 843

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

People v. Rosales (1984) 153 Cal.App.3d 353, 361 [200 Cal.Rptr. 310]

Failure to retain domestic violence expert to explain his girlfriend's effect on him

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

Failure to seek evidence

People v. Darwiche (1984) 152 Cal.App.3d 630, 643 [199 Cal.Rptr. 806]

Failure to seek severance

*People v. Ottombrino (1982) 127 Cal.App.3d 574, 582 [179 Cal.Rptr. 676]

Failure to stipulate intent not at issue

People v. Rios (1992) 7 Cal.App.4th 507

Failure to stipulate to prior felony convictions

People v. Kent (1981) 125 Cal.App.3d 207 [178 Cal.Rptr. 28]

Failure to subject the prosecution's case to meaningful adversarial testing

People v. Ruiz (2023) 89 Cal.App.5th 324 [305 Cal.Rptr.3d 803]

Failure to submit jury instructions on lesser included offenses

People v. Finney (1980) 110 Cal.App.3d 705, 711 [168 Cal.Rptr. 80]

Failure to subpoena a critical witness

People v. Williams (1980) 102 Cal.App.2d 1018, 1030 [162 Cal.Rptr. 748]

no ineffective assistance of counsel where public defender reasonably relies on professional courtesy between his office and prosecution's office regarding subpoenas

People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]

Failure to urge acceptance of favorable plea bargain

Perez v. Rosario (9th Cir. 2006) 459 F.3d 943

U.S. v. Day (9th Cir. 2002) 285 F.3d 1167

People v. Bennett (1988) 202 Cal.App.3d 816 [248 Cal.Rptr. 767]

Failure to use reasonable diligence

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Alberton v. State Bar (1984) 37 Cal.3d 1, 13-14 [206 Cal.Rptr. 373]

Schultz v. Harney (1994) 27 Cal.App.4th 1611, 1627

Fee agreement

lump sum payment of fees and costs does not create inherent conflict

People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]

Filing of "no issue brief"

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]

In re Joyleaf W. (1984) 150 Cal.App.3d 865 [198 Cal.Rptr. 114]

filing of no issue appellate brief so that court may determine whether appeal is frivolous may also be applied to minor in juvenile delinquency proceedings

In re Kevin S. (2003) 113 Cal.App.4th 97 [6 Cal.Rptr.3d 178]

Fourth Amendment

Ortiz-Sandoval v. Clarke (9th Cir. 2003) 323 F.3d 1165

counsel not ineffective when tactical choice made to forego

U.S. v. \$30,400 in U.S. Currency & Jeremiah Haskins (1993) 2 F.3d 328

Habeas relief sought based upon tainted prior state conviction which was used to enhance sentence

Evenstad v. United States (9th Cir. 1992) 978 F.2d 1154

Habitual disregard for needs of clients

In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]

In propria persona

advisory counsel

People v. Doane (1988) 200 Cal.App.3d 852 [246 Cal.Rptr. 366]

Inability of counsel to forthrightly admit deficient legal assistance or to withdraw when not provided with adequate support services. A principled public defender may lose her/his job

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

Inactive attorney

People v. Ngo (1996) 14 Cal.4th 30 [57 Cal.Rptr.2d 456]

In re Johnson (1992) 1 Cal.App.4th 689

People v. Hinkley (1987) 193 Cal.App.3d 383 [238 Cal.Rptr. 272]

absent showing of prejudice, inactive status does not result in ineffective assistance of counsel

People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]

Indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Insufficient declaration for appointment of second counsel under Keenan motion, no abuse of discretion found for denial of motion

People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

Jury instruction

Lankford v. Arave (9th Cir. (Idaho) 2006) 468 F.3d 578

Juvenile dependency proceeding father accused of sexual abuse is entitled to effective assistance of counsel

In re Emilye A. (1992) 9 Cal.App.4th 1695

Lack of commitment

People v. Davis (1978) 85 Cal.App.3d 916, 929 [149 Cal.Rptr. 777]

Lack of competence

inadequately advised client regarding possibility of deportation

U.S. v. Chan (9th Cir. 2015) 792 F.3d 1151

U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005

Lack of confidence by defendant in attorney's abilities

People v. Booker (1977) 69 Cal.App.3d 654, 668 [138 Cal.Rptr. 347]

Lack of diligence in preparation

Belmontes v. Ayers (9th Cir. 2008) 529 F.3d 834

People v. Jackson (1980) 28 Cal.3d 264, 288 [168 Cal.Rptr. 603]

In re Williams (1969) 1 Cal.3d 168 [81 Cal.Rptr. 784]

People v. Mayfield (1993) 5 Cal.App.4th 142

People v. Hisquierdo (1975) 45 Cal.App.3d 397, 403 [119 Cal.Rptr. 378]

*People v. Hoffman (1970) 7 Cal.App.3d 39

due to excessive caseload and limited resources

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Lack of experience in capital cases

Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181

Lack of zealous defense

Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976

Hart v. Gomez (9th Cir. 1999) 174 F.3d 1067

People v. Strickland (1974) 11 Cal.3d 946 [114 Cal.Rptr. 632, 523 P.2d 672]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

due to excessive caseload and limited resources

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

prior representation of government witness impaired defense counsel's duty to fully cross examine witness

Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989

Leading client to open door to wife's damaging testimony

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Legal invalidity defined

People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

Licensed attorneys who are not active members of the State Bar of California

effect on underlying matter

*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]

People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]

Gomez v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]

Loyalty to client

People v. Snow (2003) 30 Cal.4th 43 [132 Cal.Rptr.2d 271]

Mitigation strategy was factually unsupported and portrayed client inaccurately and unflatteringly

Visciotti v. Woodford (9th Cir. 2002) 288 F.3d 1097

Motion

evidence hearing not required in motion to vacate sentence because of ineffective assistance of counsel

Shah v. United States (9th Cir. 1989) 878 F.2d 1156

No ineffective assistance of counsel where both trial attorney and court explained consequences of plea and defendant plea as agreed

People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]

No right to counsel in habeas proceedings and hence no right to effective assistance of counsel

Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]

"No-merit brief" by appellate attorney does not violate constitutional right to effective assistance of counsel

Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]

"No-merit brief" by appellate attorney may violate constitutional right to effective assistance of counsel

*Davis v. Kramer (9th Cir. 1999) 167 F.3d 494

Not found

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct.551]

Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]

Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

United States v. Juliano (9th Cir. 2021) 12 F.4th 937

Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

Cox v. Ayers (9th Cir. 2010) 613 F.3d 883

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

In re Valdez (2010) 49 Cal.4th 715 [111 Cal.Rptr.3d 647]

People v. Tapia (2018) 26 Cal.App.5th 942 [237 Cal.Rptr.3d 572]

People v. Angel (2017) 9 Cal.App.5th 1107 [214 Cal.Rptr.3d 897]

People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]

People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

additional mitigating evidence would probably not have resulted in a different outcome, defendant's crimes, and priors were brutal, and other mitigating evidence of his organic brain dysfunction had failed to persuade jury to reach a different verdict, California Supreme Court decision was not unreasonable

Samayoa v. Ayers (9th Cir. 2011) 649 F.3d 919

at guilt phase

Mayfield v. Woodford (9th Cir. 2001) 270 F.3d 915

at probation revocation hearing

United States v. Edward E. Allen (9th Cir. 1998) 157 F.3d 661

defendant not prejudiced by attorney's failure to object to prosecutor's asking attorney to explain certain evidence

Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060

defendant not prejudiced by attorney's failure to present a mental state defense where proffered evidence does not undermine confidence in the jury's findings of guilt

Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095

defendant was not denied effective assistance of counsel because his counsel's decision to admit in opening statement to some of defendant's criminal wrongdoing

United States v. Fredman (9th Cir. 2004) 390 F.3d 1153

failure to advise client of collateral penalty (deportation)

U.S. v. Fry (9th Cir. (Nevada) 2003) 322 F.3d 1198

failure to argue and urge minimum sentence

People v. Jacobs (2013) 220 Cal.App.4th 67 [162 Cal.Rptr.3d 739]

failure to call expert on unreliability of eyewitness testimony

Howard v. Clark (9th Cir. 2010) 608 F.3d 563

failure to call self-defense witnesses

Wilson v. Henry (9th Cir. 1999) 185 F.3d 986

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

failure to conduct direct exam of witnesses because of perjury concern

People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr. 219]

failure to consult blood evidence expert

Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]

failure to establish that trial counsel failed to consult an expert or that such an expert would have been able to provide favorable testimony

McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

People v. Datt (2010) 185 Cal.App.4th 942 [111 Cal.Rptr.3d 132]

failure to focus on exculpatory evidence in closing is not ineffective assistance of counsel

Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

failure to impeach witness

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

failure to investigate and present diminished capacity defense not ineffective assistance of counsel

In re Avena (1996) 12 Cal.4th 694 [49 Cal.Rptr.2d 413]

failure to investigate and present evidence of defendant's childhood abuse

Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

failure to investigate and present mitigating evidence of mental disorders

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to investigate jailhouse informants

Plascencia v. Alameida (9th Cir. 2006) 467 F.3d 1190

failure to make arguments or file documents at automatic application to modify verdict stage is not error warranting reversal

People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

failure to object during opening and closing arguments

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

failure to object not necessary where prosecutor's statements were not found to be prosecutorial misconduct

People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]

failure to object to admonishment in jury's presence

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

failure to object to peremptory challenges by prosecutor

Carrera v. Ayers (9th Cir. 2012) 699 F.3d 1104

failure to object to prosecutor's closing argument commenting on defendant's decision not to testify

People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]

failure to obtain and review defendant's education and incarceration records

Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

failure to present case differently

United States v. Olson (9th Cir. 1991) 925 F.3d 1170

failure to present cumulative mitigating evidence was strategic

Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

Mayfield v. Calderon (9th Cir. 2000) 229 F.3d 895

failure to present evidence of mental illness at sentencing where medical history involved mix of both mitigating and incriminating factors

Daire v. Lattimore (9th Cir. 2015) 780 F.3d 1215

failure to present expert opinion testimony undermining prosecution's theory when it adds nothing to evidence already before jury

Ainsworth v. Calderon (9th Cir. 1998) 138 F.3d 77

People v. Adkins (2002) 103 Cal.App.4th 942 [127 Cal.Rptr.2d 236]

failure to raise issue of letter suppressed by prosecution regarding possible immunity for witness

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

failure to raise weak issues

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

U.S. v. Baker (9th Cir. 2001) 256 F.3d 855

In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]

failure to request competency hearing

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to seek a psychological evaluation of defendant

Washington v. Shinn (9th Cir. 2021) 46 F.4th 915

failure to show prejudice in light of staggering aggravating evidence

Sully v. Ayers (9th Cir. 2013) 725 F.3d 1057

failure to take positions contrary to law

In re Richardson (2011) 196 Cal.App.4th 647 [126 Cal.Rptr.3d 720]

failure to win suppression motion based on police interception of cordless telephone transmissions not ineffective assistance of counsel

People v. Chavez (1996) 44 Cal.App.4th 1144 [52 Cal.Rptr.2d 347]

humanizing evidence cumulative and more would have made little difference, and may have triggered admission of extremely damaging evidence

Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]

result of penalty phase would have been no different where petitioner failed to show casual connection between family environment and murder

In re Crew (2011) 52 Cal.4th 126 [127 Cal.Rptr.3d 285]

tactical decision to volunteer defendant's multiple prior convictions during direct examination

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

tactical decision to waive marital privilege

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

tactically justified concessions made during penalty phase, reasonable to establish credibility of defense counsel

People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]

when defendant makes informed, voluntary, and intelligent decision to forgo presenting mitigating evidence after defense counsel's extensive background examination pointing to mitigating facts

People v. Brown (2014) 59 Cal.4th 86 [172 Cal.Rptr.3d 576]

where ample evidence of crime existed

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

where attorney fails to anticipate changes in the law

United States v. Juliano (9th Cir. 2021) 12 F.4th 937

where counsel advised against plea and where *Marsden* motions were waived by defendant's plea of no contest

People v. Lovings (2004) 118 Cal.App.4th 1305 [13 Cal.Rptr.3d 710]

where counsel failed to object to the prosecutor's use of peremptory challenges

Carrera v. Ayers (9th Cir. 2012) 699 F.3d 1104

where defendant avers that counsel did not urge acceptance of plea offer based on prosecutor's mistaken belief regarding prior strike

Perez v. Rosario (9th Cir. 2006) 459 F.3d 943

where defense counsel conceded that his client was guilty of felony murder charge

People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]

withdrawal of insanity claim at NGI phase that had almost no chance of success

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

"Nothing to lose" standard

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Offering proof of client incompetence to stand trial over client objection

People v. Jernigan (2003) 110 Cal.App.4th 131 [1 Cal.Rptr.3d 511]

*People v. Bolden (1979) 99 Cal.App.3d 375

Penalty paid by counsel, appeal is moot

Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]

INEFFECTIVE ASSISTANCE OF COUNSEL IN CRIMINAL CASES

Penalty phase ineffective assistance of counsel
Sanders v. Davis (9th Cir. 2022) 23 F.4th 966

Permitting defendant to testify at preliminary hearing
People v. White (1981) 118 Cal.App.3d 767, 772

Plea bargain entered into by coercion
In re Vargas (2000) 83 Cal.App.4th 1125 [100 Cal.Rptr.2d 265]

"Plea bargain" not coercive unless counsel was aware of coercion
In re Ibarra (1983) 34 Cal.3d 277

Plea bargain, immigration consequences not explained to client
U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]
 because counsel informed defendant that her plea deal had potential to cause her to be removed from country and denied reentry, trial court properly denied motion to vacate plea and conviction
People v. Chen (2019) 36 Cal.App.5th 1052 [249 Cal.Rptr.3d 360]

Post indictment grand jury subpoena of target's counsel does not result in ineffective assistance of counsel
United States v. Perry (9th Cir. 1988) 857 F.2d 1346

Prejudice by defendant's counsel for alleged deficiencies is not necessary if counsel's performance is not deficient
LaGrand v. Stewart (9th Cir. 1998) 133 F.3d 1253

Presentation of "irrelevant" testimony
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

Psychiatrist used by defense counsel an exercise of appropriate professional judgment
Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

Public defender present at sentencing unfamiliar with defendant and facts of case
People v. Vattelli (1971) 15 Cal.App.3d 54, 61

Public defenders immune from suit
 Federal Civil Procedure section 1983
Glover v. Tower (9th Cir. 1983) 700 F.2d 556, 558
 exception to immunity
 -failure of deputy public defender to properly investigate information leading to defendant's innocence is not immunized under Government Code § 820.2
Barnes v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Public defender's office representing defendant had previously represented a witness in the case
People v. Anderson (1976) 59 Cal.App.3d 831, 843

Reduction of conviction makes allegation moot
People v. Spring (1984) 153 Cal.App.3d 1199, 1208

Refusal to allow defendant to testify
 *People v. Strawder (1973) 34 Cal.App.3d 370, 381 [108 Cal.Rptr. 901]

Remedy is to reoffer a plea agreement
Lafleur v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

Representation by different deputy public defenders at various stages of prosecution
People v. Martinez (1956) 145 Cal.App.2d 361, 366 [302 P.2d 643]

Request for new counsel
 request not required to come through current counsel – defendant may properly request
People v. Winbush (1988) 205 Cal.App.3d 987 [252 Cal.Rptr 722]

Requirements for establishing the ineffectiveness assistance of counsel
U.S. v. Gonzalez-Lopez (2006) 548 U.S. 140 [126 S.Ct. 2557]
Perry v. Leeke (1989) 488 U.S. 272 [109 S.Ct. 594]
Delaware v. Van Arsdell (1986) 475 U.S. 673 [106 S.Ct. 1431]
U.S. v. Cronin (1984) 466 U.S. 648 [104 S.Ct. 2039]
Geders v. U.S. (1976) 425 U.S. 80 [96 S.Ct. 1330]
People v. Ruiz (2023) 89 Cal.App.5th 324 [305 Cal.Rptr.3d 803]

Reversal
People v. Jerome (1984) 160 Cal.App.3d 1087, 1095-1096 [207 Cal.Rptr. 199]

Right of every criminal defendant
 adequacy of appointed counsel
People v. Torres (2018) 25 Cal.App.5th 162 [235 Cal.Rptr.3d 478]
People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]
People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

defendant denied effective assistance of counsel at preliminary hearing when his attorney failed to disclose that he himself was being prosecuted by same district attorney and was arrested by same police officer
Harris v. Superior Court (2014) 225 Cal.App.4th 1129 [170 Cal.Rptr.3d 780]

defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]

denial of defendant's motion for substitution of counsel without first conducting proper inquiry is abuse of discretion to effective assistance of counsel
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

involuntary waiver of right to counsel where defendant forced to choose between right to speedy trial and right to competent representation
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

Sixth Amendment requires effective assistance of counsel at critical stages of a criminal proceeding, including advice regarding plea offers
Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]
Lafleur v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

timely request to substitute retained counsel for court appointed counsel
People v. Stevens (1984) 156 Cal.App.3d 1119, 1129 [203 Cal.Rptr. 505]

to discharge retained counsel
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

to effective assistance of counsel
White v. Ryan (9th Cir. 2018) 895 F.3d 641
Daniels v. Woodford (9th Cir. 2005) 428 F.3d 1181
Lewis v. Mayle (9th Cir. 2004) 391 F.3d 989
McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233
Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]
People v. Freeman (2013) 220 Cal.App.4th 607 [163 Cal.Rptr.3d 222]
People v. Shelley (1984) 156 Cal.App.3d 521, 527-528 [202 Cal.Rptr. 874]
 -court had no sua sponte duty to ensure that defendant would be represented by qualified, effective counsel after defendant was made aware that chosen counsel did not meet standards for appointed counsel and court's offer to defendant to consult with independent counsel was declined
People v. Ramirez (2006) 39 Cal.4th 398 [46 Cal.Rptr.3d 677]

-criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

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Right to assistance of counsel implicated during period of client's incompetency

Rohan ex rel. Gates v. Woodford (9th Cir. 2003) 334 F.3d 803

Right to counsel

court's refusal to appoint indigent defendant's chosen attorney at re-sentencing did not violate due process

Gonzalez v. Knowles (9th Cir. 2008) 515 F.3d 1006

criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

defendant deprived entirely of legal counsel, denied right to attorney acting in the role of an advocate

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

does not attach at arrest or at an extradition hearing

Anderson v. Alameida (9th Cir. 2005) 397 F.3d 1175

during interrogation

People v. Manson (1980) 61 Cal.App.3d 102 [132 Cal.Rptr. 265]

new counsel – standard

People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d 564]

People v. Marsden (1970) 2 Cal.3d 118, 123 [84 Cal.Rptr. 156]

People v. Lucero (2017) 18 Cal.App.5th 532 [226 Cal.Rptr.3d 660]

People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]

People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]

to effective assistance of counsel

-waiver of right to counsel not effective if defendant must choose between right to speedy trial and right to competent representation

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

trial court was not required to appoint new counsel on remand on ineffective assistance grounds, absent request from defendant

People v. Lucero (2017) 18 Cal.App.5th 532 [226 Cal.Rptr.3d 660]

waiver of right

McCormick v. Adams (9th Cir. 2010) 621 F.3d 970

U.S. v. Gerritsen (9th Cir. 2009) 571 F.3d 1001

Role of defense attorney

People v. Horning (1984) 150 Cal.App.3d 1015, Mod. 152 Cal.App.3d 579a

Sentencing, not a factor in

U.S. v. Dibe (9th Cir. 2015) 776 F.3d 665

Single counsel representing co-defendants with conflicting interests

People v. Easley (1988) 46 Cal.3d 712 [250 Cal.Rptr. 855]

Gendron v. State Bar (1983) 35 Cal.3d 409 [197 Cal.Rptr. 590]

People v. Mroczko (1983) 35 Cal.3d 86 [197 Cal.Rptr. 52]

*People v. Hathcock (1973) 8 Cal.3d 599, 612 [105 Cal.Rptr. 540, 504 P.2d 457]

People v. Elston (1982) 130 Cal.App.3d 721 [182 Cal.Rptr. 30]

In re Noday (1981) 125 Cal.App.3d 507 [178 Cal.Rptr. 653]

People v. Angulo (1978) 85 Cal.App.3d 514 [148 Cal.Rptr. 517]

People v. Locklar (1978) 84 Cal.App.3d 224 [148 Cal.Rptr. 322]

People v. Karlin (1964) 231 Cal.App.2d 227 [41 Cal.Rptr. 786] LA 471

Sixth Amendment may require substitution

Schell v. Witek (1999) 181 F.3d 1094

People v. Stankewitz (1990) 51 Cal.3d 72 [793 P.2d 23]

Sixth Amendment rights not violated where co-defendant raised conflict of interest based on a mere theoretical division of loyalty

U.S. v. Wells (9th Cir. (Mont.) 2005) 394 F.3d 725

Standard of proof in malpractice cases

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

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Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]

Standard of review of ineffective assistance of counsel

Chaidez v. U.S. (2013) 568 U.S. 342 [133 S.Ct. 1103]

Missouri v. Frye (2012) 566 U.S. 133 [132 S.Ct. 1399]

Lafler v. Cooper (2012) 566 U.S. 156 [132 S.Ct. 1376]

Harrington v. Richter (2011) 562 U.S. 86 [131 S.Ct. 770]

Padilla v. Kentucky (2010) 559 U.S. 356 [130 S.Ct. 1473]

Porter v. McCollum (2009) 558 U.S. 30 [130 S.Ct. 447]

Wong v. Belmontes (2009) 558 U.S. 15 [130 S.Ct. 383]

Bobby v. Van Hook (2009) 558 U.S. 4 [130 S.Ct. 13]

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Rompilla v. Beard (2005) 545 U.S. 374 [125 S.Ct. 2456]

Florida v. Nixon (2004) 543 U.S. 175 [125 S.Ct. 551]

Holland v. Jackson (2004) 542 U.S. 649 [124 S.Ct. 2736]

Yarborough v. Gentry (2003) 540 U.S. 1 [124 S.Ct. 1]

Wiggins v. Smith (2003) 539 U.S. 510 [123 S.Ct. 2527]

Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]

Strickland v. Washington (1984) 466 U.S. 668, 687-693

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McGill v. Shinn (9th Cir. 2021) 16 F.4th 666

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Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

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Leavitt v. Arave (9th Cir. (Idaho) 2012) 682 F.3d 1138

U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204

Ben-Sholom v. Ayers (9th Cir. 2012) 674 F.3d 1095

Samayoa v. Ayers (9th Cir. 2011) 649 F.3d 919

United States v. Withers (9th Cir. 2010) 638 F.3d 1055

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 relief can only be obtained by establishing that the trial court's order prohibiting counsel from sharing information in a sealed witness' declaration affected the reliability of the trial process
People v. Hernandez (2012) 53 Cal.4th 1095 [139 Cal.Rptr.3d 606]
 showing of prejudice not necessary for reversal
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 Summation by defense counsel includes concession to jury that no reasonable doubt existed on factual issues in dispute
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 Suspension for non-payment of dues not enough to disqualify
People v. Garcia (1983) 147 Cal.App.3d 409 [195 Cal.Rptr. 138]
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Bell v. Cone (2002) 535 U.S. 685 [122 S.Ct. 1843]
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Brown v. Ornoski (9th Cir. 2007) 503 F.3d 1006
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
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People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
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People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]
client's claim of ineffective assistance of counsel fails when defense attorney, for tactical reasons, did not seek a time-value discount on victim's restitution claim
People v. Arce (2014) 226 Cal.App.4th 924 [172 Cal.Rptr.3d 364]
defense attorney made a strategic decision to address prosecutor's comments directly in closing arguments instead of objecting
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ineffective assistance found where tactical decision was made without adequate investigation
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Test: beyond reasonable doubt that no prejudice resulted
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deficient in representing defendant at plea stage
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Trial court denial of motion to substitute, denies right of effective assistance of counsel
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Trial court denial of motion to withdraw
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Trial record inadequate to show illegality of search
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Unauthorized practice of law
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Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Use of word "crazy" to characterize defendant not ineffective assistance because reference was followed by reasoned argument and was reasonable strategy

People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]

Volunteering defendant's multiple prior convictions during direct examination as a tactical decision found not to be ineffective assistance of counsel

People v. Mendoza (2000) 78 Cal.App.4th 918 [93 Cal.Rptr.2d 216]

Waiver of attorney-client privilege

Bittaker v. Woodford (9th Cir. 2003) 331 F.3d 715

McClure v. Thompson (9th Cir. (Or.) 2003) 323 F.3d 1233

People v. Andrade (2000) 79 Cal.App.4th 651 [94 Cal.Rptr.2d 314]

Waiver of marital privilege

Edwards v. Lamarque (9th Cir. 2007) 475 F.3d 1121

Waiver of right to appeal includes waiver of right to argue ineffective assistance of counsel

U.S. v. Nunez (9th Cir. 2000) 223 F.3d 956

plea agreement which contains waiver of right to appeal found unenforceable

Washington v. Lampert (9th Cir. (Or.) 2005) 422 F.3d 864

Waiving trial by jury

People v. Armenta (1972) 22 Cal.App.3d 823, 827 [99 Cal.Rptr. 736]

Warning defendant before jury of possibility of impeachment with prior felonies

People v. Stiltner (1982) 132 Cal.App.3d 216, 226 [183 Cal.Rptr. 790]

When defendant acts as co-counsel

People v. Spencer (1984) 153 Cal.App.3d 931, 935-940

Withdrawal of guilty plea

In re Artis (1982) 127 Cal.App.3d 699

on basis on ineffective assistance of counsel

U.S. v. Rodriguez (9th Cir. 2022) 49 F.4th 1205

People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]

Withdrawal of plea bargain—no coercion found

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

trial counsel's failure to inform defendant of the defense of consent was not ineffective assistance of counsel

People v. Montoya (2021) 68 Cal.App.5th 980 [284 Cal.Rptr.3d 18]

Withdrawal of insanity claim at NGI phase that had almost no chance of success

Knowles v. Mirzayance (2009) 556 U.S. 111 [129 S.Ct. 1411]

Withdrawal of nolo contendere plea

People v. Johnson (2009) 47 Cal.4th 668 [101 Cal.Rptr.3d 332]

People v. Maguire (1998) 67 Cal.App.4th 1022 [79 Cal.Rptr.2d 573]

People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]

Withdrawal of skilled co-counsel prejudices criminal defendant

People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]

Writ filed in Superior Court for factual determination of issues

People v. Munoz (1984) 157 Cal.App.3d 999 [204 Cal.Rptr. 271]

INEFFECTIVE ASSISTANCE OF COUNSEL IN NON-CRIMINAL CASES

Family law cases

may not claim ineffective assistance during dissolution proceeding

In re the Marriage of Campi (2013) 212 Cal.App.4th 1565 [152 Cal.Rptr.3d 179]

Immigration cases

abuse of discretion

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

attorney's IAC was exceptional circumstance, where attorney's secretary gave client wrong appearance date, BIA abused discretion in denying petitioner's motion to reopen

Lo v. Ashcroft (9th Cir. 2003) 341 F.3d 934

attorneys' inadequate assistance denied petitioner the opportunity to present his case at all

Ray v. Gonzales (9th Cir. 2006) 439 F.3d 582

client coerced into accepting volunteer departure under threat of counsel's withdrawal

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

counsel filed ultimately worthless motions, before the wrong court, and without filing fee

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

counsel's unreasonable failure to investigate and present the factual and legal basis on asylum claim would itself amount to ineffective assistance of counsel; violation of Fifth Amendment right to due process

Lin v. Ashcroft (9th Cir. 2004) 377 F.3d 1014

denial of due process only if the proceeding was so fundamentally unfair that the alien was prevented from reasonably presenting his case

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

Torres-Chavez v. Holder (9th Cir. 2009) 567 F.3d 1096

Granados-Oseguera v. Gonzales (9th Cir. 2008) 546 F.3d 1011

Morales v. Mukasey (9th Cir. 2008) 514 F.3d 893

Ray v. Gonzales (9th Cir. 2006) 439 F.3d 582

Yeghiazaryan v. Gonzales (9th Cir. 2005) 431 F.3d 678

Maravilla v. Ashcroft (9th Cir. 2004) 381 F.3d 855

Reyes v. Ashcroft (9th Cir. 2004) 358 F.3d 592

Lozada v. I.N.S. (9th Cir. 1988) 857 F.2d 10

equitable tolling of filing deadline

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993

exemption from statute of limitations period

-not found

Tamang v. Holder (9th Cir. 2010) 598 F.3d 1083

failure to adequately advise clients in immigration matters

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

Ghahremani v. Gonzales (9th Cir. 2007) 498 F.3d 993

U.S. v. Kwan (9th Cir. 2005) 407 F.3d 1005

People v. Kim (2009) 45 Cal.4th 1078 [90 Cal.Rptr.3d 355]

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

failure to comply with Lozada requirement to provide proof of complaint filed with appropriate disciplinary authorities

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

failure to file a brief, resulting in dismissal of appeal

Singh v. Gonzales (9th Cir. 2005) 416 F.3d 1006

failure to file a petition for review or a motion to reopen

Granados-Oseguera v. Gonzales (9th Cir. 2008) 546 F.3d 1011

failure to file timely notice of appeal

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033

Siong v. Immigration and Naturalization Service (9th Cir. 2004) 376 F.3d 1030

failure to file timely petition for review of Board of Immigration

Dearinger v. Reno (9th Cir. 2000) 232 F.3d 1042

failure to introduce sufficient evidence of petitioner's physical presence in the US and unusual hardship.

Morales v. Mukasey (9th Cir. 2008) 514 F.3d 893

lawyer's error results in alien being denied his right to appeal as "presumption of prejudice"

Salazar-Gonzalez v. Lynch (9th Cir. 2016) 798 F.3d 917

lawyer's incorrect analysis of new rules was not ineffective assistance of counsel

Lara-Torres v. Ashcroft, Lara-Torres v. Gonzalez (9th Cir. 2004) 383 F.3d 968

no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel

Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014

no plausible grounds for relief shown, no valid claim of due process ineffective assistance of counsel

Serrano v. Gonzales (9th Cir. 2006) 469 F.3d 1317

People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]

petitioner must first exhaust administrative remedies, petition to reopen required before hearing on IAC

Singh v. Napolitano (9th Cir. 2010) 649 F.3d 899

petitioner not entitled to relief where counsel had failed to file a "notice of appearance" and was therefore not considered petitioner's counsel, even though counsel was retained and had filed a brief on petitioner's behalf

Singh v. Immigration and Naturalization Service (2003) 315 F.3d 1186

prejudice to client

Salazar-Gonzalez v. Lynch (9th Cir. 2015) 798 F.3d 917

U.S. v. Lopez-Chavez (9th Cir. 2014) 757 F.3d 1033

Correa-Rivera v. Holder (9th Cir. 2013) 706 F.3d 1128

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

prima facie case that counsel's performance was flawed but prejudice to client not shown

Iturbarria v. I.N.S. (9th Cir. 2003) 321 F.3d 889

repeated mistakes, compounded by inability to recognize the import of errors are the epitome of ineffective assistance

Singh v. Holder (9th Cir. 2011) 658 F.3d 879

to show prejudice in ineffective assistance of counsel, the petitioner only needs to show plausible grounds for relief and need not substantially support his claim in his motion to reopen

Flores v. Barr (9th Cir. 2019) 930 F.3d 1082

No plausible grounds for relief shown, no valid claim of due process ineffective assistance of counsel

Serrano v. Gonzales (9th Cir. 2006) 469 F.3d 1317

People v. Olivera (2018) 24 Cal.App.5th 1112 [235 Cal.Rptr.3d 200]

Parental rights

failure to file timely appeal

In re A.R. (2021) 11 Cal.5th 234 [276 Cal.Rptr.3d 761]

failure to take steps to establish

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

no ineffective assistance where counsel informed the court of the conflict between minor's stated interest and what counsel believed was minor's best interests

In re Kristen B. (2008) 163 Cal.App.4th 1535 [78 Cal.Rptr.3d 495]

parent may raise ineffective assistance of counsel claim by habeas corpus petition to contest parental rights termination

In re Carrie M. (2000) 90 Cal.App.4th 530 [108 Cal.Rptr.2d 856]

parent may raise ineffective assistance of counsel claim by Welfare and Institutions Code § 388 petition

In re Jackson W. (2010) 184 Cal.App.4th 247 [108 Cal.Rptr.3d 509]

Standard of review

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Yeghiazaryan v. Gonzales (9th Cir. 2005) 431 F.3d 678

In re O.S. (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

INTEREST [See Client trust account, interest bearing accounts. Fee, charging interest, financing.]

Expense of interest on short term loans is not ordinary and necessary business expense

Margolis v. U.S. (N.D. Cal. 1983) 570 F.Supp. 170, 175

On client's funds

Brown v. Legal Foundation of Washington (2003) 538 U.S. 216 [123 S.Ct. 1406]

Phillips v. Washington Legal Foundation (1998) 524 U.S. 156 [118 S.Ct. 1925]

LA(I) 1961-7

INTERFERENCE WITH PROSPECTIVE ADVANTAGE

SF 1970-3

On partnership assets

Jewel v. Boxer (1984) 156 Cal.App.3d 171, 181 [203 Cal.Rptr. 13]

On unpaid fees

California Constitution Art. 15

Usury § 1, par. 2

CAL 1980-53, SD 1983-1

Prejudgment interest rate is set by state in which court sits

Shakey's Inc. v. Covalt (9th Cir. 1983) 704 F.2d 426

Turner v. Japan Lines, Ltd. (9th Cir. 1983) 702 F.2d 752, 757

INTERFERENCE WITH PROSPECTIVE ADVANTAGE [See Practice of law.]

INVOLUNTARY ENROLLMENT AS AN INACTIVE MEMBER OF THE STATE BAR

Business and Professions Code section 6007

JUDGE [See Court. Letterhead. Political activity. Public office.]

California Code of Judicial Conduct

Canon 3D(2) imposes on judges mandatory reporting requirements to the State Bar regarding lawyer misconduct

Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]

California Constitution Article VI, section 18(a)

Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451 [110 Cal.Rptr. 713, 516 P.2d 1]

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

*Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]

Abuse of discretion

found in trial court's rejection of plea bargain in the absence of any stated justification

People v. Loya (2016) 1 Cal.App.5th 932 [205 Cal.Rptr.3d 231]

found when court removed the public defender in a juvenile proceeding absent showing that minor was not indigent or a conflict existed

Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]

resentencing alone will not be full redress for the constitutional injury; defendant entitled to be returned to pre-plea stage and proceed under the correctly calculated sentencing range

Johnson v. Uribe (9th Cir. 2012) 682 F.3d 1238

Administrative Law Judge

law firm retained by school district personnel commission cannot substitute for ALJ

Absmeier v. Simi Valley Unified School District (2011) 196 Cal.App.4th 311 [126 Cal.Rptr.3d 237]

-party cannot be compelled to accept a decision upon the facts a judge who did not hear the evidence in the case

Absmeier v. Simi Valley Unified School District (2011) 196 Cal.App.4th 311 [126 Cal.Rptr.3d 237]

Admonishment

comments at sentencing reflected a biased and insensitive view about sexual assault

Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22

dismissal where substantial evidence of wrongful conduct

Fisher v. State Personnel Board (2018) 25 Cal.App.5th 1 [235 Cal.Rptr.3d 382]

undignified and discourteous remarks to family law litigants

In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999

Appeal premature until remedies exhausted for complaints of judicial misconduct

In re Charge of Judicial Misconduct (9th Cir. Judicial Council 1983) 700 F.2d 1391

As witness

Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]

Attorney as temporary judge, referee, or court-appointed arbitrator

Rule 1-710, Rules of Professional Conduct (effective March 18, 1999)

Attorney fees, setting unreasonable amounts

Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 48-51 [207 Cal.Rptr. 171]

Authority

disqualify law firm

Chambers v. Superior Court (1981) 121 Cal.App.3d 893, 900-902 [175 Cal.Rptr. 575]

limits on

Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 55-59 [207 Cal.Rptr. 171]

-under CCP § 664.6, the court's authority is to either approve or disapprove a settlement agreement but not to modify its' terms

Leeman v. Adams Extract & Spice, LLC (2015) 236 Cal.App.4th 1367 [187 Cal.Rptr.3d 220]

to impose sanctions by referee in juvenile proceedings

In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]

Bias, appearance of, and prejudice of

Code of Civil Procedure section 170

Rothstein v. Superior Court (2016) 3 Cal.App.5th 424 [207 Cal.Rptr.3d 616]

Bates v. Rubio's Restaurants Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

Rossco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]

First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]

In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

announced bias or prejudice

Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct. 1899]

Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158

Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075

Pratt v. Pratt (1903) 141 Cal. 247, 250-251

Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]

Hall v. Harker (1999) 69 Cal.App.4th 836

People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]

In re Henry C. (1984) 161 Cal.App.3d 646, 654 [207 Cal.Rptr. 751]

In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr. 451]

People v. Deutschman (1972) 23 Cal.App.3d 559, 566

[100 Cal.Rptr. 330]

-judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process

Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]

-judicial disqualification under due process clause requires a probability of actual bias that is too high to be constitutionally tolerable

People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]

People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]

comments at sentencing reflected a biased and insensitive view about sexual assault

Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22

- comments to family law litigants reflected bias or prejudice
In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999
- effect on rulings
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
- no bias nor lack of impartiality when court commissioner agrees to officiate litigant's counsel's wedding
Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]
- not found, where judge did not feel threatened by defendant
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
- not found, where the record fails to demonstrate bias
Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]
- Board of directors
 permits use of name
 -as member
 LA 116 (1937)
 -as officer
 LA 116 (1937)
 serving as member of
 LA 116 (1937)
- Bribes
 judge accepted
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Censure
 causes for
 -conduct prejudicial to the administration of justice that brings the judicial office into disrepute
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
In re Norman W. Gordon (1996) 13 Cal.4th 472 [53 Cal.Rptr.2d 788]
In re Rasmussen (1987) 43 Cal.3d 536 [236 Cal.Rptr. 152]
In re Stevens (1981) 28 Cal.3d 873 [172 Cal.Rptr. 676, 625 P.2d 219]
In re Glickfield (1971) 3 Cal.3d 891 [92 Cal.Rptr.278, 479 P.2d 638]
In re Chargin (1970) 2 Cal.3d 617 [87 Cal.Rptr. 709, 471 P.2d 29]
 -failure to perform duties within the meaning of Cal. Constitution, Art. VI, section 18
Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]
Fitch v. Commission on Judicial Performance (1995) 9 Cal.4th 552 [37 Cal.Rptr.2d 581]
In re Jensen (1978) 24 Cal.3d 72 [152 Cal.Rptr. 503, 593 P.2d 200]
 -former judge is barred from receiving an assignment, appointment, or reference of work from any California court
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
 -injudicious conduct
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512 [116 Cal.Rptr. 260, 526 P.2d 268]
 -participation in negotiations for employment as dispute resolution neutral
Rosco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]
 -publicly commenting on pending cases
Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
Soliz v. Williams (1999) 74 Cal.App.4th 577 [88 Cal.Rptr.2d 184]
 -willful misconduct in office
In the Matter Concerning Judge Scott Steiner (2014) 2014 DJDAR 12197
In the Matter Concerning Judge Cory Woodward (2014) 2014 DJDAR 12203
- Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]
Doan v. Commission on Judicial Performance (1995) 11 Cal.4th 294 [45 Cal.Rptr.2d 254]
Adams v. Commission on Judicial Performance (1994) 8 Cal.4th 630 [34 Cal.Rptr.2d 641; 882 P.2d 358]
Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr. 100]
In re Chavez (1973) 9 Cal.3d 846 [109 Cal.Rptr. 79, 512 P.2d 303]
In re Sanchez (1973) 9 Cal.3d 844 [109 Cal.Rptr. 78, 512 P.2d 302]
 Commission on Judicial Performance (formerly Commission on Judicial Qualifications)
 confidentiality of proceedings
Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
 disclosure of the votes of individual commission members on issues of judicial discipline following formal proceeding
The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258
 judge is publicly admonished for treating attorneys in sarcastic and belittling manner while presiding over civil cases
Public Admonishment of Judge Ronald M. Sohigian (2014) 2014 DJDAR 5984
 jurisdiction [See Scope of authority.]
 -location of hearings
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520-521 [116 Cal.Rptr. 260, 526 P.2d 268]
 membership
 -propriety of lay persons on commission
McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp.1, 11-12 [138 Cal.Rptr. 459, 564 P.2d 1]
 moral turpitude
Adams v. Commission on Judicial Performance (1994) 8 Cal.4th 630 [34 Cal.Rptr.2d 641]
 procedure
 -discovery
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 520 [116 Cal.Rptr. 260, 526 P.2d 268]
 -notice, effect of procedural defect
*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 519-520 [116 Cal.Rptr. 260, 526 P.2d 268]
 purpose is protection of the public, enforcement of rigorous standards of judicial conduct, and the maintenance of public confidence in the integrity of the judicial system
Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15
 qualified to act as judge pro tempore
 -may do so only on stipulation of all parties
Yetenian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]
 requirement under Proposition 190 to disclose the votes of individual commission members in disciplinary proceeding against a judge
The Recorder v. Commission on Judicial Performance (1999) 72 Cal.App.4th 258
 review of findings/recommendations by Supreme Court
 -power to make independent findings of fact/impose sanctions
Fitch v. Commission on Judicial Performance (1995) 9 Cal.4th 552 [37 Cal.Rptr.2d 581]
Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 782-784 [119 Cal.Rptr. 841, 532 P.2d 1209]

JUDGE

*McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 521-531 [116 Cal.Rptr. 260, 526 P.2d 268]

Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270 [110 Cal.Rptr. 201, 515 P.2d 1]

Stevens v. Commission on Judicial Qualifications (1964) 61 Cal.2d 886 [39 Cal.Rptr. 397, 393 P.2d 709]

scope of authority

Broadman v. Commission on Judicial Performance (1998) 18 Cal.4th 1079 [77 Cal.Rptr.2d 408]

Mosk v. Superior Court (1979) 25 Cal.3d 474 [159 Cal.Rptr. 494, 601 P.2d 1030]

Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275-276 [110 Cal.Rptr. 201, 515 P.2d 1]

Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

-power to compel testimony

McComb v. Superior Court (1977) 68 Cal.App.3d 89 [137 Cal.Rptr. 233]

Communication with judicial officers

about court clerk

SF 1973-2

about pending matter

LA(l) 1979-2

-judge engaged in improper ex parte conversations

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

-judge had discussions and resolved son's case in nonpublic areas of the courthouse and outside the normal process, the judge created an appearance of impropriety which undermines public confidence in the impartiality of the judiciary

Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

-not within the compass of the term "judicial officer"

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

another judge regarding the case

People v. Hernandez (1984) 160 Cal.App.3d 725, 738-740, 744-751 [206 Cal.Rptr. 843]

-impermissible even if attorney is not counsel

LA(l) 1979-2

-permissible when no case is pending

People v. Laue (1982) 130 Cal.App.3d 1055 [182 Cal.Rptr. 99]

by attorney

-ex parte

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

Snyder v. State Bar (1976) 18 Cal.3d 286, 288-294 [133 Cal.Rptr. 864, 555 P.2d 1104]

Heavey v. State Bar (1976) 17 Cal.3d 553, 555-560 [131 Cal.Rptr. 406, 551 P.2d 1238]

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

LA 387 (1980), SD 2013-2

by prosecutor

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

ex parte discussion with

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

-judge engaged in improper ex parte conversations

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

-listserv

LA 514 (2005)

-rehabilitation consultant

CAL 1985-85

filing briefs

-without knowledge of opposing counsel

LA 56 (1928)

hearing officer/administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

CAL 1984-82

judge is disqualified for speaking to previous judge who was disqualified

Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]

publication of article regarding pending case

LA 451 (1988), LA 343 (1974)

socializing outside the work environment

OC 94-001

upon merits of a contested issue over which he presides in absence of opposing counsel

Rule 7-108, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-300, Rules of Professional Conduct (operative as of May 27, 1989)

In re Winnetka V. (1980) 28 Cal.3d 587, 592-593 and n.5 [169 Cal.Rptr. 713, 620 P.2d 163]

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864]

Heavey v. State Bar (1976) 17 Cal.3d 553 [131 Cal.Rptr. 406]

In re Darrell P. (1981) 121 Cal.App.3d 916 [175 Cal.Rptr. 682]

In re Jonathan S. (1979) 88 Cal.App.3d 468, 470-472 [151 Cal.Rptr. 810]

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

SD 2013-2

-contested issue construed

People v. Laue (1982) 130 Cal.App.3d 1055, 1058-1062 [182 Cal.Rptr. 99]

while case is pending judge engaged in improper ex parte conversations

Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

CAL 1984-78

with jury

People v. Garcia (1984) 160 Cal.App.3d 82, 88-89 [206 Cal.Rptr. 468]

-district court's failure to notify defense counsel about jury note and to give counsel opportunity to be heard before court responds violates rule requiring defendant's presence at every trial stage

U.S. v. Martinez (9th Cir. 2017) 850 F.3d 1097

Compelled retirement [See Retirement and Retirement benefits.] Conduct

prejudicial conduct insufficient to support recommendation of sanctions

People v. Rigney (1961) 55 Cal.2d 236 [10 Cal.Rptr. 625, 359 P.2d 23]

People v. Black (1957) 150 Cal.App.2d 494 [310 P.2d 472]
People v. Lancellotti (1957) 147 Cal.App.2d 723 [305 P.2d 926]
 *People v. Huff (1955) 134 Cal.App.2d 182 [285 P.2d 17]
People v. Deacon (1953) 117 Cal.App.2d 206 [255 P.2d 98]
Etzel v. Rosenbloom (1948) 83 Cal.App.2d 758 [189 P.2d 848]
People v. Williams (1942) 55 Cal.App.2d 696 [131 P.2d 851]
 *People v. Montgomery (1941) 47 Cal.App.2d 1 [117 P.2d 437]

Contempt, power to punish for contempt
 Code of Civil Procedure section 178

Court proceedings
 radio broadcast of
 LA 88 (1935)

Defendant's right to have trial completed does not outweigh
 judge's duty to disqualify himself
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245, 1249

Discipline
 judge is publicly admonished for treating attorneys in sarcastic
 and belittling manner while presiding over civil cases
Public Admonishment of Judge Ronald M. Sohigian (2014)
 2014 DJDAR 5984
 limitations on, grounds for
Gubler v. Commission on Judicial Performance (1984) 37
 Cal.3d 27, 47-48 [207 Cal.Rptr. 171]

Discipline and removal of judges [See 53 A.L.R.3d 882, ff.
 (suspension and removal) 44 Texas L.Rev. 1117, ff. Frankel, Jack
 E., "Judicial Discipline and Removal" 68 A.L.R.3d 248 (1973)
 (grounds for disqualification)]
 confidentiality of proceedings
Gubler v. Commission on Judicial Performance (1984) 37
 Cal.3d 27, 59-62 [207 Cal.Rptr. 171]

Discretion
 unreasonable application of clearly established federal law
Howard v. Clark (9th Cir. 2010) 608 F.3d 563

Discretion, abuse
 court abused its discretion by refusing to follow an opinion
 certified for publication, especially one that spoke to the
 conditions or practices occurring in that particular courtroom
Jonathon M. v. Superior Court (2006) 141 Cal.App.4th
 1093 [46 Cal.Rptr.3d 798]
 denial of pre-sentencing motion to withdraw plea was abuse
 under "fair and just reason" standard
U.S. v. Bonilla (9th Cir. 2011) 637 F.3d 980
 failure to hold evidentiary hearing
Douglas v. Woodford (9th Cir. 2003) 316 F.3d 1079
 failure to hold hearing on Marsden motion
People v. Sanchez (2011) 53 Cal.4th 80 [133 Cal.Rptr.3d
 564]
 judge's abrupt ending of trial before completion resulted in
 denial of due process
In re Marriage of Carlsson (2008) 163 Cal.App.4th 281
 [77 Cal.Rptr.3d 305]

Discretion, acts within
In re Scott (2003) 29 Cal.4th 783 [129 Cal.Rptr.2d 605]

Discretion, class action
Best Buy Stores, L.P. v. Superior Court (2006) 137
 Cal.App.4th 772 [40 Cal.Rptr.3d 575]

Disqualification
 California Code of Judicial Conduct, Canon 3.C.
 Code of Civil Procedure section 170
First Federal Bank of California v. Superior Court (2006)
 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]
Tri Counties Bank v. Superior Court (2008) 167
 Cal.App.4th 1332 [84 Cal.Rptr.3d 835]
 -denial of peremptory challenge deemed abuse of
 discretion where challenge was filed well within the
 specified 10-day period under section 170.6
Jonathon M. v. Superior Court (2006) 141
 Cal.App.4th 1093 [46 Cal.Rptr.3d 798]

-denied when judge failed to disclose ownership interest
 in various insurance industry companies which were not
 involved in case
Brown v. American Bicycle Group, LLC (2014) 224
 Cal.App.4th 665 [168 Cal.Rptr.3d 850]

-disqualification not mandated where a judge has
 officiated a litigant's counsel's wedding
Wechsler v. Superior Court (2014) 224 Cal.App.4th
 384 [168 Cal.Rptr.3d 605]

-does not apply to administrative law judges
County of San Diego v. Alcoholic Beverage Control
 Appeals Bd. (2010) 184 Cal.App.4th 396 [109
 Cal.Rptr.3d 59]

-granting of motion in excess of 60 days after peremptory
 challenge to trial judge became effective immediately
 was a nullity
Davcon Inc. v. Robers & Morgan et al. (2003) 110
 Cal.App.4th 1355 [2 Cal.Rptr.3d 782]

-judge is disqualified for speaking to previous judge who
 was disqualified
Christie v. City of El Centro (2006) 135 Cal.App.4th
 767 [37 Cal.Rptr.3d 718]

-only transfer of the later-filed case to another judge
 required because the judge had already resolved a
 disputed factual issue in the earlier case (family law)
Rothstein v. Superior Court (2016) 3 Cal.App.5th 424
 [207 Cal.Rptr.3d 616]

-peremptory challenge filed timely where proceeding is
 new and where previous case was closed
Manuel C. v. Superior Court (2010) 181 Cal.App.4th
 382 [104 Cal.Rptr.3d 787]

-peremptory challenge takes effect instantaneously and
 irrevocably & later events do not cause a rescission of the
 challenge
Little v. Kern County Superior Court (9th Cir. 2002) 294
 F.3d 1075
In re Georgetown Park Apartments (9th Cir. 1992) 143
 B.R. 557
Davcon Inc. v. Robers & Morgan et al. (2003) 110
 Cal.App.4th 1355 [2 Cal.Rptr.3d 782]
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119
 Cal.Rptr.2d 376]
Cybermedia Inc. v. Superior Court (1999) 72
 Cal.App.4th 910 [82 Cal.Rptr.2d 126]
People v. Barrera (1999) 70 Cal.App.4th 541 [82
 Cal.Rptr.2d 755]
School District of Okaloosa County v. Superior Court
 (1997) 58 Cal.App.4th 1126 [68 Cal.Rptr.2d 612]
Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61
 Cal.Rptr.2d 49]
Sunkyoung Trading (H.K.) Ltd. v. Superior Court (1992)
 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]
People v. Whitfield (1986) 183 Cal.App.3d 299 [228
 Cal.Rptr. 82]
In re Christian J. (1984) 155 Cal.App.3d 276 [202
 Cal.Rptr. 54]
Penthouse International Ltd. v. Superior Court (1982)
 137 Cal.App.3d 975 [187 Cal.Rptr. 535]

-threat to reduce spousal support by 50% if wife appealed
 ruling
In re the Marriage of Tharp (2010) 188 Cal.App.4th
 1295 [116 Cal.Rptr.3d 375]

-time period to file a peremptory challenge upon remand
 begins to run on the date a party or attorney has been
 notified of the assignment and does not begin on the date
 of issuance of the remittitur by appellate court
Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th
 1463 [136 Cal.Rptr.3d 544]

-timeliness of motion
Entente Decision, Inc. v. Superior Court (2013) 214
 Cal.App.4th 385 [154 Cal.Rptr.3d 216]
Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th
 1463 [136 Cal.Rptr.3d 544]

JUDGE

Tri Counties Bank v. Superior Court (2008) 167 Cal.App.4th 1332 [84 Cal.Rptr.3d 835]

administrative law judge

Fisher v. State Personnel Board (2018) 25 Cal.App.5th 1 [235 Cal.Rptr.3d 382]

County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]

advice to another commissioner after disqualification

Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 52-55 [207 Cal.Rptr. 171]

appellate tribunal

-acting upon

Code of Civil Procedure section 170a

-superior court

Code of Civil Procedure section 170.7

attorney as judge presides over a criminal defendant who had previously supplied him with illegal drugs

In re Scott (1991) 52 Cal.3d 968

based on race

People v. Superior Court (1992) 8 Cal.App.4th 873 [10 Cal.Rptr.2d 873]

bias or prejudice

Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158

Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075

Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]

Kaiser Foundation Hospitals, Inc. v. Superior Court of Los Angeles (1993) 19 Cal.4th 513

Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]

Wechsler v. Superior Court (2014) 224 Cal.App.4th 384 [168 Cal.Rptr.3d 605]

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]

First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]

Davis v. Superior Court (1984) 158 Cal.App.3d 197 [204 Cal.Rptr. 398]

Garcia v. Superior Court (1984) 156 Cal.App.3d 670, 684-685 [203 Cal.Rptr. 290]

-not required on due process grounds where mere appearance of bias; probability of actual bias required

People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]

-plaintiff's remarks regarding his social contacts with presiding judge are not necessarily determinative of judge's bias

Jorgensen v. Cassidy (9th Cir. 2003) 320 F.3d 906

-showing of actual bias is not required for judicial disqualification under the due process clause, neither is the mere appearance of bias sufficient

People v. Freeman (2010) 47 Cal.4th 993 [103 Cal.Rptr.3d 723]

People v. Peyton (2014) 229 Cal.App.4th 1063 [177 Cal.Rptr.3d 823]

-trial judge's adverse legal rulings and denial of a request for a continuance do not reflect personal bias

Brown v. American Bicycle Group, LLC (2014) 224 Cal.App.4th 665 [168 Cal.Rptr.3d 850]

by criminal defendant

People v. Sheppard (1983) 143 Cal.App.3d 907 [192 Cal.Rptr. 427]

disqualification of temporary judge based on violation of Canon 6D(5)(a), failure to disclose known relationships with parties or lawyers

Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]

disqualified presiding judge loses jurisdiction over the matter and all subsequent orders and judgments are void

Mangini v. U.S. (9th Cir. (Mont.) 2003) 314 F.3d 1158

Hayward v. Superior Court (2016) 2 Cal.App.5th 10 [206 Cal.Rptr.3d 102]

In re Marriage of M.A. (2015) 234 Cal.App.4th 894 [184 Cal.Rptr.3d 315]

In re Jenkins (1999) 70 Cal.App.4th 1162 [83 Cal.Rptr.2d 232]

duties to call own witnesses but may not shift balance

People v. Hancock (1983) 145 Cal.App.3d Supp. 25 [193 Cal.Rptr. 397]

effect on rulings

Bates v. Rubio's Restaurants Inc. (2009) 179 Cal.App.4th 1125 [102 Cal.Rptr.3d 206]

Rosco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]

North Beverly Park Homeowners Association v. Bisno (2007) 147 Cal.App.4th 762 [54 Cal.Rptr.3d 644]

failure of judge to disqualify himself after having previously represented one party as attorney was not reviewable on appeal following appellant's earlier failure to seek writ review

People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]

frivolous motions to disqualify

Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]

Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]

gambling by

LA(I) 1976-6, LA(I) 1958-4

grounds for

California Code of Judicial Conduct, Canon 3.C

Code of Civil Procedure section 170

Entente Decision, Inc. v. Superior Court (2013) 214 Cal.App.4th 385 [154 Cal.Rptr.3d 216]

Rosco Holdings Inc. v. Bank of America (2007) 149 Cal.App.4th 1353 [58 Cal.Rptr.3d 141]

-multiple similar parties limited to one peremptory challenge per side

Orion Communications, Inc., et al. v. Superior Court (2014) 226 Cal.App.4th 152 [171 Cal.Rptr.3d 596]

-when local superior court rules conflict with the Code of Civil Procedure, local rule is void

Ghaffarpour v. Superior Court (2012) 202 Cal.App.4th 1463 [136 Cal.Rptr.3d 544]

Code of Civil Procedure section 170.6

First Federal Bank of California v. Superior Court (2006) 143 Cal.App.4th 310 [49 Cal.Rptr.3d 296]

Ng v. Superior Court (1997) 52 Cal.App.4th 1010 [61 Cal.Rptr.2d 49]

Overton v. Superior Court (1994) 22 Cal.App.4th 112 [27 Cal.Rptr.2d 274]

-administrative law judge

County of San Diego v. Alcoholic Beverage Control Appeals Bd. (2010) 184 Cal.App.4th 396 [109 Cal.Rptr.3d 59]

-degree of affinity between husband and wife

Code of Civil Procedure section 170.1

-prejudice as

--procedure for establishing

Code of Civil Procedure section 170.6

judge who rules in contested pretrial proceedings may not participate in appellate review in same case

Housing Authority of County of Monterey v. Jones (2005) 130 Cal.App.4th 1029 [30 Cal.Rptr.3d 676]

jurisdiction to proceed on subsequent "actions" once a proper challenge is made

Sunkyoung Trading (H.K.) Ltd. v. Superior Court (1992) 9 Cal.App.4th 282 [11 Cal.Rptr.2d 504]

master calendar judge is married to counsel involved in a case; previously represented police officers; or was formerly a police officer may be subject to disqualification

75 Ops. Cal. Atty. Gen. 58 (3/25/92; No. 91-1112)

party may not exercise preemptory challenge because it failed to show it was opposed to another party who had previously used challenge under Code of Civil Procedure section 170.6

Orion Communications, Inc., et al. v. Superior Court (2014) 226 Cal.App.4th 152 [171 Cal.Rptr.3d 596]

preliminary hearing judge not automatically disqualified from conducting criminal trial for same defendant

People v. DeJesus (1995) 38 Cal.App.4th 1 [44 Cal.Rptr.2d 796]

prior representation of defendant

People v. Barrera (1999) 70 Cal.App.4th 541 [82 Cal.Rptr.2d 755]

statement of disqualification must be filed at earliest practical opportunity

Eckert v. Superior Court (Tebo) (1999) 69 Cal.App.4th 262 [81 Cal.Rptr.2d 467]

vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

Disruptive and offensive conduct in courtroom of a judge who had recused himself from an attorney's case

Lebbos v. State Bar (1991) 53 Cal.3d 37 [806 P.2d 317]

Duty

obligation of judge by his oath to maintain the respect due to the court and to protect the integrity of the judiciary from groundless, insulting, contemptuous, scandalous, or impertinent attacks

In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

Election campaign

contributions to

-by attorney

--no duty to advise adversary

LA 387 (1980)

-judge presiding over a proceeding in which the appellant previously made contribution to the judge's successful election campaign should have recused himself as a matter of due process

Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S. 868 [129 S.Ct. 2252]

fund raising for

SF 1974-6

lawyer-candidate

-opposing incumbent

--may question incumbent's qualifications

LA 304 (1968)

Error in jury instructions and sentencing

not found

U.S. v. Scott (9th Cir. 2011) 642 F.3d 791

reversible

People v. Chagolla (1983) 144 Cal.App.3d 422 [193 Cal.Rptr. 711]

Evaluation by local bar association

Botos v. Los Angeles County Bar Assn. (1984) 151 Cal.App.3d 1083, 1088-1090 [199 Cal.Rptr. 236]

Ex parte discussion with

In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

about matter on appeal

CAL 1984-78

administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

CAL 1984-82

deliberating jurors

People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]

judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

listserv

LA 514 (2005)

trial judge and defense counsel

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

trial judge by prosecutor

McKenzie v. Risley (9th Cir. 1990) 915 F.2d 1396

Failure of judge to allow case to reach completion resulted in denial of due process.

In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]

Failure of trial counsel to appoint new counsel deprived defendant of effective assistance of counsel

Plumlee v. Del Papa (9th Cir. 2005) 426 F.3d 1095

Failure to hold Marsden hearing

People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]

People v. Mendez (2008) 161 Cal.App.4th 1362 [75 Cal.Rptr.3d 162]

People v. Mejia (2008) 159 Cal.App.4th 1081 [72 Cal.Rptr.3d 76]

court made no inquiry at all

People v. Reed (2010) 183 Cal.App.4th 1137 [107 Cal.Rptr.3d 710]

Failure to perform duties [See Censure, causes for, this section.]

Frivolous allegations against, attorney disciplined for

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1171

Fair and true report of judicial proceedings is privileged and therefore not actionable

Grillo v. Smith (1983) 144 Cal.App.3d 868 [193 Cal.Rptr. 414]

Gambling

LA(I) 1976-6, LA(I) 1958-4

Gifts and favors from litigants and counsel

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Impartiality, protection of

In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557

CAL 1984-78

Improper action

comments at sentencing reflected a biased and insensitive view about sexual assault

Inquiry Concerning Judge Johnson, Com. on Jud. Performance, Ann. Rep. (2012), Public Admonishment, p. 22

undignified and discourteous remarks to family law litigants

In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR 14999

Injudicious conduct [See Censure, causes for, this section.]

Spruance v. Commission on Judicial Qualification (1973) 13 Cal.3d 778 [119 Cal.Rptr. 841, 532 P.2d 1209]

Judge as prior prosecutor, same case

Williams v. Pennsylvania (2016) ___ U.S. ___ [136 S.Ct. 1899]

"Judge" defined

Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr. 705]

CAL 1984-82

Judicial officer defined

local bar association's arbitration panel is not a judicial officer
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

JUDGE

Juvenile court proceedings

referee, assuming the function of both judge and advocate in presenting and questioning the witness and in adjudicating a minor's status, acts in violation of minor's constitutional right to procedural due process

In re Jesse G. (2005) 128 Cal.App.4th 724 [27 Cal.Rptr.3d 331]

Law lectures; delivery of

LA 129 (1940)

Liability

absolute immunity applies to defamatory statements made by judge during settlement conference, but not to statements made during newspaper interview

Soliz v. Williams (1999) 74 Cal.App.4th 577 [88 Cal.Rptr.2d 184]

absolute immunity from for acts done in performance of official duties

Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121

Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117

immunity extended to state agencies that act in judicial capacity

Stanislaus Food Products Co. v. P.U.C. (N.D. Cal. 1982) 560 F.Supp. 114, 117

Listserv

communication with judicial officers

LA 514 (2005)

May rehear a pretrial issue when magistrate's order is clearly erroneous and contrary to law

Rockwell International, Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325

Misconduct

alteration of court records

Fletcher v. Commission on Judicial Performance (1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]

appearance of embroilment and lack of impartiality

-judge's attempt to influence another judicial officer on arrest warrant of family litigant before judge was misconduct reflecting

In the Matter Concerning Judge Daniel J. Healy (2014) 2014 DJDAR14999

bias and interference with defense announced bias and prejudice

People v. Perkins (2003) 109 Cal.App.4th 1562 [1 Cal.Rptr.3d 271]

communication with real party in interest without notice to opposing party

Roberts v. Committee on Judicial Performance (1983) 33 Cal.3d 739 [190 Cal.Rptr.910]

district court improperly participated in defendant's plea discussions by prematurely committing itself to a sentence of specific severity

U.S. v. Kyle (9th Cir. 2013) 734 F.3d 956

district court's failure to notify defense counsel about jury note and to give counsel opportunity to be heard before court responds violates rule requiring defendant's presence at every trial stage

U.S. v. Martinez (9th Cir. 2017) 850 F.3d 1097

impugning defense counsel

People v. Fatone (1985) 165 Cal.App.3d 1164 [211 Cal.Rptr. 288]

judge had discussions and resolved son's case in nonpublic areas of the courthouse and outside the normal process, the judge created an appearance of impropriety which undermines public confidence in the impartiality of the judiciary

Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

judge is disqualified for speaking to previous judge who was disqualified

Christie v. City of El Centro (2006) 135 Cal.App.4th 767 [37 Cal.Rptr.3d 718]

judge's earnings from public employment as a teacher at a community college which were not reported as income did not violate the Political Reform Act

Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]

prejudicial and wilful misconduct which seriously undermines the integrity of the judiciary

Inquiry Concerning Judge Seeman, Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

trial judge entering jury room and engaging in unreported, ex parte communications with the jury concerning issues of law relevant to the case was improper

People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]

trial judge's misconduct which deprives plaintiff of fair trial warrants judgment reversal

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

Must be final decision authority when magistrates are used for arbitration

Pacemaker Diag. Clinic v. Instrumedix, Inc. (9th Cir. 1983) 712 F.2d 1305

Name and designation as judge

in journal of fraternal order

-judge contribute to publication cost

LA 100 (1936)

Name of, used

in legal directory

SF 1973-11

Non-judicial activity

business activity

LA(l) 1959-7

Perjury

judge solicited the commission of perjury in a federal investigation

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Prejudicial conduct [See Removal, causes for. Censure, causes for. Conduct, prejudicial conduct insufficient to support recommendation of sanctions.]

extraction of attorney fees from bail deposits

Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 41-42 [207 Cal.Rptr. 171]

judge's abrupt ending of trial without allowing party to present case in chief was denial of due process

In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]

judge's discussions with court clerk and presiding judge about son's case through channels not available to the public, even if not done in bad faith, created an appearance of impropriety undermining public confidence in the impartiality and integrity of the judiciary

Inquiry Concerning Judge Mills, Com. on Jud. Performance, Ann. Rep. (2013), Public Admonishment, p. 18

ordering appearances of defendants for fee collection purposes

Gubler v. Commission on Judicial Performance (1984) 37 Cal.3d 27, 37-38, 43-46 [207 Cal.Rptr. 171]

prejudicial jury instructions, standard of miscarriage of justice

People v. Taylor (1984) 156 Cal.App.3d 552, 556-557 [203 Cal.Rptr. 40]

Presiding judge

authority to rule on opinion of another judge

Micro/Vest Corp. v. Superior Court (1984) 150 Cal.App.3d 1085 [198 Cal.Rptr. 404]

Pro tempore qualifications

Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]

Yetenjian v. Superior Court (1983) 140 Cal.App.3d 361 [189 Cal.Rptr. 458]

Promotion of corporation by
shares offered for sale to public
LA 53 (1927)

Public confidence diminished
comments at sentencing reflected a biased and insensitive
view about sexual assault
Inquiry Concerning Judge Johnson, Com. on Jud.
Performance, Ann. Rep. (2012), Public Admonishment,
p. 22

Quasi-judicial function of parole officials gives immunity relative
to function prompting action
Anderson v. Boyd (9th Cir. 1983) 714 F.2d 906

Radio broadcast of court proceedings
LA 88 (1935)

Recall
superior court judges are not state officers therefore petition
for recall does not have to be reviewed and certified for
circulation by Secretary of State
Persky v. Bushey (2018) 21 Cal.App.5th 810 [230
Cal.Rptr.3d 658]

Recusal
based on alleged violation of defendant's due process rights
Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct.
1899]
People v. Freeman (2010) 47 Cal.4th 993 [103
Cal.Rptr.3d 723]
People v. Peyton (2014) 229 Cal.App.4th 1063 [177
Cal.Rptr.3d 823]

California Supreme Court held that judge's refusal to recuse
himself was not required because only the most "extreme
facts" would require judicial disqualification on due process
grounds
People v. Freeman (2010) 47 Cal.4th 993 [103
Cal.Rptr.3d 723]

commissioner's bias against attorney
In re Marriage of Kelso (1998) 67 Cal.App.4th 374 [79
Cal.Rptr.2d 39]

contempt proceedings involving attorney
-criminal
In re Martin (1977) 71 Cal.App.3d 472 [139 Cal.Rptr.
451]

effect on rulings prior to judge's recusal
Bates v. Rubio's Restaurants Inc. (2009) 179
Cal.App.4th 1125 [102 Cal.Rptr.3d 206]

failure of judge to disclose participation in substantial
negotiations for employment as dispute resolution neutral
Rosscow Holdings Inc. v. Bank of America (2007) 149
Cal.App.4th 1353 [58 Cal.Rptr.3d 141]

failure of judge to disqualify himself after having previously
represented one party as attorney was not reviewable on
appeal following appellant's earlier failure to seek writ review
People v. Barrera (1999) 70 Cal.App.4th 541 [82
Cal.Rptr.2d 755]

general notice of change in calendar judge mailed by
superior court's public information office was insufficient to
deny petitioner's peremptory challenge
Cybermedia Inc. v. Superior Court (1999) 72 Cal.App.4th
910 [82 Cal.Rptr.2d 126]

judge as prior prosecutor, same case
Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct.
1899]

judge not disqualified for failure to disclose ownership interest
in various insurance industry companies which were not
involved in case
Brown v. American Bicycle Group, LLC (2014) 224
Cal.App.4th 665 [168 Cal.Rptr.3d 850]

judge presiding over a proceeding in which the appellant
previously made contribution to the judge's successful
election campaign should have recused himself as a matter of
due process
Caperton v. Massey Coal Co., Inc. et al. (2009) 556 U.S.
868 [129 S.Ct. 2252]

judge who rules in contested pretrial proceedings may not
participate in appellate review in same case
Housing Authority of County of Monterey v. Jones (2005)
130 Cal.App.4th 1029 [30 Cal.Rptr.3d 676]

legal grounds – impartiality
United States v. Spangle (9th Cir. 2010) 626 F.3d 488
United States v. Arnpriester (9th Cir. 1994) 37 F.3d 466
Denardo v. Municipality of Anchorage (9th Cir. 1992) 974
F.2d 1200
United States v. Jaramillo (9th Cir. 1984) 745 F.2d 1245,
1247-1248
In re Georgetown Park Apartments (9th Cir. 1992) 143
B.R. 557
-denied when judge officiates litigant's counsel's wedding
but has no personal or social relationship with counsel
Wechsler v. Superior Court (2014) 224 Cal.App.4th
384 [168 Cal.Rptr.3d 605]

not required on due process grounds where mere appearance
of bias; probability of actual bias required
People v. Peyton (2014) 229 Cal.App.4th 1063 [177
Cal.Rptr.3d 823]

precludes any further action in the case by the judge
Geldermann, Inc. v. Bruner (1991) 229 Cal.App.3d 662
[280 Cal.Rptr. 264]

recusal required to prevent an impermissible risk of actual bias
when judge had earlier significant, personal involvement as a
prosecutor in a critical decision regarding the defendant's
case
Williams v. Pennsylvania (2016) __ U.S. __ [136 S.Ct.
1899]

required if judge should have known of circumstances
requiring disqualification, even absent actual knowledge
Liljeberg v. Health Services Acquisition Corporation (1988)
486 U.S. 847 [108 S.Ct. 2194]
Christie v. City of El Centro (2006) 135 Cal.App.4th 767
[37 Cal.Rptr.3d 718]

threats against judge as basis for recusal
United States v. Spangle (9th Cir. 2010) 626 F.3d 488

Reinstatement
California Government Code section 75060.6
after voluntary retirement due to disability
Davis v. Commission on Judicial Qualifications (1977) 73
Cal.App.3d 818 [141 Cal.Rptr. 75]

review of findings as to fitness to hold judicial office
Davis v. Commission on Judicial Qualifications (1977) 73
Cal.App.3d 818 [141 Cal.Rptr. 75]

Removal
California Constitution Article VI, section 18(c)
burden of proof
Geiler v. Commission on Judicial Qualifications (1973) 10
Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]

causes for
-conduct prejudicial to the administration of justice that
brings the judicial office into disrepute
Wenger v. Commission on Judicial Performance
(1981) 29 Cal.3d 615, 631-632, 643, 645 [175 Cal.Rptr.
420, 630 P.2d 954]
Cannon v. Commission on Judicial Qualifications
(1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
Spruance v. Commission on Judicial Qualifications
(1975) 13 Cal.3d 778, 796, 797 [119 Cal.Rptr. 841, 532
P.2d 1209]
Geiler v. Commission on Judicial Qualifications (1973)
10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d
1]

-ex parte communication with parties
Fletcher v. Commission on Judicial Performance
(1998) 19 Cal.4th 865 [81 Cal.Rptr.2d 58]

-persistent failure or inability to perform judicial duties
Kennick v. Commission on Judicial Performance
(1990) 50 Cal.3d 297 [787 P.2d 591]

JUDGE

- willful misconduct in office
 - Wenger v. Commission on Judicial Performance (1981) 29 Cal.3d 615, 625, 630-631, 637, 645, 648, 650, 651 [175 Cal.Rptr. 420, 630 P.2d 954]
 - Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678 [122 Cal.Rptr. 778, 537 P.2d 898]
 - Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 795-799 [119 Cal.Rptr. 841, 532 P.2d 1209]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 284-287 [110 Cal.Rptr. 201, 515 P.2d 1]
- discovery [See Commission on Judicial Performance, procedure - discovery.]
- jury trial
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
- effect on rulings
 - North Beverly Park Homeowners Association v. Bisno (2007) 147 Cal.App.4th 762 [54 Cal.Rptr.3d 644]
- nature of proceedings
 - non-criminal
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
 - not constituting civil action
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10 [138 Cal.Rptr. 459, 564 P.2d 1]
- persistent and pervasive conduct prejudicial to the administration of justice
 - Kloepfer v. Commission on Judicial Performance (1989) 49 Cal.3d 826 [264 Cal.Rptr 100]
 - Gonzalez v. Commission on Judicial Performance (1983) 33 Cal.3d 359 [188 Cal.Rptr. 880, 657 P.2d 372]
- procedure [See Commission on Judicial Performance, procedure.]
- retirement for disability
 - In re Roick (1978) 24 Cal.3d 74 [154 Cal.Rptr. 413, 592 P.2d 1165]
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, [138 Cal.Rptr. 459, 564 P.2d 1]
 - Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818 [141 Cal.Rptr. 75]
- special proceedings
 - alternative to impeachment
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 8-10 [138 Cal.Rptr. 459, 564 P.2d 1]
- standard of proof required
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 10-11 [138 Cal.Rptr. 459, 564 P.2d 1]
 - Geiler v. Commission on Judicial Qualifications (1973) 10 Cal.3d 270, 275 [110 Cal.Rptr. 201, 515 P.2d 1]
- Supreme Court Justice
 - California Constitution Article VI, section 18(e)
 - selection of special tribunal
 - McComb v. Commission on Judicial Performance (1977) 19 Cal.3d Spec.Trib.Supp. 1, 7-8 [138 Cal.Rptr. 459, 564 P.2d 1]
- Represent/practice before
 - LA(l) 1954-1
- Resignation from judicial office; effect upon proceedings for disbarment
 - California Constitution Article VI, section 18
 - In re Craig (1938) 12 Cal.2d 93 [82 P.2d 442]
- Retirement [See Removal, retirement for disability.]
- benefits
 - Willens v. Commission on Judicial Qualifications (1973) 10 Cal.3d 451, 458 [110 Cal.Rptr. 713, 516 P.2d 1]
- as valuable property right
 - Davis v. Commission on Judicial Qualifications (1977) 73 Cal.App.3d 818, 825-826 [141 Cal.Rptr. 75]
- effect of criminal charges/conviction
 - Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 453 [110 Cal.Rptr. 713, 516 P.2d 1]
- interest on, withheld pending litigation as to entitlement
 - *Willens v. Cory (1975) 53 Cal.App.3d 104 [125 Cal.Rptr. 670]
- judges may hold public office or engage in public employment after they resign or retire, even if time remains in judicial term for which they were selected
 - Gilbert v. Chiang (2014) 227 Cal.App.4th 537 [173 Cal.Rptr.3d 864]
- pension rights [See Retirement, benefits.]
- "salary" construed
 - Willens v. Commission on Judicial Performance (1973) 10 Cal.3d 451, 456 [110 Cal.Rptr. 713, 516 P.2d 1]
- subsequent representation of one of the parties
 - Cho v. Superior Court (1995) 39 Cal.App.4th 113 [45 Cal.Rptr.2d 863]
- Right to hire private counsel when county counsel has conflict of interest
 - Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]
- Sanctions [See Removal. Censure. Automatic disqualification.]
- contempt of court [See Contempt.]
- dismissal of criminal complaint based on intentional eavesdropping by law enforcement was not an appropriate remedy
 - People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]
- improper when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)
 - Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]
- mitigating factors
 - Cannon v. Commission on Judicial Qualifications (1975) 14 Cal.3d 678, 706-708 [122 Cal.Rptr. 778, 537 P.2d 898]
 - Spruance v. Commission on Judicial Qualifications (1975) 13 Cal.3d 778, 800-803 [119 Cal.Rptr. 841, 532 P.2d 1209]
 - *McCartney v. Commission on Judicial Qualifications (1974) 12 Cal.3d 512, 539-540 [116 Cal.Rptr. 260, 526 P.2d 268]
- money sanction for violation of lawful court order
 - not applicable to advocacy of counsel
 - Civil Code section 177.5
- remanding sanctions did not imply the appearance of impropriety
 - Yagman v. Republic Insurance (1993) 987 F.2d 1027
- State Bar Court
 - conclusive weight given to disciplinary proceedings in Michigan despite lower standard of proof where the Michigan Supreme court found the evidence of misconduct overwhelming
 - In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 - in attorney criminal conviction matter, State Bar Court judge not authorized to require evidence beyond that which parties have presented
 - In the Matter of Bouyer (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 888
 - State Supreme Court authority to appoint judges of the State Bar Court not impaired by permissible appointment mechanisms specified by the legislature
 - Obrien, et al. v. Jones, et al. (2000) 23 Cal.4th 40 [96 Cal.Rptr.2d 205, 999 P.2d 95]
- State Bar of California
 - jurisdiction
 - over judges regarding disbarment proceedings
 - Christopher v. State Bar (1945) 26 Cal.2d 663, 666-668 [161 P.2d 1] Cf. dissenting opinion of Carter. J.

Statutory test for disqualification is whether reasonable person with knowledge of all facts would conclude that judge's impartiality might reasonably be questioned

United States v. Nelson (9th Cir. 1983) 718 F.2d 315

Supreme Court Justice [See Removal.]

Suspension

pending appeal from criminal conviction

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

pending criminal prosecution

In re Tindall (1963) 60 Cal.2d 469 [34 Cal.Rptr. 849, 386 P.2d 473]

Trial conduct

district court improperly participated in defendant's plea discussions by prematurely committing itself to a sentence of specific severity

U.S. v. Kyle (9th Cir. 2013) 734 F.3d 956

judge is publicly admonished for treating attorneys in sarcastic and belittling manner while presiding over civil cases

Public Admonishment of Judge Ronald M. Sohigian (2014) 2014 DJDAR 5984

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]

judge's abrupt ending of trial without allowing party to present case in chief was denial of due process

In re Marriage of Carlsson (2008) 163 Cal.App.4th 281 [77 Cal.Rptr.3d 305]

may not exclude a party to an action

People ex rel. Curtis v. Peters (1983) 143 Cal.App.3d 597 [192 Cal.Rptr. 70]

Use of judge's name

for promotion of corporation

LA 53 (1927)

Willful misconduct in office [See Judge, Censure, causes for. Judge, removal, causes for.]

Witness

judge who testifies as a witness in a case in which he presides must give advance notice and obtain consent of parties

People v. Sweeney (1984) 150 Cal.App.3d 553

no absolute ban

People v. Fatone (1985) 165 Cal.App.3d 1164, 1183-1184 [211 Cal.Rptr. 288]

Writ of habeas corpus

allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel

In re Freeman (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]

defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law

*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

judge granted without adequate information to help a friend

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

JUDICIAL SALE

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

JURISDICTION, ADVISE CLIENT TO LEAVE

Rules 7-101 and 7-107, Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-210 and 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

JURORS, COMMUNICATION WITH OR INVESTIGATION OF

Rule 7-106, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]

Noland v. State Bar (1965) 63 Cal.2d 298, [46 Cal.Rptr. 305, 405 P.2d 129]

Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268 Cal.Rptr. 359]

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

CAL 1988-100

After trial

CAL 1987-95, CAL 1976-39

Court-imposed, post-trial restrictions pursuant to trial court's inherent authority

Townsel v. Superior Court (1999) 20 Cal.4th 1084 [86 Cal.Rptr.2d 602]

Ex parte communications between trial judge and a deliberating jury are prohibited

People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]

Jurors have absolute right to refuse to discuss deliberations or verdict with defense counsel

Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

Mock jury research

SD 2010-1

"Venire" defined

SD 2010-1

LABOR UNION

Emblem of on law firm letterhead

CAL 1971-24

Lawyer, government employee

as member of

LA 337 (1973)

Lay employee shows membership in after signature

CAL 1971-24

LAW CORPORATIONS [See Professional corporations.]

Business and Professions Code sections 6125, 6126, 6127, 6160 et seq.

Attorney held liable for law corporation's debts as alter ego where corporation was being used by attorney to escape personal liability

Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]

Bound by applicable statutes, rules, and regulations to the same extent therein as a member of the State Bar

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

Bound by rules prohibiting aiding the unauthorized practice of law by resigned attorneys

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

Failure to register as a professional law corporation has no effect on fees charged by a law firm or partnership

Steven M. Garber & Associates v. Eskandarian (2007) 150 Cal.App.4th 813 [59 Cal.Rptr.3d 1]

Olson v. Cohen (2003) 106 Cal.App.4th 1209 [131 Cal.Rptr.3d 620]

Former shareholder's name

LA 530 (2018)

Inapplicable to duly certified professional corporation

Business and Professions Code section 6127.5

Business and Professions Code sections 6160-6172

application for

Business and Professions Code section 6161

defined

Business and Professions Code section 6160

director

-shareholder must be licensed

-income while disqualified person

Business and Professions Code section 6165

-must be licensed person

Business and Professions Code section 6165

Investigation

by State Bar

Business and Professions Code section 6168

LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA

Name of

Business and Professions Code section 6164

Nonprofit corporation

not required to register with State Bar of California as a law corporation

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

State Bar of California

-nonprofit corporation not required to register as a law corporation

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

Report to State Bar

amendments to articles of incorporation

Business and Professions Code section 6162

annual report

Business and Professions Code section 6163

changes in directors, officers, employees performing professional services/share ownership

Business and Professions Code section 6162

Rules, The State Bar of California Law Corporation [A copy of the full text of these rules may be obtained by contacting the Law Corporation Department of the Office of Certification at the State Bar's 180 Howard location in San Francisco.]

authority to promulgate

Business and Professions Code section 6171

Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client

City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

State Bar of California

action of reviewable by Supreme Court

Business and Professions Code section 6170

disciplinary power and authority

-nothing in this article affects or impairs

Business and Professions Code section 6172

investigation

Business and Professions Code section 6168

notice to show cause

Business and Professions Code section 6169

-hearing on

Business and Professions Code section 6169(b)(c)

-hearing prior to suspension not required

Business and Professions Code Section 6169(d)

Supreme Court of California

disciplinary power and authority

-nothing in this article affects or impairs

Business and Professions Code section 6172

review of action by State Bar

Business and Professions Code section 6170

LAW CORPORATIONS RULES OF THE STATE BAR OF CALIFORNIA

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules (p. 417), and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 738

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text may be obtained from:

Law Corporations Department

State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (888) 800-3400

Nonprofit corporation

not required to register with State Bar of California as a law corporation

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

LAW FIRM [See Corporation, professional. Partnership, advertising. Practice of law].

LAW OFFICE [See Advertising, law office. Practice of law.]

Announcement of formation of practice

mention that lawyer is legislator

LA 111 (1937)

Branch office

LA(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)

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]

In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330

-superior court research attorneys are exempt from mandatory continuing education
Obbard v. State Bar of California (2020) 48 Cal.App.5th 345 [262 Cal.Rptr.3d 16]

Mandatory bar membership

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Misconduct of reported
 SF 1977-1

LAWYER REFERRAL SERVICE [See Group legal services. Referral of legal business.]

Rule 2-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Rule 5.4 Financial and Similar Arrangements with Nonlawyers

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Emmons, et. al. v. State Bar (1970) 6 Cal.App.3d 565 [86 Cal.Rptr. 367]

Definition of "referral"

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Duty to advise referred persons that counsel will divide fee with service

SD 1973-12

Failure to comply with minimum standards for a lawyer referral service

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

Financing of

LA(I) 1965-7, SD 1973-12

General guidelines

SD 1977-5

Immunity from liability for referrals

if authorized by the State Bar of California and in conformance with minimum standards for a lawyer referral service in California

Civil Code section 43.95

Income of organization

from operation of lawyer referral service in conformance with the minimum standards of a lawyer referral service
 -excluded

Revenue and Taxation Code section 23734d

Minimum standards for a lawyer referral service [The full text is reprinted at part IA., appendix A of this Compendium.]

Civil Code section 43.95

Revenue and Taxation Code section 23734d

Rule 2-102(B), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-600, Rules of Professional Conduct (operative as of May 27, 1989)

Participation in

LA(I) 1960-3

referrals to directors

SD 1977-5

unregistered networking group

SD 2021-1

Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155

Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]

Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]

Uncertified lawyer referral activity

SD 2019-2

LAWYER'S ASSISTANCE PROGRAM OF THE STATE BAR OF CALIFORNIA

For confidential assistance with stress, anxiety, depression, substance abuse, contact:

Lawyer Assistance Program

(877) LAP-4HELP / (877) 527-4435

LAP@calbar.ca.gov

For information about program, contact:

State Bar of California

(415) 538-2000 / (213) 765-1000

LAY EMPLOYEE [See Contingent fee. Division of fees. Fees. Foreign attorney. Lay person. Witness.]

Accountant

SD 1974-17

Card, professional [See Advertising.]

Certified law student

People v. Perez (1979) 24 Cal.3d 133, 138 [155 Cal.Rptr. 176]

SD 1974-5

Client trust account

Gassman v. State Bar (1976) 18 Cal.3d 125, 128-130 [132 Cal.Rptr. 675]

Compensation of

division of fees

LA 222 (1954), LA 190 (1952)

percentage of income

LA(I) 1972-25

Confidential information disclosed, when employed by several law firms

CAL 1979-50

Executor for opposing party's estate

LA 341 (1973)

Expert

handwriting

LA 46 (1927)

Fee for services

LA(I) 1973-7, LA(I) 1968-4

Holding out as attorney

Business and Professions Code section 6126

Investigator

LA 172 (1950), LA(I) 1956-2

Particular acts by

administrative agency practice

LA 143 (1943)

collections

SD 1978-4

correspondence

CAL 1971-24

LA(I) 1971-6

SD 1978-4

settlement

LA(I) 1972-19

Responsibility for acts of

Crane v. State Bar (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670]

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

LA(I) 1976-1

Shows labor union membership after signature

CAL 1971-24

Signing on client trust account

CAL 1988-97

Uses card showing relationship to lawyer

LA 346 (1975), LA 172 (1950), LA(I) 1956-2

SD 1974-5

LAY INTERMEDIARIES [See Division of fees. Referral of legal business. Solicitation of business.]

Association

act for members of

LA(I) 1947-8

trade, advise members of

LA 155 (1945)

Communicate with opposing party through

Shalant v. State Bar (1983) 33 Cal.3d 485, 489 [189 Cal.Rptr. 374]

LA 315 (1970)

Consulting firm, advise customers of

LA 194 (1952)

Corporation

represent customers of

LA 262 (1959)

LAY PERSON

Family counseling corporation, represent clients of
LA 270 (1962)
Interpreters in court
People v. Shaw (1984) 35 Cal.3d 535 [198 Cal.Rptr. 72]
Labor union, represent members of
LA 151 (1944)
LAY PERSON [See Contingent fee. Law student. Lay employee.
Patent attorney. Practice of law. Unauthorized practice of law.]
Bankruptcy petition preparers (BPP) (11 U.S.C.A. § 110(h))
BPP can only transcribe and type bankruptcy forms that
debtor alone must prepare without assistance and may charge
only what professional typists or word processors would
charge
Scott v. United States (In re Doser) (9th Cir. 2005) 412
F.3d 1056
IRS agents not entitled to absolute immunity
sanction of person when taking action provoking lawsuit
Bothke v. Fluor Engineers and Constructors, Inc. (9th Cir.
1983) 713 F.2d 1405
Listed on law office door
LA(l) 1956-6
Partnership with
Rule 3-103, Rules of Professional Conduct
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar
Ct. Rptr. 315
LA(l) 1966-18
accountant
LA(l) 1959-5, SD 1974-17
Self-representation
trustees representing themselves where the matter is
between trustees and trust beneficiaries in the context of
probate proceeding is not an unauthorized practice of law
Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260
Cal.Rptr.3d 844]
LECTURE [See Advertising. Publication.]
CAL 1972-29, CAL 1967-12
LEGAL AID [See Indigent persons.]
Ferreira v. Swoap (1976) 62 Cal.App.3d 875 [133 Cal.Rptr. 449]
Agency
advertising or solicitation by
SD 1974-9
advertising, referrals, referral panel, definition of fee
generating case
SD 1976-7
control over activities of
-by lawyer employees of
SD 1974-9, SF 1976-1
disclosure of data about clients of
LA 378 (1978), LA 358 (1976)
disposition of unclaimed clients' funds by
CAL 1975-36
fund raising by
SD 1974-9
propriety of being employed by
LA(l) 1965-1
Divorce
advise client how to obtain in pro per divorce
SD 1972-6
Fees
award of fees to legal aid foundation pursuant to contract, not
by statute or common law right, does not violate ban on
awards to recipients of Legal Services Corporation funding
under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122
Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
Legal Services Corporation has exclusive jurisdiction over
compliance with 45 C.F.R. § 1642.2 by recipient legal aid
foundations
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122
Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
Funding
award of fees to legal aid foundation pursuant to contract, not
by statute or common law right, does not violate ban on

awards to recipients of Legal Services Corporation funding
under 45 C.F.R. § 1642.2
Peretz v. Legal Aid Foundation of Los Angeles (2004) 122
Cal.App.4th Supp. 1 [18 Cal.Rptr.3d 863]
Congressional restriction on funding of organizations that
represent indigent clients in loss of welfare benefits suits
violates First Amendment
Legal Services Corp. v. Velazquez (2001) 531 U.S. 533
[121 S.Ct. 1043]
lack of funding makes withdrawal and effective representation
impossible or unreasonably difficult
CAL 1981-64
Lay person, participation in
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d
746]
SD 1983-4
Legal aid lawyer
withdrawal by
SF 1973-5
Legal services corporation including non-attorney shareholders
LA 444 (1987)
Program organized by non-profit corporation
LA(l) 1972-24
Public defender
offers to represent indigent before arraignment
LA(l) 1954-2
Representation of client who possess assets
SD 1983-6
LEGAL DIRECTORY [See Advertising, directory of lawyers.
Solicitation of business, inclusion in list of approved practitioners.]
Certified law lists
SF 1975-3
Judicial office, former noted in
SF 1973-11
Listing
SD 1968-1
of interstate partnership
SF 1974-5
Out-of-state attorney listed in
LA 249 (1958)
LEGAL SERVICES [See Legal aid.]
United Mine Workers v. Illinois State Bar Assn. (1967) 389 U.S.
217 [88 S.Ct. 353]
Brotherhood of Railroad Trainmen v. Virginia (1964) 377 U.S. 1
[84 S.Ct. 1113]
NAACP v. Button (1963) 371 U.S. 415 [83 S.Ct. 328]
Brotsky v. State Bar (1962) 57 Cal.2d 287 [19 Cal.Rptr. 153]
Hildebrand v. State Bar (1950) 36 Cal.2d 504 [225 P.2d 508]
Attorney renders legal services to clients of financial planning
company
LA 510 (2003)
Lack of funding makes effective representation unreasonably
difficult or impossible, withdrawal
CAL 1981-64
Legal services corporation including non-attorney shareholders
LA 444 (1987)
Partnership with non-lawyer living trust marketers
CAL 1997-148
Referral fees
Emmons, Williams, Mires & Leech v. State Bar (1970) 6
Cal.App.3d 565 [86 Cal.Rptr. 367]
unregistered networking group
SD 2021-1
LEGAL SPECIALIZATION [See Advertising. Practice of law.
Specialization.]
Advertising
notice to apprise profession of specialized service
LA 110 (1937)
Appellate briefs
LA 258 (1959)
Bankruptcy
LA 258 (1959)

California Board of Legal Specialization
 Rules Governing the State Bar of California Program for
 Certifying Legal Specialists
 Text of rules and regulations is located in:
 Deering's Annotated California Codes, Rules of Court,
 State Bar Rules (p. 433), and in
 West's Annotated California Codes, Court Rules, vol. 23,
 pt 3, p. 751
 Text available through State Bar's home page:
<http://www.calbar.ca.gov>
 Text may be obtained from:
 Legal Specialization Department
 State Bar of California
 180 Howard Street
 San Francisco, California 94105
 Telephone: (415) 538-2120

Certified specialist
 authority over
 LA(I) 1974-4

Consultative practice
 LA 258 (1959)

Corporate litigation
 LA(I) 1948-1

Division of community property
 LA(I) 1948-1

Divorce
 LA 179 (1951)

Drafting
 LA 209 (1953)

Holding out as specialist [see [Advertising](#)]
[Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative
 as of June 1, 1997)
[Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative
 as of May 27, 1989)
Peel v. Attorney Regulatory & Disciplinary Commission of
Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr.
 194]

International law
 LA 230 (1955)

Lawyer referral service
 Business and Professions Code section 6155
 -referral occurs when an entity engages in the act of
 directing or sending a potential client to an attorney for
 purposes of Business and Professions Code section 6155
Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760
 [255 Cal.Rptr.3d 741]
 Rule 2-102, Rules of Professional Conduct
 State Bar Minimum Standards for a Lawyer Referral Service,
 section 5.2

Legal accounting
 LA(I) 1948-1

Legal research
 LA 209 (1953)

Medical jurisprudence
 LA(I) 1961-1

Part-time services
 LA 258 (1959)

Patents
 LA 232 (1956), LA 44 (1927)

Private international law
 LA(I) 1970-4

Receiverships
 LA(I) 1948-1

Reorganizations
 LA(I) 1948-1

Selective Service Act
 LA 180 (1951)

Taxation
 LA 168 (1948)

Workers' compensation
 LA(I) 1959-2

LETTERHEAD

Accountant's lawyer shown on
 LA 164 (1947)

Dead lawyer's name on
[CAL](#) 1986-90, LA(I) 1962-5

Former judge
 judicial office shown on
 SF 1973-11

Holding out as specialist [see [Advertising](#)]
[Rule](#) 1-400(D)(6), Rules of Professional Conduct (operative
 as of June 1, 1997)
[Rule](#) 1-400, std. 11, Rules of Professional Conduct (operative
 as of May 27, 1989)
Peel v. Attorney Regulatory and Disciplinary Commission of
Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr.
 194]

Inactive lawyer on
 Business and Professions Code section 6132
 LA 310 (1969)

Lay person on
 LA(I) 1964-4

Lay person's law degree noted on
 LA 39 (1927)

Name of lawyer who is not associated with office on
 SD 1969-4

Of client, counsel shown on
 LA 289 (1965), LA 185 (1951), LA 173 (1950), LA 164 (1947),
 LA 43 (1927), LA(I) 1965-17, LA(I) 1965-15, SD 1972-16

"Of counsel" on
[Rule](#) 1-400, std. 8, Rules of Professional Conduct
[CAL](#) 1993-129, [CAL](#) 1986-88
 LA 516 (2006), LA 421 (1983), LA 306 (1968), LA(I) 1967-8

Of office sharers [See [Law office.](#)]
[CAL](#) 1971-27

Of organization, lawyer-officer of identified on
 LA 286 (1965), LA 256 (1959)

Out-of-state attorney or firm on
 LA 332 (1973), LA 202 (1952), LA 189 (1952), LA(I) 1967-8,
 LA(I) 1965-9, LA(I) 1959-3

Out-of-state attorney's
 LA(I) 1960-1

Partnership
 foreign lawyer or firm on
 LA 332 (1973), LA 249 (1958), LA 230 (1955), LA(I) 1965-9,
 SF 1974-1
 former member shown on
 -inactive partner
 LA 310 (1969)
 interstate
 LA 230 (1955)
 non-existent partnerships
 LA(I) 1959-3

Professional corporation
 SD 1978-4

Public office of former judge shown on
 SF 1973-11

Public official's reference to private practice
 LA 260 (1959)

Qualifications on
 academic degrees
 SD 1974-10
 accounting
 LA 224 (1955)
 membership
 -bar association
 LA 153 (1945)
 -in other professions
 LA 349 (1975), LA(I) 1961-1
 -specialties
 LA 230 (1955), LA 168 (1948), LA(I) 1961-1

Union emblem on
[CAL](#) 1971-24

LIEN

Use of
educational activity
SD 1974-21
political activity
LA 250 (1958)

Used by
client for collections
[CAL](#) 1982-68
LA(l) 1968-3
collection supervisor
SD 1978-4

LIEN [See Attorney's lien. Fees, collection of.]

Absent a petition by attorney seeking court confirmation of an arbitration award, such award has no greater force or effect than an attorney's written retainer agreement specifying an amount of attorney's fee and assigning it a lien on any settlement or judgment (CCP 1285.4 et seq.)

[Loeb v. Record](#) (2008) 162 Cal.App.4th 431 [75 Cal.Rptr.3d 551]

Attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

[People v. Green](#) (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

Attorney's lien is created and takes effect at the time fee contract is executed

[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

Attorney's lien not payable in circumvention of the Bankruptcy Code
[In re Monument Auto Detail, Inc.](#) (9th Cir. BAP 1998) 226 B.R. 219 [33 Bankr.Ct.Dec. 419]

Client settlement

failure of subsequent counsel to honor

liability for interference with prospective economic advantage

[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

[Levin v. Gulf Insurance Group](#) (1998) 69 Cal.App.4th 1282 [82 Cal.Rptr.2d 228]

[Pearlmutter v. Alexander](#) (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]

Common fund doctrine does not apply to contractual medical lienholders in personal injury matters

[City and County of San Francisco v. Sweet](#) (1995) 12 Cal.4th 105, 110, 115-117

[Farmers Insurance Exchange et al. v. Smith](#) (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

[Lovett v. Carrasco](#) (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

County's right to recover lien for medical expenses from injured debtor's settlement

[Tapia v. Pohlman](#) (1998) 68 Cal.App.4th 1126 [81 Cal.Rptr.2d 1]

Hospital's right to assert a lien on patient's lawsuit recovery once Medi-Cal payments accepted

[Brooks v. St. Mary Hospital](#) (1997) 57 Cal.App.4th 241 [66 Cal.Rptr.2d 820]

Insurance company pays fee to insured's attorney to protect insurer's lien on insured's settlement

LA 352 (1976)

Judgment creditor denied recovery of attorney's fees incurred against another judgment creditor as to priority of judgments against judgment debtor where judgment debtor did not challenge judgment creditor's rights

[Slates v. Gorabi](#) (2010) 189 Cal.App.4th 1210 [117 Cal.Rptr.3d 279]

Notice

[Great-West Life & Annuity Ins. Co. v. Knudson](#) (2002) 534 U.S. 204 [122 S.Ct. 708]

[County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co.](#) (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

[Carroll v. Interstate Brands Corp.](#) (2002) 99 Cal.App.4th 1168 [121 Cal.Rptr.2d 532]

[Farmers Insurance Exchange, et al. v. Smith](#) (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

[Farmers Insurance Exchange v. Zerlin](#) (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]

[Kaiser Foundation Health Plan Inc. v. Aguiluz](#) (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]

[Hansen v. Haywood](#) (1986) 186 Cal.App.3d 350 [230 Cal.Rptr. 580]

[In the Matter of Moriarty](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

[In the Matter of Feldsott](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

[CAL](#) 2009-177, [CAL](#) 2008-175

attorney may choose to file notice of lien in an underlying action against debtor/client, although attorney is not required to do so

[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

Physician

[CAL](#) 1988-101, [CAL](#) 1991-28(l)

LA 478 (1994), LA 368 (1977), LA 357 (1976)

Priority of

[Gilman v. Dalby](#) (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

[Waltrip v. Kimberlin](#) (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

[Pangborn Plumbing Corp. v. Carruthers & Skiffington](#) (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

[Atascadero Factory Outlets, Inc. v. Augustini & Wheeler LLP](#) (2000) 83 Cal.App.4th 717 [99 Cal.Rptr.2d 911]

[Epstein v. Abrams](#) (1997) 57 Cal.App.4th 1159 [67 Cal.Rptr.2d 555]

[Cappa v. F & K Rock & Sand, Inc.](#) (1988) 203 Cal.App.3d 172 [249 Cal.Rptr. 718]

attorney having a valid but unperfected security interest has priority over other unsecured creditors where the People failed to substantially comply with Penal Code § 186.11

[People v. Green](#) (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

attorney's lien is subordinate to an adverse party's right to offset judgments

[Pou Chen Corporation v. MTS Products](#) (2010) 183 Cal.App.4th 188 [107 Cal.Rptr.3d 57]

attorney's lien, if valid, on proceeds of client's subsequent judgment has priority over judgment creditor's lien on same judgment

[Brown v. Superior Court](#) (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

between contractual medical lien and an attorney lien for fees and costs of litigation in a contingency fee case

[Gilman v. Dalby](#) (2009) 176 Cal.App.4th 606 [98 Cal.Rptr.3d 231]

child support obligations have priority over attorney's fees on funds from liquidated assets deposited in attorney's client trust account in anticipation of legal services

[Brothers v. Kern](#) (2007) 154 Cal.App.4th 126, 64 Cal.Rptr.3d 239]

equitable lien for fees

[County of Los Angeles v. Construction Laborers Trust Funds for Southern California Administrative Co.](#) (2006) 137 Cal.App.4th 410 [39 Cal.Rptr.3d 917]

exceptions to priority of attorney's lien

[Pangborn Plumbing Corp. v. Carruthers & Skiffington](#) (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

-judgment creditor's application for proceeds of judgment bears burden of persuading court that it should be granted to satisfy judgment creditor's lien over an attorney's potentially senior claim of lien on same proceeds

Brown v. Superior Court (2004) 116 Cal.App.4th 320 [9 Cal.Rptr.3d 912]

judgment creditor's lien did not cover commercial tort claims
Waltrip v. Kimberlin (2008) 164 Cal.App.4th 517 [79 Cal.Rptr.3d 460]

Third party

Great-West Life & Annuity Ins. Co. v. Knudson (2002) 534 U.S. 204 [122 S.Ct. 708]

CAL 2008-175

attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

duty of attorney

U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

Simmons v. State Bar (1969) 70 Cal.2d 361, 365 [74 Cal.Rptr. 915, 450 P.2d 291]

Johnstone v. State Bar (1966) 64 Cal.2d 153, 155 [49 Cal.Rptr. 97, 410 P.2d 617]

Farmers Insurance Exchange et al. v. Smith (1999) 71 Cal.App.4th 660 [83 Cal.Rptr.2d 911]

Farmers Insurance Exchange v. Zerlin (1997) 53 Cal.App.4th 445 [61 Cal.Rptr.2d 707]

Kaiser Foundation Health Plan, Inc. v. Aquiluz (1996) 47 Cal.App.4th 302 [54 Cal.Rptr.2d 665]

Goldberg v. Superior Court (1994) 23 Cal.App.4th 1378 [28 Cal.Rptr.2d 613]

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]

Miller v. Rau (1963) 216 Cal.App.2d 68 [30 Cal.Rptr. 612]

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Riley (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

In the Matter of Bouyer (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 404

-no duty to lender, where client owed no funds to the lender
In re Emery (9th Cir. 2003) 317 F.3d 1064 [40 Bankr.Ct.Dec. 259]

exceptions to priority of attorney's lien

Pangborn Plumbing Corp. v. Carruthers & Skiffington (2002) 97 Cal.App.4th 1039 [119 Cal.Rptr.2d 416]

White collar crime

under Penal Code § 186.11

-attorney as third-party lien claimant entitled to proceeds, over other claimants, from disposition of property where the People failed to substantially comply with this statute

People v. Green (2004) 125 Cal.App.4th 360 [22 Cal.Rptr.3d 736]

LIMITING LIABILITY TO CLIENT

Business and Professions Code section 6090.5

Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)

Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

In the Matter of Lane (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 735

CAL 2012-185, CAL 2009-178, CAL 1992-127, CAL 1989-116

LA 502 (1999), LA 489 (1997)

Attorney may not seek written or oral agreement that client will not file, nor seek a representation from the client that they have not filed, nor intend to file, a State Bar complaint

CAL 2012-185

LITIGATION

Anti-SLAPP cases

Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74

Cal.App.5th 506 [289 Cal.Rptr.3d 521]

Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]

Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]

Lunada Biomedical v. Nunez (2014) 230 Cal.App.4th 459 [178 Cal.Rptr.3d 784]

S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]

allegations of conspiring in or aiding and abetting tenant harassment insufficient where the only acts attorney was shown to have committed were giving advice to client and writing a letter to opposing counsel which are unquestionably protected activities

Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]

declaratory relief action to determine prior attorney's right to fees is not subject to anti-SLAPP motion because suit does not arise from a protected activity

Drell v. Cohen (2014) 232 Cal.App.4th 24 [181 Cal.Rptr.3d 191]

defendant's general counsel's statement to press accusing plaintiff's attorney of wrongdoing is protected under the fair and true reporting privilege

Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

denial of anti-SLAPP motion appealable and proper where insurer's complaint did not arise from counsel's litigation-related conduct, but rather from his post-settlement conduct

Travelers Casualty Insurance Co. of America v. Hirsch (9th Cir. 2016) 831 F.3d 1179

denied for failure to show probability of success in underlying matter

Litinsky v. Kaplan (2019) 40 Cal.App.5th 970 [253 Cal.Rptr.3d 626]

filing of unredacted credit report is protected activity

G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

law firm, acting as agents for a school district, is protected when petitioning on behalf of the citizenry by seeking to take private land for public use

Kearney v. Foley & Lardner, LLP (9th Cir. 2009) 590 F.3d 638

letter of warning to prospective customers of former company employee who was alleged to have misappropriated trade secrets was protected activity, even though employer had not yet filed a lawsuit

Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]

letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege

Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]

motion granted on the basis that there was no evidence that attorneys harbored malice in pursuing the underlying action

Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]

LITIGATION

- plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute
Stenehjem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]
- settlement negotiations are acts in furtherance of person's right to petition under the statute
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
- underlying policy
Bleavins v. Demarest (2011) 196 Cal.App.4th 1533 [127 Cal.Rptr.3d 580]
- Frivolous actions under CCP § 128.7
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- toxic tort action against manufacturer had sufficient evidentiary support for case to survive a nonsuit
Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
- Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]
- Litigation privilege
 Civil Code section 47(b)
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]
Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]
Contreras v. Dowling (2016) 4 Cal.App.5th 774 [208 Cal.Rptr.3d 707]
Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]
S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]
Rickle v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 -did not bar plaintiff's claims because defendant engaged in a course of tortious conduct depriving plaintiff of attorney fees
Mancini & Associates v. Schwetz (2019) 39 Cal.App.5th 656 [252 Cal.Rptr.3d 315]
 -exceptions to the litigation privilege
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
 -litigation privilege should not be extended to litigating in the press
GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]
- Rusheen v. Cohen (2006) 37 Cal.4th 1048 [39 Cal.Rptr.3d 516]
Kimmel v. Golland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
Silberg v. Anderson (1990) 50 Cal.3d 205, 211-216
Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
- Rohde v. Wolf (2007) 154 Cal.App.4th 28 [64 Cal.Rptr.3d 348]
Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
Aronson v. Kinsella (1997) 58 Cal.App.4th 254 [68 Cal.Rptr.2d 305]
Shartzer v. Israels (1997) 55 Cal.App.4th 1290
Edwards v. Centex Real Estate Corp. (1997) 53 Cal.App.4th 15 [61 Cal.Rptr.2d 518]
Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
Lafer v. Levinson (1995) 34 Cal.App.4th 117 [40 Cal.Rptr.2d 233]
- communications mentioning "pursuing remedies" did not fall within the litigation privilege on the grounds that the overall tone of such communications was one of persuasion and cooperation and were not sent in anticipation of litigation
Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]
- covers communications, torts other than malicious prosecution, and interference with contract
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
- demand letter
Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]
- dismissal of defamation action against law firm justified
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
- filing of unredacted credit report is protected activity
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- litigation privilege applied to allegedly defamatory statements about husband that wife made in a declaration filed in a marital dissolution proceeding, regardless of the truth or falsity of those statements
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
- litigation privilege cannot be used to defend against claims of legal malpractice and breach of fiduciary duty arising from the filing of an application by an attorney, since the filing was not carried out in anticipation of litigation nor was it intended to instigate an official investigation into wrongdoing
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
- litigation privilege is inapplicable in an action by a former client against an attorney for breach of professional duties
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
- litigation privilege may apply to various types of truth-seeking proceedings, including administrative, legislative and other official proceedings, and may extend to communications made prior thereto or afterwards
People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]
- malicious prosecution is the only tort claim that falls outside the litigation privilege
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
- principal purpose underlying the litigation privilege
People v. Toledano (2019) 36 Cal.App.5th 715 [249 Cal.Rptr.3d 100]
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]
Chacon v. Litke (2010) 181 Cal.App.4th 1234 [105 Cal.Rptr.3d 214]

protected activities under anti-SLAPP statute are not coextensive with the range of statements protected by the litigation privilege

Neville v. Chudacoff (2008) 160 Cal.App.4th 1255 [73 Cal.Rptr.3d 383]

settlement negotiations

Seltzer v. Barnes (2010) 182 Cal.App.4th 953 [106 Cal.Rptr.3d 290]

underlying policy

Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]

People ex rel. Gallegos v. Pacific Lumber Company (2008) 158 Cal.App.4th 950 [70 Cal.Rptr.3d 501]

Litigation privilege does not protect attorney's alleged fraudulent statements about insurance coverage

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

Litigation privilege versus strategic lawsuits against public participation (SLAPP) action

Haneline Pacific Properties, LLC v. May (2008) 167 Cal.App.4th 311 [83 Cal.Rptr.3d 919]

Public official's authority with respect to initiating

LA(l) 1974-3

Specially appearing attorney undertakes a limited association with the litigant's attorney of record, forms an attorney-client relationship with the litigant, and owes the litigant a duty of care

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge

County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

LOAN [See Conflict of Interest, Adverse Interest.]

Rule 4-210, Rule of Professional Conduct (operative as of May 27, 1989)

Security for

assignment in client's interest in estate

LA 228 (1955)

MAIL [See Advertising. Solicitation.]

MALICIOUS PROSECUTION [See Abuse of process.]

Administrative proceeding

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Advice of counsel, bar to

Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063

Against attorney

Lucero v. Stewart (9th Cir. 1989) 892 F.2d 52

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

LA Investments, LLC v. Spix (2022) 75 Cal.App.5th 1044 [290 Cal.Rptr.3d 770]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

Hall v. Harker (1999) 69 Cal.App.4th 836

Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]

Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]

Tool Research & Engineering Corp. v. Henigson (1975) 46 Cal.App.3d 675 [120 Cal.Rptr. 291]

associated ("standby") counsel may be held liable for malicious prosecution of a case that lacks probable cause

Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]

sanction

-against defendant attorney improper

-dissolve protective order limiting use of financial information to lawsuit

Richards v. Superior Court (1978) 86 Cal.App.3d 265 [150 Cal.Rptr. 77]

unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit

Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]

Against disciplinary complainant not permissible as public policy

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Anti-SLAPP

malicious prosecution action subject to Anti-SLAPP statutes

Jarrow Formulas, Inc. v. LaMarche (2003) 31 Cal.4th 728 [3 Cal.Rptr.3d 636]

Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]

Reyes v. Kruger (2020) 55 Cal.App.5th 58 [269 Cal.Rptr.3d 549]

Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]

Bergstein v. Strock & Strock & Lavan (2015) 236 Cal.App.4th 793 [187 Cal.Rptr.3d 36]

S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]

Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]

JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]

Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]

motion granted on the basis that there was no evidence that attorneys harbored malice in pursuing the underlying action

Dunning v. Clews (2021) 64 Cal.App.5th 156 [278 Cal.Rptr.3d 607]

scope of commercial speech exemption to the anti-SLAPP statute (Code of Civ. Proc. §§ 425.16, 425.17)

Simpson Strong-Tie Company Inc. v. Gore (2010) 49 Cal.4th 12 [109 Cal.Rptr.3d 329]

Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]

Associate attorney may also be held liable for malicious prosecution following a principal attorney's instructions is not a valid defense

Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]

Attorney may be held liable for continued prosecution of a case that lacks probable cause

Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063

Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]

Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]

MALICIOUS PROSECUTION

- Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]
- By attorney
- against former client
- dismissal of cross-complaint or counter claim by client in action to recover attorneys' fees
Minasian v. Sapse (1978) 80 Cal.App.3d 823 [145 Cal.Rptr. 829]
 - effect of voluntary dismissal of underlying case
Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]
- filing complaint for punitive damages
- where prohibited by statute
Umansky v. Urquhart (1978) 84 Cal.App.3d 368 [148 Cal.Rptr. 547]
Younger v. Solomon (1974) 38 Cal.App.3d 289 [113 Cal.Rptr. 113]
- unsuccessful attempt to disqualify attorney from representing client not basis for malicious prosecution or abuse of process suit
- Silver v. Gold (1989) 211 Cal.App.3d 17 [259 Cal.Rptr. 185]
- By law firm
- law firm liable for malicious prosecution based on acts of principal
- Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
Gerard v. Ross (1988) 204 Cal.App.3d 968 [251 Cal.Rptr. 604]
- Continuance of action by firm
- grounds for partner's liability
- Lujan v. Gordon (1977) 70 Cal.App.3d 260 [138 Cal.Rptr. 654]
- Distinguished from abuse of process
- Oren Royal Oaks Venture v. Greenberg, Bernhard, Weiss & Karma, Inc. (1986) 42 Cal.3d 1157 [232 Cal.Rptr. 567]
S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d 567]
JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]
- Elements of
- Fisher Tool Co., Inc. v. Gillet Outillage (9th Cir. 2008) 530 F.3d 1063
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
Sheldon Appel Co. v. Albert & Olier (1989) 47 Cal.3d 863 [254 Cal.Rptr. 336]
LA Investments, LLC v. Spix (2022) 75 Cal.App.5th 1044 [290 Cal.Rptr.3d 770]
Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
Jay v. Mahaffey (2013) 218 Cal.App.4th 1522 [161 Cal.Rptr.3d 700]
Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]
Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]
Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]
Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]
Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
Citi-Wide Preferred Couriers, Inc. v. Golden Eagle Insurance Corp. (2003) 114 Cal.App.4th 906 [8 Cal.Rptr.3d 199]
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
- *Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]
Bixler v. Goudling (1996) 45 Cal.App.4th 1179 [53 Cal.Rptr.2d 246]
Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461 [242 Cal.Rptr. 562]
Pond v. Insurance Co. of North America (1984) 151 Cal.App.3d 280, 288-289 [198 Cal.Rptr. 517]
 inferring malice from lack of probable cause
Grindle v. Lorbeer (1987) 196 Cal.App.3d 1461
 under 42 U.S.C. § 1983
Thompson v. Clark (2022) 596 U.S. 36 [142 S.Ct. 1332]
- Fees
- court erred in awarding attorney fees to prevailing defendant on malicious prosecution claim when claim was not frivolous
Fabbri v. City of Dunsuir (9th Cir. 2011) 631 F.3d 1299
- Inadequate investigation of medical malpractice claim by attorney
- dismissal of medical malpractice claim for failure to prosecute gave rise to
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
 mere reliance on client's description
Williams v. Coombs (1986) 179 Cal.App.3d 626 [224 Cal.Rptr. 865]
- In-depth investigation by attorney negates malicious prosecution for defamation action
- Walsh v. Bronson (1988) 200 Cal.App.3d 259 [245 Cal.Rptr. 888]
- Judgment reversed
- Hall v. Harker (1999) 69 Cal.App.4th 836
- Premature where cross-complaint pending in underlying action
- Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]
- Probable cause element
- Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]
Silas v. Arden (2013) 213 Cal.App.4th 75 [152 Cal.Rptr.3d 255]
Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]
 attorney evaluating whether to file a case may generally rely on information provided by the attorney's client
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
 client provided information
*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]
 each claim advanced must be supported by
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
 pleading on "on information and belief" not a shield from liability
Mabie v. Hyatt (1998) 61 Cal.App.4th 581 [71 Cal.Rptr.2d 657]
 test is whether reasonable attorney would have thought the claim objectively tenable
Zamos v. Stroud (2004) 32 Cal.4th 958 [12 Cal.Rptr.3d 54]
LA Investments, LLC v. Spix (2022) 75 Cal.App.5th 1044 [290 Cal.Rptr.3d 770]
Golden State Seafood In. v. Schloss (2020) 53 Cal.App.5th 21 [266 Cal.Rptr.3d 608]
Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]
Kleveland v. Siegel & Wolensky (2013) 215 Cal.App.4th 534 [155 Cal.Rptr.3d 599]

Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]

*Swat-Fame, Inc. v. Goldstein (2002) 101 Cal.App.4th 613 [124 Cal.Rptr.2d 556]

Puryear v. Golden Bear Insurance Co. (1998) 66 Cal.App.4th 1188 [78 Cal.Rptr.2d 507]

Public entities are barred from bringing malicious prosecution suits but may recover costs defending against frivolous suits under CCP § 1038

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

Requires favorable termination reflecting the merits of the underlying action

JSJ Limited Partnership v. Mehrban (2012) 205 Cal.App.4th 1512 [141 Cal.Rptr.3d 338]

Daniels v. Robbins et al. (2010) 182 Cal.App.4th 204 [105 Cal.Rptr.3d 683]

Jackson v. Yarbray (2009) 179 Cal.App.4th 75 [101 Cal.Rptr.3d 303]

Drummond v. Desmarais (2009) 176 Cal.App.4th 439 [98 Cal.Rptr.3d 183]

Sycamore Ridge Apartments, LLC v. Naumann (2007) 157 Cal.App.4th 1385 [69 Cal.Rptr.3d 561]

Drasin v. Jacoby & Meyers (1984) 150 Cal.App.3d 481, 484 [197 Cal.Rptr. 768]

dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination

Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]

may occur at appellate level

Ray, as Receiver v. First Federal Bank of California (1998) 61 Cal.App.4th 315 [71 Cal.Rptr.2d 436]

not shown where cross-complaint pending in underlying action

Pasternack v. McCullough (2015) 235 Cal.App.4th 1347 [186 Cal.Rptr.3d 81]

Sanctions

Winick v. County of Sanitation District No. 2 of Los Angeles County (1986) 185 Cal.App.3d 1170, 1176 [230 Cal.Rptr. 289]

dismissal of cross-action as sanction for failure to comply with discovery orders does not establish favorable termination element

Pattiz v. Minye (1998) 61 Cal.App.4th 822 [71 Cal.Rptr.2d 802]

issues resolved on routine sanction motion not entitled to collateral estoppel preclusive effect in later action for malicious prosecution

Wright v. Ripley (1998) 65 Cal.App.4th 1189 [77 Cal.Rptr.2d 334]

Statute of limitations

actions against attorneys, under CCP 340.6

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

-governs malicious prosecution claims against attorneys who perform professional services in the underlying litigation

Connelly v. Bornstein (2019) 33 Cal.App.5th 783 [245 Cal.Rptr.3d 452]

Under 42 U.S.C. § 1983

Thompson v. Clark (2022) 596 U.S. 36 [142 S.Ct. 1332]

MALPRACTICE [See Neglect. Professional liability.]

Action against public entity under California Tort Claims Act (Government Code section 900 et seq.)

failure to file late claim within one year after accrual of cause of action

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Action brought by criminal defendant against former counsel for billing improprieties is not necessarily a claim of legal malpractice

Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

Acts constituting

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Aloy v. Mash (1985) 38 Cal.3d 312 [212 Cal.Rptr. 162]

Mireskandari v. Edwards Wildman Palmer LLP (2022) 77 Cal.App.5th 247 [292 Cal.Rptr.3d 410]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]

Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]

Barner v. Leeds (1998) 62 Cal.App.4th 1240 [73 Cal.Rptr.2d 296]

Kurini v. Hanna and Morton (1997) 55 Cal.App.4th 853 [64 Cal.Rptr.2d 324]

*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

Tibor v. Superior Court (1997) 52 Cal.App.4th 1359 [61 Cal.Rptr.2d 326]

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

Tchorbadjian v. Western Home Insurance Co. (1995) 39 Cal.App.4th 1211 [46 Cal.Rptr.2d 370]

Thompson v. Halvonik (1995) 36 Cal.App.4th 657 [43 Cal.Rptr.2d 142]

Thomas v. Lusk, Jr. (1994) 27 Cal.App.4th 1709 [34 Cal.Rptr.2d 265]

Schultz v. Harney (1994) 27 Cal.App.4th 1611 [33 Cal.Rptr.2d 1]

Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]

Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]

Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]

MALPRACTICE

- Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257] breach of a professional duty, which causes only nominal damages, speculative harm, or the threat of future harm that is not yet realized, does not serve to create a cause of action for professional negligence
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
client must prove causation in transactional matters
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
to third parties
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Schick v. Bach, et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
Acts of privately retained counsel and publicly appointed counsel should be measured by the same standard of care, except as otherwise provided by statute
Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]
Agreement to limit professional liability
CAL 2009-178, LA 489 (1997)
Anti-SLAPP
actions based on breach of duties owed to clients are not SLAPP suits
Castleman v. Sagaser (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]
definitional focus of this statute is not the form of the plaintiff's cause of action; rather, it is the defendant's activity that gives rise to his or her asserted liability and whether that activity constitutes protected speech or petitioning
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
litigation tactics protected under Anti-SLAPP statute
Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]
malpractice claims involve breach of duty by neglecting to do an act or doing an act, not the right of petition; therefore, malpractice claim may not be struck under the anti-SLAPP statute
Chodos v. Cole (2012) 210 Cal.App.4th 692 [148 Cal.Rptr.3d 451]
statute not applicable to malpractice claim based on attorney's breach of loyalty
Mindy's Cosmetics, Inc. v. Dakar (9th Cir. 2010) 611 F.3d 590
Sprengel v. Zbylut (2015) 241 Cal.App.4th 140 [194 Cal.Rptr.3d 407]
Loanvest v. Utrecht (2015) 235 Cal.App.4th 496 [1858 Cal.Rptr.3d 385]
PrediWave Corp. v. Simpson Thacher & Bartlett, LLP (2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]
Hylton v. Frank E. Rogozlenski, Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]
Kolar v. Donahue, McIntosh & Hammerton (2006) 145 Cal.App.4th 1532 [52 Cal.Rptr.3d 712]
Benasra v. Mitchell, Silberberg, and Knupp (2004) 123 Cal.App.4th 1179 [20 Cal.Rptr.3d 621]
statute not applicable to malpractice claim based on attorney's breach of professional duties in a non-litigation setting
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]
Arbitration provisions of retainer agreement are enforceable and applicable to legal malpractice action
Powers v. Dickson, Carlson & Campillo (1997) 54 Cal.App.4th 1102 [63 Cal.Rptr.2d 261]
CAL 1989-116
LA 489 (1997)
arbitrator's decision to dismiss legal malpractice case due to plaintiff's inability to pay should have allowed case to proceed in federal court
Tillman v. Tillman, Rheingoldm Valet, Rheingold, Shkolnik & McCartney (9th Cir. 2016) 825 F.3d 1069
no duty to separately explain arbitration agreement when attorney changes firms and client signs new fee agreement when client is a sophisticated businessperson
Mt. Holyoke Homes, L.P. v. Jeffer Mangels Butler & Mitchell, LLP (2013) 219 Cal.App.4th 1299 [162 Cal.Rptr.3d 597]
Desert Outdoor Advertising v. Superior Court (2011) 196 Cal.App.4th 866 [127 Cal.Rptr.3d 158]
Assignability
Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]
Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]
bankruptcy estate representative pursuing claim for the estate is not an assignee
Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]
exception to the California rule barring the assignment for the cause of action for legal malpractice
White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]
shareholder's derivative action does not transfer the cause of action from the corporation to the shareholders
McDermott, Will & Emory v. Superior Court (James) (2000) 83 Cal.App.4th 378 [99 Cal.Rptr.2d 622]
Attorney self-interest does not interfere with duty to client where attorney seeks indemnification from co-counsel in malpractice action
Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]
Attorney sued by former client for legal malpractice may not cross-complain against plaintiff's present attorney for indemnity or contribution
Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]
Austin v. Superior Court (1999) 72 Cal.App.4th 1126 [85 Cal.Rptr.2d 644]
Attorney sued by former corporate client for malpractice is not entitled to receive costs of defense pursuant to Corporations Code section 317
Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
Attorney's failure to raise inapplicable argument
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]
Breach of fiduciary duty, failure to advise of conflict, failure to advise that an investment was inappropriate for client or refer to independent advisor, obtaining undisclosed profit from transaction
Wood v. Jamison (2008) 167 Cal.App.4th 156 [83 Cal.Rptr.3d 877]
Burden of proof
Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case

Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

client must prove causation in transactional matters

Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]

Mireskandari v. Edwards Wildman Palmer LLP (2022) 77 Cal.App.5th 247 [292 Cal.Rptr.3d 410]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

error on trial court for failing to instruct jury on issue of severability in legal malpractice case

Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]

plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible

Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]

plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter

Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]

Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]

Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]

Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]

Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]

By partner

associate's duty to disclose to client

LA 383 (1979)

Calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

"Case within a case" methodology must be used when legal malpractice involves negligence in the prosecution or defense of a legal claim

Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]

Class action

standard of care to class action members

-counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation

Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]

Co-counsel may not sue another for breach of fiduciary duty on theory that latter's malpractice in handling their mutual client's case reduced or eliminated the fees the former expected to realize from the case

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Collateral estoppel, effect of

client is prohibited from relitigating previously decided issues even if second suit raises different causes of action

Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]

collateral estoppel doctrine bars plaintiff from relitigating the issue of whether her juvenile dependency attorneys caused the termination of her parental rights because causation is an essential element of a malpractice claim

Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]

respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action

Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]

"Comparative fault" where client's own conduct contributed to her own harm

Yale v. Bowne, II (2017) 9 Cal.App.5th 649 [215 Cal.Rptr.3d 266]

Criminal defendant must prove actual innocence in action for

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]

Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]

Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]

Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]

Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]

Redante v. Yockelson (2003) 112 Cal.App.4th 1351 [6 Cal.Rptr.3d 10]

Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]

individual convicted of a criminal offense must obtain reversal of his or her conviction, or other exoneration by postconviction relief

Khodayari v. Mashburn (2011) 200 Cal.App.4th 1184 [132 Cal.Rptr.3d 903]

legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence

Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]

Dismissal of action may be a proper sanction where plaintiff allowed the entire file to be destroyed

Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]

Duty of attorney

to client, not potential beneficiary

Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Duty to advise client of prior attorney's malpractice

no duty found

LA 390 (1981)

Elements of

Moua v. Pittullo et al. (2014) 228 Cal.App.4th 107 [174 Cal.Rptr.3d 662]

criminal matter

Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]

debt collection matter

Wise v. DLA Piper LLP (2013) 220 Cal.App.4th 1180 [164 Cal.Rptr.3d 54]

patent matter

E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Emotional distress damages may not be recovered as a result of negligent legal malpractice

Camenisch v. Superior Court (1996) 44 Cal.App.4th 1689 [52 Cal.Rptr.2d 450]

Emotional distress damages may be recoverable as part of a legal malpractice claim

LA 489 (1997)

Merenda v. Superior Court (1992) 3 Cal.App.4th 1

MALPRACTICE

Equitable defense

unclean hands

Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

PrediWave Corp. v. Simpson Thacher & Bartlett, LLP

(2009) 179 Cal.App.4th 1204 [102 Cal.Rptr.3d 245]

Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP (2005) 133 Cal.App.4th 658 [35 Cal.Rptr.3d 31]

-liquidating bankruptcy trustee's claims against company's lawyer relating to his alleged role in company's fraud barred by doctrine of in pari delicto

Uecker v. Zentil (2016) 244 Cal.App.4th 789 [198 Cal.Rptr.3d 620]

Estate planning

liability to intended beneficiary where attorney failed to advise client regarding requirements governing presumptively disqualified donees, resulting in damage to intended beneficiary

Osornio v. Weingarten (2004) 124 Cal.App.4th 304

liability to non-clients

Gordon v. Ervin Cohen & Jessup LLP (2023) 88 Cal.App.5th 543 [305 Cal.Rptr.3d 53]

Exception to the California rule barring the assignment for the cause of action for legal malpractice

White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]

Filing action not sufficient to preserve client's right to trial de novo after award of fees in mandatory fee arbitration

Shiver, McGrane & Martin v. Littell (1990) 217 Cal.App.3d 1041 [266 Cal.Rptr. 298]

Firm liable for acts of principal

Gerard v. Ross (1988) 204 Cal.App.3d 968

Firm not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Insufficient remedy

Community Dental Services v. Tani (2002) 282 F.3d 1164

Insurance

attorney's deadline to report malpractice claim to insurance carrier quitably tolled

Root v. American Equity Specialty Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]

firm's insurance doesn't cover attorney's alleged malpractice occurring outside conduct of firm's business

Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]

insurance carrier cannot bring malpractice action against attorney it did not retain to defend insured

American Casualty Company v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]

insurance company has right to bring malpractice action against the counsel it hired to defend its insured

Unigard Ins. Group v. O'Flaherty & Belgium (1997) 38 Cal.App.4th 1229

insurer has standing to sue law firm representing both insurer and insured

Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]

owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm

Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]

Jurisdiction of California federal court over Florida matter

Sher v. Johnson (9th Cir. 1990) 911 F.2d 1357

Jurisdiction of California state court over malpractice case involving substantial question of federal law

Landmark Screens LLC v. Morgan, Lewis & Bockius LLP (2010) 183 Cal.App.4th 238 [107 Cal.Rptr.3d 373]

Jurisdiction of state court

state court subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law

E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]

Labor Code section 2802

attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from claims made by a former client

Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]

Legal malpractice carrier does not cover attorney's alleged malpractice occurring outside of firm's business

Taub v. First State Insurance Company (1995) 44 Cal.App.4th 811 [52 Cal.Rptr.2d 1]

Legal malpractice carrier has no duty to defend malicious prosecution action arising from conspiracy suit by attorney acting on own behalf

Johnson v. First State Insurance Co. (1994) 27 Cal.App.4th 1079 [33 Cal.Rptr.2d 163]

Legal malpractice carrier's liability for multiple claims which are not characterized as arising from a "single act"

Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Company (1991) 233 Cal.App.3d 1184

Legal malpractice defendant not entitled to discover terms of plaintiff's settlement with regards to mitigating damages with insurer

Norton v. Superior Court (1994) 24 Cal.App.4th 1750 [30 Cal.Rptr.2d 217]

Legal negligence

plaintiff must prove "but for" alleged malpractice, the resulting contract would have been more favorable

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Viner v. Sweet (2004) 117 Cal.App.4th 1218 [12 Cal.Rptr.3d 533]

plaintiff must prove "but for" alleged negligence, he would have obtained a more favorable result

Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]

Limited Liability Partnership

owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm

Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]

Malpractice actions tolled while attorney continues to represent client

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]

Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Baright v. Willis (1984) 151 Cal.App.3d 303, 308 [198 Cal.Rptr. 510]

Malpractice by itself does not prove violation of [rule 3-110\(A\)](#) of Rules of Professional Conduct

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Mediation

communications and writings are confidential if materially related to and foster mediation, though not necessarily confidential simply because they are contemporaneous to a mediation

Wimsatt v. Superior Court (2007) 152 Cal.App.4th 137 [61 Cal.Rptr.3d 200]

malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation

Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]

Medical certification

Code of Civil Procedure sections 365, 411.30

Medical or health care provider

Business and Professions Code sections 6146, 6147

Code of Civil Procedure section 364

Paxton v. Chapman General Hospital (1986) 186 Cal.App.3d 110 [230 Cal.Rptr. 355]

communication with physician of opposing party

SD 1983-9

no duty to consult medical specialist unless such consultations recommended by other doctors

Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]

represent

-against former physician client

LA(l) 1965-5

statute of limitations tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one year statute

Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]

Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]

Meritless claims

no obligation to allege or advise a client on an unmeritorious claim

Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]

Multiple errors by attorney do not support multiple claims against attorney when only single injury results

Bay Cities Paving & Grading v. Lawyers Mutual Insurance Co. (1993) 5 Cal.4th 854 [21 Cal.Rptr.2d 691]

No action against attorney who is resigned as attorney of record prior to commission of alleged malpractice

Stuart v. Superior Court (1992) 14 Cal.App.4th 124 [18 Cal.Rptr.2d 142]

No duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client

Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]

No duty to nonclient, therefore, no malpractice liability to that non-client

Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]

No duty to third-party beneficiaries

duty to a nonclient third party (son and grandchildren) only if the client's intent to benefit them is clear, but no duty exists when a client changes their will to favor someone else (wife), despite claims of malpractice by the nonclient third party

Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]

nonclient third party may pursue a malpractice claim against a client's attorney only if they demonstrate that the attorney knew or reasonably should have known of clear, certain, and undisputed evidence of the client's intent to benefit them at the time of the alleged malpractice

Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]

No triable issue of fact as to second attorney's assumption of responsibility for pending lawsuit during retained counselor's illness

Daniels v. DeSimone (1993) 13 Cal.App.4th 600 [16 Cal.Rptr.2d 615]

Omission

McCann v. Welden (1984) 153 Cal.App.3d 814 [200 Cal.Rptr. 703]

by one member of law firm imputed to others when more than one attorney works on case

Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]

Outside counsel

outside contractor attorney may be held liable to government agency for acts of self-dealing

California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]

outside counsel retained by corporation to defend against litigation was not agent of corporation for purposes of statute indemnifying persons sued by reason of such agency for defense costs of malpractice action brought by the corporation

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Outside union counsel immune under Labor Management Relations Act

Breda v. Scott (1993) 1 F.3d 908

Probate cases

out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice

Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]

successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate

Stine v. Dell'Osso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]

Professional malpractice distinguished from negligence

Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]

Proximate cause

not shown when attorney's allegedly wrongful conduct is not a substantial factor

Kumaraperu v. Feldsted (2015) 237 Cal.App.4th 60 [187 Cal.Rptr.3d 583]

Public defender not immune from legal malpractice under statute granting discretionary immunity to public employees

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Public defenders not independent contractors for purpose of a government tort claim

Briggs v. Lawrence (1991) 230 Cal.App.3d 605

Public policy concerns barred first law firm from asserting indemnity claim against Cumis counsel with which it had concurrently represented company

Kroll & Tract v. Paris & Paris (1999) 72 Cal.App.4th 1537 [86 Cal.Rptr.2d 78]

Public policy concerns do not bar concurrent counsel from seeking indemnification from co-counsel in malpractice action

Musser v. Provencher (2002) 28 Cal.4th 274 [121 Cal.Rptr.2d 373]

Punitive damages

in underlying lawsuit

Ferguson v. Lieff, Cabraser, Heimann & Bernstein (2003) 30 Cal.4th 1037 [135 Cal.Rptr.2d 46]

Expansion Pointe Properties Limited Partnership v. Procopio (2007) 152 Cal.App.4th 42 [61 Cal.Rptr.3d 166]

Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953

Jackson v. Johnson (1992) 5 Cal.App.4th 1350

Right to jury trial

Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]

Sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law

Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]

Scope of expert testimony

Piscitelli v. Friedenber (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]

Settlement

Donnelly v. Ayer (1986) 183 Cal.App.3d 978 [228 Cal.Rptr. 764]

MALPRACTICE

breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6

Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]

client needs to show "significant difference" between what the settlement was and what could have been awarded at trial in order to prove damages

Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]

owner of law firm may be personally responsible for reimbursing insurer that settled malpractice claim filed by owner's business against firm

Carolina Casualty Insurance Co. v. L.M. Ross Law Group LLP (2013) 212 Cal.App.4th 1181 [151 Cal.Rptr.3d 628]

settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178

Sexual harassment of client

McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Signature of plaintiff's attorney omitted on complaint may not warrant dismissal of action with prejudice

Vaccaro v. Kaiman (1998) 63 Cal.App.4th 761 [73 Cal.Rptr.2d 829]

Special appearances

specially appearing attorney forms an attorney-client relationship with the litigant and owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Spoilation of evidence

Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

Standard of care to class action members

counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure

Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]

Standing to sue

absent a direct attorney-client relationship, plaintiff & alleged beneficiary of a testamentary instrument may have no standing to bring malpractice against attorney-defendant

Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024

legal malpractice claim brought by individual members dismissed because attorney was court appointed to represent the unsecured creditors' committee not the individual members

Schultze v. Chandler (9th Cir. 2014) 765 F.3d 945

probate cases

-out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice

Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]

-successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate

Stine v. Dell'Oso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]

respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action

Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]

successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

Statute of limitations

actions against attorneys, under CCP 340.6

Sharon v. Porter (2019) 41 Cal.App.5th 1 [253 Cal.Rptr.3d 840]

Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

-client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

-dismissal reversed to determine whether client's action against attorney arose from the performance of legal services

Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]

-time barred where it was filed more than a year after attorney filed motion to withdraw but within one year of court's granting such motion

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

application of where attorney performs both legal and non-legal services

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

barred legal malpractice claim brought more than one year after client retained other attorney to represent him in the same matter

Bennett v. McCall (1993) 19 Cal.App.4th 122

burden of proof

-for purposes of one-year-from-discovery limitation on commencing legal malpractice action, defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

California Tort Claims Act (Government Code section 900 et seq.)

-failure to file late claim with public entity within one year after accrual of cause of action

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

claims against former law firm not tolled based on continuous representation where client requested that its files be immediately delivered to replacement counsel, thereby consenting to firm's express withdrawal

GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

claims against attorney not tolled where attorney fails to act in a manner required for there to be a continuing attorney-client relationship

Shaoming City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

claims against former law firm not tolled when client continues to be represented in the same matter by the attorney who left the firm

Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]

claims against former law firm tolled when client not continually represented in the same matter

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

doctrine of "equitable tolling" applies to legal malpractice limitation period

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]

Afroozmehr v. Asherson (1988) 201 Cal.App.3d 704 [247 Cal.Rptr. 296]

does not begin to run until client suffers actual harm

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]

Adams v. Paul (1995) 11 Cal.4th 583 [46 Cal.Rptr.2d 594]

Itt Small Business Finance Corp. v. Niles (1994) 9 Cal.4th 245 [36 Cal.Rptr.2d 552]

Laird v. Blacker (1994) 2 Cal.4th 606

Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

Shifren v. Spiro (2012) 206 Cal.App.4th 481 [141 Cal.Rptr.3d 764]

Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]

Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]

Fergus v. Songer (2007) 150 Cal.App.4th 552 [59 Cal.Rptr.3d 273]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Caballero v. Gibson, Dunn & Crutcher (1997) 54 Cal.App.4th 1457 [63 Cal.Rptr.2d 594]

*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]

Gailing v. Rose, Klein & Marias (1996) 43 Cal.App.4th 1570 [51 Cal.Rptr.2d 381]

Fantazia v. County of Stanislaus (1996) 41 Cal.App.4th 1444 [49 Cal.Rptr.2d 177]

*Pompilio v. Kosmo, Cho & Brown (1995) 39 Cal.App.4th 409 [46 Cal.Rptr.2d 409]

Marshall v. Gibson, Dunn & Crutcher (1995) 37 Cal.App.4th 1397 [44 Cal.Rptr.2d 339]

Levin v. Graham & James (1995) 37 Cal.App.4th 798 [44 Cal.Rptr.2d 69]

Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 327]

Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]

Radovich v. Locke-Paddon (1995) 35 Cal.App.4th 946 [41 Cal.Rptr.2d 573]

*McElroy v. Biddison (1995) 32 Cal.App.4th 1164 [38 Cal.Rptr.2d 804]

Itt Small Business Finance Corp. v. Niles (1993) 19 Cal.App.4th 752

Finlayson v. Sanbrook (1992) 10 Cal.App.4th 1436 [13 Cal.Rptr.2d 406]

Laird v. Blacker (1991) 229 Cal.App.3d 159 [279 Cal.Rptr. 700]

Johnson v. Haberman & Kassoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]

Robinson v. McGinn (1987) 195 Cal.App.3d

-criminal conviction constitutes appreciable harm or "actual injury"

Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]

failure to file complaint

Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]

firm's representation terminated when firm emailed client that it "must withdraw" as client's attorney, that its "attorney-client relationship with client is terminated forthwith," and that it "no longer represents client with regard to any matters."

GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

legal negligence action

-began to run when client was first forced to take legal action to rectify prior attorney's error

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Baltins v. James (1995) 36 Cal.App.4th 1193 [42 Cal.Rptr.2d 896]

Karno v. Biddle (1995) 36 Cal.App.4th 622 [42 Cal.Rptr.2d 318]

Adams v. Paul (1994) 26 Cal.App.4th 861 [31 Cal.Rptr.2d 846]

loss of considerable settlement value constitutes actual injury

Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

loss or diminution of a right or remedy constitutes actual injury

Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

relation-back doctrine

Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

tolling of statute

Code of Civil Procedure § 340.6

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

Coscia v. McKenna & Cuneo (2001) 25 Cal.4th 1194 [108 Cal.Rptr.2d 471]

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Jordache Enterprises v. Brobeck, Phleger & Harrison (1998) 18 Cal.4th 739 [76 Cal.Rptr. 749]

Genisman v. Hopkins Carley (2018) 29 Cal.App.5th 45 [239 Cal.Rptr.3d 780]

Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

Shifren v. Spiro (2012) 206 Cal.App.4th 481 [141 Cal.Rptr.3d 764]

Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]

Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]

Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]

Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]

Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

MALPRACTICE

Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
*Barkhordian v. Cooley, Godward, Castro, Huddleson & Tatum (1997) 54 Cal.App.4th 155 [62 Cal.Rptr.2d 519]
Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
 -actual injury
Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]
 --sustained at the time when client discovered the facts supporting her malpractice claim; client's legal malpractice lawsuit was filed more than one year after section 340.6's statute of limitation had commenced and was time-barred
Sharon v. Porter (2019) 41 Cal.App.5th 1 [253 Cal.Rptr.3d 840]
 -against former law firm
Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]
 -continuous representation tolling provision in Code of Civil Procedure section 340.6 tolls legal malpractice claims brought by successor trustees against attorneys who represented the predecessor trustee
Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]
 -definition of "continuous representation" for purposes of Flake v. Neumiller & Beardslee (2017) 9 Cal.App.5th 223 [215 Cal.Rptr.3d 277]
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]
 -"equitable tolling" under CCP § 355 not applicable to CCP § 340.6 where plaintiff failed to file a timely action
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
 -not tolled by third-party litigation or attorney's later role as consultant
Foxborough v. Van Atta (1994) 26 Cal.App.4th 217 [31 Cal.Rptr.2d 525]
 -"outside" statute of limitations for medical malpractice action not tolled by 90-day period for notice of intent to sue
Rewald v. San Pedro Peninsula Hospital (1994) 27 Cal.App.4th 480 [32 Cal.Rptr.2d 411]
 -statute of limitations for legal malpractice action tolled while attorney still represents client on related matters, even if client knows of attorney's negligence
Nielsen v. Beck et al. (2007) 157 Cal.App.4th 1041 [69 Cal.Rptr.3d 435]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
 -statute of limitations for malpractice claims against former firm not tolled when client continues to be represented in the same matter by the attorney who left the firm
Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 [66 Cal.Rptr.3d 52]

-tolled for bringing legal malpractice action while attorney continues to represent plaintiff even where plaintiff knows of attorney's wrongful act/omission
Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]
Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
O'Neill v. Tichy (1993) 19 Cal.App.4th 114
 -tolled if criminal malpractice claim is filed within one-year or four-year limitations period to plaintiff to timely pursue post-conviction remedies
Rose v. Hudson (2007) 153 Cal.App.4th 641 [63 Cal.Rptr.3d 248]
 -tolled when plaintiff gives notice required by CCP § 364 within the last 90 days of the one-year statute
Russell v. Stanford University Hospital (1996) 44 Cal.App.4th 1798 [52 Cal.Rptr.2d 645]
Woods v. Young (1991) 53 Cal.3d 315 [807 P.2d 455]
 -unconditionally tolled while attorney represents client
Kulesa v. Castleberry (1996) 47 Cal.App.4th 103 [54 Cal.Rptr.2d 669]
 -while attorney-defendant was absent from California
Jocer Enterprises, Inc. v. Price (2010) 183 Cal.App.4th 559 [107 Cal.Rptr.3d 539]
 under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
 Successor trustee "stands in the shoes" of predecessor trustee and thus may assert legal malpractice claims against predecessor's attorney
Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]
 Third-party non-clients, liability to
Waggoner v. Snow, Becker, Kroll, Klaris and Kraus (1993) 991 F.2d 1501
Gordon v. Ervin Cohen & Jessup LLP (2023) 88 Cal.App.5th 543 [305 Cal.Rptr.3d 53]
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
B.L.M. v. Sabo & Deitsch (1997) 55 Cal.App.4th 823 [64 Cal.Rptr.2d 335]
Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
 attorney for corporation owes no duty of care to shareholders
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 intended beneficiaries of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
 Transactional matters
 client must prove causation
Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]
Mireskandari v. Edwards Wildman Palmer LLP (2022) 77 Cal.App.5th 247 [292 Cal.Rptr.3d 410]
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]
 Trial court error can negotiate elements of legal malpractice claim
Kasem v. Dion-Kindem (2014) 230 Cal.App.4th 1395 [179 Cal.Rptr.3d 711]
 Trust attorney owes no duty to non-client potential beneficiary absent testator's expressed intent to benefit non-client
Chang v. Lederman (2009) 172 Cal.App.4th 67 [90 Cal.Rptr.3d 758]

Where attorney successfully defends a client and later represents plaintiff in malpractice action against plaintiff's attorney in the same matter

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MILITARY PERSONNEL [See Attorneys of governmental agencies.]

Deserter, whereabouts disclosed

LA(l) 1956-1

MISAPPROPRIATION [See Clients' trust account.]

MISCONDUCT [See Candor. Contempt of court. Corporations. Professional liability. Trial Conduct.]

Abandonment of client

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

in order to represent adverse interest

Freeman v. Schack (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

Abdication of trust account responsibilities

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Absent finding of moral turpitude

In the Matter of Porche (Review Dept. 2023) 2023 WL 2569129

Active steps to prejudice client's rights

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Acts of privately retained counsel and publicly appointed counsel should be measured by the same standards, except as otherwise provided by statute

Barner v. Leeds (2000) 24 Cal.4th 676 [102 Cal.Rptr.2d 97]

Advocating overthrow of government by force, violence or other unconstitutional means

Business and Professions Code section 6106.1

Alcoholism

In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]

In re Bellicini (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Anti-SLAPP motion

does not cover acts of unjust enrichment, breach of California Civil Code section 2860(d) and concealment, because they are not acts in furtherance of attorney's right to petition or free speech

Travelers Casualty Insurance Co. of America v. Hirsch (9th Cir. 2016) 831 F.3d 1179

Appearance on own behalf as plaintiff

by disbarred or suspended attorney

-when action assigned subsequent to disbarment or suspension order

Business and Professions Code § 6130

Appearing without authority for client

Business and Professions Code section 6104

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr.267]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

"appearing" defined for purposes of Business and Professions code § 6104

In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Assault with a firearm warrants suspension but because of extensive mitigation does not involve moral turpitude

*In the Matter of Burns (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 406

Assault on client (premeditated) does not equal moral turpitude

In re Larkin (1989) 48 Cal.3d 236 [256 Cal.Rptr. 90]

Attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Attempting to prevent discovery

Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]

Attorney neglect

Rosenthal v. Garner (1983) 142 Cal.App.3d 891 [191 Cal.Rptr. 300]

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

imputed to client

Luna v. Kernan (9th Cir. 2015) 784 F.3d 640

Elston v. Turlock (1983) 148 Cal.App.3d 23 [195 Cal.Rptr. 618]

not necessarily binding on client

State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]

Attorney refused to dismiss defendants when he knew they were not involved—violation of Business and Professions Code section 6068(c)

In the Matter of Burke (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 448

Breach of fiduciary duty

In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

to non-client joint ventures

Galardi v. State Bar (1987) 43 Cal.3d 683 [238 Cal.Rptr. 774]

Pavichich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]

Bribe(s)

judge accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

payment to attorney for

United States v. Villalobos (9th Cir. 2014) 567 Fed.Appx. 541

Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]

Werner v. State Bar (1944) 24 Cal.2d 611 [150 P.2d 892]

Business transaction, improper

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Carrying a concealed weapon

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

Chose in action

purchase by attorney with intent to bring suit thereon

Business and Professions Code section 6129

Client reliance on attorney

County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]

Collateral order doctrine defined

Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136

Hanna v. Mercedes-Benz USA, LLC (2019) 36 Cal.App.5th 493 [248 Cal.Rptr.3d 654]

Collusion

consent to, with intent to deceive court or party

-misdemeanor

Business and Professions Code section 6128(a)

Comments in court

Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]

Commingling

In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213

MISCONDUCT

Conspiracy

alleged by client against attorney and others
Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

conspiracy to commit offenses against the United States
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

identity theft
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

liability for tortious acts committed in concert with clients
Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]
Pavicich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
Hung v. Wang (1992) 8 Cal.App.4th 908
Wolfrich v. United Services Automobile Association (1983) 149 Cal.App.3d 1206

-attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal

Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]

waiver of procedural defense

Villa Pacific Building Co. v. Superior Court (1991) 233 Cal.App.3d 8

"Contumacious" motion for substitution

United States v. Lee (9th Cir. 1983) 720 F.2d 1049

Conviction, felony or misdemeanor, moral turpitude

Business and Professions Code section 6101

dismissal or acquittal of criminal charges does not bar disciplinary proceedings covering the same facts

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

is basis for discipline, not a conviction

In re Gross (1983) 33 Cal.3d 561, 568 [189 Cal.Rptr. 848, 659 P.2d 1137]

Corruption

whether or not in course of relations as attorney

Business and Professions Code section 6106

-while attorney served on jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

Counsel's basis for reversal of judgment in judicial proceeding

report by clerk to State Bar

Business and Professions Code section 6086.7

Court

appearing in court while intoxicated

Ridge v. State Bar (1989) 47 Cal.3d 952 [254 Cal.Rptr. 803]

dishonesty to

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

duty not to mislead

U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

improper contact with juror

In re Possino (1984) 37 Cal.3d 163, 170 [207 Cal.Rptr. 543, 689 P.2d 115]

Court order

violation

Business and Professions Code section 6103

In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]

In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

Criminal conviction

summary disbarment for attempted child molestation

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

summary disbarment for forgery

In re Paguirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]

Deceit

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

consent to, with intent to deceive court or party

-misdemeanor

Business and Professions Code section 6128(a)

Decorum in courtroom

People v. Rainey (1964) 224 Cal.App.2d 93, 94-98 [36 Cal.Rptr. 291]

Deception and concealment amounting to moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

making misrepresentation to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

Default judgment

failure to take action to set aside

Moore v. State Bar (1964) 62 Cal.2d 74, 78 [41 Cal.Rptr. 161, 396 P.2d 577]

Hyland v. State Bar (1963) 59 Cal.2d 765, 772 [31 Cal.Rptr. 329, 382 P.2d 396]

Cheleden v. State Bar (1942) 20 Cal.2d 133 [124 P.2d 1]

improperly obtaining

Grove v. State Bar (1965) 63 Cal.2d 312, 314 [46 Cal.Rptr. 513, 405 P.2d 553]

permitting without client's authority

Monroe v. State Bar (1961) 55 Cal.2d 145, 150 [10 Cal.Rptr. 257, 356 P.2d 529]

Defense in criminal action aiding, promoting, or advising where partner is district attorney or public prosecutor

Business and Professions Code section 6131(a)

Delay

client's suit

-with view to attorney's gain

--misdemeanor

Business and Professions Code section 6128(b)

"Dirty tricks" disrupting political campaign in acts unrelated to attorney's practice of law

Segretti v. State Bar (1976) 15 Cal.3d 878 [126 Cal.Rptr. 793]

Disbarred attorney

appearing as plaintiff on own behalf where action assigned to attorney subsequent to disbarment order

Business and Professions Code section 6130

disbarment by state court is entitled to high respect but it is not conclusively binding on federal court, and disbarment by federal court does not automatically flow from disbarment by state court

Theard v. U.S. (1957) 354 U.S. 278 [77 S.Ct. 1274]

judge disbarred in California after disbarment in Michigan

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Dishonesty

borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

judge systemically and routinely sold his office and his public trust

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

to adverse party's lawyer

Hallinan v. State Bar (1948) 33 Cal.2d 246 [200 P.2d 787]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
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to client

Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]
Rossman v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919, 703 P.2d 390]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

to court

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

-filing false documents under penalty of perjury

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

-making misrepresentation to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

whether or not in course of relations as attorney

Business and Professions Code section 6106

Disregard for obligations to the legal profession and to clients

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

District attorney

advises, takes part in, or receives valuable consideration in criminal defense

-where prosecuted action

Business and Professions Code section 6131(b)

Driving under influence of alcohol, conviction for

In re Carr (1988) 46 Cal.3d 1089
In the Matter of Herich (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 820

In the Matter of Respondent I (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 260

In the Matter of Carr (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 108

In the Matter of Anderson (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 39

significant professional discipline may be imposed for multiple misdemeanor convictions of driving under the influence

In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402

Drunkenness in public

In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]

Duties of attorney, violation of

Business and Professions Code sections 6068, 6103

Duty to report violation of Rules of Professional Conduct and/or related statutes

SD 1992-2, LA 440 (1986)

Evidence of debt

purchase by attorney with intent to bring suit thereon
 Business and Professions Code section 6129

Ex parte communication with judge

judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Extortion

attorney attempts to receive money from opposing party in return for client's favorable testimony in criminal investigation is extortion

United States v. Villalobos (9th Cir. 2014) 567 Fed.Appx. 541

attorneys are not exempt from the principles of extortion in their professional conduct

Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]

Failure to appear in a probation violation proceeding

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

Failure to communicate with client

Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]

Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]

Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]

Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696]

Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]

Ballard v. State Bar (1983) 35 Cal.3d 274 [197 Cal.Rptr. 556]

Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]

In the Matter of Isola (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 911

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

Failure to comply with the conditions of reproof and no response to Notice of Disciplinary Charges violation of rule 1-110

In the Matter of Carver (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 348

Failure to cooperate in disciplinary investigation

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

Failure to cooperate with first appointed attorney

Franklin v. Murphy (9th Cir. 1984) 745 F.2d 1221, 1236

Failure to fulfill statutory duties as a juror

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

Failure to inform client of significant developments

In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101

In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852

Failure to keep the State Bar advised of current address

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

MISCONDUCT

- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Failure to maintain respect due to courts
- Hogan v. State Bar (1951) 36 Cal.2d 807, 808 [228 P.2d 554]
- Bigler-Engler v. Breg, Inc. (2017) 7 Cal.App.5th 276 [213 Cal.Rptr.3d 82]
- Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
- Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
- People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Failure to perform with competence
- In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852
- Failure to preserve confidences and secrets
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- Failure to properly prevent direct contact with represented parties by correspondence of employees
- Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670, 635 P.2d 163]
- Failure to redact opposing party's personal information
- G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]
- Failure to release client funds
- Friedman v. State Bar (1990) 50 Cal.3d 235 [786 P.2d 359]
- Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
- Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
- In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to return client file
- In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
- In the Matter of Bailey (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
- Failure to return unearned fees
- Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
- Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071 [782 P.2d 680]
- Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]
- Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
- Twohy v. State Bar (1989) 48 Cal.3d 502
- Ballard v. State Bar (1983) 35 Cal.3d 274
- In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
- In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
- In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
- In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Harris (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 219
- In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563)
- loan modification services
- failure to make full refund to clients
- In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221
- Failure to supervise non-attorney employee
- In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
- Failure to withdraw where required
- Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
- False or fraudulent insurance claim
- preparation of writing to be used in support of
- Business and Professions Code section 6106.5(b)
- presentation of
- Business and Professions Code section 6106.5(a)
- False or fraudulent statements in banking transactions
- In the Matter of Jebbia (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 51
- In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765
- False statement to a police officer
- Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 789, 789 P.2d 922]
- False testimony by attorney before a grand jury
- perjury
- Montag v. State Bar (1982) 32 Cal.3d 721 [186 Cal.Rptr. 894, 652 P.2d 1370]
- Fee split with non-lawyer
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Felony involving moral turpitude
- Business and Professions Code section 6101
- Forgery
- no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
- In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- settlement documents
- In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
- In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
- summary disbarment
- In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
- sureties
- forging names of
- Utz v. State Bar (1942) 21 Cal.2d 100, 102 [130 P.2d 377]
- Frivolous appeal
- Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
- Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- solely for delay
- Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
- Frivolous filing in bankruptcy matter
- Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886
- Gifts and favors from litigants and counsel
- judge improperly accepted
- In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
- Grand theft
- Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]
- In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

In re Doe (1978) 20 Cal.3d 550 [143 Cal.Rptr. 253]
Gross carelessness and negligence constitutes a violation of an attorney's oath
Jackson v. State Bar (1979) 23 Cal.3d 509, 513 [153 Cal.Rptr. 24, 591 P.2d 47]
appearing for party without authority
Business and Professions Code section 6104
Holding out as specialist
Rule 1-400(D)(6), Rules of Professional Conduct (operative June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
Ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Illegal drug transactions
In re Possino (1984) 37 Cal.3d 163, 169-170 [207 Cal.Rptr. 543, 689 P.2d 115]
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
LA 527, SF 2015-1
Improper withdrawal
In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852
Inadequate supervision of associate by attorney
duty to supervise
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]
Incompetent representation
appellant's briefs generally lacked cogent legal argument, legal authority, and proper citations, and sufficient evidence supported the judgment and order of dismissal based on joint misconduct by attorney and client
United Grand Corp. v. Malibu Hillbillies, LLC (2019) 36 Cal.App.5th 142 [248 Cal.Rptr.3d 294]
basis for reversal of judgment in judicial proceeding
-report by clerk to State Bar
Business and Professions Code section 6086.7
Intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
Issuing checks with insufficient funds in account
Rhodes v. State Bar (1989) 49 Cal.3d 50 [260 Cal.Rptr. 266]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Gordon v. State Bar (1982) 31 Cal.3d 748, 757 [183 Cal.Rptr. 861, 647 P.2d, 137]
Alkow v. State Bar (1952) 38 Cal.2d 257 [92 Cal.Rptr. 278]
In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708
CAL 2005-169
overdraft protection
CAL 2005-169
Knowledge of Rules of Professional Conduct is not an element of offense of misconduct
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
Zitny v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825, 415 P.2d 521]
Lending name to non-attorney to be used as attorney
Business and Professions Code section 6105
Loan modification services
In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437
collecting pre-performance fees in violation of the law
In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
In the Matter of Swazi Elkanzi Taylor (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
CAL 2020-202, LA 527, SF 2015-1
Minors involved in illicit conduct as a result of attorney's activities
In re Duggan (1976) 17 Cal.3d 416 [130 Cal.Rptr. 715]
In re Plotner (1971) 5 Cal.3d 714 [97 Cal.Rptr. 193]
In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552
Misappropriation of client funds
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
Misappropriation of law partnership funds
Kaplan v. State Bar (1991) 52 Cal.3d 1067 [804 P.2d 720]
In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]
Misappropriation of non-client funds
In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728
Misdemeanor
advertising or holding out as entitled to practice law following disbarment or during suspension
Business and Professions Code section 6126
collusion or consent to collusion with intent to deceive court or party
Business and Professions Code section 6128(a)
deceit or intent to deceive any court or party
Business and Professions Code section 6128(a)
defense in criminal action
-advising, aiding, or promoting when partner is district attorney or public prosecutor
Business and Professions Code section 6131(a)
delay of client's suit for attorney's own gain
Business and Professions Code section 6128(b)
failure to obtain court approval before release of copies of child pornography
Penal Code 1054.10
failure to obtain court approval before release of victim or witness information
Penal Code 1054.2
for district attorney or public prosecutor to advise, take part in or receive valuable consideration in criminal defense
-where prosecuted action
Business and Professions Code section 6131(b)
purchase or interest in evidence of debt or thing in action, with intent to bring suit thereon
Business and Professions Code section 6129
receive funds for which attorney not laid out or become answerable for
Business and Professions Code section 6128(c)
Misdemeanor child endangerment conviction
In the Matter of Jensen (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 283
Misdemeanor involving moral turpitude
Business and Professions Code section 6101
Misrepresentation
concealing terms of an insurance policy during settlement negotiation
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
of counsel
-basis for reversal of judgment in judicial proceeding
-report by clerk to State Bar
Business and Professions Code section 6086.7
settlement negotiations
CAL 2015-194
to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

MISCONDUCT

Misrepresentation by suppressing exculpatory evidence

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

Misrepresentation made to other side regarding insurance coverage

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

Moral turpitude [See Moral Turpitude.]

act involving

In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965

-deceit

In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965

-whether or not in course of relations as attorney

Business and Professions Code section 6106

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

--misrepresentation to judge while attorney served on a jury

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

borrowing money without intent to repay it

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 231

breach of fiduciary duty

In the Matter of Jimenez (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 965

civil judgment for fraud and breach of fiduciary duty establishes moral turpitude

In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195

criminal conduct not committed in the practice of law or against a client

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

dishonesty

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

felony involving

Business and Professions Code sections 6101, 6106

Jackson v. State Bar (1979) 23 Cal.3d 509 [153 Cal.Rptr. 24, 591 P.2d 47]

honest and reasonable belief, though mistaken, precludes a finding of moral turpitude

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

judge systematically and routinely sold his office and his public trust

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

misdemeanor involving

Business and Professions Code sections 6101, 6106

misrepresentation

In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852

serious sexual offenses

In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]

Negligent legal representation by itself does not prove misconduct

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Noerr-Pennington immunity defined

Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136

Oath of attorney, violation of

Business and Professions Code sections 6067, 6103

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Socal Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

Obstruction of justice

attorney has right to argue ethical obligations establish a bona fide legal representation defense

United States v. Kellington (9th Cir. (Or.) 2000) 217 F.3d 1084

Offensive and contemptuous conduct by attorney in court

Bigler-Engler v. Breg, Inc. (2017) 7 Cal.App.5th 276 [213 Cal.Rptr.3d 82]

Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Offensive personality

Business and Professions Code section 6068(f)

Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Outside contractor attorney may be held liable to government agency for acts of self-dealing

California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]

Partnership

with non-lawyer

LA 510 (2003)

-prohibited if partnership activities constitute practice of law

Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-310, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

Pattern of misconduct

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

Perjury

judge solicited the commission of perjury in a federal investigation

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Prejudicial intimations may not amount to the advancement of prejudicial facts

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Prejudicial statements during closing argument

United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132

Jackson v. Park (2021) 66 Cal.App.5th 1196 [281 Cal.Rptr.3d 634]

Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]

Presentation of false or fraudulent insurance claims

Business and Professions Code section 6106.5(a)

Prior to admission to the State Bar

In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]

Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Ike (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 483
In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
Pro bono client, ignoring
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Pro hac vice attorney
attorney disciplined for misrepresentation on pro hac vice application regarding residency
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]
attorney not entitled to fees for work done prior to admission pro hac vice
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
censure for failure to follow local court rules
United States v. Summet (9th Cir. 1988) 862 F.2d 784
court cannot sanction pro hac vice attorney for bad faith misconduct in a manner that a California attorney could not be sanctioned
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
court may, in its discretion, revoke status of pro hac vice attorney for bad faith misconduct; it cannot impose monetary sanctions unless authorized by statute
Sheller v. Superior Court (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
residency requirement
Attorney Grievance Commission of Maryland v. Joseph (Md. 2011) 422 Md. 670 [31 A.3d 137]
Public employees
attorney employee investigated for misconduct can be compelled, under threat of job discipline, to answer questions regarding his job performance, so long as the employee is not required to waive the constitutional protection against criminal use of those answers
Spielbauer v. County of Santa Clara (2009) 45 Cal.4th 704 [88 Cal.Rptr.3d 590]
Public prosecutor
advises, takes part in or receives valuable consideration in criminal defense
-where acted as prosecutor in matter
Business and Professions Code section 6131(b)
Purchase, with intent to bring suit
chose in action
Business and Professions Code section 6129
evidence of debt
Business and Professions Code section 6129
Receipt of funds
on account for which not laid out or become answerable for
-misconduct
Business and Professions Code section 6128(c)
Reckless misstatements of fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
Recording a conversation (Penal Code section 632)
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

applicability to city attorney while prosecuting misdemeanor cases (Penal Code section 633)
79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)
telephone
Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]
CAL 1966-5, LA 272 (1962), LA 182 (1951)
Repeated violations of Rules of Professional Conduct
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
Report of immigration status
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
Retaliation
employee may proceed with retaliation action against employer's attorney for discriminating against an employee filing a complaint under the Fair Labor Standard Act (FLSA)
Arias v. Raimondo (9th Cir. 2017) 860 F.3d 1185
Reversal of judgment
based upon counsel's
-mandatory report by clerk to State Bar
Business and Professions Code section 6086.7
Sanctions
Code of Civil Procedure section 128.5
Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
Settling a case without authority
In the Matter of Kauffman (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 213
Suspended attorney
appearing as plaintiff on own behalf where action assigned to attorney subsequent to order of suspension
Business and Professions Code section 6130
Terminating sanctions imposed for repeated violation of the court's order
Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
Threat to report immigration status
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
Unauthorized access to opposing party's data
LA 531 (2019)
Unauthorized representation
Zirbes v. Stratton (1986) 187 Cal.App.3d 1407 [232 Cal.Rptr. 653]
Violating five separate court orders warranted suspension
In the Matter of Collins (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 551
Violence against spouse and others
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 67
Willful failure of suspended attorney to comply with California Rule of Court 9.20
Lydon v. State Bar (1988) 45 Cal.3d 1181 [248 Cal.Rptr. 830]
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646
Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
In the Matter of Rose (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 192
In the Matter of Snyder (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 593
In the Matter of Friedman (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 527
In the Matter of Rodriguez (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 480
In the Matter of Grueneicha (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 439

MODEL CODE OF PROFESSIONAL RESPONSIBILITY

does not require bad faith or knowledge of provision violated
Powers v. State Bar (1988) 44 Cal.3d 337 [748 P.2d 324]
Hamilton v. State Bar (1979) 23 Cal.3d 868 [153 Cal.Rptr. 602]

non-compliance with rule 9.20(c), Rules of Court
In the Matter of Braun (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 738

Willful failure to file tax return
absent finding of moral turpitude
In re Morales (1983) 35 Cal.3d 1
In re Rohan (1978) 21 Cal.3d 195 [145 Cal.Rptr. 855, 578 P.2d 102]
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
+In the Matter of John Michael Brown (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 246
In re Michael Brown (1995) 12 Cal.4th 205

concealing personal funds improperly maintained in a client trust account
In the Matter of Koehler (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 615

Willful failure to perform and communicate
Stevens v. State Bar (1990) 51 Cal.3d 283 [794 P.2d 925]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 352]
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
Gold v. State Bar (1989) 49 Cal.3d 908 [782 P.2d 264]
Blair v. State Bar (1989) 49 Cal.3d 762 [263 Cal.Rptr. 641]
Pineda v. State Bar (1989) 49 Cal.3d 753 [263 Cal.Rptr. 377]
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]
Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]
Kent v. State Bar (1987) 43 Cal.3d 729 [239 Cal.Rptr. 77]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Rossmann v. State Bar (1985) 39 Cal.3d 539 [216 Cal.Rptr. 919]
Smith v. State Bar (1985) 38 Cal.3d 525, 537-538 [213 Cal.Rptr. 236]
Trousil v. State Bar (1985) 38 Cal.3d 337, 340-341 [211 Cal.Rptr. 525]
Smith v. State Bar (1984) 37 Cal.3d 17 [206 Cal.Rptr. 545]
Wren v. State Bar (1983) 34 Cal.3d 81 [192 Cal.Rptr. 743, 665 P.2d 515]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Willful violation of court order
Nilsson v. Louisiana Hydrolec (9th Cir. 1988) 854 F.2d 1538
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Willful violation of oath and duties as attorney
failure to notify client of change of address, telephone number
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
practicing law while suspended
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]
tendering checks without sufficient funds
Ainsworth v. State Bar (1988) 46 Cal.3d 1218 [252 Cal.Rptr. 267]

Willful violation of oath and duties of attorney in court of law
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Willful violation of Rules of Professional Conduct established by showing attorney acted or omitted to act purposely
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
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In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Walker v. State Bar (1989) 49 Cal.3d 1107 [783 P.2d 184]
Phillips v. State Bar (1989) 49 Cal.3d 944 [782 P.2d 587]
Sands v. State Bar (1989) 49 Cal.3d 919 [782 P.2d 595]
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
Baker v. State Bar (1989) 49 Cal.3d 804 [781 P.2d 1344]
Matthew v. State Bar (1989) 49 Cal.3d 784 [263 Cal.Rptr. 660]
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Gary v. State Bar (1988) 44 Cal.3d 820 [244 Cal.Rptr. 482]
Hunnecutt v. State Bar (1988) 44 Cal.3d 362 [748 P.2d 1161]
Franklin v. State Bar (1986) 41 Cal.3d 700 [224 Cal.Rptr. 738]
Stuart v. State Bar (1985) 40 Cal.3d 838, 842-843 [221 Cal.Rptr. 557]
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refusal of defense counsel to pursue client's desire to withdraw guilty plea not abandonment when done for ethical reasons
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]

Abortion, procuring
In re Plotner (1971) 5 Cal.3d 714, 726-727 [97 Cal.Rptr. 193, 488 P.2d 385]

Acceptance of employment adverse to a former client
Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]

Accepting a bribe
In re Bar Association of San Francisco (1921) 185 Cal. 621, 636 [dismissal] [198 P.7]

Accepting fees during suspension
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Accepting fees without performing work [See Fees.]
Alkow v. State Bar (1971) 3 Cal.3d 924, 934-935 [92 Cal.Rptr. 278]

Advancing untrue facts prejudicial to opposing party
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Marlowe v. State Bar (1965) 63 Cal.2d 304, 308-309 [46 Cal.Rptr. 3226, 405 P.2d 150]
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 Alcoholism
In re Kelley (1990) 52 Cal.3d 487 [801 P.2d 1126]
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 Allowing non-attorney to sign up clients
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 Alteration of evidence presented in a criminal trial
Price v. State Bar (1982) 30 Cal.3d 537, 541, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
 Alteration of name of grantee on deed
Hinds v. State Bar (1941) 19 Cal.2d 87, 89-93 [119 P.2d 134]
 Altering will so as to be admitted to probate
Bar Association of San Francisco v. DeVall (1922) 59 Cal.App. 230 [210 P. 279]
 Assignment of chose in action for legal malpractice
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 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]
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In re Lamb (1989) 49 Cal.3d 239 [260 Cal.Rptr. 856]
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 Breach of fiduciary duty
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In re Severo (1986) 41 Cal.3d 493 [224 Cal.Rptr. 106]
In re Hanley (1975) 13 Cal.3d 445, 451 [119 Cal.Rptr. 5, 530 P.2d 1381]
Toll v. State Bar (1974) 12 Cal.3d 824, 826-830 [117 Cal.Rptr. 427, 528 P.2d 35]
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 Commingling funds
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Bernstein v. State Bar (1972) 6 Cal.3d 909, 916-917 [101 Cal.Rptr. 369]
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 Conspiracy to defraud United States
In re Crooks (1990) 51 Cal.3d 1090 [800 P.2d 898]
In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
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 Conspiracy to obstruct justice
In the Matter of Sullivan II (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 189
 Contributory negligence of client
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 Conversion of client trust account funds
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 Converting estate funds
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In re Chernik (1989) 49 Cal.3d 467 [261 Cal.Rptr. 595]
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In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]
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In re Hurwitz (1976) 17 Cal.3d 562 [131 Cal.Rptr. 402, 551 P.2d 1234]
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may be exhibited by habitual disregard by an attorney of clients' interests combined with failure to communicate with such clients
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failure to disclose death of client during settlement negotiations
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
habeas petitioner may be entitled to equitable tolling of statute where attorney had engaged in dishonesty and bad faith in representation of prisoner
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
judge systematically and routinely sold his office and his public trust
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prohibited by Business and Professions Code section 6106 whether or not committed while acting as an attorney
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
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Dishonesty and other untruthful conduct in course of State Bar investigation
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Disobedience of client's instructions
Lally v. Kuster (1918) 177 Cal. 783 [171 P. 961]

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Disobedience of court order

Spevak v. Kline (1967) 385 U.S. 511 [87 S.Ct. 625, 17 L.Ed.2d 574]

Cohen v. Hurley (1961) 366 U.S. 117 [81 S.Ct. 954, 6 L.Ed.2d 156]

Weber v. State Bar (1988) 47 Cal.3d 492

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In re Sadicoff (1929) 208 Cal. 555 [282 P. 952]

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Lady v. State Bar (1946) 28 Cal.2d 497, 501-504 [170 P.2d 460]

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Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]

*Sullivan v. State Bar (1946) 28 Cal.2d 488, 496 [170 P.2d 888]

Drawing usurious documents

Bryant v. State Bar (1942) 21 Cal.2d 285 [131 P.2d 523]

Drug possession

In re Possino (1984) 37 Cal.3d 163 [207 Cal.Rptr. 543, 689 P.2d 115]

In re Cohen (1974) 11 Cal.3d 416, 421-22 [113 Cal.Rptr. 485, 521 P.2d 477]

In the Matter of Deierling (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 552

cocaine trafficking in large quantities prior to bar admission

In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62

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In re Kreamer (1975) 14 Cal.3d 524 [121 Cal.Rptr. 600, 535 P.2d 728]

conviction of felony narcotics offenses while a judge

In re Scott (1991) 52 Cal.3d 968

distribution of amphetamines

In re Giddens (1981) 30 Cal.3d 110 [177 Cal.Rptr. 673, 635 P.2d 166]

possession of heroin and cocaine with intent to distribute

In re Leardo (1991) 53 Cal.3d 1

possession of LSD prior to ingestion may be a possession conviction

People v. Palaschak (1995) 9 Cal.4th 1236 [40 Cal.Rptr.2d 722]

DUI crimes do not involve moral turpitude but moral turpitude defined as "a deficiency in any character trait necessary for the practice of law" is applied

In the Matter of Guillory (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 402

Duty of confidentiality v. duty of candor to the court
SD 2011-1

Duty owed in favor of third persons

children of client in dissolution

Haldane v. Freedman (1962) 204 Cal.App.2d 475 [22 Cal.Rptr. 445]

Embezzlement

In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]

Bradpiece v. State Bar (1974) 10 Cal.3d 742, 745 [111 Cal.Rptr. 905, 518 P.2d 337]

Encouraging action for corrupt motive

In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

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Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Arden v. State Bar (1959) 52 Cal.2d 310, 320-321 [341 P.2d 6]

Libarian v. State Bar (1952) 38 Cal.2d 328, 329-330 [239 P.2d 865]

Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 573 [160 P.2d 9]

attorneys are not exempt from the principles of extortion in their professional conduct

Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]

lawyer's threat to inform acquiring company about alleged criminal activities was clearly calculated to apply maximum settlement pressure, so that lawyer was thereby attempting to obtain property from another by wrongful use of force or fear

Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]

threatening phone calls

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Failure to disclose to client interest held in real property sold to same client

Gallagher v. State Bar (1981) 28 Cal.3d 832, 836

False documents, filing [See Trial Conduct.]

Weir v. State Bar (1979) 23 Cal.3d 564

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

False intimations regarding promiscuous sexual conduct do not establish moral turpitude

In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

False or fraudulent statements in banking transactions

In the Matter of Sawyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 765

False pleadings

Penaat v. State Bar (1944) 25 Cal.2d 26, 30 [152 P.2d 442]

False statements, filing

Weber v. State Bar (1988) 47 Cal.3d 492

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Phillips v. State Bar (1975) 14 Cal.3d 492, 500 [121 Cal.Rptr. 605, 535 P.2d 733]

Sturr v. State Bar (1959) 52 Cal.2d 125, 133 [338 P.2d 897]

Pickering v. State Bar (1944) 24 Cal.2d 141, 142-144 [148 P.2d 1]

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

filing false election documents

In re Rivas (1989) 49 Cal.3d 794

Falsely maligning judge

Matter of Humphrey (1917) 174 Cal. 290 [163 P. 60]

In re Graves (1923) 64 Cal.App. 176 [221 P. 411]

Fees

acceptable during suspension

In the Matter of Gonzalez (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 632

unconscionable

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

Fiduciary duties, breach of

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Baranowski v. State Bar (1979) 24 Cal.3d 153, 162 [154 Cal.Rptr. 752, 593 P.2d 613]

Benson v. State Bar (1975) 13 Cal.3d 581, 588-590 [119 Cal.Rptr. 297, 531 P.2d 1081]

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 576 [119 Cal.Rptr. 335, 531 P.2d 1119]

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
 OC 2011-02
 improper solicitation of loan
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
 moral turpitude not found
In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660
 safeguard client funds
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
 Filing and execution of self-signed judgments
Woodard v. State Bar (1940) 16 Cal.2d 755 [108 P.2d 407]
 filing false election documents
In re Rivas (1989) 49 Cal.3d 794
 Firearm exhibited in a threatening fashion
In the Matter of Smart (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 713
In the Matter of Frascinella (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 543
 Forgery
In re Paquirigan (2001) 25 Cal.4th 1 [104 Cal.Rptr.2d 402, 17 P.3d 758]
Porter v. State Bar (1990) 52 Cal.3d 518
Aronin v. State Bar (1990) 52 Cal.3d 276
Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]
Weir v. State Bar (1979) 23 Cal.3d 564, 576
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73, 79 [141 Cal.Rptr. 169, 569 P.2d 763]
Montalto v. State Bar (1974) 11 Cal.3d 231 [113 Cal.Rptr. 97, 520 P.2d 721]
In the Matter of Paquirigan (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 936
In the Matter of Salameh (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 729
In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679
 no violation found when successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
 Fraud [See Fraud.]
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
Hulland v. State Bar (1972) 8 Cal.3d 440 [105 Cal.Rptr. 152]
Monroe v. State Bar (1961) 55 Cal.2d 145 [10 Cal.Rptr. 257, 358 P.2d 529]
Choate v. State Bar (1953) 41 Cal.2d 399 [260 P.2d 609]
Sunderlin v. State Bar (1949) 33 Cal.2d 785 [205 P.2d 382]
Wood v. State Bar (1938) 11 Cal.2d 139 [78 P.2d 429]
Lantz v. State Bar (1931) 212 Cal. 213 [298 P. 497]
Aydelotte v. State Bar (1930) 209 Cal. 737, 740 [290 P. 41]
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]
 accepted fees for legal services but failed to perform such services or return the fees
Ridley v. State Bar (1972) 6 Cal.3d 551 [99 Cal.Rptr. 873]
 advising the conveyance of property for the purpose of defrauding the creditor of his client
Townsend v. State Bar (1948) 32 Cal.2d 592 [197 P.2d 326]
 arranging sham marriages
In re Aquino (1989) 49 Cal.3d 1122
 attorney delayed informing client on receipt of payment of judgment, then misappropriated such funds
Himmel v. State Bar (1971) 4 Cal.3d 786 [94 Cal.Rptr. 825]

attorney failed to reveal extent of his pre-existing indebtedness and financial distress to client
Benson v. State Bar (1975) 13 Cal.3d 581 [119 Cal.Rptr. 297]
 attorney induced a woman to purchase royalty interest that he should have known had only speculative value
In re Langford (1966) 64 Cal.2d 489 [50 Cal.Rptr. 661, 413 P.2d 437]
 business dealings whereby the attorney benefits are closely scrutinized
Marlowe v. State Bar (1965) 63 Cal.2d 304 [46 Cal.Rptr.326, 405 P.2d 150]
 characterizations of "moral turpitude, dishonesty, or corruption" must be made with intent to mislead
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]
 civil judgment for fraud and breach of fiduciary duty establishes moral turpitude
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
 committed forgery, misappropriated funds, and numerous acts of deceit and other dishonest conduct
Tardiff v. State Bar (1971) 3 Cal.3d 903 [92 Cal.Rptr. 301]
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
 concealing adverse and material facts when he obtained the money from his client
Clancy v. State Bar (1969) 71 Cal.2d 140 [77 Cal.Rptr. 657, 454 P.2d 329]
 deceiving clients as to the status of their cases, and issuing insufficiently funded checks
Alkow v. State Bar (1971) 3 Cal.3d 924 [92 Cal.Rptr. 278]
 defrauded a client and misappropriated her funds
Allen v. State Bar (1977) 20 Cal.3d 172 [141 Cal.Rptr. 808]
 deleting language in a statement obtained from the beneficiary of a trust deed on real property
Crane v. State Bar (1981) 30 Cal.3d 117, 121-122 [177 Cal.Rptr. 670, 635 P.2d 163]
 endorsing the draft and fabricating a "loan agreement" intending to deceive the bank
McKinney v. State Bar (1964) 62 Cal.2d 194, 196 [41 Cal.Rptr. 665, 397 P.2d 425]
 fees requested where non incurred and no supervision of non-attorneys
 LA 522 (2009)
 filing false involuntary bankruptcy petitions
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]
 insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
 insurance fraud
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 invoices and binders of memoranda were created after the fact in an attempt to justify respondent's fees
In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
 judge intentionally misstated his address for improper financial benefit
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 knowingly tried to take advantage of a relationship of personal trust and confidence
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467]
 loan from client obtained under false pretenses
Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]
 misappropriated money received for posting of cash bond and funds delivered for use in settlement negotiations
Fitzpatrick v. State Bar (1977) 20 Cal.3d 73 [141 Cal.Rptr. 169]

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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
CAL 2015-194, LA 482 (1995)

misrepresentation and concealment of adverse and material facts

Krieger v. State Bar (1954) 43 Cal.2d 604, 610 [275 P.2d 459]

misrepresented the status of the contest proceeding and kept clients ignorant of his unauthorized dismissal

Footte v. State Bar (1951) 37 Cal.2d 127 [230 P.2d 617]

obtained a loan from the estate without securing approval of the probate court

Laney v. State Bar (1936) 7 Cal.2d 419, 422 [60 P.2d 845]
petitioner's greater offense was his fraudulent and contrived misrepresentations to the State Bar

Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273]

practiced fraud and deceit on clients and a judge, and engaged in fraud on creditors

In re Wright (1973) 10 Cal.3d 374 [515 P.2d 292]

repeated practices of forgery, fraud, and deceit with clients and the Immigration and Naturalization Service

Weir v. State Bar (1979) 23 Cal.3d 564 [152 Cal.Rptr. 921]

repeatedly misrepresented facts to clients and made statements about their lawsuits which he knew were false

Stephens v. State Bar (1942) 19 Cal.2d 580, 583 [122 P.2d 549]

use of false medical reports in personal injury claims

In re Arnoff (1978) 22 Cal.3d 740, 744 [150 Cal.Rptr. 479, 586 P.2d 960]

using a fictitious name for purpose to defraud and obtain property by false pretense

In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]

In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

Furnishing marijuana/controlled substance to minor

In re Fudge (1989) 49 Cal.3d 643

Gifts and favors from litigants and counsel

judge improperly accepted

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Grand theft

In re Ewaniszyk (1990) 50 Cal.3d 543 [788 P.2d 690]

Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]

In re Demergian (1989) 48 Cal.3d 284 [256 Cal.Rptr. 392]

In re Vaughn (1985) 38 Cal.3d 614

In re Cannon (1983) 33 Cal.3d 417 [189 Cal.Rptr. 49, 657 P.2d 827]

Ambrose v. State Bar (1982) 31 Cal.3d 184 [181 Cal.Rptr. 903, 643 P.2d 486]

In re Cadwell (1975) 15 Cal.3d 762, 772 [125 Cal.Rptr. 889, 543 P.2d 257]

In re Honoroff (1975) 15 Cal.3d 755, 760 [126 Cal.Rptr. 229, 545 P.2d 597]

In re Urias (1966) 65 Cal.2d 258, 262 [53 Cal.Rptr. 881, 418 P.2d 849]

In the Matter of Brazil (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 679

Gross carelessness and negligence [See Professional liability.]

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 475 [169 Cal.Rptr. 581, 619 P.2d 1005]

Simmons v. State Bar (1970) 2 Cal.3d 719 [87 Cal.Rptr. 368]

Trusty v. State Bar (1940) 16 Cal.2d 550 [107 P.2d 10]

Waterman v. State Bar (1936) 8 Cal.2d 17 [63 P.2d 1135]

In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308

In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

Gross negligence [See Professional liability.]

Lai v. State of California (9th Cir. 2010) 610 F.3d 518

Schullman v. State Bar (1976) 16 Cal.3d 631, 633 [128 Cal.Rptr. 671, 547 P.2d 447]

Spindell v. State Bar (1975) 13 Cal.3d 253, 262 [118 Cal.Rptr. 480, 530 P.2d 168]

*Schullman v. State Bar (1973) 10 Cal.3d 526, 528 [111 Cal.Rptr. 161, 516 P.2d 865]

Rock v. State Bar (1962) 57 Cal.2d 639, 642 [21 Cal.Rptr. 572, 371 P.2d 308]

Sullivan v. State Bar (1955) 45 Cal.2d 112, 114 [287 P.2d 778]

Gelberg v. State Bar (1938) 11 Cal.2d 141 [78 P.2d 430]

Marsh v. State Bar (1934) 2 Cal.2d 75 [39 P.2d 403]

In the Matter of Yee (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 330

In the Matter of Lawrence (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

In the Matter of Hagen (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 153

breach of fiduciary duty

-failure to disburse settlement funds

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288, 499 P.2d 968]

-failure to give proper accounting

Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]

-misappropriation

Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

-overdrawing client trust account

Lowe v. State Bar (1953) 40 Cal.2d 564, 570 [254 P.2d 506]

failure to file cause of action

Sanchez v. State Bar (1976) 18 Cal.3d 280, 285 [133 Cal.Rptr. 768, 555 P.2d 889]

Grove v. State Bar (1967) 66 Cal.2d 680, 683-685 [58 Cal.Rptr. 564, 427 P.2d 164]

-in dissolution

Waterman v. State Bar (1936) 8 Cal.2d 17, 20 [63 P.2d 133]

Marsh v. State Bar (1930) 210 Cal. 303, 307 [291 P.2d 583]

-in will contest

Call v. State Bar (1955) 45 Cal.2d 104, 109-110 [287 P.2d 761]

failure to give reasonable attention to clients' matters

In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

failure to supervise employees

Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]

Hu v. Fang (2002) 104 Cal.App.4th 61 [127 Cal.Rptr.2d 756]

-associate attorney

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

-bookkeeper

In the Matter of Respondent E (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 716

-office staff

Vaughn v. State Bar (1972) 6 Cal.3d 847, 859 [100 Cal.Rptr. 713]

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

-secretary
Sanchez v. State Bar (1976) 18 Cal.3d 280, 282 [133 Cal.Rptr. 768, 555 P.2d 889]

false verification
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

instigating a conversation with potential adverse party under false pretenses
In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

mere ignorance of law is not moral turpitude
Friday v. State Bar (1943) 23 Cal.2d 501 [144 P.2d 564]

neglect of client matters
Gassman v. State Bar (1976) 18 Cal.3d 125, 130 [132 Cal.Rptr. 675, 553 P.2d 1147]
Doyle v. State Bar (1976) 15 Cal.3d 973, 978 [126 Cal.Rptr. 801, 544 P.2d 937]
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

trust account duties
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

Gross negligence in overseeing client trust account procedures
In the Matter of Guzman (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 308
In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

Habitual neglect of client's interests
Walker v. State Bar (1989) 49 Cal.3d 1107
Blair v. State Bar (1989) 49 Cal.3d 762
Pineda v. State Bar (1989) 49 Cal.3d 753
Coombs v. State Bar (1989) 49 Cal.3d 679 [262 Cal.Rptr. 554]
Kent v. State Bar (1987) 43 Cal.3d 729 [239 Cal.Rptr. 77]
In re Morales (1983) 35 Cal.3d 1, 9-10
Marcus v. State Bar (1980) 27 Cal.3d 199, 202 [165 Cal.Rptr. 121, 611 P.2d 462]
Martin v. State Bar (1978) 20 Cal.3d 717, 722 [144 Cal.Rptr. 214, 575 P.2d 757]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Gadda (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

Harassment of client
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Harboring a fugitive
In the Matter of DeMassa (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 737

Honest and reasonable belief, though mistaken, precludes a finding of moral turpitude
In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

Honesty required in the practice of law
In re Gossage (2000) 23 Cal.4th 1080 [99 Cal.Rptr.2d 130]
Borré v. State Bar (1991) 52 Cal.3d 1047
Levin v. State Bar (1989) 47 Cal.3d 1140 [255 Cal.Rptr. 422, 767 P.2d 689]
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
Hamilton v. State Bar (1979) 23 Cal.3d 868, 876 [153 Cal.Rptr. 602, 591 P.2d 1254]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Identity theft
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469

Ignoring pro bono clients
Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Income taxes, failure to file return
In re Grimes (1990) 51 Cal.3d 199 [793 P.2d 61]
In re Fahey (1973) 8 Cal.3d 842, 849-854 [106 Cal.Rptr. 313, 505 P.2d 1369]
advocating civil disobedience
CAL 2003-162

Inducing client to offer attorney free use of client's vacation rental property
CAL 2011-180

Inducing client to withdraw disciplinary complaint
In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

Insider trading
Chadwick v. State Bar (1989) 49 Cal.3d 103 [260 Cal.Rptr. 538]
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418

Instructing client to testify falsely concerning fee arrangement
Medoff v. State Bar (1969) 71 Cal.2d 535 [78 Cal.Rptr. 696]

Intentional infliction of emotional distress
In the Matter of Torres (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

Intimidation of witness
soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]

Involuntary manslaughter not per se moral turpitude
In re Strick (1987) 43 Cal.3d 644 [238 Cal.Rptr. 397]

Involving acts whether or not committed in the course of relations as attorney
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Justifies disbarment
In re Possino (1984) 37 Cal.3d 163, 168-169 [207 Cal.Rptr. 543, 689 P.2d 115]
In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Knowing and false representations to client
Gaffney v. State Bar (1942) 20 Cal.2d 735 [128 P.2d 516]
Propp v. State Bar (1942) 20 Cal.2d 387 125 P.2d 825]

Lying on lease
Marquette v. State Bar (1988) 44 Cal.3d 253 [242 Cal.Rptr. 886, 746 P.2d 1289]

Lying to client regarding case status
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In re Tenner (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

Lying to police officers
In the Matter of Caplin (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 768

Mail fraud
In re Utz (1989) 48 Cal.3d 468 [256 Cal.Rptr. 561]
In re Schwartz (1982) 31 Cal.3d 395, 399 [182 Cal.Rptr. 640, 644 P.2d 833]
In the Matter of Weber (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 942
In the Matter of Segal (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 71

Manslaughter
In re Alkow (1966) 64 Cal.2d 838 [51 Cal.Rptr. 912, 415 P.2d 800]
In the Matter of Peters (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 536

Medical marijuana
attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences
CAL 2020-202, LA 527, SF 2015-1

Merits severe punishment
Alberton v. State Bar (1984) 37 Cal.3d 1 [206 Cal.Rptr. 373]

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Misappropriation of check

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]

Misappropriation of firm funds during breakup of law firm

Morales v. State Bar (1988) 44 Cal.3d 1037 [245 Cal.Rptr. 398]

Misappropriation of funds [See Client trust account, misappropriation.]

Bates v. State Bar (1990) 51 Cal.3d 1056

Bercovich v. State Bar (1990) 50 Cal.3d 116 [785 P.2d 889]

Walker v. State Bar (1989) 49 Cal.3d 1107

Baker v. State Bar (1989) 49 Cal.3d 804

Pineda v. State Bar (1989) 49 Cal.3d 753

Chang v. State Bar (1989) 49 Cal.3d 114 [260 Cal.Rptr. 280]

In re Basinger (1988) 45 Cal.3d 1348 [249 Cal.Rptr. 110, 756 P.2d 833]

In re Ford (1988) 44 Cal.3d 810 [244 Cal.Rptr. 476]

Garlow v. State Bar (1988) 44 Cal.3d 689 [244 Cal.Rptr. 452, 749 P.2d 1807]

Smith v. State Bar (1984) 37 Cal.3d 17, 25

Bate v. State Bar (1983) 34 Cal.3d 920 [196 Cal.Rptr. 209, 671 P.2d, 360]

Rimel v. State Bar (1983) 34 Cal.3d 128 [192 Cal.Rptr. 866, 665 P.2d 956]

In re Mudge (1982) 33 Cal.3d 152 [187 Cal.Rptr. 779, 654 P.2d 1307]

Ambrose v. State Bar (1982) 31 Cal.3d 184 [187 P.2d 741]

Cain v. State Bar (1979) 25 Cal.3d 956, 961 [160 Cal.Rptr. 362, 603 P.2d 464]

Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273, 586 P.2d 588]

Codiga v. State Bar (1978) 20 Cal.3d 788, 794-795 [144 Cal.Rptr. 404, 575 P.2d 1186]

Athearn v. State Bar (1977) 20 Cal.3d 232, 234 [142 Cal.Rptr. 171, 571 P.2d 628]

Allen v. State Bar (1977) 20 Cal.3d 172, 174 [141 Cal.Rptr. 808, 570 P.2d 1226]

Jackson v. State Bar (1975) 15 Cal.3d 372, 374 [124 Cal.Rptr. 185, 540 P.2d 25]

Wells v. State Bar (1975) 15 Cal.3d 367, 369 [124 Cal.Rptr. 218, 540 P.2d 58]

Silver v. State Bar (1974) 13 Cal.3d 134, 137 [117 Cal.Rptr. 821, 528 P.2d 1157]

Oliver v. State Bar (1974) 12 Cal.3d 318, 320-321 [115 Cal.Rptr. 639, 525 P.2d 79]

Yokozeki v. State Bar (1974) 11 Cal.3d 436, 441-445 [113 Cal.Rptr. 602, 521 P.2d 858]

Brody v. State Bar (1974) 11 Cal.3d 347, 350-351 [113 Cal.Rptr. 371, 521 P.2d 107]

Sevin v. State Bar (1973) 8 Cal.3d 641, 646 [105 Cal.Rptr. 513, 504 P.2d 449]

Crooks v. State Bar (1970) 3 Cal.3d 346 [90 Cal.Rptr. 600]

Monroe v. State Bar (1969) 70 Cal.2d 301, 309 [74 Cal.Rptr. 733]

In re Urias (1966) 65 Cal.2d 258, 262 [53 Cal.Rptr. 881, 418 P.2d 849]

Dreyfus v. State Bar (1960) 54 Cal.2d 799, 804 [8 Cal.Rptr. 469, 356 P.2d 213]

Hennessy v. State Bar (1941) 18 Cal.2d 685

Russill v. State Bar (1941) 18 Cal.2d 321 [115 P.2d 464]

Prime v. State Bar (1941) 18 Cal.2d 56 [112 P.2d 881]

Rohe v. State Bar (1941) 17 Cal.2d 445 [110 P.2d 389]

Flaherty v. State Bar (1940) 16 Cal.2d 483 [106 P.2d 617]

Stanford v. State Bar (1940) 15 Cal.2d 721 [104 P.2d 635]

In re Andreani (1939) 14 Cal.2d 736 [97 P.2d 456]

Irons v. State Bar (1938) 11 Cal.2d 14 [77 P.2d 221]

Gale v. State Bar (1937) 8 Cal.2d 147 [64 P.2d 145]

Oster v. State Bar (1935) 2 Cal.2d 625 [43 P.2d 627]

In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101

In the Matter of Schooler (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 494

In the Matter of Song (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

In the Matter of Conner (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

In the Matter of Blum (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 403

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

In the Matter of Robins (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583

rule of limitations is tolled during the time an attorney acts in a fiduciary relationship, even if it is other than an attorney-client relationship. The five-year period did not commence until the conclusion of the attorney's fiduciary obligation

In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728

Misappropriation of non-client funds

In the Matter of Saxon (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 728

Misleading statements in order to induce criminal defendant to sign a confession

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

Misleading the court

U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

Bach v. State Bar (1987) 43 Cal.3d 848 [239 Cal.Rptr. 302]

Worth v. State Bar (1978) 22 Cal.3d 707, 711 [150 Cal.Rptr. 273, 586 P.2d 588]

Sullins v. State Bar (1975) 15 Cal.3d 609, 618-621 [125 Cal.Rptr. 471, 542 P.2d 631]

Reznik v. State Bar (1969) 1 Cal.3d 198 [81 Cal.Rptr. 769]

Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]

Paonessa v. State Bar (1954) 43 Cal.2d 222, 227 [272 P.2d 510]

Lowe v. State Bar (1953) 40 Cal.2d 564, 566-567 [254 P.2d 506]

Griffith v. State Bar (1953) 40 Cal.2d 470, 475 [254 P.2d 22]

McMahon v. State Bar (1952) 39 Cal.2d 367, 373 [246 P.2d 931]

Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]

Vickers v. State Bar (1948) 32 Cal.2d 247 [196 P.2d 10]

Lady v. State Bar (1946) 28 Cal.2d 497, 501-504 [170 P.2d 460]

In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101

In the Matter of Moriarty (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 511

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 creating a false impression by concealment and affirmative misrepresentations to State Bar investigator
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
 making misrepresentations to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
 misrepresentations made out-of-state investigator regarding possible UPL
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
 Misleading Workers' Compensation Appeals Board
In the Matter of Hansen (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 464
 Misrepresentation
In the Matter of Chavez (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 783
 Misrepresentation on resume
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
In the Matter of Mitchell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 332
 Misrepresentation to client
Harford v. State Bar (1990) 52 Cal.3d 93
Gold v. State Bar (1989) 49 Cal.3d 908
Pineda v. State Bar (1989) 49 Cal.3d 753
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Prantil v. State Bar (1979) 23 Cal.3d 243 [152 Cal.Rptr. 425, 590 P.2d 1]
Nizinski v. State Bar (1975) 14 Cal.3d 587, 595 [121 Cal.Rptr. 824, 536 P.2d 72]
Benson v. State Bar (1975) 13 Cal.3d 581, 588-590
Glickman v. State Bar (1973) 9 Cal.3d 179, 183-184 [107 Cal.Rptr. 65, 507 P.2d 953]
Krieger v. State Bar (1954) 43 Cal.2d 604 [275 P.2d 459]
Alkow v. State Bar (1952) 38 Cal.2d 257, 263-264 [239 P.2d 871]
Foot v. State Bar (1951) 37 Cal.2d 127, 129 [230 P.2d 617]
In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
In the Matter of Peavey (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Kueker (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 583
 deceiving client regarding status of case
Lipson v. State Bar (1991) 53 Cal.3d 1010
Conroy v. State Bar (1991) 53 Cal.3d 495
Stevens v. State Bar (1990) 51 Cal.3d 283
Pineda v. State Bar (1989) 49 Cal.3d 753
Carter v. State Bar (1988) 44 Cal.3d 1091
In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
 deception and concealment
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
In the Matter of Kittrell (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 195
 failure to disclose facts in soliciting client loan
Beery v. State Bar (1987) 43 Cal.3d 802 [239 Cal.Rptr. 121]
 false statement of association with other attorneys
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]

Misrepresentation to a CPA who rendered services on a client matter
Read v. State Bar (1991) 53 Cal.3d 394, mod. at 53 Cal.3d 1009
 Misrepresentations to client's new attorney
Bates v. State Bar (1990) 51 Cal.3d 1056
 Misrepresentations to opposing counsel
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 Mistake of law
Butts v. State Bar (1948) 31 Cal.2d 453, 457-458 [189 P.2d 1]
 Misuse of client funds
In re Vaughn (1985) 38 Cal.3d 614, 617 [213 Cal.Rptr. 583]
Griffith v. State Bar (1945) 26 Cal.2d 273, 277 [158 P.2d 1]
 Money laundering scheme
In re Berman (1989) 48 Cal.3d 517 [256 Cal.Rptr. 802]
 Offensive or disrespectful acts [See Trial Conduct.]
In re Sawyer (1959) 360 U.S. 622 [79 S.Ct. 1376]
 Opposing counsel, misleading
Coviello v. State Bar (1955) 45 Cal.2d 57, 65-66 [286 P.2d 357]
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456
 Overreaching
In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
 moral turpitude found when attorney deceived his client by overreaching when client had limited English-speaking ability
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
 Perjury
In the Matter of Katz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 502
 judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 Practice of deceit
 concealed payments to non-attorney
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
 Prior criminal acquittal; no bar to discipline
Zitny v. State Bar (1966) 64 Cal.2d 787, 790 fn. 1 [51 Cal.Rptr. 825, 415 P.2d 521]
 Prior to admission to the State Bar
In re Glass (2014) 58 Cal.4th 500 [167 Cal.Rptr.3d 87]
Stratmore v. State Bar (1975) 14 Cal.3d 887 [123 Cal.Rptr. 101]
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Lybbert (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 297
In the Matter of Passenheim (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 62
 Procuring loans from a former client
Wallis v. State Bar (1942) 21 Cal.2d 322 [131 P.2d 531]
 Prosecutorial misconduct
Price v. State Bar (1982) 30 Cal.3d 537, 547-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
Noland v. State Bar (1965) 63 Cal.2d 298, 301-303 [46 Cal.Rptr. 305, 405 P.2d 129]
 Purchase of client property at probate hearing
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15-17 [81 Cal.Rptr. 352, 459 P.2d 904]
 Purpose of standard – protection of public
In re Fahey (1973) 8 Cal.3d 842, 849 [106 Cal.Rptr. 313, 505 P.2d 1369]
 Repeated offenses
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Resner v. State Bar (1960) 53 Cal.2d 605, 612 [2 Cal.Rptr. 461, 349 P.2d 67]
Libarian v. State Bar (1944) 25 Cal.2d 314, 317 [153 P.2d 739]

MULTIPLE REPRESENTATION

acts of deceit
Carter v. State Bar (1988) 44 Cal.3d 1091 [245 Cal.Rptr. 628]

Retaining client funds as payment on account for fees
Petersen v. State Bar (1943) 21 Cal.2d 866 [136 P.2d 561]

Sex offenses
 attempted child molestation
In re Lesansky (2001) 25 Cal.4th 11 [104 Cal.Rptr.2d 409, 17 P.3d 764]
 attorney's conviction for possession of child pornography
In re Grant (2014) 58 Cal.4th 469 [167 Cal.Rptr.3d 401]
 indecent exposure
In re Safran (1976) 18 Cal.3d 134 [133 Cal.Rptr. 9]
 lewd act on child under age fourteen
In the Matter of Meza (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 608

Solicitation; use of "runners" and "cappers"
Goldman v. State Bar (1977) 20 Cal.3d 130, 134 [141 Cal.Rptr. 447, 570 P.2d 463]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

Staged accidents
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

Standard for subjecting attorney to discipline
In re Fahey (1973) 8 Cal.3d 842 [106 Cal.Rptr. 313, 505 P.2d 1369]

Statutory provisions
Phillips v. State Bar (1975) 14 Cal.3d 492, 500 [121 Cal.Rptr. 605, 535 P.2d 733]

Stealing and conversion
In re Duchow (1988) 44 Cal.3d 268 [243 Cal.Rptr. 85, 747 P.2d 526]

Stolen property, receiving
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Suppression of evidence
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In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Trial conduct [See Trial conduct.]
 duty not to mislead the court
U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 filing false affidavit in support of application for admission to bar
Spears v. State Bar (1930) 211 Cal. 183, 187 [294 P.2d 697]

Unauthorized practice of law
In re Cadwell (1975) 15 Cal.3d 762, 771-772 [125 Cal.Rptr. 889, 543 P.2d 257]
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

Undue influence, obtaining gift from client by
Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

Using undue influence to secure a loan from client
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 472 [169 Cal.Rptr. 581, 619 P.2d 1005]

Usurious documents
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Verification, false
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Violation of confidences and secrets of the client
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]
In the Matter of Gillis (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

Violation of instructions as trustee
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Voluntary manslaughter
In re Nevill (1985) 39 Cal.3d 729 [217 Cal.Rptr. 841]

Willful misconduct
Ballard v. State Bar (1983) 35 Cal.3d 274
In the Matter of Reiss (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 206
 -not necessary to show moral turpitude
Murray v. State Bar (1985) 40 Cal.3d 575 [220 Cal.Rptr. 677]

Withholding client funds in an attempt to coerce payment of fee
McGrath v. State Bar (1943) 21 Cal.2d 737
 misuse of public funds does not constitute moral turpitude
In re Battin (1980) 28 Cal.3d 231 [168 Cal.Rptr. 477, 617 P.2d 1109]

Witness
 soliciting intimidation of witness
In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]

Writ of habeas corpus
 judge granted without adequate information to help a friend
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 Dead lawyer's, pay for the use of
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Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]
Conroy v. State Bar (1991) 53 Cal.3d 495
Bach v. State Bar (1991) 52 Cal.3d 1201
Borré v. State Bar (1991) 52 Cal.3d 1047
Harris v. State Bar (1990) 51 Cal.3d 1082
Hawes v. State Bar (1990) 51 Cal.3d 587
Stanley v. State Bar (1990) 50 Cal.3d 555 [788 P.2d 697]
In re Billings (1990) 50 Cal.3d 358 [787 P.2d 617]
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Wells v. State Bar (1978) 20 Cal.3d 708 [144 Cal.Rptr. 133, 575 P. 285]
Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Hindin (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
In the Matter of Dale K. Nees (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 459
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
In the Matter of Kennon (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 287
 virtual abandonment by failing to proceed with client's defense despite court order
Community Dental Services v. Tani (2002) 282 F.3d 1164

Actual injury
Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]

Associate assigned to client matters may not be blamed for attorney's misconduct
Bernstein v. State Bar (1990) 50 Cal.3d 221

Attorney neglect not necessarily binding on client
Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]
State of California v. Bragg (1986) 183 Cal.App.3d 1018 [228 Cal.Rptr. 576]
 Declaration by attorney of his own negligence not credible
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 Delay in handling of client's matter amounts to reckless incompetence
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
 Disregard for obligations to the legal profession and to clients
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 Elements
Oasis West Realty, LLC v. Goldman (2011) 51 Cal.4th 811 [124 Cal.Rptr.3d 256]
 Equitable tolling defined
Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]
 Excusable neglect
Iopa v. Saltchuk-Young Brothers, Limited (9th Cir. 2019) 916 F.3d 1298
Engleson v. Burlington Northern Railroad Company (9th Cir. 1992) 972 F.2d 1038
United States v. Prairie Pharmacy (9th Cir. 1990) 921 F.2d 211
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Younessi v. Woolf (2016) 244 Cal.App.4th 1137 [198 Cal.Rptr.3d 763]
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
SJP Limited Partnership v. City of Los Angeles (2006) 136 Cal.App.4th 511 [39 Cal.Rptr.3d 55]
Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]
 under Code of Civil Procedure 473 et seq.
 -attorney's explanation that a combination of serious illness and heavy medication rendered him incapable of carrying out his duties as a lawyer is excusable neglect
Minick v. City of Petaluma (2016) 3 Cal.App.5th 15 [207 Cal.Rptr.3d 350]
 -in-house counsel who is also corporate officer should not be treated differently in determining responsibility for default judgment taken against corporate client
Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]
 -lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect
Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]
 -reliance on opposing counsel's oral agreement to extend time to file motion for attorney fees was excusable negligence
Rons Burns Construction Co. Inc. v. Moore (2010) 184 Cal.App.4th 637 [109 Cal.Rptr.3d 417]
 -relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect
Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]

Extraordinary circumstances
 basis for equitable tolling of period required for filing habeas corpus petition
Luna v. Kernan (9th Cir. 2015) 784 F.3d 640
Porter v. Ollison (9th Cir. 2010) 620 F.3d 952
 beyond client control that merit relief from default judgment
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
Community Dental Services v. Tani (2002) 282 F.3d 1164
 Failure to advise
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
 Failure to answer
 failure of defendant company to answer complaint resulting from faulty advice from its attorney warranted mandatory relief from default judgment
Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]
 Failure to answer client telephone calls or letters
Bernstein v. State Bar (1990) 50 Cal.3d 221
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
In the Matter of Freydl (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 349
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
 Failure to complete services
Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
 Failure to explain why previous motion (now renewed) did not include facts added now
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
 Failure to file responsive pleadings thereby causing harm to client
Community Dental Services v. Tani (2002) 282 F.3d 1164
Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
 Failure to monitor progress of client's case
Shaffer v. Weber (1991) 233 Cal.App.3d 944
 Failure to request trial de novo after adverse arbitration award does not entitle plaintiff to relief on the ground of attorney neglect
Brown v. Williams (2000) 78 Cal.App.4th 182 [92 Cal.Rptr.2d 634]
 Failure to serve answer
Community Dental Services v. Tani (2002) 282 F.3d 1164
 Gross negligence
 failure to prosecute
Lai v. State of California (9th Cir. 2010) 610 F.3d 518
 where client receives practically no representation at all
Community Dental Services v. Tani (2002) 282 F.3d 1164
 Habitual disregard of client interests
Bledsoe v. State Bar (1991) 52 Cal.3d 1074 [278 Cal.Rptr. 80]
Middleton v. State Bar (1990) 51 Cal.3d 548
Wells v. State Bar (1978) 20 Cal.3d 708 [144 Cal.Rptr. 135, 575 P.2d 285]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

OATH OF ATTORNEY

In propria persona

relief not available to in pro per party, under Code of Civil Procedure 473 et seq., from judgment or dismissal due to mistake, inadvertence, surprise, or neglect

Esther B. v. City of Los Angeles et al. (2008) 158 Cal.App.4th 1093 [70 Cal.Rptr.3d 596]

Inexcusable neglect

dismissal with prejudice for failure to prosecute

Lai v. State of California (9th Cir. 2010) 610 F.3d 518

lack of supervision over paralegal which led to late filing of opposition to summary judgment is not excusable neglect

Henderson v. Pacific Gas and Elec. Co. (2010) 187 Cal.App.4th 215 [113 Cal.Rptr.3d 692]

untimely filing of notice of appeal due to paralegal's misreading of 30-day filing rule is not per se inexcusable neglect

Pincay v. Andrews (9th Cir. 2004) 389 F.3d 853

Legal mistake not objectively reasonable for tolling purposes

Saint Francis Memorial Hospital v. State Department of Public Health (2021) 59 Cal.App.5th 965 [273 Cal.Rptr.3d 810]

Misleading client deliberately and depriving client of opportunity to take action to preserve rights

Luna v. Kernan (9th Cir. 2015) 784 F.3d 640

Community Dental Services v. Tani (2002) 282 F.3d 1164

Not found, attorney owed no duty to third party beneficiary/conservator where attorney had been appointed to represent conservatee's interests

Hall v. Kalfayan (2010) 190 Cal.App.4th 927 [118 Cal.Rptr.3d 629]

Notice of claim by former client timely, relation-back doctrine applied where claim amended complaint alleging negligence pertain to specific acts of negligence contained in the original complaint

Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

Of party in litigation

advice to, regarding another attorney's neglect of client
LA 14 (1922)

Office moved without informing client

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

Recovery of fees not permitted

Estate of Falco (1987) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]

Relief to client in civil action because of attorney's neglect applies to in-house counsel

Gutierrez v. G & M Oil Company, Inc. (2010) 184 Cal.App.4th 551 [108 Cal.Rptr.3d 864]

chargeable to client

Benjamin v. Dalmo Mfg. Co. (1948) 31 Cal.2d 523, 532

Standard Microsystems Corp. v. Winbond Electronics Corp. et al. (2009) 179 Cal.App.4th 868 [102 Cal.Rptr.3d 140]

Shipley v. Sugita (1996) 50 Cal.App.4th 320 [57 Cal.Rptr.2d 750]

Carroll v. Abbott Laboratories (1982) 122 Cal.App.3d 971 [176 Cal.Rptr. 271]

Buckert v. Briggs (1971) 15 Cal.App.3d 296, 301

client redress – malpractice action

Martin v. Cook (1977) 68 Cal.App.3d 799, 809

Orange Empire Nat. Bank v. Kirby (1968) 259 Cal.App.2d 347, 353

granted where positive misconduct of attorney obliterates attorney-client relationship

Seacall Development, LTD. v. Santa Monica Rent Control Board (1999) 73 Cal.App.4th 201 [86 Cal.Rptr.2d 229]

Shipley v. Sugita (1996) 50 Cal.App.4th 320 [57 Cal.Rptr.2d 750]

People v. One Parcel of Land (1991) 235 Cal.App.3d 579

Carroll v. Abbott Laboratories (1982) 122 Cal.App.3d 971 [176 Cal.Rptr. 271]

Buckert v. Briggs (1971) 15 Cal.App.3d 296, 301 [93 Cal.Rptr. 61]

Orange Empire Nat. Bank v. Kirby (1968) 259 Cal.App.2d 347, 353 [66 Cal.Rptr. 240]

Daley v. County of Butte (1964) 227 Cal.App.2d 380, 391 [38 Cal.Rptr. 693]

not chargeable to client

Community Dental Services v. Tani (2002) 282 F.3d 1164

relief not applicable to plaintiff's actions

Billings v. Health Plan of America (1990) 225 Cal.App.3d 250

where evidence that attorney's neglect was cause of default judgment, client entitled to relief

Carmel v. Tavoussi (2009) 175 Cal.App.4th 393 [95 Cal.Rptr.3d 694]

Relief under Rule 60(b)(6) warranted by extraordinary circumstances

Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247

Lai v. State of California (9th Cir. 2010) 610 F.3d 518

Community Dental Services v. Tani (2002) 282 F.3d 1164

Representation of a minor client in a dependency proceeding
LA 504 (2000)

Retention of unearned fees and abandonment

Colangelo v. State Bar (1991) 53 Cal.3d 1255 [283 Cal.Rptr. 181]

Matthew v. State Bar (1989) 49 Cal.3d 784, 791 [263 Cal.Rptr. 660]

Stuart v. State Bar (1986) 40 Cal.3d 838 [221 Cal.Rptr. 557]

Smith v. State Bar (1985) 38 Cal.3d 525 [213 Cal.Rptr. 236]

Lester v. State Bar (1976) 17 Cal.3d 547 [131 Cal.Rptr. 225]

In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

Special appearances

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]

Verification, false

In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

OATH OF ATTORNEY [See Duties of attorney.]

Business and Professions Code sections 6067, 6068

Violation of

delay in handling legal matter

Spindell v. State Bar (1975) 13 Cal.3d 253 [118 Cal.Rptr. 480, 530 P.2d 168]

OF COUNSEL

Rule 1-400, std. 8, Rules of Professional Conduct

Attorney fees may be awarded where a law firm is represented by its counsel

Dzwonkowski v. Spinella (2011) 200 Cal.App.4th 930 [133 Cal.Rptr.3d 274]

prevailing party law firm not entitled to attorney fees when represented by their own of counsel

Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

Bonus paid to attorney who is not a partner, associate, or shareholder
LA 470 (1992)

Conflict of interest

Atasi Corp. v. Seagate Technology (1988) 847 F.2d 826

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

SF 1985-1

Defined

People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

Sands & Associates v. Juknavorian (2012) 209 Cal.App.4th 1269 [147 Cal.Rptr.3d 725]

CAL 1993-129, CAL 1986-88

LA 516 (2006), LA 421 (1983), LA(l) 1973-3

SF 1985-1, SD 1996-1, SD 1974-23

Division of fee with of counsel
 LA 516 (2006), LA 470 (1992)
 Foreign attorney as
 LA 426 (1984)
 Law firm as
 out-of-state
[CAL](#) 1986-88
 to another law firm
[CAL](#) 1986-88
 On letterhead
[Rule](#) 1-400, std. 8, Rules of Professional Conduct
[CAL](#) 1993-129
 LA 516 (2006), LA 421 (1983)
 Out-of-state attorney as
 LA 306 (1968), LA(I) 1967-8
 conflict of interest
 LA 392 (1980)
 Partnership as
 LA 306 (1968), LA(I) 1973-4, LA(I) 1973-3
 Prevailing party law firm not entitled to attorney fees when
 represented by their own of counsel
[Sands & Associates v. Juknavorian](#) (2012) 209 Cal.App.4th
 1269 [147 Cal.Rptr.3d 725]
OFFICIALS, CONTACTS WITH [\[See](#) Judges, communications
 with.]
 Rule 7-108, Rules of Professional Conduct (operative until
 May 26, 1989)
[Rule](#) 5-300, Rules of Professional Conduct (operative as of
 May 27, 1989)
OPPOSING COUNSEL [\[See](#) Settlement.]
 Advise
 of intent to default
 SD 1969-3
 of own client's entrapment of opposing counsel's client
 LA 315 (1970)
 of possible malpractice on part of client's former counsel
 LA 326 (1972)
 Breach of ethics by, not grounds for refusal to recognize as
 counsel
 LA 240 (1957)
 Communication with
 adverse party represented by counsel
 Rule 7-103, Rules of Professional Conduct (operative until
 May 26, 1989)
[Rule](#) 2-100, Rules of Professional Conduct (operative as
 of May 27, 1989)
 general counsel of national corporation when suing subsidiary
 represented by local counsel
 SD 1968-2
 Complain about conduct of
 LA 339 (1973)
 Consent for preparation of referee's report to court
 LA 37 (1927)
 Dishonesty to
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar
 Ct. Rptr. 269
 Joins partnership during litigation
 LA(I) 1962-2
 Public interest law firm, induce supporters of to withdraw support
 from
 LA 339 (1973)
 Refer legal business to
 LA(I) 1959-6
ORDINANCE VIOLATION
 City council member represents in
 LA 273 (1962)
 SD 1969-1
 Partner of council member represents in
 SD 1969-1
ORGANIZATION
 Membership in
 barter association
[CAL](#) 1981-60, [CAL](#) 1977-44, LA(I) 1965-8

by partnership
 LA 324 (1971), SD 1974-11
 chamber of commerce
 LA 345 (1975), SD 1974-11
 real estate board
 SD 1973-14
 trade association
 LA 324 (1971)
OUT-OF-STATE ATTORNEY [\[See](#) Admission to the Bar.
 Unauthorized Practice of Law.]
 Appearance as pro hac vice
 Rule 9.40, California Rules of Court
[Leis v. Flynt](#) (1979) 439 U.S. 438 [99 S.C. 698, 58 L.Ed.2d
 717]
[Winterrowd v. American General Annuity Insurance Co.](#)
 (9th Cir. 2009) 556 F.3d 815
[U.S. v. Walters](#) (9th Cir. 2002) 309 F.3d 589
[Paciulan v. George](#) (9th Cir. 2000) 229 F.3d 1226
[Daybreak Group, Inc. v. Three Creeks Ranch, LLC](#) (2008)
 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
 attorney admitted to practice before district court prior to new
 local rule requiring bar membership must now comply with the
 rule or seek admission through pro hac vice
[Gallo v. U.S. District Court of Arizona](#) (2003) 349 F.3d
 1169
 attorney disciplined for misrepresentation on pro hac vice
 application regarding residency
[Attorney Grievance Commission of Maryland v. Joseph](#)
 (Md. 2011) 422 Md. 670 [31 A.3d 137]
 attorneys not entitled to fees for work done prior to admission
 pro hac vice
[Golba v. Dick's Sporting Goods](#) (2015) 238 Cal.App.4th
 1251 [190 Cal.Rptr.3d 337]
 residency requirement
[Attorney Grievance Commission of Maryland v. Joseph](#)
 (Md. 2011) 422 Md. 670 [31 A.3d 137]
 Ghostwriting
 OC 2014-1
 Judge disbarred in California after disbarment in Michigan
[In the Matter of Jenkins](#) (Review Dept. 2000) 4 Cal. State Bar
 Ct. Rptr. 157
 Multijurisdictional Practice (MJP)
 Rules of Court 9.40–9.49 govern
 remote practice of law
 SF 2021-1
 Out-of-State Attorney Arbitration Counsel Program
 Rule 9.43, California Rules of Court
 Partnership
 law firm name
 -inclusion of out-of-state attorney not admitted in California
 LA 295 (1966)
OUT-OF-STATE FIRM
 Affiliated with California firm
 listed on letterhead
 LA 392 (1983)
 California Rules of Court do not require out-of-state law firms to
 apply to appear *pro hac vice* in California courts when firm
 employs attorneys who are licensed to practice law in California
 to represent clients
[Daybreak Group, Inc. v. Three Creeks Ranch, LLC](#) (2008) 162
 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
 Of counsel
[CAL](#) 1986-88
PARTNERSHIP [\[See](#) Advertising. Associate. Corporation,
 professional. Fees. Practice of law.]
 Corporation Code section 15001 et seq.
[Grossman v. Davis](#) (1994) 28 Cal.App.4th 1833 [34
 Cal.Rptr.2d 355]
 Absent agreement, Uniform Partnership Act applies
[Heller Ehrman LLP v. Davis Wright Tremaine LLP](#) (2018) 4
 Cal.5th 467 [229 Cal.Rptr.3d 371]
[Rappaport v. Gelfand](#) (2011) 197 Cal.App.4th 1213 [129
 Cal.Rptr.3d 670]

PARTNERSHIP

- Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 520]
Jewel v. Boxer (1984) 156 Cal.App.3d 171, 174 [203 Cal.Rptr. 13]
- Associate
duty to supervise
Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161]
- "Association" of, with foreign lawyer of firm
LA 233 (1956), LA 202 (1952)
- Bad faith dissolution of law firm
Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- Conflict of interest in formation of
LA(l) 1967-11
- Deceased partner [See Practice of law, goodwill.]
use of name of
CAL 1986-90, LA 123 (1939)
- Defined
CAL 1971-27
- Dissolved
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]
CAL 2020-201, CAL 2014-190, CAL 1985-86
- agreements after partnership
Rule 1-500, Rules of Professional Conduct
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
CAL 1975-34
- allocation of income from unfinished business
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]
Jewel v. Boxer (1984) 156 Cal.App.3d 171 [203 Cal.Rptr. 13]
LA 480
-dissolved law firm had no property interest in the fees or profits associated with unfinished hourly fee matters
Heller Ehrman LLP v. Davis Wright Tremaine LLP (2018) 4 Cal.5th 467 [229 Cal.Rptr.3d 371]file
-attorney leaving law firm may not remove client file prior to written notification from client
LA 405 (1982)
- goodwill
-partner not entitled to
Fraser v. Boquck (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
- handling of practice of
LA(l) 1979-1
no breach of partnership agreement where agreement was silent and each partner had knowledge that the other was taking clients separate from the partnership
Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
- Division of, when partnership dissolves
valuation of buyout price for dissociating partner
Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
- Duty to produce records of
Bellis v. United States (1974) 417 U.S. 85 [94 S.Ct. 2179]
- Ethics violation complaint against member made against firm
SD 1975-10
- Fees
allocation of
-in connection with attorney's marital dissolution
In re the Marriage of Foley (2010) 189 Cal.App.4th 521 [117 Cal.Rptr.3d 162]
-post-dissolution profits from unfinished partnership business
*Dickson, Carlson & Campillo v. Pole (2000) 83 Cal.App.4th 436 [99 Cal.Rptr.2d 678]
-when departing partner takes unfinished cases
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
- File
attorney leaving law firm may not remove client file prior to written notification of client
LA 405 (1982)
- Firm name
LA 290 (1965)
out-of-state attorney
-not admitted in California
--included in
LA 295 (1966)
- Interstate
LA 325 (1972), LA 230 (1955)
- Investment
SD 1984-1
- Lawyer-physician
LA 331 (1973)
- Liability
for acts of former partners
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Blackmon v. Hale (1970) 1 Cal.3d 548, 556-560
Tsakos Shipping and Trading, S.A. v. Juniper Garden Town Homes (1993) 12 Cal.App.4th 74 [15 Cal.Rptr.2d 585]
Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
vicarious liability for acts of a partner
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]
- Malpractice by
associate's duty to disclose to client
LA 383 (1979)
- Name [See Practice, name for.]
LA 310 (1969)
dead lawyer's name in
LA(l) 1962-5
dead partner's name in
LA 265 (1959), LA 248 (1958), LA(l) 1974-15
-used by sole survivor
LA 265 (1959)
former partner
CAL 1986-90
LA 530 (2018)
interstate partnership
LA 295 (1966), SF 1975-1, SF 1974-5
- Non-existent
held out as real
CAL 1971-27

LA(I) 1959-3
 "Of counsel" [See Of counsel.]
 Opposing counsel joins
 LA(I) 1962-2
 Partner defined
 LA 385 (1980)
 Partner leaves firm
 allocation of fees for unfinished cases taken by departing partner
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]
Grossman v. Davis (1994) 28 Cal.App.4th 1833 [34 Cal.Rptr.2d 355]
Champion v. Superior Court (1988) 201 Cal.App.3d 777
 Partner's malpractice
 duty to disclose to client
 LA 383 (1979)
 Payments to estate of deceased partner or associate
 Rule 3-102(A)(1), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
 Practices
 when member is
 -city attorney
 LA 242 (1957), LA(I) 1975-4
 -city council member
 LA(I) 1975-4
 -prosecutor
 LA 377 (1978)
 Represents
 estate
 -member-executor/trustee
 LA 219 (1954)
 in criminal matter
 -when associate is
 --prosecutor
 Business and Professions Code section 6131
 LA 377 (1978)
 -when member is
 --city attorney
 LA 242 (1957), LA(I) 1975-4
 --city council member
 LA(I) 1975-4
 own member
 LA(I) 1956-8
 when associate
 -before joining acted for other side
 LA 363 (1976)
 when member
 -before joining acted for other side
 LA 269 (1962), LA 252 (1958), LA 246 (1957)
 Retirement agreements
 Rules 2-109 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)
[Rules](#) 1-500 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
[CAL](#) 1975-34
 Retirement plan
 may include lay employees
 Rule 3-102(A)(3), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-320, Rules of Professional Conduct (operative as of May 27, 1989)
 Separation agreements
 Rule 2-109, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-500, Rules of Professional Conduct (operative as of May 27, 1989)
[CAL](#) 1975-34

With a non-lawyer
 Rule 3-103, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-310, Rules of Professional Conduct (operative as of May 27, 1989)
Crawford v. State Bar (1960) 54 Cal.2d 659, 665 [7 Cal.Rptr. 746]
Johnson v. Davidson (1921) 54 Cal.App. 251 [202 P. 159]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
 LA(I) 1966-18
 aviation consultants
[CAL](#) 1969-18
 certified public accountants
 LA(I) 1959-5
 SD 1974-17
 consumer affairs agency
 SD 1983-4
 financial management company
 LA 372 (1978)
 in-debt collections
 LA 96 (1936)
 independent contractor
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
 investment company
 SD 1984-1
 living trust marketers
[CAL](#) 1997-148
 management company
 LA 488 (1996)
 physician
 LA 335 (1973)
 prohibited, if any activities of partnership constitute practice of law
 LA 96 (1936)
 real estate
 SF 1973-23
 rule 3-103 extended to cover corporate business arrangement
 LA 372 (1978)
 shareholder of incorporated legal services entity
 LA 444 (1987)
 tax shelter investment promoter
 SD 1984-1
 With out-of-state attorney
 LA 230 (1955), SD 1983-4, SF 1974-1
 With out-of-state law firm
 LA 392 (1981), SF 1975-1

PARTNERSHIP, BUSINESS

Consumer affairs agency
 SF 1983-4
 Drafter of agreement for represents one partner against other re termination agreement prepared by other counsel
 LA(I) 1963-9
 Financial management company
 LA 372 (1978)
 With non-lawyer
 LA 510 (2003)

PAYMENT OF PERSONAL OR BUSINESS EXPENSES [See Advancement of funds.]

Rule 5-104, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 4-210, Rules of Professional Conduct (operative as of May 27, 1989)
 Incurred by or for a client
Isrin v. Superior Court (1965) 63 Cal.2d 153, 164 [45 Cal.Rptr. 320, 403 P.2d 728]
 Plaintiff's counsel in personal injury action may not enter into an agreement to defend and indemnify defendants against an action brought against them by third parties
 LA 532 (2019)

PENDING PROCEEDINGS

PENDING PROCEEDINGS

Book published about

Haraquchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]
LA 369 (1977)

Ethics committee in Los Angeles will not answer inquiries about
LA(l) 1966-9

Movie about

Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

PENSION PLAN [See Division of fees.]

PERJURY [See Confidences of the client, disclosure, perjury. Trial conduct.]

CAL 2019-200, CAL 1983-74, OC 2003-01

PERSONAL INJURY ACTION [See Automobile accident case.]

PHYSICIAN [See Malicious prosecution.]

Client's

duty with respect to fee of

LA 368 (1977), LA 357 (1976)

represent against client over unpaid witness's fee

LA(l) 1931-1

Lawyer duty with respect to medical liens

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

LA 478 (1994), LA 368 (1977), LA 357 (1976)

Lawyer-physician

LA 349 (1975), LA 331 (1973), LA(l) 1961-1

Medical liens, attorney duty with respect to

Cooper v. State Bar (1987) 43 Cal.3d 1016, 1020 [239 Cal.Rptr. 709, 741 P.2d 206]

In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234

LA 368 (1977), LA 357 (1976)

common fund or "equal apportionment" doctrine does not apply to contractual medical lien holders in personal injury matters

City and County of San Francisco v. Sweet (1995) 12 Cal.4th 105, 110, 115-117

Lovett v. Carrasco (1998) 63 Cal.App.4th 48 [73 Cal.Rptr.2d 496]

CAL 1995-49(l)

Medical malpractice

Business and Professions Code sections 6146, 6147

Code of Civil Procedure sections 364, 365, 411.30

Opposing party's treating physician

attorney communicating with

CAL 1975-33, SD 1983-9

sibling relationship between a lawyer and the opposing party's physician is insufficient, standing alone, to preclude the lawyer from representing her client

Addam v. Superior Court (2004) 116 Cal.App.4th 368 [10 Cal.Rptr.3d 39]

Partnership with

LA 335 (1973)

Referral of legal business

LA(l) 1949-1

Referral of medical business to

LA 443 (1988)

POLITICAL ACTIVITY [See Letterhead, use for. Public office.]

City council

members receiving contributions to their political campaigns from law firms who are representing clients before the council

Woodland Hills Residents Assn., Inc. v. City Council of the City of Los Angeles (1980) 26 Cal.3d 938 [164 Cal.Rptr. 255]

Judicial office

campaign contributions for

LA(l) 1972-21

candidate

-misrepresentation by

LA(l) 1974-11

-no uniform rules regulating conduct of in California

SF 1974-6

endorse or solicit endorsements for candidate

LA(l) 1972-21

Post-sentencing comment by prosecutor

SD 1974-8

POWER OF ATTORNEY [See Authority of attorney. Withdrawal.]

Annuity gift from estate's attorney to himself is void as outside his power of attorney

Estate of Huston (1997) 51 Cal.App.4th 1721 [60 Cal.Rptr.2d 217]

Assignment of power of attorney to heir hunter's attorney is against public policy

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

Does not give non-lawyer the authority to appear in court on behalf of another

Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]

PRACTICAL TRAINING OF LAW STUDENTS

California Rule of Court 9.42

Certification of law students

State Bar Rules Governing the Practical Training of Law Students

Contact:

Practical Training of Law Students

Office of Certification

State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (415) 538-2117

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
West's Annotated California Codes, Court Rules, vol. 23, pt 3

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Rules Governing the Practical Training of Law Students, The State Bar of California

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

Text of these rules, contact:

Practical Training of Law Students

Office of Certification

State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (415) 538-2117

Trial advocacy by a certified law student acting under the active supervision of the deputy public defender, pursuant to the rules promulgated by the State Bar

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

PRACTICE OF LAW [See Advertising. Foreign attorney. Law corporation. Law office. Legal specialization. Patent law. Professional liability.]

Adherence to beliefs may prove fitness to practice

Hightower v. State Bar (1983) 34 Cal.3d 150 [193 Cal.Rptr. 153, 666 P.2d 10]

Admission to the federal bar

federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court

In re North (9th Cir. 2004) 383 F.3d 871

Affiliation with out-of-state firm

LA 392 (1983)

Appearance by attorney

in small claims court

LA 105 (1936)

Associate attorney is agent of attorney

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]

Associate changing firms

Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
Dill v. Superior Court (1984) 158 Cal.App.3d 301 [205 Cal.Rptr. 671]

CAL 2020-201, CAL 1985-86

LA 405 (1982), LA 363 (1976)

Associate discovers malpractice of partner

LA 383 (1979)

Attorney

Business and Professions Code section 6180.14

placement service

LA 359 (1976)

Barter [See Bid.]

Circulating names of attorneys who fail to extend professional courtesies

LA 364 (1976)

Client assistance to counsel

People v. Matson (1959) 51 Cal.2d 777, 789 [336 P.2d 937]

Clients' business

promotion by letter

-by attorney

--company engaged in bail bonds

LA 91 (1936)

Constitutional right to practice law free from unreasonable government interference

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

Consultation with an independent attorney regarding the client's case may be permitted

SD 1996-1

Corporations

terminated employee/attorney has no right of access to offices, files, corporate records, or employment because of ownership share

Voorhies v. Green (1983) 139 Cal.App.3d 989 [189 Cal.Rptr. 132]

Data processing service

use of by law firm

CAL 1971-25

Defined

In re Glad (9th Cir. 1989) 98 B.R. 976

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Farnham v. State Bar (1976) 17 Cal.3d 605

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542

People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)

LA 195

CAL 2020-201, OC 94-002, SD 1983-4, SD 1983-7, SF 2021-1

advisory counsel

-pro se defendants given assistance in courtroom without actual conduct of trial

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

co-counsel attorney may participate in trial with pro se defendant

Locks v. Sumner (9th Cir. 1983) 703 F.2d 403, 407

Delegation of professional responsibility

to non-lawyer

-tax specialist

LA 86 (1935)

Donation of legal services [See Fees.]

Dual occupation/profession [See Commission, fees.]

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

CAL 1999-154, CAL 1982-69, CAL 1968-13

LA 477, LA 446 (1987), LA 413 (1983), LA 384 (1980), LA 351 (1975)

SD 1992-1, SD 1969-2

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

attorney also certified public accountant

Ibanez v. Florida Dept. of Business and Prof. Regulation Bd. Of Accountancy (1994) 512 U.S. 136 [114 S.Ct. 2084]

LA 351 (1975), LA 225 (1955)

attorney also concert promoter

Quintilliani v. Mannering (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

attorney also dentist

SF(I) 1973-7

attorney also legal publisher operating out of attorney's office

LA 446 (1987)

attorney also physician

LA 477

attorney as sports agent

CAL 1968-13

city council member and deputy county counsel

85 Ops. Cal. Atty. Gen. 115 (6/7/02; No. 01-1107)

collection agency and law practice

Business and Professions Code section 6077.5

Fair Debt Collection Practices Act applies to attorneys

regularly engaged in consumer debt-collection

Heintz v. Jenkins (1995) 514 U.S. 291 [115 S.Ct. 1489]
 LA 124 (1939)

corporation director

OC 2011-02

insurance agency and law practice

SD 1974-18

investment/portfolio manager

CAL 1999-154

management consulting company

-may not form company that acts as attorney's agent in solicitation of business

LA 446 (1987)

motion picture and theatrical agency and law practice

LA 84 (1935)

multidisciplinary practice

LA 510 (2003)

police officer badge and card while practicing law

-adverse interest

--accepting employment in criminal defense case

LA 94 (1936)

real estate and law practice

88 Ops. Cal. Atty. Gen. 203 (11/21/05, No. 04-1201)

CAL 1982-69

LA 413 (1983), LA 384 (1980), LA 340 (1973)

SD 1992-1, SD 1969-2

-acceptance of legal business referred from real estate business

LA 140 (1942)

standard applied in dual purpose communications

In re Grand Jury (9th Cir. 2021) 23 F.4th 1088

Duty to supervise employees

Gadda v. State Bar (1990) 50 Cal.3d 344 [787 P.2d 95]

Bernstein v. State Bar (1990) 50 Cal.3d 221 [786 P.2d 95]

Palomo v. State Bar (1984) 36 Cal.3d 785

Crane v. State Bar (1981) 30 Cal.3d 117, 122 [177 Cal.Rptr. 670]

Black v. State Bar (1972) 7 Cal.3d 676, 692 [103 Cal.Rptr. 288]

Moore v. State Bar (1964) 62 Cal.2d 74, 81 [41 Cal.Rptr. 161, 396 P.2d 577]

In re Complex Asbestos Litigation (1991) 232 Cal.App.3d 572 [283 Cal.Rptr. 732]

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Kaplan (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 509

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

PRACTICE OF LAW

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354
CAL 1988-103, LA 488 (1996), OC 94-002
Employee duties to employer
Labor Code section 2650 et seq.
Fee sharing agreement
between departing partner and firm
-found to violate Rules of Professional Conduct
Champion v. Superior Court (1988) 201 Cal.App.3d 777
Fictitious name, use of
by attorney or law firm
Jacoby v. State Bar (1977) 19 Cal.3d 359, 366 [138 Cal.Rptr. 77]
CAL 1982-66, LA 9 (1921)
fitness to practice
In re Schwartz (1982) 31 Cal.3d 395 [182 Cal.Rptr. 640, 644 P.2d 833]
In re Petty (1981) 29 Cal.3d 356 [173 Cal.Rptr. 461, 627 P.2d 191]
lawyer/firm to practice under company name
LA 26 (1925)
Fiduciary duty owed by partners of a dissolved partnership to each other
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)
defined
Business and Professions Code section 14100
Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]
*In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
Lyon v. Lyon (1966) 246 Cal.App.2d 519 [54 Cal.Rptr. 829]
Burton v. Burton (1958) 161 Cal.App.2d 572 [326 P.2d 855]
dissolution of partnership
Howard v. Babcock (1993) 6 Cal.4th 409 [25 Cal.Rptr.2d 80]
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
Lyon v. Lyon (1966) 246 Cal.App.2d 519, 524 [54 Cal.Rptr. 829]
CAL 2020-201, CAL 2014-190, CAL 1985-86
-due to death of partner
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
-partner not entitled to compensation for good will
Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
fill in blanks in forms
SD 1983-7
intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
measurement of goodwill value
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
payments of
-to heirs of deceased partners
Little v. Caldwell (1894) 101 Cal. 553, 561 [36 P. 107]
Heywood v. Sooy (1941) 45 Cal.App.2d 423, 426 [114 P.2d 361]
CAL 1975-34

SD 1968-5
use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
valuation of
-in divorce or dissolution proceedings
In re Marriage of Fonstein (1976) 17 Cal.3d 738 [131 Cal.Rptr. 873]
*In re Marriage of Aufmuth (1979) 89 Cal.App.3d 446, 463 [152 Cal.Rptr. 668]
*In re Marriage of Lopez (1974) 38 Cal.App.3d 93, 108 [113 Cal.Rptr. 58]
Todd v. Todd (1969) 272 Cal.App.2d 786 [78 Cal.Rptr. 131]
-intangible assets, such as goodwill, not converted to community property where spouse did not buy into such assets
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
-use of "similarly situated professional" vs. "average salaried person" standards in calculating value of spouse's goodwill in law firm
In re Marriage of Iredale and Cates (2004) 121 Cal.App.4th 321 [16 Cal.Rptr.3d 505]
Holding out as attorney
Business and Professions Code section 6126
Holding out as specialist [see Advertising]
Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
Rule 1-400, std. 11, Rules of Professional Conduct (operative as of May 27, 1989)
Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
Wright v. Williams (1975) 47 Cal.App.3d 802 [121 Cal.Rptr. 194]
Inactive attorneys
federal district court could reasonably rely upon distinction that State Bar made between active and inactive members to limit practice of inactive attorneys before that court
In re North (9th Cir. 2004) 383 F.3d 871
In pro se
capital defendant who chooses to be represented by counsel generally entitled to present his case personally or to act as co-counsel at trial, but may make pro se motions regarding representation and substitution of counsel
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
preservation of constitutional right
United States v. Condo (9th Cir. 1984) 741 F.2d 238
waiver of right of counsel
United States v. Gerritsen (9th Cir. 2009) 571 F.3d 1001
In propria persona client and advisor counsel share handling of case
Johnson, York, O'Connor & Caudill v. Board of County Commissioners of the County of Fremont (1994) 868 F.Supp. 1226
People v. Bloom (1989) 48 Cal.3d 1194 [259 Cal.Rptr. 669]
People v. Bourland (1966) 247 Cal.App.2d 76, 87 [55 Cal.Rptr. 357]
LA 483 (1995), LA 432 (1984), LA 502 (1999)
capital defendant who chooses to be represented by counsel is generally not entitled to present his case personally or to act as co-counsel at trial
In re Barnett (2003) 31 Cal.4th 466 [3 Cal.Rptr.3d 108, 73 P.3d 1106]
Interference by government
Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]
Interference with business relations and contracts
Dixon v. State Bar (1982) 32 Cal.3d 728 [187 Cal.Rptr. 30, 653 P.2d 321]

- GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
- Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
- Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- elements of
- Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
- Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
- no interference where partnership agreement was silent and each partner had knowledge that the other was taking clients separate from the partnership
- Davis v. Nadrich (2009) 174 Cal.App.4th 1 [94 Cal.Rptr.3d 414]
- Interference with prospective business advantage
- Di Loreto v. Shumake (1995) 38 Cal.App.4th 35 [45 Cal.Rptr.2d 22]
- Rosenfeld, Meyer and Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- elements of
- Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
- of another lawyer
- LA 10 (1921)
- Interference with prospective economic advantage or contractual relations
- Taheri Law Group v. Evans (2008) 160 Cal.App.4th 482 [72 Cal.Rptr.3d 847]
- Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
- Rosenfeld, Meyer & Susman v. Cohen (1983) 146 Cal.App.3d 200 [194 Cal.Rptr. 180]
- Pearlmutter v. Alexander (1979) 97 Cal.App.3d Supp. 16 [158 Cal.Rptr. 762]
- attorney may not sue client who decides on a "walk away" settlement, even when client promised to take case to trial or settlement to ensure attorney is paid for legal representation, because client cannot be constrained to pursue a lawsuit he wishes to abandon
- Lemmer v. Charney (2011) 195 Cal.App.4th 99 [125 Cal.Rptr.3d 502]
- elements of
- Limandri v. Judkins (1997) 52 Cal.App.4th 326 [60 Cal.Rptr.2d 539]
- Investigator
- use of by attorney
- where employed by client
- LA 67 (1932)
- Law firm liable for malicious prosecution based on acts of principal
- Gerard v. Ross (1988) 204 Cal.App.3d 968
- Law office relocation
- announcement of
- LA 104 (1936)
- Law practice defined
- Rule 1-100(B)(1), California Rules of Professional Conduct (operative September 14, 1992)
- Business and Professions Code section 6180.14
- Lawyer defined
- Evidence Code section 950
- Rule 1-100(B)(3), California Rules of Professional conduct
- Lawyer referral [See Lawyer referral, referral of legal business.]
- Lay person may not represent another
- Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
- Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]
- "counsel mandate" precludes parents from representing minor children pro se
- Grizell v. San Elijo Elementary School (9th Cir. 2024) 110 F.4th 1177
- Legal research service
- operated by attorneys
- constitutes practice of law
- advertising of
- LA 301 (1967)
- incorporation
- LA 301 (1967)
- Letterhead
- use union emblem on
- CAL 1971-24
- Liability of firm for legal malpractice of partner
- Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
- Liens [See Liens.]
- Lottery ticket
- assignment of
- to attorney
- LA 115 (1937)
- purchase of
- by attorney
- LA 115 (1937)
- Names [See Fictitious names.]
- Non-payment of fee
- withdrawal from representation
- notice to client
- LA 125 (1940)
- protect client's position in litigation
- LA 125 (1940)
- Non-resident member performing legal services governed by California law
- Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
- Of counsel [See Of counsel.]
- Omissions by one member of law firm imputed to others when more than one attorney works on case
- Griffis v. Kresge (1984) 150 Cal.App.3d 491, 497 [197 Cal.Rptr. 771]
- Partner leaves firm and takes clients with him
- allocation of fee
- former firm entitled to quantum meruit
- Champion v. Superior Court (1988) 201 Cal.App.3d 777
- Partnership [See Partnership.]
- Physician-lawyer
- LA 477
- employed by law firm
- LA 114 (1937)
- Preparation of legal documents
- In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
- CAL 2020-201
- Preparation of petition to be presented by client in propria persona in other state improper
- LA 218 (1953)
- Pro bono
- Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]
- Professional courtesy
- circulating names of attorneys who fail to extend professional courtesies
- LA 364 (1976)
- Public interest law firm
- LA 339
- Referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
- Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]
- Hyon v. Seltin (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
- Referral of legal business [See Referral of legal business.]
- Sale of
- Alpers v. Hunt (1890) 86 Cal. 78, 88-90 [24 P. 846]
- Lyon v. Lyon (1966) 246 Cal.App.2d 519, 526 [54 Cal.Rptr. 829]
- LA 361 (1976)

PREPAID LEGAL SERVICES

- good will
 - Fraser v. Bogucki (1988) 203 Cal.App.3d 604 [250 Cal.Rptr. 41]
 - Geffen v. Moss (1975) 53 Cal.App.3d 215 [125 Cal.Rptr. 687]
 - SD 1968-5
 - defined
 - Business and Professions Code section 14100
 - violation
 - Rules 2-101, 2-104(B) and 2-108, Rules of Professional Conduct
 - valuation of law practice may require deduction of operating costs
 - *In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
 - Sharing office space with
 - accountant
 - LA(l) 1968-1
 - another attorney not a partner
 - People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
 - CAL 1997-150, CAL 1986-90
 - LA(l) 1981-4
 - SD 1985-1
 - not able to provide independent review as required under Probate Code section 21350
 - Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]
 - bail bond agency
 - SD 1974-23
 - conflict of interest
 - CAL 1997-150, CAL 1986-90, CAL 1979-50
 - LA 216 (1953), LA(l) 1972-15
 - SD 1985-1
 - insurance company
 - LA 215 (1953), SD 1972-7
 - investigator
 - LA(l) 1963-8
 - SD 1974-23
 - land developer
 - LA(l) 1968-1
 - management consulting company
 - LA 446 (1987)
 - publishing company
 - LA 446 (1987)
 - real estate broker
 - CAL 1982-69
 - LA 384 (1980), LA 140 (1942)
 - separate sole practitioners
 - CAL 1997-150, CAL 1986-90, SD 1985-1
 - when representing opposing sides
 - SD 1972-15
 - with non-lawyers
 - In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 - Sign
 - location
 - where no office
 - LA 134 (1940)
 - Small claims court
 - appearance by attorney in
 - LA 105 (1936)
 - SD 1983-4
 - Specialist
 - Holding out as
 - Rule 1-400(D)(6), Rules of Professional Conduct (operative as of June 1, 1997)
 - Rule 1-400, std. 11, Rules of Professional Conduct (operative May 27, 1989 until May 31, 1997)
 - Peel v. Attorney Regulatory & Disciplinary Commission of Illinois (1990) 496 U.S. 91 [110 S.Ct. 2281]
 - Wright v. Williams (1975) 47 Cal.App.3d 802
 - Statutory service on attorney and employees
 - National Advertising Co. v. City of Rohnert Park (1984) 160 Cal.App.3d 614, 618-619
 - Tax specialist
 - employment of
 - to assist in advising client
 - LA 86 (1935)
 - holding out as
 - Business and Professions Code section 6126
 - Trade name, use of
 - Rule 1-400, standards 6, 7, 8, 9, 12, Rules of Professional Conduct
 - by attorney or law firm
 - CAL 1982-66, LA 9 (1921)
 - Valuation of a law practice in a marital dissolution proceeding
 - *In re Marriage of Kilbourne (1991) 232 Cal.App.3d 1518
 - Valuation of a law practice when partnership dissolves
 - Rappaport v. Gelfand (2011) 197 Cal.App.4th 1213 [129 Cal.Rptr.3d 670]
 - Work product [See Files and Work Product.]
- PREPAID LEGAL SERVICES** [See Group legal services.]
- PRIVILEGED COMMUNICATIONS** [See Confidences of the client, privilege]
- Evidence Code section 950 et seq.
 - communications between Agricultural Labor Relations Board and Board's general counsel when request is made under the Public Record Act
 - Agricultural Labor Relations Board v. The Superior Court of Sacramento County (2016) 4 Cal.App.5th 675 [209 Cal.Rptr.3d 243]
 - communications between defendant/minor and psychotherapist appointed to assist in his defense are confidential under attorney-client privilege
 - Elijah W. v. Superior Court of Los Angeles (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]
 - communications between firm attorney and in-house counsel related to dispute with current client may be privileged
 - Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]
 - CAL 2019-197
 - in camera review of communications to determine privilege
 - Behunin v. Superior Court (Schwab) (2017) 9 Cal.App.5th 833 [215 Cal.Rptr.3d 475]
 - OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
 - investigatory report prepared for city by outside attorney is privileged despite attorney not providing legal advice to city
 - City of Petaluma v. Superior Court (2016) 248 Cal.App.4th 1023 [204 Cal.Rptr.3d 196]
 - opinion letter by outside counsel to corporate counsel covered by attorney-client privilege
 - Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
 - privilege communications between city attorney and commissions cannot be eliminated by public records ordinance
 - St. Croix v. Superior Court (City and County of San Francisco) (2014) 228 Cal.App.4th 434 [175 Cal.Rptr.3d 202]
 - Attorney cannot use confidences of former client to challenge client's Chapter 7 discharge of fees owed
 - In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]
 - Attorney-client privilege passes to insurers assigned to defend against claims where no director could be elected to waive privilege
 - Melendrez v. Superior Court (2013) 215 Cal.App.4th 1343 [156 Cal.Rptr.3d 335]
 - Billing statements
 - exceptions
 - Clarke v. American National Commerce Bank (9th Cir. 1992) 974 F.2d 127

-attorney fee totals in legal matters that concluded long ago
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

-confidentiality of invoices for work in pending and active legal matters protected
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

-Public Records Act disclosure
Los Angeles County Bd. of Supervisors v. Superior Court (2016) 2 Cal.5th 282 [212 Cal.Rptr.3d 107]

Compelled disclosure
 court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections
Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

disclosure orders adverse to the attorney-client privilege do not qualify for immediate appeal in federal court under collateral order doctrine
Mohawk Industries, Inc. v. Carpenter (2009) 558 U.S. 100 [130 S.Ct. 599]

judgment debtor attorney must produce all documents (including tax records) responsive to the subpoena duces tecum at the Order of Examination
Li v. Yan (2016) 247 Cal.App.4th 56 [201 Cal.Rptr.3d 772]

Condominium associations are holders of attorney-client privilege and are not required to disclose privileged information to individual homeowners
Smith v. Laguna Sur Villas Community Association (2000) 79 Cal.App.4th 639 [94 Cal.Rptr.2d 321]

Confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

new trustees succeeds to all the rights, duties and responsibilities of his or her predecessors
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Deceased client
People v. Pena (1984) 151 Cal.App.3d 462, 480-481 [198 Cal.Rptr. 819]
 LA 414
 destruction of file
 LA 491 (1997)

Defendant's former attorney allowed to testify as to defendant's threats against witnesses
U.S. v. Alexander (9th Cir. (Mont.) 2002) 287 F.3d 811
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

Defined
United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Electronic communication technologies, utilization of
 LA 529 (2017), OC 97-002

Exceptions
 corporation waived attorney-client and work product privileges when it shared documents with government
McKesson HBOC, Inc. v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

defendant did not waive attorney-client and work product privileges when it shared documents with government
Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

defendant's former attorney allowed to testify as to defendant's threats to commit act likely to result in death or substantial bodily harm
U.S. v. Alexander (9th Cir. (Mont.) 2002) 287 F.3d 811
People v. Dang (2001) 93 Cal.App.4th 1293 [113 Cal.Rptr.2d 763]

independent third party digital forensic expert's report do not reflect an attorney's impressions, conclusions, opinions, legal research and theories, thus, not protected from discovery as work product
Uber Technologies, Inc. v. Google LLC (2018) 27 Cal.App.5th 953 [238 Cal.Rptr.3d 765]

no implied exceptions to attorney-client privilege
Palmer v. Superior Court (Mireskandari) (2014) 231 Cal.App.4th 1214 [180 Cal.Rptr.3d 620]

when one of the joint clients sues their former attorney and not the other client, the non-suing client cannot prevent the parties to the lawsuit from introducing otherwise privileged attorney-client communications made in the course of the joint representation
Anten v. Superior Court (2015) 233 Cal.App.4th 1254 [183 Cal.Rptr.3d 422]

Inadvertent disclosure [See Confidences of the Client, Inadvertent disclosure]
Ardon v. City of Los Angeles (2016) 62 Cal.4th 1176 [199 Cal.Rptr. 3d 743]
McDermott Will & Emery, LLP v. Superior Court (Hausman) (2017) 10 Cal.App.5th 1083 [217 Cal.Rptr.3d 47]
 SD 1987-3

Intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege
Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

Litigation privilege
Holland v. Jones (2012) 210 Cal.App.4th 378 [148 Cal.Rptr.3d 550]
G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

Litigation privilege does not insulate an attorney from disciplinary proceedings based on his in-court actions
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064

Litigation privilege extends to demand letters under Civil Code section 47(b)
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]

inapplicable in an action by a former client against an attorney for breach of professional duties
Fremont Reorganization Corp. v. Faigin (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]

may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to the earlier litigation
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]

Litigation privilege is absolute and extends to alleged misrepresentations by opposing side
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]

Probate Code section 16060 et seq.
 confidential communications between a trustee and the trust's attorney are privileged and need not be disclosed to trust beneficiaries
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

former trustee cannot withhold communications with trust's former counsel on ground of attorney-client privilege to successor trustee
Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

predecessor trustee failed to establish that they communicated with counsel in their personal capacity
Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

PRO BONO

trust may not allow a former trustee to withhold from a successor trustee all communications between that former trustee and the trust's legal counsel

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

Qualified common interest privilege against defamation under Civil Code section 47(c) protects statements made on subject of mutual interest to parties sharing common interest

Hui v. Sturbaum (2014) 222 Cal.App.4th 1109 [166 Cal.Rptr.3d 569]

Reports in public journals of judicial proceedings under Civil Code section 47(d)

Microsoft Corp. v. Yokohama Telcom Corp. (1998) 993 F.Supp. 782

Sharing memoranda authored by corporate in-house counsel with outside law firm for non-legal purpose waived attorney-client privilege

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Sixth Amendment's Confrontation Clause vs. attorney-client privilege

defendant barred from using purportedly exculpatory letter written by government witness to counsel did not deprive defendant of his constitutional right to cross-examination

Murdoch v. Castro (9th Cir. 2010) 609 F.3d 983

right not violated when jail officials improperly read privileged materials but defendant fails to prove it was actually communicated to prosecutors

People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]

Tripartite attorney-client privilege arises when title insurer hires law firm to prosecute action on behalf of its insured under title insurance policy

Bank of America v. Superior Court of Orange County (2013) 212 Cal.App.4th 1076 [151 Cal.Rptr.3d 526]

Under Civil Code section 47

Hui v. Sturbaum (2014) 222 Cal.App.4th 1109 [166 Cal.Rptr.3d 569]

Healy v. Tuscany Hills Landscape & Recreation Corp. (2006) 137 Cal.App.4th 1 [39 Cal.Rptr.3d 547]

Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]

PRO BONO

Attorney disciplined for failure to communicate and perform for pro bono clients

Segal v. State Bar (1988) 44 Cal.3d 1077 [245 Cal.Rptr. 404]

Federal courts authority under a specific statute to require an unwilling attorney to represent an indigent party

Mallard v. U.S. Dist. Court for the Southern District of Iowa (1989) 490 U.S. 296 [109 S.Ct. 1814]

Indigent's retention of privately obtained pro bono counsel is improper basis to deny an independent psychiatric examination at public expense

In re Conservatorship of Scharles (1991) 233 Cal.App.3d 1334

Partial pro bono fee arrangement did not preclude award of attorney's fees under C.C.P. § 425.16

Pasternack v. McCullough (2021) 65 Cal.App.5th 1050 [280 Cal.Rptr.3d 538]

Rosenauro v. Scherer (2001) 88 Cal.App.4th 260 [105 Cal.Rptr.2d 674]

Pro bono-type representation, even by a law firm with financial resources to absorb the cost of litigation, does not necessarily justify a reduction in fees award

Cruz v. Ayromloo (2007) 155 Cal.App.4th 1270 [66 Cal.Rptr.3d 725]

Slight mitigating credit for pro bono service which was not great and was remote in time

In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

Slight mitigating credit for pro bono work

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

PROBATE [See Estate. Purchasing property at probate, foreclosure or judicial sale.]

PROFESSIONAL LIABILITY [See Competence. Conflict of interest. Duties of attorney. Malpractice. Neglect. Negligence. Trial conduct.]

Code of Civil Procedure section 187

trial court held attorney liable for law corporation's debts as alter ego where corporation was being used by attorney to escape personal liability

Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]

Hutchinson v. Gertsch (1979) 97 Cal.App.3d 605

Kirtland and Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]

Absolute privilege in the public's interest

Stanwyck v. Horne (1983) 146 Cal.App.3d 450 [194 Cal.Rptr. 228]

Accrual of causes of action and limitation in malpractice action against attorneys

Baright v. Willis (1984) 151 Cal.App.3d 303

Krusesky v. Baugh (1982) 138 Cal.App.3d 562 [188 Cal.Rptr. 57]

Action against attorney for

Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Adequacy of motion for summary judgment

Blanch v. Young (1984) 152 Cal.App.3d 1016 [200 Cal.Rptr. 9]

Agency

Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]

Agreement with client to arbitrate any malpractice claim

CAL 1977-47

Arbitration of claims for

arbitrator's decision to dismiss legal malpractice case due to plaintiff's inability to pay should have allowed case to proceed in federal court

Tillman v. Tillman, Rheingoldm Valet, Rheingold, Shkolnik & McCartney (9th Cir. 2016) 825 F.3d 1069

client's agreement

-arbitration clause in attorney-client retainer agreement

Lawrence v. Walzer & Gabrielson (1989) 207 Cal.App.3d 1501 [256 Cal.Rptr. 6]

-as condition to employment

Rule 3-400, Rules of Professional Conduct

CAL 1977-47

Assignability of chose in action for legal malpractice

White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]

Goodley v. Wank & Wank, Inc. (1976) 62 Cal.App.3d 389 [133 Cal.Rptr. 83]

exception to the California rule barring the assignment for the cause of action for legal malpractice

White Mountains Reinsurance Company of America v. Borton Petrini, LLP (2013) 221 Cal.App.4th 890 [164 Cal.Rptr.3d 912]

legal malpractice claims sounding in tort or contract not assignable

Jackson v. Rogers & Wells (1989) 210 Cal.App.3d 336 [258 Cal.Rptr. 454]

Attorney's dissemination of information produced by adverse party and covered by protective order does not constitute tort

Westinghouse Electric Corp. v. Newman (1995) 39 Cal.App.4th 370 [46 Cal.Rptr.2d 151]

Attorney's failure to raise inapplicable argument

Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]

Attorney General

deputy attorney general immune from liability to person wrongfully accused following grand jury investigation

Harmston v. Kirk (1989) 216 Cal.App.3d 1410

Attorney-client relationship

consultation

-prima facie evidence of existence of

People v. Thoi (1989) 213 Cal.App.3d 689 [261 Cal.Rptr. 789]

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

specially appearing attorney forms an attorney-client relationship with the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Bankruptcy proceeding

liquidating bankruptcy trustee's claims against company's lawyer relating to his alleged role in company's fraud barred by doctrine of in pari delicto

Uecker v. Zentil (2016) 244 Cal.App.4th 789 [198 Cal.Rptr.3d 620]

standard of care

Enriquez v. Smith (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]

Breach of fiduciary duty

claims to strike under anti-SLAPP statute

Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]

-anti-SLAPP motion by defendant's attorney proper where plaintiff's complaint comprises communications with future defendant's attorney in preparation of litigation

Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]

requirements to state a cause of action

Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]

Gutierrez v. Girardi (2011) 194 Cal.App.4th 925 [125 Cal.Rptr.3d 210]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]

New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]

Pierce v. Lyman (1991) 1 Cal.App.4th 1093

-claims to strike under anti-SLAPP statute

Hylton v. Frank E. Rogozlenski, Inc. (2009) 177 Cal.App.4th 1264 [99 Cal.Rptr.3d 805]

violation of rules of professional conduct may be admitted as evidence of fiduciary breach

Mirabito v. Liccardo (1992) 4 Cal.App.4th 41

Burden of proof

Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]

attorney charged with spoliation of evidence has burden of showing that his negligence did not result in loss of meritorious case

Galanek v. Wismar (1999) 68 Cal.App.4th 1417 [81 Cal.Rptr.2d 236]

client must prove causation in transactional matters

Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]

Mireskandari v. Edwards Wildman Palmer LLP (2022) 77 Cal.App.5th 247 [292 Cal.Rptr.3d 410]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

plaintiff failed to prove that any judgment she might have obtained in her "case within a case" would have been collectible

Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]

Garretson v. Harold I. Miller (2002) 99 Cal.App.4th 563 [121 Cal.Rptr.2d 317]

plaintiff must prove that, but for the negligence of the attorney, a better result could have been obtained in the underlying matter

Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]

Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]

Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]

Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]

plaintiff must prove under "minimum contacts test" that the "quality and nature" of the defendant's activity is such that it is "reasonable" and "fair" to require him to conduct his defense in that state

Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]

Co-counsel not liable for other counsel's fees due to his own malpractice which reduced or eliminated fees of other counsel

Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]

Co-counsel's duty to report counsel's

LA 313 (1969)

Code of Civil Procedure section 340.6

Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]

specially appearing attorney owes a duty of care to the litigant

Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Collateral estoppel, effect of

client is prohibited from relitigating previously decided issues even if second suit raises different causes of action

Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]

collateral estoppel doctrine bars plaintiff from relitigating the issue of whether her juvenile dependency attorneys caused the termination of her parental rights because causation is an essential element of a malpractice claim

Kemper v. County of San Diego (2015) 242 Cal.App.4th 1075 [196 Cal.Rptr.3d 35]

respondent's action barred by collateral estoppel based on prior judgment in a malpractice action against a party in privity with respondent in current action

Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]

Collateral order doctrine defined

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136

Comparative fault doctrine

calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

contributory negligence of the person injured in person or property shall not bar recovery but damages awarded shall be diminished in proportion to the amount of negligence attributable to the person

Yale v. Bowne, II (2017) 9 Cal.App.5th 649 [215 Cal.Rptr.3d 266]

Conspiracy to violate legal ethics

Westamco Investment Co. v. Lee (1999) 69 Cal.App.4th 481 [81 Cal.Rptr.2d 634]

Conspiracy under Civil Code section 1714.10

Stueve v. Berger Kahn (2013) 222 Cal.App.4th 327 [165 Cal.Rptr.3d 877]

Rickley v. Goodfriend (2013) 212 Cal.App.4th 1136 [151 Cal.Rptr.3d 683]

Central Concrete Supply Co., Inc. v. Bursak (2010) 182 Cal.App.4th 1092 [105 Cal.Rptr.3d 909]

Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]

PROFESSIONAL LIABILITY

- Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]
- Pavich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
- Evans v. Pillsbury, Madison & Sutro (1998) 65 Cal.App.4th 599 [76 Cal.Rptr.2d 679]
- attorney, acting as agent, is not liable for conspiracy when the agent acts in an official capacity on behalf of the principal
- Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- claim against opposing counsel for fraud may be viable if the attorney's act caused harm to the plaintiff
- Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- suit for conspiracy against opposing counsel may be viable if attorney is found to have acted in furtherance of his private gain
- Panoutsopoulos et al. v. Chambliss et al. (2007) 157 Cal.App.4th 297 [68 Cal.Rptr.3d 647]
- Continued representation of clients regarding the specific subject matter in which alleged wrongful act or omission occurred
- Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]
- Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]
- "Continuity of representation" test
- Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]
- Continuous representation tolls statutes
- Von Rott v. Johnson (1983) 148 Cal.App.3d 608 [196 Cal.Rptr. 55]
- Contributory negligence of client
- Theobald v. Byers (1961) 193 Cal.App.2d 147 [13 Cal.Rptr. 864]
- Corporate counsel retained by corporation to defend against litigation was not agent of corporation for purposes of Corporations Code section 317
- Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]
- Counsel who may benefit from malpractice action informs party who may have such action against her counsel
- LA 326 (1972)
- Criminal defendant must prove actual innocence in action for
- Wiley v. County of San Diego (1998) 19 Cal.4th 532 [79 Cal.Rptr.2d 672]
- Genis v. Schainbaum (2021) 66 Cal.App.5th 1007 [281 Cal.Rptr.3d 48]
- Sangha v. Barbera (2006) 146 Cal.App.4th 79 [52 Cal.Rptr.3d 640]
- Salisbury v. County of Orange (2005) 131 Cal.App.4th 756 [31 Cal.Rptr.3d 831]
- Lynch v. Warwick (2002) 95 Cal.App.4th 267 [115 Cal.Rptr.2d 391]
- legal malpractice action in the course of Sexually Violent Predator Act (SVPA) proceedings does not require proof of actual innocence
- Jones v. Whisenand (2017) 8 Cal.App.5th 543 [214 Cal.Rptr.3d 72]
- Damages
- *Smith v. Lewis (1975) 13 Cal.3d 349, 361 [118 Cal.Rptr. 621]
- Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
- Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
- Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]
- Campbell v. Magana (1960) 184 Cal.App.2d 751 [8 Cal.Rptr. 32]
- Pete v. Henderson (1954) 124 Cal.App.2d 487 [269 Cal.Rptr. 78]
- calculation of damages based on comparative fault of prior and successor counsel and of guardians ad litem pursuant to CCP § 877
- Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- legal fees spent in an unsuccessful attempt to overturn marital settlement agreement did not represent tort damages, and thus, without evidence of any other recognized tort damages, case could only proceed as a fee dispute
- Herrington v. Superior Court (2003) 107 Cal.App.4th 1052 [132 Cal.Rptr.2d 658]
- Defense attorneys are not liable for unauthorized reading of victim's mental health records which they received through the prescribed judicial process
- Mansell v. Otto (2003) 108 Cal.App.4th 265 [133 Cal.Rptr.2d 276]
- Disclose information in action by client against co-counsel
- LA 254 (1958)
- Duty of attorney
- advise client of other claims related to but outside the scope of the representation
- Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- advise client of potential liability from promulgating a false or misleading offering to investors
- Federal Deposit Insurance Corporation v. O'Melveny & Myers (9th Cir. 1992) 969 F.2d 44
- advise client of prior attorney's malpractice
- no duty found
- LA 390 (1981)
- attorney acting as a mediator assumes duty to disclose to the parties any information that might reasonably cause doubt in the attorney's impartiality
- Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
- class action members
- counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
- Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
- Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
- no duty to disclose to client that law firm had hired law clerk of judge before whom law firm was appearing in pending matter because the alleged harm lacked foreseeability
- First Interstate Bank of Arizona v. Murphy, Weir & Butler (9th Cir. 2000) 210 F.3d 983
- report to the State Bar
- Business and Professions Code sections 6068(o)(1), (2), 6086.8
- settlement
- cannot prohibit the filing of State Bar complaint
- [Rule 1-500\(B\)](#), Rules of Prof. Conduct
- Business and Professions Code section 6090.5
- [CAL 2012-185](#)
- no duty to exonerate clients from fault in public eye
- no liability to counsel
- Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- 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 owed in favor of third persons
- Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]
- Hall v. Superior Court (2003) 108 Cal.App.4th 706 [133 Cal.Rptr.2d 806]
- Meighan v. Shore (1995) 34 Cal.App.4th 1025
- Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]

Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 76 [203 Cal.Rptr. 524]
 adverse party
 -no duty allowed
 Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 Silberg v. Anderson (1988) 203 Cal.App.3d 29, mod. 204 Cal.App.3d 150A [249 Cal.Rptr. 697]
 Schick v. Bach (1987) 193 Cal.App.3d 1321, 1330 [238 Cal.Rptr. 902]
 Morales v. Field, DeGoff, et al. (1979) 99 Cal.App.3d 307, 318 [160 Cal.Rptr. 239]
 Norton v. Hines (1975) 49 Cal.App.3d 917, 921 [123 Cal.Rptr. 237]
 assumption of fiduciary duty as "escrow holder" for adverse party
 Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]
 Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
 -prior counsel
 CAL 2009-177
 attorney advising client is liable to third party when reasonably foreseeable that advice will be transmitted to and relied upon by third party
 Pavichich v. Santucci (2000) 85 Cal.App.4th 382 [102 Cal.Rptr.2d 125]
 Home Budget Loan v. Jacoby & Meyers Law Offices (1989) 207 Cal.App.3d 1277 [255 Cal.Rptr. 483]
 attorney employer
 -client of
 Donald v. Garry (1971) 19 Cal.App.3d 769 [97 Cal.Rptr. 191]
 -disclosure that counsel represented only executor-trustee
 Morales v. Field, DeGoff, Huppert & MacGowan (1979) 99 Cal.App.3d 307 [160 Cal.Rptr. 239]
 -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]
 Gordon v. Ervin Cohen & Jessup LLP (2023) 88 Cal.App.5th 543 [305 Cal.Rptr.3d 53]
 Freedman v. Brutzkus (2010) 182 Cal.App.4th 1065 [106 Cal.Rptr.3d 371]
 Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
 Fox v. Pollack (1986) 181 Cal.App. 954 [226 Cal.Rptr. 532]
 -attorney's representation of assignee for the benefit of creditors does not give rise to a duty owed to the class of creditors
 Berg & Berg Enterprises, LLC v. Sherwood Partners, Inc. (2005) 131 Cal.App.4th 802 [32 Cal.Rptr.3d 325]
 -law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
 Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]
 -non-fiduciary who commits actual fraud in his dealings with a third party in the course of a business negotiation is not relieved of liability even if non-fiduciary does so in his capacity as attorney for a client
 Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]
 patient of attorney's psychologist client
 Schick v. Bach et al. (1987) 193 Cal.App.3d 1321 [238 Cal.Rptr. 902]
 potential creditors of client
 U.S. v. Limbs (9th Cir. 1975) 524 F.2d 799
 Johnstone v. State Bar (1966) 64 Cal.2d 153 [49 Cal.Rptr. 97, 410 P.2d 617]
 Roberts v. Ball, Hunt, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
 Brian v. Christensen (1973) 35 Cal.App.3d 377 [110 Cal.Rptr. 688]
 Miller v. Rau (1963) 216 Cal.App.2d 68 [30 Cal.Rptr. 612]
 prospective defendants
 Fox v. Pollack (1986) 181 Cal.App.3d 954 [226 Cal.Rptr. 532]
 Norton v. Hines (1975) 49 Cal.App.3d 917 [123 Cal.Rptr. 237]
 purchasers of client's property
 Heliotis v. Schuman (1986) 181 Cal.App.3d 646 [226 Cal.Rptr. 509]

PROFESSIONAL LIABILITY

- on the issue of personal jurisdiction, plaintiff bears burden of proving that the defendant had "minimum contacts" with the forum state that being subjected to its jurisdiction will not offend traditional notions of fair play
Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]
- purchasers of client's stock
Goodman v. Kennedy (1976) 18 Cal.3d 335 [134 Cal.Rptr. 375, 556 P.2d 737]
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
- spouse of client who was to receive portion of proceeds of
In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]
- standing for bringing action in professional negligence
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
- testamentary beneficiaries
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
Sodikoff v. State Bar (1975) 14 Cal.3d 422 [121 Cal.Rptr. 467, 535 P.2d 331]
Heyer v. Flaig (1969) 70 Cal.2d 223 [74 Cal.Rptr. 225]
Lucas v. Hamm (1961) 56 Cal.2d 583, 588 [15 Cal.Rptr. 821]
Boranian v. Clark (2004) 123 Cal.App.4th 1012 [20 Cal.Rptr.3d 405]
Moore v. Anderson Zeigler Disharon Gallagher & Gray (2003) 109 Cal.App.4th 1287 [135 Cal.Rptr.2d 888]
Garcia v. Borelli (1982) 129 Cal.App.3d 24 [180 Cal.Rptr. 768]
Ventura County Humane Society v. Holloway (1974) 40 Cal.App.3d 897 [115 Cal.Rptr. 464]
Hiemstra v. Huston (1970) 12 Cal.App.3d 1043 [91 Cal.Rptr. 269]
- trust beneficiaries
Pierce v. Lyman (1991) 1 Cal.App.4th 1093
- Duty owed to insured by attorney retained by insurer
Lysick v. Walcom (1968) 258 Cal.App.2d 136, 151 [65 Cal.Rptr. 406]
- Duty owed to insurer by attorney retained by insurer
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Duty to refer client to a "specialist"
Horne v. Peckham (1979) 97 Cal.App.3d 404, 414 [158 Cal.Rptr. 714]
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
- Effect of violation of the Rules of Professional Conduct
David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]
- Elements of cause of action
Harris v. Smith (1984) 157 Cal.App.3d 100, 104-105 [203 Cal.Rptr. 541]
- Emotional distress damages may be recoverable as part of a legal malpractice claim
LA 489 (1997)
- Error
in preparing findings in support of judgment in favor of client
Armstrong v. Adams (1929) 102 Cal.App. 677 [283 P. 871]
- Existence of attorney-client relationship
Perkins v. West Coast Lumber Co. (1900) 129 Cal. 427 [62 P. 57]
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 39 [154 Cal.Rptr. 22]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
- direct attorney-client relationship must be shown to exist between plaintiff and attorney-defendant when plaintiff alleges to be the intended beneficiary of a testamentary instrument
Harrigfeld v. Hancock (9th Cir. (Idaho) 2004) 364 F.3d 1024
- specially appearing attorney forms an attorney-client relationship with the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
- Exonerating personal liability
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
LA 489 (1997)
- Failure to advise client of correct value of marital estate
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
- Failure to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
- Failure to advise client of spouse's community property
Gorman v. Gorman (1979) 90 Cal.App.3d 454 [153 Cal.Rptr. 479]
- Failure to advise client to act promptly in retaining other counsel due to statute of limitations
Miller v. Metzinger (1979) 91 Cal.App.3d 31, 41 [154 Cal.Rptr. 22]
- Failure to arrange for service of summons
Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176 [98 Cal.Rptr. 837, 491 P.2d 589]
- Failure to assert interest of wife in retirement benefits of husband in dissolution proceedings
*Smith v. Lewis (1975) 13 Cal.3d 349 [118 Cal.Rptr. 621, 530 P.2d 589]
- Failure to clarify terms of settlement agreement with media
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- Failure to consult medical specialist where such consultation was not recommended by other medical specialists
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
Bay Cities Paving & Grading, Inc. v. Lawyer's Mutual Insurance Co. (1991) 233 Cal.App.3d 1184
Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]
Bernard v. Walkup (1969) 272 Cal.App.2d 595 [77 Cal.Rptr. 544]
Hage v. Worthington, Park & Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
- Failure to file cross-complaint
Banerian v. O'Malley (1974) 42 Cal.App.3d 604 [116 Cal.Rptr. 919]
- Failure to file late claim against public entity within one year after accrual of cause of action
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Failure to file petition for change in client disability rating
Sprague v. Morgan (1960) 185 Cal.App.2d 519 [8 Cal.Rptr. 347]
- Failure to file petition for discharge in bankruptcy
Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
- Failure to file responsive pleadings
County of San Diego v. Magri (1984) 156 Cal.App.3d 641 [203 Cal.Rptr. 52]
- Failure to file timely notice of a motion for a new trial
Tuck v. Thuesen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]
- Failure to include husband's assets as community property
Raudebaugh v. Young (1978) 87 Cal.App.3d 364 [150 Cal.Rptr. 848]

Failure to obtain trial setting preference for aged client
Granquist v. Sandberg (1990) 219 Cal.App.3d 181 [268 Cal.Rptr. 109]

Failure to offer evidence to court about which attorney had serious doubts
Horo v. Lawton (1960) 787 Cal.App.2d 657 [10 Cal.Rptr. 98]

Failure to prepare a valid "Clifford Trust"
Horne v. Peckham (1979) 97 Cal.App.3d 404 [158 Cal.Rptr. 714]

Failure to prepare or cause entry of judgment or verdict
Chavez v. Carter (1967) 256 Cal.App.2d 577 [64 Cal.Rptr. 350]

Failure to properly draft stipulation, order and judgment in divorce action
McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]

Failure to raise a defense of anti-deficiency statute
Crookall v. Davis, Punelli, Keathley & Willard (1998) 65 Cal.App.4th 1048 [77 Cal.Rptr.2d 250]

Failure to raise available defenses in a criminal prosecution
Martin v. Hall (1971) 20 Cal.App.3d 414 [97 Cal.Rptr. 730]

Failure to research law
Torbitt v. Fearn (1984) 161 Cal.App.3d 860, 864-865 [208 Cal.Rptr. 1]

Failure to serve summons and complaint
Troche v. Daley (1990) 217 Cal.App.3d 403
Kane, Kane & Kritzer, Inc. v. Altanen (1980) 107 Cal.App.3d 36 [165 Cal.Rptr. 534]

First attorney prohibited from cross-complaining for indemnity against the successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924, 929

First attorney cross-complaint for indemnity against former associate/successor attorney based on fraud proper
Williams v. Drexler (1988) 206 Cal.App.3d 373

Fraudulent scheme
 attorney providing services to client not liable under racketeering law
Baumer v. Pachi (1993) 8 F.3d 1341
 outside contractor attorney may be held liable to government agency for acts of dealing
California Housing Finance Agency v. Hanover/California Management And Accounting Center, Inc., et al. (2007) 148 Cal.App.4th 682 [56 Cal.Rptr.3d 92]

Immunity
 attorney accused of conspiracy with a judge not entitled to federal law immunity
Kimes v. Stone (9th Cir. 1996) 84 F.3d 1121
 attorney not entitled to judicial immunity for preparing order for judge
Burton v. Infinity Capital Management (9th Cir. 2014) 753 F.3d 954
 lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
 public entity is not liable for injury resulting from an act or omission from an employee of the public entity
County of Los Angeles v. Superior Court (West) (2010) 181 Cal.App.4th 218 [104 Cal.Rptr.3d 230]

Indemnification of attorneys who represented same client on same matter
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]

Insurance
 attorney's deadline to report malpractice claim to insurance carrier quitably tolled
Root v. American Equity Specialty Insurance Co. (2005) 130 Cal.App.4th 926 [30 Cal.Rptr.3d 631]

law firm not liable to reinsurer where contract was between insurer and law firm and where the insurer was not the intended beneficiary of the contract
Zenith Ins. Co. v. Cozen O'Connor (2007) 148 Cal.App.4th 998 [55 Cal.Rptr.3d 911]

Invited error of defendant
Kessler v. Gray (1977) 77 Cal.App.3d 284 [143 Cal.Rptr. 496]

Jurisdiction
 California court has subject matter jurisdiction where damages arise from attorney's negligence, not violation of federal patent law
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
 California courts have jurisdiction under "minimum contacts test" if the "quality and nature" of the defendant's activity is such that it is "reasonable" and "fair" to require him to conduct his defense in this state
Moncrief v. Clark (2015) 238 Cal.App.4th 1000 [189 Cal.Rptr.3d 864]
 California courts non-disciplinary jurisdiction over non-resident California attorney
Crea v. Busby (1996) 48 Cal.App.4th 509 [55 Cal.Rptr.2d 513]
Edmunds v. Superior Court (1994) 24 Cal.App.4th 221

Legal negligence
 plaintiff must prove "but for" alleged negligence, he would have obtained a more favorable results
Namikas v. Miller (2014) 225 Cal.App.4th 1574 [171 Cal.Rptr.3d 23]
 plaintiff must prove "but for" alleged negligence, the resulting contract would have been more favorable
Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Liability of court appointed counsel to federal criminal defendant for negligence
Fern v. Ackerman (1979) 444 U.S. 193 [62 L.Ed.2d 355; 100 S.Ct. 402]

Liability of law firm
 attorney as alter ego of law corporation is liable for debts of corporation where it was used by attorney to escape personal liability
Wells Fargo Bank, National Association v. Weinberg (2014) 227 Cal.App.4th 1 [173 Cal.Rptr.3d 113]
 for malicious prosecution based on acts of principal
Gerard v. Ross (1988) 204 Cal.App.3d 968
 not liable to insured when insurer, under consent clause of policy, was entitled to settle without consulting insured
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
 vicarious liability for acts of a partner
PCO, Inc. v. Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro, LLP (2007) 150 Cal.App.4th 384 [58 Cal.Rptr.3d 516]

Liability of partner for attorney negligence
Blackmon v. Hale (1970) 1 Cal.3d 548 [83 Cal.Rptr. 194]
 for acts of other partners after leaving law firm
Commercial Standard Title Co. v. Superior Court (1979) 92 Cal.App.3d 934 [155 Cal.Rptr. 393]
Redman v. Walters (1979) 88 Cal.App.3d 448 [152 Cal.Rptr. 42]
Held v. Arant (1977) 67 Cal.App.3d 748 [134 Cal.Rptr. 422]

Liability of subsequent tortfeasors
Goldfisher v. Superior Court (1982) 133 Cal.App.3d 12 [183 Cal.Rptr. 609]
Pollack v. Lytle (1981) 120 Cal.App.3d 931 [175 Cal.Rptr. 81]
Parker v. Morton (1981) 117 Cal.App.3d 751 [173 Cal.Rptr. 197]
Rowell v. TransPacific Life Insurance Company (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]

PROFESSIONAL LIABILITY

- calculation of damages based on comparative fault of prior and successor counsel and of clients
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
- Limiting liability to client
CAL 2009-178
agreement to waive a conflict of interest
CAL 1989-115
assistance to an in propria persona litigant in preparing pleading or negotiating settlement
LA 502 (1999)
attorney declares bankruptcy
-judgment may be non-dischargeable
In re Keller (9th Cir. 1989) 106 B.R. 639
for personal professional liability
Rule 6-102, Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-400, Rules of Professional Conduct (operative as of May 27, 1989)
LA 489 (1997)
limited liability partnership
LA 489 (1997)
- Malpractice
acts constituting
E-Pass Technologies, Inc. v. Moses & Singer, LLP (2010) 189 Cal.App.4th 1140 [117 Cal.Rptr.3d 516]
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Slovensky v. Friedman (2006) 142 Cal.App.4th 1518 [49 Cal.Rptr.3d 60]
Jalali v. Root (2003) 109 Cal.App.4th 1768 [1 Cal.Rptr.3d 689]
Lombardo v. Huysentruyt (2001) 91 Cal.App.4th 656 [110 Cal.Rptr.2d 691]
Enriquez v. Smyth (1985) 173 Cal.App.3d 691 [219 Cal.Rptr. 267]
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-76 [203 Cal.Rptr. 524]
Davis v. Damrell (1981) 119 Cal.App.3d 883 [174 Cal.Rptr. 257]
-breach of a professional duty, which causes only nominal damages, speculative harm, or the threat of future harm that is not yet realized, does not serve to create a cause of action for professional negligence
Filbin v. Fitzgerald (2012) 211 Cal.App.4th 154 [149 Cal.Rptr.3d 422]
attorney sued for malpractice is entitled to indemnification from law firm employer for costs of defending lawsuit arising from discharge of his duties for employer (Labor Code section 2802)
Cassady v. Morgan, Lewis, & Bockius LLP (2006) 145 Cal.App.4th 220 [51 Cal.Rptr.3d 527]
- award of attorney's fees
Loube v. Loube (1998) 64 Cal.App.4th 421 [74 Cal.Rptr.2d 906]
-alleged malpractice of attorney appointed by insurer did not render attorney liable for insured's fees for independent counsel
Lazy Acres Market Inc. v. Tseng (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]
- class action
counsel owed a duty, post certification, to advise clients of other claims related to but outside the scope of the representation
Janik v. Rudy, Exelrod & Zieff et al. (2004) 119 Cal.App.4th 930 [14 Cal.Rptr.3d 751]
counsel owed no duty to class member to give notice beyond the court-approved settlement notice procedure
Martorana v. Marlin & Saltzman (2009) 175 Cal.App.4th 685 [96 Cal.Rptr.3d 172]
- duty to advise client of prior attorney's malpractice
LA 390 (1981)
error on trial court for failure to instruct jury on issue of severability in legal malpractice case
Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]
expert witness's testimony admissible even though the attorney-expert possessed only related experience and not specific expertise
Jeffer, Mangels & Butler v. Glickman (1991) 234 Cal.App.3d 1432
insurance company
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
Gulf Insurance Co. v. Berger, Kahn et al. (2000) 79 Cal.App.4th 114 [93 Cal.Rptr.2d 534]
American Casualty Co. v. O'Flaherty (1997) 57 Cal.App.4th 1070 [67 Cal.Rptr.2d 539]
Unigard Ins. Group v. O'Flaherty & Belgum (1995) 38 Cal.App.4th 1229 [45 Cal.Rptr.2d 565]
liability of firm for legal malpractice of partner
Purdy v. Pacific Automobile Ins. Co. (1984) 157 Cal.App.3d 59, 74-75 [203 Cal.Rptr. 524]
malpractice claim is barred due to mediation confidentiality statute when attorney's alleged misconduct occurred during mediation
Amis v. Greenberg Traurig LLP (2015) 235 Cal.App.4th 331 [185 Cal.Rptr.3d 322]
no duty to agent of client who participated with attorney in the negotiation of a contract on behalf of their client
Major Clients Agency v. Diemer (1998) 67 Cal.App.4th 1116 [79 Cal.Rptr.2d 613]
no duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
professional malpractice distinguished from negligence
Bellamy v. Superior Court (1996) 45 Cal.App.4th 565 [57 Cal.Rptr.2d 894]
punitive damages in underlying case recoverable as compensatory damages in malpractice suit against negligent law firm
Merenda v. Superior Court (1991) 234 Cal.App.3d 1294
sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
settlement of claims for
-breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
standing to sue
-out-of-state successor estate representative may sue California attorneys retained by prior representative for alleged malpractice
Smith v. Cimmet et al. (2011) 199 Cal.App.4th 1381 [132 Cal.Rptr.3d 276]
-successor conservator, albeit non-client, may bring suit against a predecessor's attorney for malpractice causing loss to the estate
Stine v. Dell'Oso (2014) 230 Cal.App.4th 834 [178 Cal.Rptr.3d 895]
statute of limitations does not begin to run until client suffers actual harm
Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]
Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Johnson v. Haberman & Kasoy (1988) 201 Cal.App.3d 1468 [247 Cal.Rptr. 614]
Robinson v. McGuinn (1987) 195 Cal.App.3d 66
 -defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice
Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]
Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]
 -doctrine of "equitable tolling" applies to legal malpractice limitation period
Afrozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]
 trustee of "sham" corporation has standing to sue corporate attorneys for legal malpractice
Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755
 under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause
Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]
 Mere breach of professional duty causing harm not yet realized does not create cause of action for malpractice
UMET Trust v. Santa Monica (1983) 140 Cal.App.3d 864, 874 [189 Cal.Rptr. 922]
 Meritless claims
 no obligation to allege or advise a client on an unmeritorious claim
Mooney v. Caspari (2006) 138 Cal.App.4th 704 [41 Cal.Rptr.3d 728]
 Necessity for expert testimony
Goebel v. Lauderdale (1989) 214 Cal.App.3d 1502
Lipscomb v. Krause (1978) 87 Cal.App.3d 970 [151 Cal.Rptr. 465]
Starr v. Mooslin (1971) 14 Cal.App.3d 988, 994 [92 Cal.Rptr. 583]
Floro v. Lawton (1960) 187 Cal.App.2d 657, 674 [10 Cal.Rptr. 98]
 Necessity for proof of actual damages
Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Kirtland & Packard v. Superior Court (1976) 59 Cal.App.3d 140 [131 Cal.Rptr. 418]
 Negligence
 attorney's breach of duty as escrow holder deemed actionable for negligence
Virtanen v. O'Connell (2006) 140 Cal.App.4th 688 [44 Cal.Rptr.3d 702]
Wasmann v. Seidenberg (1988) 202 Cal.App.3d 752 [248 Cal.Rptr. 744]
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 -cross-complaint against plaintiff's attorney
Rowell v. Transpacific Life Insurance Co. (1979) 94 Cal.App.3d 818 [156 Cal.Rptr. 679]
Gibson, Dunn & Crutcher v. Superior Court (1979) 94 Cal.App.3d 347 [156 Cal.Rptr. 326]
 inadequate investigation of medical malpractice claim
 -no cause of action against attorney by physician
Weaver v. Superior Court (1979) 95 Cal.App.3d 166 [156 Cal.Rptr. 745]
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Edwards v. Chain, Younger, et al. (1987) 191 Cal.App.3d 515 [236 Cal.Rptr. 465]
 negligent misrepresentation to non-client
Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Roberts v. Ball, Hunt, Hart, Brown & Baerwitz (1976) 57 Cal.App.3d 104 [128 Cal.Rptr. 901]
 -non-fiduciary's active concealment or suppression of facts during a business negotiation is the equivalent of false representation and non-fiduciary therefore is held liable
Vega v. Jones (2004) 121 Cal.App.4th 282 [17 Cal.Rptr.3d 26]

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Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]
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Skarbrevik v. Cohen, England & Whitfield (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
Burger v. Pond (1990) 224 Cal.App.3d 597 [273 Cal.Rptr. 709]
 No duty to consult medical specialist unless such consultations recommended by other doctors
Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]
 Noerr-Pennington immunity defined
Nunag-Tanedo v. East Baton Rouge Parish School Board (9th Cir. 2013) 711 F.3d 1136
 Obligation of insurance company to represent attorney against malpractice claim
American Home Assurance Co. v. Miller (9th Cir. 1983) 717 F.2d 1310
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Charnay v. Corbert (2006) 145 Cal.App.4th 170 [51 Cal.Rptr.3d 471]
Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]
Marshak v. Ballesteros (1999) 72 Cal.App.4th 1514 [86 Cal.Rptr.2d 1]
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Moser v. Western Harness Racing Assn. (1948) 89 Cal.App.2d 1 [200 P.2d 7]
McGregor v. Wright (1931) 117 Cal.App. 186 [3 P.2d 624]
 Personal
Oren Royal Oaks Venture v. Stanman (1984) 160 Cal.App.3d 879
 Predecessor attorney/malpractice defendant may not cross-complain for equitable indemnity against successor attorney
Holland v. Thacher (1988) 199 Cal.App.3d 924, 929
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Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
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Ishmael v. Millington (1966) 241 Cal.App.2d 520, 529 [50 Cal.Rptr. 592]
Hegel v. Worthington, Park and Worthington (1962) 209 Cal.App.2d 670, 676 [26 Cal.Rptr. 132]
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Feldesman v. McGovern (1941) 44 Cal.App.2d 566 [112 P.2d 645]
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Kumaraperu v. Feldsted (2015) 237 Cal.App.4th 60 [187 Cal.Rptr.3d 583]
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Bradshaw v. Pardee (1978) 78 Cal.3d 567
 Punitive damages
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Expansion Pointe Properties Limited Partnership v. Procopio (2007) 152 Cal.App.4th 42 [61 Cal.Rptr.3d 166]
Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953
 Recovery of emotional suffering damages
Quezada v. Hart (1977) 67 Cal.App.3d 754 [136 Cal.Rptr. 815]

PROFESSIONAL LIABILITY

Reliance on one attorney's advice does not preclude malpractice suit later

Baright v. Willis (1984) 151 Cal.App.3d 303, 313 [198 Cal.Rptr. 510]

Retaliation

employee may proceed with retaliation action against employer's attorney for discriminating against an employee filing a complaint under the Fair Labor Standard Act (FLSA)

Arias v. Raimondo (9th Cir. 2017) 860 F.3d 1185

Right to jury trial in legal malpractice actions

Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]

Rule against perpetuities

Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]

Rules of Professional Conduct as an ethical standard

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

Mirabito v. Liccardo (1992) 4 Cal.App.4th 41

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Scope of expert testimony

Piscitelli v. Friedenberg (2001) 87 Cal.App.4th 953 [105 Cal.Rptr.2d 88]

Settlement

client needs to show "significant difference" between what the settlement was and what could have been awarded at trial in order to prove damages

Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]

settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
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Special appearances

specially appearing attorney owes a duty of care to the litigant
Streit v. Covington & Crowe (2000) 82 Cal.App.4th 441 [82 Cal.Rptr.2d 193]

Standard of care

Blanks v. Seyfarth Shaw (2009) 171 Cal.App.4th 336 [89 Cal.Rptr.3d 710]

Furia v. Helm (2003) 111 Cal.App.4th 945 [4 Cal.Rptr.3d 357]
Considine Co. Inc. v. Shadle, Hunt & Hagar et al. (1986) 187 Cal.App.3d 760, 765

Wright v. Williams (1975) 47 Cal.App.3d 802, 809, 810 [121 Cal.Rptr. 194]

Ishmael v. Millington (1966) 241 Cal.App.2d 520, 525 [50 Cal.Rptr. 592]

failure to establish prima facie case

-no expert testimony

Conley v. Lieber (1979) 97 Cal.App.3d 646 [58 Cal.Rptr. 770]

-no duty to consult medical specialist unless such consultations recommended by other doctors

Bolton v. Trope (1999) 75 Cal.App.4th 1021 [89 Cal.Rptr.2d 637]

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for legal specialist

Peel v. Attorney Regulatory and Disciplinary Commission of Illinois (1990) 496 U.S. 91

Wright v. Williams (1975) 47 Cal.App.3d 802, 809 [121 Cal.Rptr. 194]

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-expert testimony required

Lipscomb v. Krause (1978) 87 Cal.App.3d 970

Statute of limitations

Davies v. Krasna (1975) 14 Cal.3d 502 [121 Cal.Rptr. 705]

Neel v. Magana, Olney, Levy, Cathcart & Gelfand (1971) 6 Cal.3d 176, 190 [98 Cal.Rptr. 837]

Heyer v. Flaig (1969) 70 Cal.2d 233 [74 Cal.Rptr. 225]

Alter v. Michael (1966) 64 Cal.2d 480 [50 Cal.Rptr. 553]

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]

Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]

Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]

Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]

Renteria v. Juvenile Justice, Dept. of Corrections and Rehabilitation (2006) 135 Cal.App.4th 903 [37 Cal.Rptr.3d 777]

Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Stoll v. Superior Court (1992) 9 Cal.App.4th 1362 [12 Cal.Rptr.2d 1321]

Johnson v. Simonelli (1991) 231 Cal.App.3d 105 [282 Cal.Rptr. 205]

Gurkewitz v. Haberman (1982) 137 Cal.App.3d 328 [187 Cal.Rptr. 14]

Bell v. Hummel & Pappas (1982) 136 Cal.App.3d 1009 [186 Cal.Rptr. 688]

McGee v. Weinberg (1979) 97 Cal.App.3d 798 [159 Cal.Rptr. 86]

Horne v. Peckham (1979) 97 Cal.App.3d 404, 416-417 [158 Cal.Rptr. 714]

Tuck v. Thusen (1970) 10 Cal.App.3d 193 [88 Cal.Rptr. 759]

Chavez v. Carter (1967) 256 Cal.App.2d 577, 580 [64 Cal.Rptr. 350]

Eckert v. Schaal (1967) 251 Cal.App.2d 1, 4 [58 Cal.Rptr. 817]

Bustamante v. Halt (1963) 222 Cal.App.2d 413 [35 Cal.Rptr. 176]

Jensen v. Sprigg (1927) 84 Cal.App. 519

actions against attorneys, under CCP 340.6

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

-client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

-dismissal reversed to determine whether client's action against attorney arose from the performance of legal services

Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]

application of where attorney performs both legal and non-legal services

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

does not begin to run until client suffers actual harm

Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]

Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Robinson v. McGuinn (1987) 195 Cal.App.3d 66

-doctrine of "equitable tolling" applies to legal malpractice limitation period

Afrozmehr v. Asherson (1988) 201 Cal.App.3d 704 [847 Cal.Rptr. 296]

in action against attorney

Code of Civil Procedure section 340.6

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]

Truong v. Glasser (2009) 181 Cal.App.4th 102 [103 Cal.Rptr.3d 811]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Leasequip, Inc. v. Dapeer (2002) 103 Cal.App.4th 394 [126 Cal.Rptr.2d 782]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875 [110 Cal.Rptr.2d 877]

Knoell v. Petrovich (1999) 76 Cal.App.4th 164 [90 Cal.Rptr.2d 162]

Quintilliani v. Mannerino (1998) 62 Cal.App.4th 54 [72 Cal.Rptr.2d 359]

-defendant bears burden of proving when plaintiff discovered or should have discovered alleged malpractice

Samuels v. Mix (2000) 22 Cal.4th 1 [91 Cal.Rptr.2d 273]

Fritz v. Ehrmann (2006) 136 Cal.App.4th 1374 [39 Cal.Rptr.3d 670]

Village Nurseries, L.P. v. Greenbaum (2002) 101 Cal.App.4th 26 [123 Cal.Rptr.2d 555]

-duty of attorney to advise client of imminent running of

Miller v. Metzinger (1979) 91 Cal.App.3d 31 [154 Cal.Rptr. 22]

prisoner may be entitled to equitable tolling where there were extraordinary circumstances; attorney who resigns, running "writ mill" may be extraordinary

Porter v. Ollison (9th Cir. 2010) 620 F.3d 952

tolling for bringing legal malpractice action while attorney still represents client on related matters, even if client knows of attorney's negligence

Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

Laclette v. Galindo (2010) 184 Cal.App.4th 919 [109 Cal.Rptr.3d 660]

Gold v. Weissman (2004) 114 Cal.App.4th 1195 [8 Cal.Rptr.3d 480]

Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]

O'Neill v. Tichy (1993) 19 Cal.App.4th 114 [25 Cal.Rptr.2d 162]

tolling of statute

Callahan v. Gibson, Dunn, & Crutcher, LLP (2011) 194 Cal.App.4th 557 [125 Cal.Rptr.3d 120]

-notice of claim by former client timely, relation-back doctrine applied where claim amended complaint alleging negligence pertain to specific acts of negligence contained in the original complaint

Pointe San Diego Residential Community LP v. Procopio, Cory, Hargreaves & Savitch LLP (2011) 195 Cal.App.4th 265 [125 Cal.Rptr.3d 540]

-under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Prakashpalan v. Engstrom (2014) 223 Cal.App.4th 1105 [167 Cal.Rptr.3d 832]

under "delayed discovery rule" accrual date of cause of action is delayed until plaintiff becomes aware of injury and its cause

Brandon G. v. Gray (2003) 111 Cal.App.4th 29 [3 Cal.Rptr.3d 330]

Successor attorney advising client of action against former attorney
LA 390 (1981)

Superceding negligence of second attorney retained

Cline v. Watkins (1977) 66 Cal.App.3d 174 [135 Cal.Rptr. 838]

Training of staff

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

Transactional matters

client must prove causation

Viner v. Sweet (2003) 30 Cal.4th 1232 [135 Cal.Rptr.2d 629]

Mireskandari v. Edwards Wildman Palmer LLP (2022) 77 Cal.App.5th 247 [292 Cal.Rptr.3d 410]

Michaels v. Greenberg Traurig, LLP (2021) 62 Cal.App.5th 512 [277 Cal.Rptr.3d 1]

Trust administrator's attorney's fees are compensable in litigation related to trust administration

Estate of Gump (1991) 1 Cal.App.4th 582 [2 Cal.Rptr.2d 269]

PROFESSIONAL SOCIETIES

Committees established for the maintenance of professional standards

immunity for liability

Civil Code section 43.7

Peer review committees

immunity for liability

Civil Code section 43.7

Professional standards, committees established for maintenance of

immunity for liability

Civil Code section 43.7

PROFESSIONALISM

California Attorney Guidelines of Civility and Professionalism

Attorney's must strive to maintain the highest standards of civility and professionalism and must be an example of lawfulness, not lawlessness

Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

Integrity of adversary system depends on the highest standard of ethics, civility, and professionalism in the practice of law

Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]

PROPERTY

Client's property

attorney's duties

Rule 8-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

-withdrawal from representation

Rule 2-111(A)(2), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Sale of

auctioneer, attorney may act as

-where trust or deed of trust gives power of sale to trustee

Civil Code section 2924a

conduct sale

-attorney for trustee may

Civil Code section 2924a

non-judicial foreclosure

Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]

prevailing borrower defined under Civil Code section 2924.12

Hardie v. Nationstar Mortgage LLC (2019) 32 Cal.App.5th 714 [243 Cal.Rptr.3d 911]

trust or deed of trust gives power of sale to trustee

-attorney for trustee may conduct sale

Civil Code section 2924a

PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE

PROPERTY, PURCHASE OF AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [See Estate. Purchasing property at probate, foreclosure, or judicial sale.]

Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 4-300, Rules of Professional Conduct (operative as of May 27, 1989)

Refusal to return other party's

LA(l) 1966-8

PROSECUTOR [See Attorneys of government agencies. Conflict of interest.]

Communication with criminal defendant who is potential witness to another crime

[CAL](#) 1979-49

Communication with jurors

[CAL](#) 1976-39

Conflict of interest

welfare proceeding

-between state and child

--disclosure to court

[CAL](#) 1977-45

Cumulative effect of errors results in prejudice

[U.S. v. Preston](#) (9th Cir. 2017) 873 F.3d 829

Legal advice

to victim of crime

-of civil remedies

[CAL](#) 1976-40

Rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice

[United States v. Talao](#) (9th Cir. 2000) 222 F.3d 1133

Sanctions

not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters

[Nash v. Clark County District Attorney's Office \(In re Nash\)](#) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

PROSECUTORIAL MISCONDUCT [See Competence. Ineffective assistance of counsel. Judges, ex parte communication with. Trial conduct.]

[Note: This section is arranged according to the stage of the proceeding in which the conduct occurs.]

[Rule](#) 5-110, Rules of Professional Conduct (operative as of May 1, 2017)

prosecutor must disclose and/or conduct an investigation when the prosecutor is presented with "new, credible and material" evidence of a wrongful conviction

[Rule](#) 5-110(F)

prosecutor must exercise reasonable care to prevent persons under the prosecutor's supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120

[Rule](#) 5-110(E)

prosecutor must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters

[Rule](#) 5-110(B)

prosecutor must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused's appearance in pro per

[Rule](#) 5-110(C)

prosecutor must seek to remedy a conviction when the prosecutor "knows of clear and convincing evidence" establishing that a wrongful conviction occurred

[Rule](#) 5-110(G)

Advocacy, proper

[People v. Kelley](#) (1984) 158 Cal.App.3d 1085, 1097

Appeal

timely objection required

[People v. Fondron](#) (1984) 157 Cal.App.3d 390

Authority

effect of trial court discretion on

[People v. Geiger](#) (1984) 35 Cal.3d 510, 530

Brady disclosures

law firm representing victim is not part of the prosecution for purposes of *Brady* disclosure requirements

[IAR Systems Software Inc. v. Superior Court \(Shehayed\)](#) (2017) 12 Cal.App.5th 503 [218 Cal.Rptr.3d 852]

no violation found where witnesses/notes of witnesses' statements which were not favorable to the defendant were not given to defense counsel but statements were given at trial and were not suppressed. No reasonable probability that disclosure of the information would have altered the trial results

[People v. Verdugo](#) (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

[Connick v. Thompson](#) (2011) 563 U.S. 51 [131 S.Ct. 1350]

Breach of plea bargain agreement

[U.S. v. Manzo](#) (9th Cir. 2012) 675 F.3d 1204

[People v. Leroy](#) (1984) 155 Cal.App.3d 602, 606

California county district attorney acted as state official for purposes of section 1983 claim when deciding whether to prosecute individual for criminal defense

[Weiner v. San Diego County](#) (9th Cir. 2000) 210 F.3d 1025

Closing argument [See 26 A.L.R. 3d 1909; 85 A.L.R. 2d 1132.] admission into evidence of extrajudicial statement made by defendant in attempt to impeach defendant's testimony

[People v. Disbrow](#) (1976) 16 Cal.3d 101 [127 Cal.Rptr. 360, 545 P.2d 272]

[People v. Nudd](#) (1974) 12 Cal.3d 204, 210 [115 Cal.Rptr. 372, 524 P.2d 844]

alleged racial slur

[People v. Torres](#) (1982) 133 Cal.App.3d 265, 281 [184 Cal.Rptr. 39]

appeal jurors' fear of friends and family condemnation, if jury finds in favor of defendant, was blatant misconduct

[People v. Shazier](#) (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

appeal to passion and prejudice

[Zapata v. Vasquez](#) (9th Cir. 2015) 788 F.3d 1106

[Drayden v. White](#) (9th Cir. 2000) 223 F.3d 704

[People v. Shazier](#) (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

[People v. Simington](#) (1993) 19 Cal.App.4th 1374 [23 Cal.Rptr.2d 769]

comment during penalty phase that evidence favorable to defendant didn't exist, when prosecutor knew that it did exist

[In re Miranda](#) (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

comment in attempt to discredit defense witness on fact witness's children had been taken from her because of neglect

[People v. Dontanville](#) (1970) 10 Cal.App.3d 783, 795 [89 Cal.Rptr. 172]

comment of defense counsel, not prejudicial

[Demirdjian v. Gipson](#) (9th Cir. 2016) 832 F.3d 1060

[People v. Friend](#) (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defense counsel's expert witness as a "hired mouthpiece" not found denigrating to defense and witness

[People v. Dworak](#) (2021) 11 Cal.5th 881 [281 Cal.Rptr.3d 176]

comment on counsel for defendant

[Allen v. Woodford](#) (9th Cir. 2005) 395 F.3d 979

[People v. Goldberg](#) (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]

[People v. Meneley](#) (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]

comment on defendant's bias and motive for lying

[People v. Jenkins](#) (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]

comment on defendant's case
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
People v. Meneley (1972) 29 Cal.App.3d 41, 60 [105 Cal.Rptr. 432]
comment on defendant's character and his associates
People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
comment on defendant's choice of counsel
People v. Schindler (1980) 114 Cal.App.3d 178, 187 [170 Cal.Rptr. 461]
comment on defendant's demeanor
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
comment on defendant's failure to call certain witness/introduce evidence
Reynolds v. Superior Court (1974) 12 Cal.3d 834 [117 Cal.Rptr. 437, 528 P.2d 45]
People v. Beagle (1972) 6 Cal.3d 441 [99 Cal.Rptr. 313, 442 P.2d 1]
In re Banks (1971) 4 Cal.3d 337, 349-351 [93 Cal.Rptr. 591, 482 P.2d 215]
People v. Coy (1981) 119 Cal.App.3d 254, 278-279 [173 Cal.Rptr. 889]
People v. Singleton (1980) 112 Cal.App.3d 418, 423 [169 Cal.Rptr. 333]
People v. Gray (1979) 91 Cal.App.3d 545, 551 [154 Cal.Rptr. 555]
People v. Corona (1978) 80 Cal.App.3d 684, 725 [145 Cal.Rptr. 894]
People v. Frohner (1976) 65 Cal.App.3d 94, 109 [135 Cal.Rptr. 153]
People v. Demond (1976) 59 Cal.App.3d 574, 591 [130 Cal.Rptr. 590]
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
People v. DeVaney (1973) 33 Cal.App.3d 630, 636 [109 Cal.Rptr. 276]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Powell (1971) 14 Cal.App.3d 693, 695 [92 Cal.Rptr. 501]
People v. Rice (1970) 10 Cal.App.3d 730, 742 [89 Cal.Rptr. 200]
*People v. Hall (1970) 7 Cal.App.3d 562, 567 [86 Cal.Rptr. 504]
comment on defendant's failure to previously come forward with defense asserted at trial
People v. Martin (1980) 101 Cal.App.3d 1000, 1008-1009 [162 Cal.Rptr. 133]
comment on defendant's failure to reply to accusatory statement
People v. Martin (1980) 101 Cal.App.3d 1000, 1007-1008 [162 Cal.Rptr. 133]
comment on defendant's failure to request live line-up
People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]
comment on defendant's failure to testify
U.S. v. Preston (9th Cir. 2017) 873 F.3d 829
Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
Campbell v. Blodgett (9th Cir. 1992) 982 F.2d 1321
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Vargas (1973) 9 Cal.3d 470 [108 Cal.Rptr. 15, 509 P.2d 959]
People v. Mesa (2006) 144 Cal.App.4th 1000 [50 Cal.Rptr.3d 875]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]

People v. Goodall (1982) 131 Cal.App.3d 129 [182 Cal.Rptr. 243]
People v. Jones (1970) 10 Cal.App.3d 237, 293 [88 Cal.Rptr. 871].
But see
In re Banks (1971) 4 Cal.3d 337, 349-351
People v. Gaulden (1974) 36 Cal.App.3d 942, 959-958 [111 Cal.Rptr. 803]
People v. Parks (1973) 32 Cal.App.3d 143, 151 [108 Cal.Rptr. 34]
People v. Meneley (1972) 29 Cal.App.3d 41 [105 Cal.Rptr. 432]
People v. Smith (1971) 22 Cal.App.3d 25, 32 [99 Cal.Rptr. 171]
People v. Bethea (1971) 18 Cal.App.3d 930, 936 [96 Cal.Rptr. 229] cert. den. 405 U.S. 1042, 31 L.Ed.2d 584, 92 S.Ct. 1325
-comment to jury on why defense witness did not testify
People v. Gaines (1997) 54 Cal.App.4th 821 [63 Cal.Rptr.2d 188]
-indirectly commenting of defendant's failure to testify
People v. Medina (1995) 11 Cal.4th 694 [47 Cal.Rptr.2d 165; 906 P.2d 2]
People v. Guzman (2000) 80 Cal.App.4th 1282 [96 Cal.Rptr.2d 87]
-sanity phase of trial
People v. Flores (1976) 55 Cal.App.3d 118
-statement that defendant's exercise of his Fifth Amendment rights did not mean that he was innocent or that jury was supposed to find him not guilty
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr.382]
comment on defendant's prior jail time, brief and not prejudicial
People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]
comment on defendant's silence in face of accusation by private person
People v. Martin (1980) 101 Cal.App.3d 1000, 1004-1008 [162 Cal.Rptr. 133]
comment on defense counsel's failure to reveal alibi defense prior to trial
People v. Lindsey (1988) 205 Cal.App.3d 112, mod. 205 Cal.App.3d 986
comment on defense counsel's tactics, implication of chicanery
People v. Doolin (2009) 45 Cal.4th 390 [87 Cal.Rptr.3d 209]
People v. Jenkins (1974) 40 Cal.App.3d 1054, 1057 [115 Cal.Rptr. 622]
comment on failure of defense to call witnesses to advance alibi defense urged by defendant
People v. Najera (1979) 88 Cal.App.3d 930, 933-935 [152 Cal.Rptr. 124]
comment on failure of defense to present evidence corroborating defendant's asserted alibi
People v. Chandler (1971) 17 Cal.App.3d 798, 805-806 [95 Cal.Rptr. 146]
comment on lack of defense testimony
People v. Beyea (1974) 38 Cal.App.3d 176, 199 [113 Cal.Rptr. 254]
comment on lack of evidence presented by defense
Demirdjian v. Gipson (9th Cir. 2016) 832 F.3d 1060
People v. Gaulden (1974) 36 Cal.App.3d 942, 954-958 [111 Cal.Rptr. 803]
comment on merit of evidence presented by defense
People v. Powell (1980) 101 Cal.App.3d 513, 520 [161 Cal.Rptr. 803]
comment on possible sentence
People v. Kozel (1982) 133 Cal.App.3d 507, 519 [184 Cal.Rptr. 208]
comment on post-arrest silence
United States v. Lopez (9th Cir. 2007) 500 F.3d 840

PROSECUTORIAL MISCONDUCT

People v. Delgado (1992) 10 Cal.App.4th 1837 [13 Cal.Rptr.2d 703]
comment on post-*Miranda* silence was harmless error
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
comment on pre-arrest silence
People v. Kelly (1981) 125 Cal.App.3d 575 [178 Cal.Rptr. 84]
comment on presentation of defendant's case/choice of counsel/trial tactics
People v. Gordon (1982) 136 Cal.App.3d 519
comment on prior judgments/convictions of defendant [See Prior judgments/convictions.]
People v. Bolton (1979) 23 Cal.3d 208, 212-15 [152 Cal.Rptr. 141, 589 P.2d 396]
People v. McDaniel (1976) 16 Cal.3d 156, 175-77 [127 Cal.Rptr. 467, 545 P.2d 843], cert. den. 429 U.S. 847 [50 L.Ed.2d 119, 97 S.Ct. 131]
*People v. Allums (1975) 47 Cal.App.3d 654, 661 [121 Cal.Rptr. 62]
People v. Martinez (1973) 31 Cal.App.3d 355, 358 [107 Cal.Rptr. 284]
People v. Savala (1969) 2 Cal.App.3d 415, 419-20 [82 Cal.Rptr. 647]
comment on testimony
-of character of witnesses
In re Gary G. (1981) 115 Cal.App.3d 629, 637 [171 Cal.Rptr. 531]
*People v. Benton (1979) 100 Cal.App.3d 92, 97 [161 Cal.Rptr. 12]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Ayers (1975) 51 Cal.App.3d 370, 379 [124 Cal.Rptr. 283]
People v. Hisquierdo (1975) 45 Cal.App.3d 397, 405-06 [119 Cal.Rptr. 378]
People v. Beyea (1974) 38 Cal.App.3d 176, 197 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 91, 60 [105 Cal.Rptr. 432]
People v. Lockett (1969) 1 Cal.App.3d 248, 255 [81 Cal.Rptr. 539]
-of defendant, comment as to veracity
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1, 609 P.2d 468]
-of expert witness
People v. Dworak (2021) 11 Cal.5th 881 [281 Cal.Rptr.3d 176]
comment on what would have been the testimony of uncalled witness
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
comment that SVP (sexually violent predator) would be placed in mental hospital
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
commenting on reasonable doubt instructions
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
comments contrary to established law in robbery cases; prosecutor in closing argument repeatedly misstated to the jury that "[t]he law is an objective standard" and that it did not "matter if anybody is afraid"
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
comments misstated to the jury regarding circumstantial evidence
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]

comments on defendants' characters: "pack of wolves" "little punk" "what a tough guy you are"
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
comments on jury being "conscience of community," lack of mercy shown victim, discounting of mitigating circumstances was not misconduct
People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
comments that defense could not use defendant's right not to testify as sword and shield were fair response to defense counsel's argument
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]
comments that evidence was "uncontroverted" was fair response to defense counsel's argument
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]
comments that jury did not hear any evidence of narrative presented by defense counsel were permissible comments on the evidence
People v. Hubbard (2020) 52 Cal.App.5th 555 [266 Cal.Rptr.3d 434]
comments to jury regarding defendant living near schools, with his mother and without parole, allowed jury to consider consequences of their verdict, such considerations were wholly improper
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
comments to jury that they were being "groomed" or manipulated by the defendant was improper
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
comments within permissible argument
Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560
comparison of defendant to Hitler
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
conviction obtained on what appeared to be prosecutor's misstatement of the evidence when in fact court reporter's official transcript has since been corrected and no misstatement actually occurred
U.S. v. Mageno (9th Cir. 2015) 786 F.3d 768
death penalty reversed due to prosecutor's misleading closing argument
People v. Farmer (1989) 47 Cal.3d 888 [254 Cal.Rptr. 508, 765 P.2d 940]
defendant's failure to call certain witnesses/introduce evidence
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]
disparaging remarks about defense counsel
People v. Reyes (1974) 12 Cal.3d 486, 505-06 [116 Cal.Rptr. 217, 526 P.2d 225]
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
People v. Goldberg (1984) 161 Cal.App.3d 170, 189-191 [207 Cal.Rptr. 431]
during closing argument, a prosecutor may make reasonable inferences based on the evidence presented at trial
U.S. v. Wijegoonaratna (9th Cir. 2019) 922 F.3d 983
erroneous statement of the law
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Scott (1982) 129 Cal.App.3d 301 [180 Cal.Rptr. 891]
expression of belief in defendant's guilt
People v. Prysock (1982) 127 Cal.App.3d 972 [180 Cal.Rptr. 15]
expression of opinion as to defendant's guilt
Ford v. Peery (9th Cir. 2020) 976 F.3d 1032
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390

- People v. Gamache (2010) 48 Cal.4th 347 [106 Cal.Rptr.3d 771]
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
People v. Green (1980) 27 Cal.3d 1, 27-36 [164 Cal.Rptr. 1]
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
People v. Herring (1993) 20 Cal.App.4th 1066 [25 Cal.Rptr.2d 213]
People v. Brown (1981) 119 Cal.App.3d 116, 133 [173 Cal.Rptr. 877]
People v. Rodgers (1979) 90 Cal.App.3d 368, 371-372 [153 Cal.Rptr. 382]
People v. Bush (1978) 84 Cal.App.3d 294, 306 [148 Cal.Rptr. 430]
People v. La Fontaine (1978) 79 Cal.App.3d 176, 186 [144 Cal.Rptr. 729]
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
*People v. Wiley (1976) 57 Cal.App.3d 149, 162-63 [129 Cal.Rptr. 13]
People v. Beyea (1974) 38 Cal.App.3d 176, 196 [113 Cal.Rptr. 254]
People v. Calpito (1970) 9 Cal.App.3d 212, 222-23 [88 Cal.Rptr. 64]
expression of opinion as to a witness credibility
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
United States v. Kerr (9th Cir. 1992) 981 F.2d 1050
false statement of fact to jury
US v. Reyes (9th Cir. 2009) 577 F.3d 1069
People v. Brown (1989) 207 Cal.App.3d 741 [255 Cal.Rptr. 67]
harmless error
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
improper remarks as to defendant's character and as to consequences of acquittal
People v. Jones (1970) 7 Cal.App.3d 358, 362-365 [86 Cal.Rptr. 516]
improper remarks directed against counsel for the defense
*People v. Perry (1972) 7 Cal.3d 756, 789-91 [103 Cal.Rptr. 161, 499 P.2d 129]
-prosecutor's use of words, "conjured up" a witness effectively asserted that defense counsel suborned perjury
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
improper remarks regarding conduct of defendant
People v. Blagg (1970) 10 Cal.App.3d 1035, 1040 [89 Cal.Rptr. 446]
impugning defense counsel's tactics at trial and in argument
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
inciting the passions and prejudice of the jury
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
inferences and deductions
People v. Kozel (1982) 133 Cal.App.3d 507, 518-519 [184 Cal.Rptr. 208]
inferences and deductions drawn from facts ascertained at trial
People v. Preston (1973) 9 Cal.3d 308, 317 [107 Cal.Rptr. 300, 508 P.2d 300]
People v. Butler (1980) 104 Cal.App.3d 868, 878 [162 Cal.Rptr. 913]
People v. Lawson (1979) 100 Cal.App.3d 60, 65-66 [161 Cal.Rptr. 7]
People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Mendoza (1974) 37 Cal.App.3d 717, 726-727 [112 Cal.Rptr. 565]
People v. Meneley (1972) 29 Cal.App.3d 41, 61 [105 Cal.Rptr. 432]
People v. Vattelli (1971) 15 Cal.App.3d 54, 63 [92 Cal.Rptr. 763]
People v. Rice (1970) 10 Cal.App.3d 730, 743 [89 Cal.Rptr. 200]
People v. Brown (1970) 6 Cal.App.3d 619, 625 [86 Cal.Rptr. 149]
misleading the jury that the defendant had committed other similar crimes
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
misstatement of law to jury
Ford v. Peery (9th Cir. 2020) 976 F.3d 1032
U.S. v. Navarro (9th Cir. 2010) 608 F.3d 529
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Medellin (2020) 45 Cal.App.5th 519 [258 Cal.Rptr.3d 867]
People v. Pineiro (1982) 129 Cal.App.3d 915 [179 Cal.Rptr. 883]
-district attorney so misrepresented the law that it infected the case with prejudicial error
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
misstatement/erroneous statement of law or fact
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
People v. Strickland (1974) 11 Cal.3d 946, 955-57 [114 Cal.Rptr. 632, 523 P.2d 672]
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Beyea (1974) 38 Cal.App.3d 176, 198 [113 Cal.Rptr. 254]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
-prosecutor did not misstate intent element of crime charged in closing argument
People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]
-prosecutor's statement that the burden was on the defendant to prove his innocence violated the defendant's 14th Amendment due process rights
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
no "guilt by association" argument where prosecutor made comments regarding sexual misconduct by Catholic priests
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
no "stand in the shoes of the victim" comment where prosecutor presented hypothetical situations for jurors to imagine the inability to remember details
People v. Lopez (2008) 42 Cal.4th 960 [71 Cal.Rptr.3d 253]
objection by prosecutor to defense counsel's statements regarding reasonable doubt as misstatement of the law not found to be prosecutorial misconduct
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
penalty trial
-attempt to re-open issues resolved at guilt trial
People v. Haskett (1982) 30 Cal.3d 841, 864 [180 Cal.Rptr. 640, 640 P.2d 776]
prejudicial inflammatory comments during closing argument
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
People v. Deasee (1993) 19 Cal.App.4th 374

PROSECUTORIAL MISCONDUCT

People v. Duckett (1984) 161 Cal.App.3d 307, 316 [207 Cal.Rptr. 491]
 -gang member entitled to habeas relief where his attorney failed to object to prosecutor's inflammatory, fabricated and ethnically charged remarks therefore was ineffective
Zapata v. Vasquez (9th Cir. 2015) 788 F.3d 1106
 prosecutor effectively calling defense counsel a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
 prosecutorial misconduct to repeatedly use "cockroaches" to describe defendants and other gang members, suggested guilt by association
People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
 reference to Biblical passage sanctioning capital punishment not prejudicial
People v. Welch (1999) 20 Cal.4th 701, 976 [85 Cal.Rptr.2d 203]
 reference to defendant as "smart thief" and "parasite on the community"
People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]
 reference to defendant's use of heroin
Hall v. Whitley (9th Cir. 1991) 935 F.2d 164
 reference to facts not in evidence
U.S. v. Wijegoonaratna (9th Cir. 2019) 922 F.3d 983
People v. Galloway (1979) 100 Cal.App.3d 551, 563-564 [160 Cal.Rptr. 914]
People v. Panky (1978) 82 Cal.App.3d 772, 781 [147 Cal.Rptr. 341]
People v. Baeske (1976) 58 Cal.App.3d 775, 783 [130 Cal.Rptr. 35]
People v. Beyea (1974) 38 Cal.App.3d 176, 197-98 [113 Cal.Rptr. 254]
People v. Meneley (1972) 29 Cal.App.3d 41, 62 [105 Cal.Rptr. 432]
People v. McDowell (1972) 27 Cal.App.3d 864, 880 [104 Cal.Rptr. 181]
People v. Wallace (1970) 13 Cal.App.3d 608, 616 [91 Cal.Rptr. 643]
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35-36 [88 Cal.Rptr. 789]
 reference to lack of witnesses/evidence presented by defense to corroborate asserted defense
People v. Roberts (1975) 51 Cal.App.3d 125, 135-137 [123 Cal.Rptr. 893]
 remarks about defendant's self-representation and statements to the effect that prosecutors are held to higher standards than others
People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]
 soliloquy delivered in voice of murder victim from witness chair
Drayden v. White (9th Cir. 2000) 223 F.3d 704
 statement impugning defendant's testimony
People v. Haslouer (1978) 79 Cal.App.3d 818, 833 [145 Cal.Rptr. 234]
 statement that "the defendant thinks it is funny" regarding facing criminal charges
People v. Gilliam (1974) 41 Cal.App.3d 181, 194-195 [116 Cal.Rptr. 317]
 statements denigrating the defense as a sham
*Dubria v. Smith (9th Cir. 1999) 197 F.3d 390
 statements directed at the jury regarding its functions, duties, and conclusions properly drawn
People v. Doane (2021) 66 Cal.App.5th 965 [281 Cal.Rptr.3d 594]
People v. Collins (2021) 65 Cal.App.5th 333 [279 Cal.Rptr.3d 407]
People v. Wilson (1979) 97 Cal.App.3d 547, 550 [158 Cal.Rptr. 811]
People v. Patino (1979) 95 Cal.App.3d 11, 29-31 [156 Cal.Rptr. 815]

People v. Bedolla (1979) 94 Cal.App.3d 1, 8 [156 Cal.Rptr. 171]
People v. Panky (1978) 82 Cal.App.3d 772, 780-781 [147 Cal.Rptr. 341]
People v. Haslouer (1978) 79 Cal.App.3d 818, 834 [145 Cal.Rptr. 234]
*People v. Smith (1973) 33 Cal.App.3d 51, 70-71 [108 Cal.Rptr. 698]
People v. Gay (1972) 28 Cal.App.3d 661, 675 [104 Cal.Rptr. 812]
People v. Daniels (1971) 16 Cal.App.3d 36, 47-48 [93 Cal.Rptr. 628]
People v. Calpito (1970) 9 Cal.App.3d 212, 222 [88 Cal.Rptr. 64]
 statements to jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Ervine (2009) 47 Cal.4th 745 [102 Cal.Rptr.3d 786]
People v. Haskett (1982) 30 Cal.3d 841, 863 [180 Cal.Rptr. 640, 640 P.2d 776]
People v. Medellin (2020) 45 Cal.App.5th 519 [258 Cal.Rptr.3d 867]
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
 -as to what the testimony of an uncalled witness would have been
People v. Hall (2000) 82 Cal.App.4th 813 [98 Cal.Rptr.2d 527]
 -defense counsel's definition of reasonable doubt was a misstatement of the law
People v. Pierce (2009) 172 Cal.App.4th 567 [91 Cal.Rptr.3d 404]
 -use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
 statements to the effect that defendant lied, and that a co-defendant had "ice running through his veins"
People v. Reyes (1974) 12 Cal.3d 486, 505 [116 Cal.Rptr. 217, 526 P.2d 225]
 suggestion that defendant has the burden of raising a reasonable doubt as to guilt
*People v. Ramos (1982) 30 Cal.3d 553, 574-575 [180 Cal.Rptr. 266, 639 P.2d 908]
 unsupported implication by prosecutor that defense counsel has fabricated a defense
People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]
 use of visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
 vouching by prosecutor not plain error
U.S. v. Molina (9th Cir. 1991) 934 F.2d 1440
 vouching for the credibility or prestige of the district attorney's office
People v. Alvarado (2006) 141 Cal.App.4th 1577 [47 Cal.Rptr.3d 289]
 vouching for witness credibility
People v. Rodriguez (2018) 26 Cal.App.5th 890
Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897
 Comments on defendant's conduct
People v. Garcia (1984) 160 Cal.App.3d 82, 93-94
 Comments on lies by witnesses at a foreign extradition hearing constituted reversible error
People v. Jaspal (1991) 234 Cal.App.3d 1446

Comments to jury concerning personal responsibility for death penalty

People v. Fierro (1991) 1 Cal.4th 173

Communication with defendant

People v. Manson (1976) 61 Cal.App.3d 102, 164 [132 Cal.Rptr. 265]

Conduct before a grand jury

failure to disclose witness's potential bias

U.S. v. Benjamin (9th Cir. 1988) 852 F.2d 413

Constitutional protection for criminal defendant

People v. Smith (1984) 155 Cal.App.3d 1103, 1138

Cross-examination

allegation of improper questioning and comment, and objectionable demeanor on part of prosecutor

People v. Hyatt (1971) 18 Cal.App.3d 618, 624 [96 Cal.Rptr. 156]

allegation that prosecutors questions exceeded the scope of direct examination

People v. Harris (1981) 28 Cal.3d 935, 953 [171 Cal.Rptr. 679, 623 P.2d 240]

alleged prejudicial questioning concerning defendant's use of/involvement with narcotics

People v. Dale (1978) 78 Cal.App.3d 722, 733 [144 Cal.Rptr. 338]

arguing facts not in evidence

People v. Baines (1981) 30 Cal.3d 143, 149 [177 Cal.Rptr. 861, 635 P.2d 455]

asking questions of defendant which implied that he was guilty of the charged offense where facts requisite to such a conclusion were not in evidence and had not been established

People v. Romero (1977) 68 Cal.App.3d 543, 597-598 [137 Cal.Rptr. 675]

asking questions of defendant's girlfriend, who had borne defendant's daughter, and mother designed to show bias

People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]

asking questions reasonably necessary to develop fact of defendant's prior felony convictions

People v. Medina (1972) 26 Cal.App.3d 809, 820-822 [103 Cal.Rptr. 337]

asking questions which infer that witness has fabricated her testimonial evidence

People v. Straiten (1977) 71 Cal.App.3d 526, 535-36 [139 Cal.Rptr. 414]

asking witness, in attempt to impeach, whether he had ever been convicted of a felony

People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

attempt to discredit and impeach an alibi

-witness for defense

People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]

attempt to discredit/impeach witness for defense regarding testimony as to defendant's mental/physical health at time of commission of the charged offense

People v. Mazoros (1977) 76 Cal.App.3d 32, 46-49 [142 Cal.Rptr. 599]

attempt to impeach defendant on basis of his silence following arrest and *Miranda* warnings

United States v. Lopez (9th Cir. 2007) 500 F.3d 840

People v. Galloway (1979) 100 Cal.App.3d 551, 556-560 [160 Cal.Rptr. 914]

bad faith may be manifested by prosecutor intentionally asking questions of witness, the answers to which he knows are inadmissible because of their prejudice to the accused, or by asking questions which he knows are improper and inadmissible

People v. Romero (1977) 68 Cal.App.3d 543, 548 [137 Cal.Rptr. 675]

claim of improper questioning of defendant forfeited where no objection by counsel

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defendant being a "danger," prejudice cured by court's admonishment to jury

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

comment on defendant's right of silence

U.S. v. Sehnal (9th Cir. 1991) 930 F.2d 1420

comment to defendant that "you stand an excellent chance of being convicted of first-degree murder"

People v. Hall (1970) 5 Cal.App.3d 116, 124-126 [85 Cal.Rptr. 188]

detailed examination of defendant on matters testified to on direct examination

People v. Green (1979) 95 Cal.App.3d 991, 1007-1008 [157 Cal.Rptr. 520]

directing improper questions to defendant

People v. Wong (1973) 35 Cal.App.3d 812, 833-835 [111 Cal.Rptr. 314]

eliciting testimony concerning defendant's need for money as a motive for commission of charged offense

People v. Morales (1979) 88 Cal.App.3d 259, 264 [151 Cal.Rptr. 610]

exceeding the scope of direct examination

*People v. Goss (1980) 105 Cal.App.3d 542, 546-547 [166 Cal.Rptr. 1]

failed attempt to impeach witness by prior inconsistent statement

People v. Robinson (1970) 6 Cal.App.3d 448, 454-455 [86 Cal.Rptr. 56]

failure to offer any evidence in rebuttal of defendant's denial of use of a false name

*People v. Chojnacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

forcing defendant to characterize U.S. Marshall as liar

United States v. Sanchez (9th Cir. 1999) 176 F.3d 1214

impeachment of defendant on a collateral matter

People v. Blair (1979) 25 Cal.3d 640, 664 [159 Cal.Rptr. 818, 602 P.2d 738]

impeachment of defendant's testimony at trial on basis of statements made by him at time of arrest and after proper *Miranda* warnings

People v. Hill (1980) 110 Cal.App.3d 937, 943 [168 Cal.Rptr. 272]

improper examination in order to place inadmissible prejudicial evidence before the jury

People v. Johnson (1978) 77 Cal.App.3d 866, 873 [143 Cal.Rptr. 852]

insinuations, made during objection to questioning of defendant by his counsel, that prosecutor had in his possession undisclosed but highly relevant and damaging evidence regarding defendant's prior sexual conduct

People v. Villa (1980) 109 Cal.App.3d 360, 364-367 [167 Cal.Rptr. 265]

laughing and juvenile behavior by prosecutor demeans office but was not prejudicial

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

presentation of rebuttal testimony regarding defendant's possession of a gun which was the basis of the charged offense

*People v. Goss (1980) 105 Cal.App.3d 542, 546-47 [166 Cal.Rptr. 1]

propriety of inquiries respecting prior convictions of defendant

People v. Watts (1954) 126 Cal.App.2d 659, 662-63 [272 P.2d 814]

propriety of questions to defendant regarding witness' truthfulness need not be decided where defendant did not show ineffective assistance of counsel

People v. Foster (2003) 111 Cal.App.4th 379 [3 Cal.Rptr.3d 535]

question asked of defendant in attempt to produce evidence that would clarify inconsistency in identification testimony where prosecutor had no evidence to support the innuendo contained in the question

People v. Lyons (1971) 18 Cal.App.3d 760, 779-80 [96 Cal.Rptr. 76]

PROSECUTORIAL MISCONDUCT

question by prosecutor, on cross-examination of defendant, as to whether defendant knew that another person who had been present during the execution of the search warrant was a heroin user

People v. Lovett (1978) 82 Cal.App.3d 527, 534 [147 Cal.Rptr. 136]

questioning co-defendant concerning the involvement of a third person in the actual perpetration of the charged offense where such involvement was revealed for the first time at trial

People v. Love (1977) 75 Cal.App.3d 928, 933 [142 Cal.Rptr. 532]

questioning defendant about post-arrest statements made which were inconsistent with his testimony on direct examination

People v. Clem (1980) 104 Cal.App.3d 337, 344 [163 Cal.Rptr. 553]

questioning defendant about prior conviction for armed robbery

People v. Hall (1970) 5 Cal.App.3d 116, 124-26 [85 Cal.Rptr. 188]

questioning defendant as to whether he had explained his alibi to arresting officers

People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant concerning his post-arrest silence

People v. Matthews (1980) 108 Cal.App.3d 793, 795 [167 Cal.Rptr. 8]

*People v. Gaines (1980) 103 Cal.App.3d 89, 92-96 [162 Cal.Rptr. 827]

questioning defendant concerning inconsistencies between the effect of his in-court testimony and his confession, where the matter was not raised on direct

People v. Blair (1975) 51 Cal.App.3d 480, 486 [124 Cal.Rptr. 123]

questioning defendant on his activities after the date of the crime and while defendant was in another jurisdiction, where said subject had not been raised on direct

People v. James (1976) 56 Cal.App.3d 876, 887-88 [128 Cal.Rptr. 733]

questioning defendant on his alleged use of marijuana at the scene of the crime absent any corroborative or independent evidence of such conduct

People v. Rocha (1971) 3 Cal.3d 893, 901-02 [92 Cal.Rptr. 172, 479 P.2d 372]

questioning defendant on the specifics of his asserted alibi defense

People v. Cartwright (1980) 107 Cal.App.3d 402, 413-417 [166 Cal.Rptr. 37]

questioning defendant regarding post-Miranda silence was harmless error

United States v. Lopez (9th Cir. 2007) 500 F.3d 840

questioning defendant to ascertain his motive in taking murder weapon to a third person after commission of crime

People v. Harris (1970) 7 Cal.App.3d 922, 927-28 [87 Cal.Rptr. 46]

questioning witness regarding a drug overdose for which she received emergency treatment

People v. Straiten (1977) 71 Cal.App.3d 526, 536 [139 Cal.Rptr. 414]

questions concerning defendant's knowledge of how to use a knife, asked of defendant in prosecution for possession of dirk/dagger by a prisoner

People v. Hisquierdo (1975) 45 Cal.App.3d 397, 404 [119 Cal.Rptr. 378]

questions eliciting fact that defendant was found with a newspaper of sexual orientation where defendant was charged with various sex offenses

People v. James (1976) 62 Cal.App.3d 399, 408 [132 Cal.Rptr. 888]

questions relating to defendant's post-arrest silence

People v. Farris (1977) 66 Cal.App.3d 376, 387-88 [136 Cal.Rptr. 45]

questions which improperly suggest to jurors that prosecutor had a source of information unknown to them which corroborated the implication in questions that accused had engaged in extensive prior drug transactions

People v. Wagner (1975) 13 Cal.3d 612, 619 [119 Cal.Rptr. 457, 532 P.2d 105]

reference to fact that defendant's wife did not testify on his behalf in the first trial (on some charges) as a basis for impeachment

People v. Straiten (1977) 71 Cal.App.3d 526, 535 [139 Cal.Rptr. 414]

repeated questioning of defendant's psychiatric expert as to whether defendant had the requisite intent did not amount to prosecutorial misconduct

People v. Smithey (1999) 20 Cal.4th 936 [86 Cal.Rptr.2d 243]

use by prosecutor of defendant's voluntary pretrial exculpatory statement in which he failed to claim that he had been coerced by another into aiding in the killings (charged offense) to impeach his inconsistent defense of coercion at trial

People v. Barker (1979) 94 Cal.App.3d 321, 327-330 [156 Cal.Rptr. 407]

See also

Anderson, Warden v. Charles (1980) 447 U.S. 404 [100 S.Ct. 2180]

Coercive effect of misconduct on defense decision to plea bargain or go to trial

U.S. v. Basalo (9th Cir. 2001) 258 F.3d 945

Deception of grand jury

United States v. Condo (9th Cir. 1984) 741 F.2d 238

Delay, defendant not prejudiced

People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

Deliberately causing a witness to invoke his Fifth Amendment privilege to the detriment of the defendant

United States v. Lord (9th Cir. 1983) 711 F.2d 887, 891

Due diligence required

People v. Clay (1984) 153 Cal.App.3d 433, 436

Duty to avoid prejudicial, non-relevant material by government witnesses

United States v. Long (9th Cir. 1983) 715 F.2d 1364

Effect subsequent trial for greater charge

Barajas v. Superior Court (1983) 149 Cal.App.3d 30 [196 Cal.Rptr. 599]

Evidence

admission of defendant's statement, "I think I want a lawyer," made in response to question as to his whereabouts on the night of the crime; comment on defendant's silence

People v. Meneley (1972) 29 Cal.App.3d 41, 58 [105 Cal.Rptr. 432]

admission of evidence of another burglary in which defendant was involved

Boyde v. Brown (9th Cir. 2005) 404 F.3d 1159

People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]

allegations of material evidence

Price v. State Bar (1982) 30 Cal.3d 537, 547 [179 Cal.Rptr. 914, 638 P.2d 1311]

alleged knowing use of perjured testimony

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

People v. Carter (1972) 26 Cal.App.3d 862, 874-876 [103 Cal.Rptr. 327]

alleged suppression of evidence by prosecution's failure to call unindicted co-conspirator as witness; alleged suppression of prosecution witness's phone records

People v. Pic'l (1981) 114 Cal.App.3d 824, 879-880 [171 Cal.Rptr. 106]

altering evidence in criminal trial

Price v. State Bar (1982) 30 Cal.3d 537, 543-546 [179 Cal.Rptr. 914, 638 P.2d 1311]

attempt to introduce arrest record of a defense witness, waving around what was apparently the witness's rap sheet during argument at the bench

People v. Hernandez (1977) 70 Cal.App.3d 271, 281-282 [138 Cal.Rptr. 675]

attempts to display to jury photographs of wounds sustained by victims where said photos had been ruled objectionable on basis of their prejudicial effect

People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]

Brady test not met where suppression of evidence is not materials

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

conversation, in bathroom between defendant and prosecutor where prosecutor allegedly offered fair treatment in exchange for cooperation found irrelevant at state court does not warrant evidentiary hearing

Beardslee v. Woodford (9th Cir. 2004) 358 F.3d 560

disclosure of rebuttal witnesses to defense's potential witnesses is required by due process and assures reciprocity

People v. Gonzalez (2006) 38 Cal.4th 932 [44 Cal.Rptr.3d 237]

display of dangerous weapons to jury

*People v. Thornton (1974) 11 Cal.3d 762 [114 Cal.Rptr. 467, 523 P.2d 267]

displaying handguns and other items not admitted into evidence to the jury

People v. Chi Ko Wong (1976) 18 Cal.3d 698, 723 [135 Cal.Rptr. 392, 557 P.2d 976]

elicitation of inadmissible evidence

U.S. v. Danielson (9th Cir. (Or.) 2003) 325 F.3d 1054

People v. Parsons (1984) 156 Cal.App.3d 1165, 1170-1172

eliciting inadmissible testimony concerning defendant's parole status and residence in a halfway house

People v. Morgan (1978) 87 Cal.App.3d 59, 65-70, 76 [150 Cal.Rptr. 712]

fabricating

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

failure to accept proffered stipulation by defendant as to an element of the charged offense where proof introduced at trial would be rightly prejudicial

People v. Sherren (1979) 89 Cal.App.3d 752, 755-759 [152 Cal.Rptr. 828]

failure to clarify testimony susceptible of an interpretation known to be false by prosecutor

People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

failure to comply with trial court's order to delete references to defendant's conduct on parole from an exhibit given to the jury, even where such failure is inadvertent

*People v. Piper (1980) 103 Cal.App.3d 102, 112-113 [162 Cal.Rptr. 833]

failure to correct perjured testimony

Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

failure to disclose deal between prosecutor and star witness, immunity for testimony, *Brady* violation

Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

failure to disclose evidence

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]

-sanctions for failure to provide discovery to the public defender

People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

failure to disclose evidence to defense which is not favorable to the defendant nor material to the probable cause determination does not violate duty to disclose

Bridgeforth v. Superior Court (2013) 214 Cal.App.4th 1074 [154 Cal.Rptr.3d 528]

failure to disclose information to defense that was material as to either guilt or punishment. Prosecution's withholding of favorable and material evidence violates due process "irrespective of the good faith or bad faith of the prosecution."

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

failure to disclose whereabouts of informant upon whose testimony charges are founded; failure to produce informant at pretrial

People v. Partlow (1978) 84 Cal.App.3d 540, 557-59 [148 Cal.Rptr. 744]

failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial

Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057

Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157

failure to present exculpatory evidence along with an admission by defendant contained in a taped telephone conversation, which had no bearing on the charges contained in defendant's indictment

People v. Valleriga (1977) 67 Cal.App.3d 847, 835-885 [136 Cal.Rptr. 429]

failure to preserve

People v. Gonzales (1984) 156 Cal.App.3d 558, 561-562

failure to provide exculpatory evidence

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

failure to show that prosecution presented false evidence

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

improper vouching by federal prosecutor

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

intentional destruction of capital defense strategy tape not violative of due process

People v. Zapien (1993) 4 Cal.4th 929 [17 Cal.Rptr.2d 122]

introduction of physical evidence forming the basis of a count dismissed by the court

People v. Harris (1977) 71 Cal.App.3d 959, 967 [139 Cal.Rptr. 778]

location and nature of evidence disclosed, though police action may have been negligent, no denial of due process

Richter v. Hickman (9th Cir. 2008) 521 F.3d 1222

knowingly presenting false evidence

Hayes v. Brown (9th Cir. 2005) 399 F.3d 972

manipulation of the evidence

Hovey v. Ayers (9th Cir. 2006) 458 F.3d 892

no suppression where evidence was available to defense

Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143

pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations

Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel

People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]

In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

PROSECUTORIAL MISCONDUCT

statements by prosecutor during direct examination, inferring that defendant was the "Hillside Strangler"

People v. Wills-Watkins (1979) 99 Cal.App.3d 451, 456, 457 [160 Cal.Rptr. 289]

suppression by prosecutor of statement by victim to the effect that a third person, identified as a perpetrator, had been involved in the crime

People v. Bauer (1969) 1 Cal.3d 368, 375 [82 Cal.Rptr. 357, 461 P.2d 637]

suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments

People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]

suppression of letter to witness that witness would not be prosecuted for selling marijuana

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

suppression of witness location and information favorable to defense

In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

use by prosecutor of allegedly perjured testimony of defendant's accomplice

People v. Lavergne (1971) 4 Cal.3d 735, 742-744 [94 Cal.Rptr. 405, 484 P.2d 77]

use of perjured testimony

People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

Ex parte communication with administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

Examination of witness or defendant

alleged influence of witness, even if true would not have resulted in actual prejudice and was harmless

Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

asking a rebuttal witness whether he was aware of an investigation of defendant's billing practices in an earlier period in a prosecution for offenses arising out of defendant's doctor's presentation of allegedly false Medi-Cal claims

People v. Slocum (1975) 52 Cal.App.3d 867, 887-888 [125 Cal.Rptr. 442] cert. den. 426 U.S. 924

asking character witness on cross-examination about specific acts of misconduct relating to the offense for which defendant was charged

People v. Qui Mei Lee (1975) 48 Cal.App.3d 516, 528 [122 Cal.Rptr. 43]

asking questions clearly suggesting the existence of facts harmful to defendant where such facts were not in evidence and could not be established independently

*People v. Choinacky (1973) 8 Cal.3d 759, 766 [106 Cal.Rptr. 106, 505 P.2d 530]

asking questions known to be inadmissible and improper; asking questions for the clear purpose of prejudicing the jury against defendant

People v. Dorsey (1974) 43 Cal.App.3d 953, 964-966 [118 Cal.Rptr. 362]

asking questions, the answers to which prosecutor knows to be both irrelevant and prejudicial

People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311 [105 Cal.Rptr. 458]

asking questions, the answers to which prosecutor knows to be inadmissible

People v. Mazoros (1977) 76 Cal.App.3d 32, 48 [142 Cal.Rptr. 599]

attempt to impeach defense alibi witness by demonstrating that she learned of the crime one day earlier than she had claimed in prior testimony

People v. Guillebeau (1980) 107 Cal.App.3d 531, 546-548 [166 Cal.Rptr. 45]

attempt to impeach defense witness by asking if he was in custody because of outstanding traffic warrants

People v. Jones (1970) 7 Cal.App.3d 48, 53 [86 Cal.Rptr. 717]

attempts by prosecution to cast aspersions upon defendant's character in relation to his personal sexual morality

People v. Yanikian (1974) 39 Cal.App.3d 366, 381-382 [114 Cal.Rptr. 188]

attempts to elicit allegedly improper testimony

People v. Rodriguez (1970) 10 Cal.App.3d 18, 36 [88 Cal.Rptr. 789]

attempts to elicit testimony of defendant's domain over drugs at a time outside a limitation previously set by trial court

People v. Pacheco (1972) 27 Cal.App.3d 70, 83 [103 Cal.Rptr. 583]

comment on defendant's failure to request live line-up

People v. Lewis (2004) 117 Cal.App.4th 246 [12 Cal.Rptr.3d 1]

duty to see that a witness called by prosecutor volunteers no statement that would be inadmissible, and also those which are prejudicial

People v. Schiers (1971) 19 Cal.App.3d 102, 112-114 [96 Cal.Rptr. 330]

eliciting references to defendant's arrest record

People v. Brunt (1972) 24 Cal.App.3d 945, 957-958 [101 Cal.Rptr. 457]

eliciting statement on redirect of prosecution witness, that defendant had been in trouble with the police previously

People v. Vernon (1979) 89 Cal.App.3d 853, 865-867 [152 Cal.Rptr. 765]

expression of personal opinion regarding witnesses' credibility

U.S. v. Kerr (1992) 981 F.2d 1050

improper use of leading questions

People v. Hayes (1971) 19 Cal.App.3d 459, 470 [96 Cal.Rptr. 879]

inadvertently eliciting from witness the fact of defendant's previous imprisonment

People v. Sims (1976) 64 Cal.App.3d 544, 554-55 [134 Cal.Rptr. 566]

non-production of records used to refresh recollection of key prosecution witness

People v. Blackwell (1981) 117 Cal.App.3d 372, 378 [172 Cal.Rptr. 636]

prosecutor commits flagrant violation of defendant's right to remain silent by eliciting testimony that defendant had refused to make pretrial statement; asking defendant on cross-examination whether he made any pre-trial disclosure of his defense

People v. Andrews (1970) 14 Cal.App.3d 40, 48-49 [92 Cal.Rptr. 49]

question asked of defendant as to whether he had any means of identification on him at time of arrest

People v. Fitzgerald (1972) 29 Cal.App.3d 296, 311-12 [105 Cal.Rptr. 458]

question by prosecutor of victim of prior felony-rape as to whether witness had ever told prosecutor that it appeared that she had been raped by the same man as had witness

People v. Rance (1980) 106 Cal.App.3d 245, 253 [164 Cal.Rptr. 822]

question by prosecutor which assumed that defendant and his companion had killed the victim

People v. Helfend (1969) 1 Cal.App.3d 873, 883-84 [82 Cal.Rptr. 295] cert. den. 398 U.S. 967 [26 L.Ed.2d 551, 90 S.Ct. 2182]

questioning certain witnesses concerning defendant's appearance before, during, and after a prior court proceeding; questioning witnesses about alleged "affair" defendant had during relevant time period

People v. Mazoros (1977) 76 Cal.App.3d 32, 47-48 [142 Cal.Rptr. 599]

questioning defendant's psychiatric expert witness on statements made by defendant to the psychiatrist, where such statements formed the basis of the expert's testimony
People v. 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 and accusing defense counsel of having told a "blatant lie"
People v. Montgomery (1976) 61 Cal.App.3d 718, 734 [132 Cal.Rptr. 558]

statements by prosecutor in a murder trial which in effect accused defense counsel of causing a witness to prejudice himself
*People v. Benjamin (1975) 52 Cal.App.3d 63, 79-81 [124 Cal.Rptr. 799]

testimony elicited by prosecutor containing a reference to a parole agent
People v. Fitzgerald (1972) 29 Cal.App.3d 296, 312 [105 Cal.Rptr. 458]

use of leading questions in direct examination by prosecutor in attempt to elicit damaging hearsay evidence
People v. Burciago (1978) 81 Cal.App.3d 151, 163-165 [146 Cal.Rptr. 236]

Failure to disclose evidence
People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]
People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]
Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]
People v. Pugh (1984) 156 Cal.App.3d 544 [203 Cal.Rptr. 43]

sanctions for failure to provide discovery to the public defender
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

Failure to disclose exculpatory evidence
Allen v. Woodford (9th Cir. 2005) 395 F.3d 979
In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

Failure to honor plea bargain
U.S. v. Manzo (9th Cir. 2012) 675 F.3d 1204
People v. Leroy (1984) 155 Cal.App.3d 602 [202 Cal.Rptr. 88]

Failure to know whereabouts of informant
Twiggs v. Superior Court (1983) 34 Cal.3d 360

Failure to train
 pattern of conduct needed to prove prosecutor's liability for failing to train employees in *Brady* obligations
Connick v. Thompson (2011) 563 U.S. 51 [131 S.Ct. 1350]

Failure to use diligence in obtaining evidence
People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296

Frivolous or bad faith litigation
 denial of attorney's fees where government's litigation position, although substandard, was not vexatious, frivolous, or pursued in bad faith
U.S. v. Manchester Farming Partnership (9th Cir. (Mont.) 2003) 315 F.3d 1176

Goads a defendant to attempt an unsuccessful mistrial motion
Greyson v. Kellam (9th Cir. 1991) 937 F.2d 1409

Habeas petition
 standard for habeas relief based on prosecutorial misconduct
Jones v. Ryan (9th Cir. 2012) 691 F.3d 1093

Harmless error
U.S. v. Preston (9th Cir. 2017) 873 F.3d 829

Harmless misconduct
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
United States v. Lopez (9th Cir. 2007) 500 F.3d 840
United States v. Larrazolo (9th Cir. 1989) 869 F.2d 1354
United States v. Condo (9th Cir. 1984) 741 F.2d 238
People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

no egregious pattern of misconduct
Karis v. Calderon (9th Cir. 2002) 283 F.3d 1117

publication of fictional account of crime did not create disqualifying conflict for prosecutor or district attorney's office
Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

without showing of conflict, censure or sanctions appropriate where prosecutor involved in making of film about capital murder case
Hollywood v. Superior Court (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]

Held to higher standards because of the unique function he or she performs in representing the interests, and in exercising the sovereign power, of the state
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

Immunity
 § 1983 claims
 -prosecutors afforded absolute immunity for parole recommendations
Brown v. California Dept. of Corrections (9th Cir. 2009) 554 F.3d 747

absolute or qualified immunity may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant
Morley v. Walker (1999) 175 F.3d 756

county district attorney may not be entitled to qualified immunity for infringement of subordinate attorney's constitutionally protected speech in authoring a memorandum regarding police misconduct
Ceballos v. Garcetti (9th Cir. 2004) 361 F.3d 1168

county district attorney may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
Eng v. Cooley (9th Cir. 2009) 552 F.3d 1062

district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment
Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572

district attorney's statements in a press release are privileged pursuant to prosecutorial immunity principles
Ingram v. Flippo (1999) 74 Cal.App.4th 1280 [89 Cal.Rptr.2d 60]

fabricating evidence, filing false crime report, making comments to the media and investigating crime against attorney may not be protected by absolute immunity against § 1983 claims
Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

PROSECUTORIAL MISCONDUCT

- lawyers temporarily deputized to prosecute whose appointments were defective were "defacto deputy district attorneys" and thus their actions were in furtherance of a protected activity within the meaning of the anti-SLAPP statute
Miller v. Filter (2007) 150 Cal.App.4th 652 [58 Cal.Rptr.3d 671]
- Improper argument
People v. Smith (1984) 155 Cal.App.3d 1103, 1182
- Improper questioning
People v. Darwiche (1984) 152 Cal.App.3d 630, 641-642
- Inferences and deductions
People v. Ferguson (1982) 129 Cal.App.3d 1014 [181 Cal.Rptr. 593]
- Intent to cause mistrial test
People v. Batts (2003) 30 Cal.4th 660 [134 Cal.Rptr.2d 67]
- Intentional violation of law
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
- Interference with attorney-client relationship
Boulas v. Superior Court (1986) 187 Cal.App.3d 356
- Intimidation of witnesses
Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
People v. Warren (1984) 161 Cal.App.3d 961
People v. Bryant (1984) 157 Cal.App.3d 582, 592-595
prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel
People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]
violation of defendant's right to compulsory process not found when prosecutor not responsible for deportation of defendant's key witness
People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]
violation of defendant's right to compulsory process when prosecutor interferes with defendant's right to present witnesses on his behalf
People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
- Jury selection
prosecutor's discriminatory use of peremptory challenges
People v. Guitierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]
Ali v. Hickman (9th Cir. 2009) 571 F.3d 902
People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
-discriminatory exclusion of Hispanic juror results in reversal of convictions when Batson/Wheeler motion denied
People v. Guitierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]
- May include mischaracterizing evidence, referring to factors not in evidence, misstating the law, predicting the defendant will commit future crimes if found not guilty, and appealing to the passions of the jury
People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]
- Misstatements of law
United States v. Velazquez (9th Cir. 2021) 1 F.4th 1132
inadvertently made did not constitute misconduct
People v. Berryman (1993) 6 Cal.4th 1048 [25 Cal.Rptr.2d 867]
-district attorney did not misstate intent element of charged offense in closing so defense attorney's failure to object could not constitute ineffective assistance of counsel
People v. Sanchez (2019) 38 Cal.App.5th 907 [251 Cal.Rptr.3d 496]
using of a jigsaw to illustrate reasonable doubt standard
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Motive
Twiggs v. Superior Court (1983) 34 Cal.3d 360, 374-375 [194 Cal.Rptr. 152, 667 P.2d 1165]
- Obligation to avoid prejudicial non-relevant testimony by government witnesses
United States v. Long (9th Cir. 1983) 715 F.2d 1364, 1368 fn. 1
- Opening statement
misstatement of the value of a quantity of heroin in possession of defendant
People v. Cooper (1979) 95 Cal.App.3d 844, 849-850 [157 Cal.Rptr. 348]
prosecutor improperly refers to defendant's failure to testify
People v. Diaz (1989) 207 Cal.App.3d 922 [255 Cal.Rptr. 91]
prosecutor's statement that evidence would prove defendant committed a murder at the insistence of his girl friend
People v. Brown (1981) 119 Cal.App.3d 116, 131-32 [173 Cal.Rptr. 877]
reference to change in appearance
Cunningham v. Wong (9th Cir. 2013) 704 F.3d 1143
reference to defendant as a felon
People v. Rodriguez (1970) 10 Cal.App.3d 18, 35 [88 Cal.Rptr. 789]
reference to expected testimony of a person who had testified at preliminary examination to potentially incriminating statements made by defendant, where said witness was never called
People v. Rhinehart (1973) 9 Cal.3d 139, 153-54 [107 Cal.Rptr. 34, 507 P.2d 642] 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
Tak Sun Tan v. Runnels (9th Cir. 2005) 413 F.3d 1101
reference to polygraph test
People v. Carpenter (1979) 99 Cal.App.3d 527, 531-33 [160 Cal.Rptr. 386]
reference to statement made by defendant at time of arrest but prior to defendant's having been advised of his *Miranda* rights
Mozzetti v. Superior Court (1971) 4 Cal.3d 699 [94 Cal.Rptr. 412, 484 P.2d 84]
Altschul v. Sayble (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
People v. Havenstein (1970) 4 Cal.App.3d 710, 713-715 [84 Cal.Rptr. 528]
reference to statement of separately tried co-defendant indicating a third party had committed the crime
People v. Brown (1981) 119 Cal.App.3d 116, 132 [173 Cal.Rptr. 877]
reference to the effect that defendant had "said very little" in response to the questions of an investigating police officer; comment on defendant's silence
People v. Meneley (1972) 29 Cal.App.3d 41, 59 [105 Cal.Rptr. 432]
references to evidence never produced by prosecutor in trial
People v. Hernandez (1970) 11 Cal.App.3d 481, 488-91 [89 Cal.Rptr. 766]
references to extraneous matters dealing with defendant's private life
People v. Powell (1974) 40 Cal.App.3d 107, 165-66 [115 Cal.Rptr. 109]
references to witnesses/testimony not produced at trial; statements known to be untrue
People v. Watson (1971) 15 Cal.App.3d 28, 44-45 [92 Cal.Rptr. 860]

remark that prosecution expected a certain witness to testify because the defense had subpoenaed her

People v. Yarber (1979) 90 Cal.App.3d 895, 902 [153 Cal.Rptr. 875]

statement to jury that prosecutor would prove defendant's prior narcotics convictions by testimony of parole officers and by documentary evidence

People v. Cruz (1970) 6 Cal.App.3d 384, 391 [85 Cal.Rptr. 918]

stating theory of the case

People v. Ramos (1982) 30 Cal.3d 553, 574-75 [180 Cal.Rptr. 266, 639 P.2d 908]

use by prosecutor of allegedly "inflammatory" words, descriptions

People v. Hayes (1971) 19 Cal.App.3d 459, 469-70 [96 Cal.Rptr. 879]

use of unauthenticated voice recordings

People v. Kirk (1974) 43 Cal.App.3d 921, 929

Penalty phase

Sanders v. Davis (9th Cir. 2022) 23 F.4th 966

biblical authority quoted in final argument does not require reversal of penalty judgment

People v. Sandoval (1992) 4 Cal.4th 155 [14 Cal.Rptr.2d 342]

Permissible advocacy

must contribute materially to the verdict

People v. Jackson (1984) 151 Cal.App.3d 153, 163

Pervasive misconduct was harmless

People v. Friend (2009) 47 Cal.4th 1 [97 Cal.Rptr.3d 1]

Pervasive pattern of questions, comment and argument, denial of due process

People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

Plea Bargain

agreement that percipient witness/co-defendant not testify at trial, denied other co-defendant the right to compulsory process and due process under 6th and 14th amendments

People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]

Post trial

jurors, communication with

Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1976-39

post trial declaration of victim recanting allegation

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

Prejudice to appellant

New Hampshire Insurance Co. v. Madera (1983) 144 Cal.App.3d 298 [192 Cal.Rptr. 548]

assertion without proof that defense counsel fabricated a defense

People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]

lack of diligence re introducing prior convictions until after prosecutors case closed

People v. Rodriguez (1984) 152 Cal.App.3d 289 [199 Cal.Rptr. 433]

not shown, where prosecution failed to turn over to defense, a letter stating that witness would not be prosecuted for selling marijuana

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

Prejudice to defendant

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

multiple instances of prosecutorial misconduct and trial conduct error deprived capital defendant of a fair trial

People v. Hill (1998) 17 Cal.4th 800 [72 Cal.Rptr.2d 656]

prosecutor's fabrication of false confession in interrogation transcript prejudices defendant's right to counsel

People v. Velasco-Palacios (2015) 235 Cal.App.4th 439 [185 Cal.Rptr.3d 286]

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Preliminary hearing

alleged use of perjured testimony

People v. Brice (1982) 130 Cal.App.3d 201 [181 Cal.Rptr. 518]

failure to disclose evidence to defense which is not favorable to the defendant nor material to the probable cause determination does not violate duty to disclose

Bridgeforth v. Superior Court (2013) 214 Cal.App.4th 1074 [154 Cal.Rptr.3d 528]

knowingly presenting false evidence

Hayes v. Brown (9th Cir. 2005) 399 F.3d 972

misstatement of the facts by prosecutor, representing that defendant "was running" from the scene of the crime allowed inference of guilty knowledge on part of defendant

People v. DeLaSierra (1970) 13 Cal.App.3d 528, 534-35 [91 Cal.Rptr. 674]

Presumption of vindictiveness

United States v. Jenkins (9th Cir. 2007) 504 F.3d 694

Twiggs v. Superior Court (1983) 34 Cal.3d 360, 368-369 [194 Cal.Rptr. 152, 667 P.2d 1165]

Pretrial

Rule 7-106(A), Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-320, Rules of Professional Conduct (operative as of May 27, 1989)

announcement to court by prosecutor that there was presently on file in municipal court an action against appellant (defendant)

People v. Patejdl (1973) 35 Cal.App.3d 936, 946

comment on prior judgments/convictions of defendant

People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]

failure to elect

People v. Dunnahoo (1984) 152 Cal.App.3d 548

failure to join unrelated offenses

People v. Tirado (1984) 151 Cal.App.3d 341, 353-354

failure to use diligence in obtaining evidence

People v. Rodriguez (1984) 152 Cal.App.3d 289, 295-296

has burden to show good cause as to why accused has not been brought to trial

Rhinehart v. Municipal Court (1984) 35 Cal.3d 772, 780-781

Improper comments by prosecutor that undermine a defenses witness' willingness to testify

People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]

inappropriate warning that if appellant testified in a manner inconsistent to prior testimony, he could be prosecuted for perjury

People v. Force (2019) 39 Cal.App.5th 506 [251 Cal.Rptr.3d 834]

lineup by district attorney without notifying the attorney of record

People v. Sharp (1983) 150 Cal.App.3d 13, 18

Private prosecution

California law does not permit private prosecution of criminal case without presence of public prosecutor

People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]

Prosecutor

deliberately altered an interrogation transcript

In the Matter of Murray (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 479

PROSECUTORIAL MISCONDUCT

must disclose and/or conduct an investigation when the prosecutor is presented with “new, credible and material” evidence of a wrongful conviction

Rule 5-110(F), Rules of Professional Conduct (operative as of May 1, 2017)

must exercise reasonable care to prevent persons under the prosecutor’s supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120

Rule 5-110(E), Rules of Professional Conduct (operative as of May 1, 2017)

must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters

Rule 5-110(B), Rules of Professional Conduct (operative as of May 1, 2017)

must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused’s appearance in pro per

Rule 5-110(C), Rules of Professional Conduct (operative as of May 1, 2017)

must seek to remedy a conviction when the prosecutor “knows of clear and convincing evidence” establishing that a wrongful conviction occurred

Rule 5-110(G), Rules of Professional Conduct (operative as of May 1, 2017)

Questions which are sufficient for reversal

People v. Barr (1984) 159 Cal.App.3d 1129, 1160

Recusal

conflict of interest

-abuse of discretion found, where trial court failed to hold evidentiary hearing to determine whether prosecutor’s personal involvement in the case warranted recusal

Packer v. Superior Court (2014) 60 Cal.4th 695 [181 Cal.Rptr.3d 41]

defendant may not disqualify prosecutor on ground that defendant had some degree of relationship with prosecutor’s children at some point in time

Packer v. Superior Court (2013) 219 Cal.App.4th 226 [161 Cal.Rptr.3d 595]

improper absent evidence that prosecutor would employ discretionary powers to deprive defendant of fair trial

People v. McPartland (1988) 198 Cal.App.3d 569 [243 Cal.Rptr. 752]

no recusal required where prosecutor wrote a novel containing factual similarities of the underlying case

Haraguchi v. Superior Court (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

not required where less drastic alternatives such as walling off of witness/employee of district attorney’s office would be effective

People v. Cannedy (2009) 176 Cal.App.4th 1474 [98 Cal.Rptr.3d 596]

not required where prosecutor advocates but does not formally represent the interests of third party

People v. Superior Court (Humberto) (2008) 43 Cal.4th 737 [76 Cal.Rptr.3d 276]

Relocation costs for witness, paid by prosecution not disclosed till after trial, no reasonable probability that disclosure would have altered the trial results, no *Brady* violation

People v. Verdugo (2010) 50 Cal.4th 265 [113 Cal.Rptr.3d 803]

Restitution hearing

California law does not permit private prosecution of criminal case without presence of public prosecutor

People v. Dehle (2008) 166 Cal.App.4th 1380 [83 Cal.Rptr.3d 461]

Retaliation against defendant

Morley v. Walker (1999) 175 F.3d 756

People v. Lucious (1984) 153 Cal.App.3d 416, 421

Suppression of evidence

Hast. Const. L.Q. 715 (fall 1977)

People v. Newsome (1982) 136 Cal.App.3d 992 [186 Cal.Rptr. 676]

advising rape victim of her right to refuse a psychiatric examination

People v. Mills (1978) 87 Cal.App.3d 302, 308 [151 Cal.Rptr. 71]

Brady and *Napue* claims, no reasonable probability that the outcome of the guilt phase would have been different

Hamilton v. Ayers (9th Cir. 2009) 583 F.3d 1100

defendant is not required to show that prosecutor failed to turn over discovery materials it was obligated to produce at trial in order to obtain post-conviction discovery in capital crime case

Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

destruction of tapes containing recorded, incriminating statements to police by accused

People v. Anderson (1976) 59 Cal.App.3d 831, 843 [131 Cal.Rptr. 104]

failure to call informant to testify for *People*

People v. Moran (1970) 1 Cal.3d 755, 761 [83 Cal.Rptr. 411, 463 P.2d 763]

failure to disclose deal between prosecutor and star witness, immunity for testimony, *Brady* violation

Horton v. Mayle (9th Cir. 2005) 408 F.3d 570

failure to disclose identity of an informant

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

People v. Rand (1972) 23 Cal.App.3d 579, 583 [100 Cal.Rptr. 473]

failure to disclose police reports

People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

failure to disclose to co-defendant offer of leniency in exchange for testimony

People v. Westmoreland (1976) 58 Cal.App.3d 32, 42-47 [129 Cal.Rptr. 554]

failure to disclose to defense, letter to witness, that witness would not be prosecuted for selling marijuana

Hein v. Sullivan (9th Cir. 2010) 601 F.3d 897

failure to disclose to prosecution reasonably accessible address of prospective witness

In re Littlefield (1993) 5 Cal.4th 122 [19 Cal.Rptr.2d 248]

failure to inform counsel for defense that evidence critical to asserted defense had been falsified, causing defendant to abandon the defense, where prosecutor knew that facts would sustain the defense if truthfully disclosed

People v. Dena (1972) 25 Cal.App.3d 1001, 1010 [102 Cal.Rptr. 357]

failure to produce a prior statement of prosecution witness to police which incriminated defendant in a way different in factual detail but not in effect from witness’s statement

People v. Green (1971) 3 Cal.3d 981, 991 [92 Cal.Rptr. 494, 479 P.2d 998]

failure to produce evidence favorable to defendant

In re Bacigalupo (2012) 55 Cal.4th 312 [145 Cal.Rptr.3d 832]

In re Miranda (2008) 43 Cal.4th 541 [76 Cal.Rptr.3d 172]

improper interference with defendant’s right to psychiatric examinations of the complaining witness in prosecution for incest and rape

People v. Davis (1971) 20 Cal.App.3d 890, 896-97 [89 Cal.Rptr. 71]

material evidence bearing on credibility of key prosecution witness

People v. Ruthford (1975) 14 Cal.3d 399, 406-409 [121 Cal.Rptr. 261, 534 P.2d 1341]

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

pretrial suppression does not bar retrial

Sons v. Superior Court (2004) 125 Cal.App.4th 110 [22 Cal.Rptr.3d 647]

suppression of evidence of defendant's mental state, by conditioning plea agreement with percipient witness/co-defendant that the witness not testify at trial was denial of defendant's compulsory process rights under 6th and 14th amendments

People v. Treadway (2010) 182 Cal.App.4th 562 [106 Cal.Rptr.3d 99]

suppression of exculpatory fingerprint

Imbler v. Craven (1969) 298 F.Supp. 795, affd. 424 F.2d 631 cert. den. 400 U.S. 865, 27 L.Ed.2d 104, 91 S.Ct. 100

suppression of extra-judicial statement of defendant as to co-defendant

People v. Brawley (1969) 1 Cal.3d 277, 296 [82 Cal.Rptr. 161, 461 P.2d 361] cert. den. 400 U.S. 993, 27 L.Ed.2d 441, 91 S.Ct. 462

Trial conduct

argumentative questioning of defense witness, not designed to elicit evidence, but to argue to the jury

People v. Shazier (2012) 212 Cal.App.4th 520 [151 Cal.Rptr.3d 215]

calling to the stand defendant's juvenile accomplice, knowing that the minor would invoke the privilege against self-incrimination

People v. Chandler (1971) 17 Cal.App.3d 798, 803-05 [95 Cal.Rptr. 146]

comment by prosecutor on

-defense counsel's intentions

People v. Goldberg (1984) 161 Cal.App.3d 170, 190-191 [207 Cal.Rptr. 431]

-merits of a case both as to law and fact

People v. Johnson (1979) 39 Cal.App.3d 749, 763 [114 Cal.Rptr. 545]

-presumption of innocence in closing argument misrepresented

People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]

conferring with judge in absence of opposing counsel respecting alteration of evidence by prosecutor

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

criticizing trial court's publicity order, attempting to secure removal of defense counsel

People v. Manson (1976) 61 Cal.App.3d 102, 179-180 [132 Cal.Rptr. 265]

duty to disclose misleading testimony of prosecution's witnesses

In re Martin (1983) 150 Cal.App.3d 148, 169

effect of conduct on verdict

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

People v. Sweeney (1984) 150 Cal.App.3d 553, 568-569 [198 Cal.Rptr. 182]

ex parte communication to the adjudication hearing referee in juvenile court proceeding indicating that a witness in a companion case had told him that the companion minor had attempted to run over the witness's children

In re Robert W. (1977) 68 Cal.App.3d 705, 713-14 [137 Cal.Rptr. 558]

ex parte communication with administrative law judge

Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

failure of district attorneys to inform appointed defense counsel of bargain made with defendant; deliberate debasement of the attorney-client relationship by disparaging defendant's counsel; encouraging defendant to reveal nothing of the prosecutor's bargain to his counsel

People v. Moore (1976) 57 Cal.App.3d 437, 441 [129 Cal.Rptr. 279]

failure to indicate modification in standard jury instructions

People v. Kozel (1982) 133 Cal.App.3d 507, 518 [184 Cal.Rptr. 208]

failure to inform defense of an agreement to provide benefits to key state witness in return for testimony in the case violates defendant's right to a fair trial

Singh v. K.W. Prunty (C.D. Cal. 1998) 142 F.3d 1157

inadvertent violation of court order prohibiting reference to highly prejudicial evidence

People v. Gomez (1976) 63 Cal.App.3d 328, 337-39 [133 Cal.Rptr. 731]

inconsistency in referring to date of commission of charged offense where prosecutor alternately referred to two dates and defense was predicated on alibi accounting for only one of those

*People v. 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 ongoing prosecution of defendant

People v. Jones (1970) 10 Cal.App.3d 237, 245 [88 Cal.Rptr. 871]

material evidence bearing on credibility of key prosecution witness

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

offer of assistance to criminal defendant in exchange for valuable consideration

Price v. State Bar (1982) 30 Cal.3d 537, 543-46 [179 Cal.Rptr. 914, 638 P.2d 1311]

offer to stipulate to reopening case in order to corroborate testimony to which defendant had objected

People v. Utter (1972) 24 Cal.App.3d 535, 554 [101 Cal.Rptr. 214]

prejudicial comments

United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455

People v. Centeno (2014) 60 Cal.4th 659 [180 Cal.Rptr.3d 649]

reference, in criminal proceedings under juvenile court law, to fact that defendant's father was facing criminal charges

In re Gary G. (1981) 115 Cal.App.3d 629, 637

reference to fact that two of defendant's fellow gang members had been convicted of charges arising out of the same murders in which defendant was charged

People v. Szeto (1981) 29 Cal.3d 20 [171 Cal.Rptr. 652]

repeated acts of intemperate and unprofessional conduct by deputy district attorney, including personal attacks and threats against defense counsel, ridicule of defendants and their defense, and refusal on occasion to comply with trial court's orders

People v. Kelley (1977) 75 Cal.App.3d 672, 680-690 [142 Cal.Rptr. 457]

statements insinuating that defendant was involved in a prostitution ring

*People v. Hathcock (1973) 8 Cal.3d 599, 610-11 [105 Cal.Rptr. 540, 504 P.2d 476]

threats of possible prosecution against defense counsel and unlicensed investigator by district attorney, although serious, did not prejudice defendant

People v. Almanza (2015) 233 Cal.App.4th 990 [183 Cal.Rptr.3d 335]

use of district attorney's address as his own by prosecution witness

People v. Page (1980) 104 Cal.App.3d 569, 573 [163 Cal.Rptr. 839]

vouching for witness' credibility

People v. Rodriguez (2018) 26 Cal.App.5th 890

Davis v. Woodford (9th Cir. 2003) 333 F.3d 982

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

PUBLIC OFFICE

Two-step analysis

People v. Callegri (1984) 154 Cal.App.3d 856, 864

Use of courtroom to eavesdrop on confidential attorney-client communications requires severe sanctions

People v. Shrier (2010) 190 Cal.App.4th 400 [118 Cal.Rptr.3d 233]

Robert Lee Morrow v. Superior Court (1994) 30 Cal.App.4th 1252 [36 Cal.Rptr.2d 210]

Vindictiveness

United States v. Jenkins (9th Cir. 2007) 504 F.3d 694

People v. Hudson (1989) 210 Cal.App.3d 784 [258 Cal.Rptr. 563]

Voir dire

leaving police officer's file in position where plainly visible to members of venire

People v. 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]

reference to impeaching effect which defendant's five prior felony convictions would have

People v. Bowen (1971) 22 Cal.App.3d 267, 289-91 [99 Cal.Rptr. 498]

selection of a "death penalty oriented" jury

People v. Wong (1973) 35 Cal.App.3d 812, 832-33 [111 Cal.Rptr. 314]

unsupported implication by prosecutor that defense counsel has fabricated a defense

People v. Bain (1971) 5 Cal.3d 839, 847-852 [97 Cal.Rptr. 684, 489 P.2d 564]

using peremptory challenges for racially discriminatory purposes

Miller-El v. Cockrell (2003) 537 U.S. 322 [123 S.Ct. 1029]

Ali v. Hickman (9th Cir. 2009) 571 F.3d 902

People v. Gutierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]

People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]

People v. Sanchez (1992) 6 Cal.App.4th 913 [8 Cal.Rptr.2d 200]

People v. Clay (1984) 153 Cal.App.3d 433 [200 Cal.Rptr. 269]

-not found

People v. Lomax (2010) 49 Cal.4th 530 [112 Cal.Rptr.3d 96]

Vouching

People v. Rodriguez (2018) 26 Cal.App.5th 890

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

United States v. Molina (9th Cir. 1991) 934 F.2d 1440

People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]

not found

U.S. v. Tavakkoly (9th Cir. 2001) 238 F.3d 1062

Withholding evidence

United States v. Medina-Gasca (9th Cir. 1984) 739 F.2d 1451, 1455

People v. Johnson (2006) 142 Cal.App.4th 776 [48 Cal.Rptr.3d 439]

Curl v. Superior Court (2006) 140 Cal.App.4th 310 [44 Cal.Rptr.3d 320]

Witness's absence not improperly effected by prosecutor

Acosta-Huerta v. Estelle (9th Cir. 1992) 954 F.2d 581

People v. Jacinto (2010) 49 Cal.4th 263 [109 Cal.Rptr.3d 610]

Witness credibility

expression of personal opinion

U.S. v. Kerr (9th Cir. 1992) 981 F.2d 1050

witness's recanting of claims

People v. Uribe (2008) 162 Cal.App.4th 1457 [76 Cal.Rptr.3d 829]

PUBLIC OFFICE [See Administrative agency. Court. Judge. Political activity.]

City attorney

acts as both advocate of city's position and advisor to neutral decision maker

Sabey v. City of Pomona (2013) 216 Cal.App.4th 489 [155 Cal.Rptr.3d 452]

Nightlife Partners, Ltd. et al. v. City of Beverly Hills (2003) 108 Cal.App.4th 81 [133 Cal.Rptr.2d 234]

associate of

-practice by

LA(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
 may not be entitled to qualified immunity for retaliatory measures taken against subordinate attorney in asserting his First Amendment right to free speech
[Eng v. Cooley](#) (9th Cir. 2009) 552 F.3d 1062
PUBLICATION [\[See](#) Advertising, publication. Judicial conduct. Lecture. Solicitation.]
 Rule 2-101, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
 Article
 about self
 LA 38 (1927), SD 1975-3
 on law
 -about pending case
 LA 343 (1974)
 -attorney cannot be identified as an attorney
 SF 1972-1
 -lay publication
 LA 181 (1951), LA(I) 1978-1
 SF 1972-1
 -newspaper
 LA 175 (1950), SD 1974-3
 -periodical
 LA 181 (1951), LA(I) 1964-2, LA(I) 1960-4
 -trade of professional
 LA 200 (1952), LA(I) 1964-2
 Biography
 LA 268 (1960), SD 1973-4, OC 2022-01
 Blogging by attorney
[CAL](#) 2016-196
 Book
 about case
[Hollywood v. Superior Court](#) (2008) 43 Cal.4th 721 [76 Cal.Rptr.3d 264]
[Haraguchi v. Superior Court](#) (2008) 43 Cal.4th 706 [76 Cal.Rptr.3d 250]

LA 369 (1977)
 course for real estate salespeople
 LA(I) 1963-3
 law book
 LA 235 (1956)
 Client's counsel listed in
 SF 1974-2
 Column
 law
 -in newspaper
 LA 354 (1976), LA 191 (1952), LA 34 (1927)
 SD 1976-2, SD 1974-3
 --bar association
 LA 191 (1952)
 "Course" for real estate salespeople
 LA(I) 1963-3
 Directory
 SD 1968-1
 Legal newsletter or service
 LA 148 (1944)
 Pamphlet
 "consult your lawyer first," by bar association
 LA 65 (1931)
 on legal topic
 LA(I) 1962-1
PURCHASING PROPERTY AT PROBATE, FORECLOSURE, OR JUDICIAL SALE [\[See](#) Estate.]
 Rule 5-103, Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 4-300, Rules of Professional Conduct (operative as of May 27, 1989)
[Sodikoff v. State Bar](#) (1975) 14 Cal.3d 422, 425-432 [121 Cal.Rptr. 467, 535 P.2d 331]
[Lee v. State Bar](#) (1970) 2 Cal.3d 927, 930-942 [88 Cal.Rptr. 361, 472 P.2d 449]
[Stanford v. State Bar of California](#) (1940) 15 Cal.2d 721, 722-728 [104 P.2d 635]
[Lantz v. State Bar](#) (1931) 212 Cal. 213 [298 P. 497]
[Carlson v. Lantz](#) (1929) 208 Cal. 134, 138-142 [280 P. 531]
 Expanding prohibition to include purchases made by attorney's spouse
[Marlowe v. State Bar](#) (1965) 63 Cal.2d 304, esp. at 307-308 [46 Cal.Rptr. 326, 405 P.2d 150]
 Permissible where attorney only represents a mortgage company to obtain relief from an automatic stay in bankruptcy court
 LA 455
 Presumption of undue influence respecting agreements between attorney and client
[Magee v. State Bar](#) (1962) 58 Cal.2d 423, 425-433 [24 Cal.Rptr. 839, 374 P.2d 807]
[Estate of Witt](#) (1926) 198 Cal. 407, 419-426 [245 P. 197]
 "Probate sale" construed
[Eschwig v. State Bar](#) (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]
[Calzada v. Sinclair](#) (1970) 6 Cal.App.3d 903, 906-918 [86 Cal.Rptr. 387]
See also:
[Silver v. State Bar](#) (1974) 13 Cal.3d 134, 137-140 [117 Cal.Rptr. 821, 528 P.2d 1157]
[Yokozeki v. State Bar](#) (1974) 11 Cal.3d 436, 441-451 [113 Cal.Rptr. 602, 521 P.2d 858]
[Ames v. State Bar](#) (1973) 8 Cal.3d 910, 915-921 [106 Cal.Rptr. 489, 506 P.2d 625] (applicability, scope and breadth of rule 5-103 vis-à-vis rule 5-102)
[Coviello v. State Bar](#) (1955) 45 Cal.2d 57, 60-66 [286 P.2d 357]
[Estate of Efron](#) (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

REAL ESTATE [See Trustee.]

Attorney/realtor [See Practice of law, dual occupation.]
[CAL](#) 1982-69, SD 1992-1, SD 1969-2, LA 413, LA 384

Board
attorney becomes affiliate of
[CAL](#) 1968-15

REAL ESTATE TRANSACTION [See Conflict of interest. Estate.

Purchasing property at probate, foreclosure or judicial sale.]

Represent
buyer and seller/later one against other
SF 1973-22
client in donating property to another client, later same client
in attempt to secure return of property
LA(I) 1970-10

REALTOR [See Practice of law, dual profession and Business Activity, dual profession.]

REBATE [See Commission. Fees.]
Code of Civil Procedure section 568

RECEIVER [See Bankruptcy.]
Code of Civil Procedure section 568
Entitled to attorney-client privilege
Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

RECORDING

Rule 2-101(E), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Court proceedings

California Rule of Court 1.150

Disclosure of wiretap after its authorization expires violated 18 U.S.C. 2232(c)

U.S. v. Aguilar (1995) 515 U.S. 593 [115 S.Ct. 2357]

Of conversation

California Penal Code section 632

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

In re Loftus (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

California Penal Code section 633

-applicability to city attorney while prosecuting misdemeanor cases

79 Ops. Cal. Atty. Gen. 221 (9/16/96; No. 96-304)

telephone

Kimmel v. Goland (1990) 51 Cal.3d 202 [271 Cal.Rptr. 191]

[CAL](#) 1966-5, LA 272 (1962), LA 182 (1951)

-district attorney not entitled to qualified immunity on attorney's claim that telephone wiretap was obtained by judicial deception in violation of Fourth Amendment

Whitaker v. Garcetti (9th Cir. 2007) 486 F.3d 572

REFERRAL FEE [See Division of Fees. Referral of legal business.]

REFERRAL OF BUSINESS

To physician
LA 443 (1988)

REFERRAL OF LEGAL BUSINESS [See Division of fees. Fee. Lay employees. Lay intermediaries. Legal referral services. Solicitation of business.]

Business and Professions Code section 6152(c)

Rules 2-108 and 3-102, Rules of Professional Conduct (operative until May 26, 1989)

[Rules](#) 2-200 and 1-320, Rules of Professional Conduct (operative as of May 27, 1989)

Between partners when one is lawyer-physician

LA 331 (1973)

Referred by

adjuster

-who failed to settle claim

LA 59 (1930)

attorney to associate or partner
-who specializes in field of law
[CAL](#) 1967-10

business to partner who is lawyer
[CAL](#) 1969-18

client's employees

LA(I) 1973-10

consumer organization

LA(I) 1978-1, SD 1983-5, SD 1975-17, SF 1973-27

educational foundation

LA(I) 1977-2

foreign attorney

LA(I) 1959-3

insurance agent

LA(I) 1964-3

investigator

-employed by client

LA 67 (1932)

lay entity

-by membership organization

LA 401 (1982)

-by religious organization

--employing attorney

---referral of member

LA 298 (1966)

-for compensation from client

LA 135 (1941)

-of employees

--where lawyer hired to advise, counsel, and represent employee of industrial organization

LA 137 (1941)

management consulting company

LA 446 (1987)

membership organization

LA 401 (1982)

non-profit organization

SF 1976-2

physician

LA(I) 1949-1

real estate agent/broker

-in expectation of compensation

LA 18 (1922)

real estate business

LA 140 (1942)

-associated with lawyer

LA 140 (1942)

selling of legal services

LA 137 (1941)

suspended attorney

LA(I) 1937-1

traveler's aid

-no charge

LA 73 (1934)

union representative who is spouse

LA(I) 1974-5

Civil case

duty to referring attorney

Mason v. Levy and Van Bourg (1978) 77 Cal.App.3d 60 [143 Cal.Rptr. 389]

Compensation in consideration for

by lawyers

Rule 2-108(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 2-200(B), Rules of Professional Conduct (operative as of May 27, 1989)

by non-lawyers

Rule 3-102(B), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-320(B), Rules of Professional Conduct (operative as of May 27, 1989)

by representative of the press

Rule 3-102(C), Rules of Professional Conduct (operative until May 26, 1989)

[Rule](#) 1-320(C), Rules of Professional Conduct (operative as of May 27, 1989)

Thank sources of
LA(l) 1968-2
To opposing counsel
LA(l) 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

[In re Yagman](#) (9th Cir. 2022) 38 F.4th 25
[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 readmission to the State Bar of California, reinstated to the Bar of the Court of Appeals for the Ninth Circuit

[In re Yagman](#) (9th Cir. 2022) 38 F.4th 25

After resignation

passage of professional responsibility examination is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

[In the Matter of Sheppard](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

After resignation with disciplinary charges pending

denied for failure to establish the requisite rehabilitation and moral fitness to resume the practice of law

[In the Matter of Ellerman](#) (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 899

denied for failure to make restitution

[In the Matter of Rudnick](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 27

does not affect the necessity for a reinstatement proceeding

[Hippard v. State Bar](#) (1989) 49 Cal.3d 1084, 1082, fn. 4
[Calaway v. State Bar](#) (1986) 41 Cal.3d 743, 745
[Tardiff v. State Bar](#) (1980) 27 Cal.3d 395, 398
[In the Matter of Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 314, fn. 2

petitioner must pass professional responsibility examination and demonstrate rehabilitation, present moral qualifications, and present learning and ability in the general law

[In the Matter of Sheppard](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

reimbursement of Client Security Fund is a condition of reinstatement, not a condition precedent to filing of petition for reinstatement

[In the Matter of Jauregui](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 56

unauthorized practice of law and lack of candor demonstrated the lack of moral reform that would prevent reinstatement

[In the Matter of Kirwan](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 630

Consideration of reinstatement decisions from jurisdictions other than California

[In re Bellicini](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Denied because of petitioner's insufficient showing of rehabilitation

[In re Bellicini](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883

Moral character

unresolved tax delinquencies

[In the Matter of Bodell](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Not precluded by egregiousness of misconduct as law favors rehabilitation

[Resner v. State Bar](#) (1967) 67 Cal.2d 799, 811

[In re Andreani](#) (1939) 14 Cal.2d 736, 749

[In the Matter of Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309

[In the Matter of McCray](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 373, 382

Requirements for reinstatement

[In re Bellicini](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 883
petition for reinstatement requires reimbursement of discipline costs and reimbursement for payments made by the Client Security Fund

[In the Matter of MacKenzie](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

Standard for rehabilitation and present moral qualifications

[Calaway v. State Bar](#) (1986) 41 Cal.3d 743

[Resner v. State Bar](#) (1967) 67 Cal.2d 799

[Allen v. State Bar](#) (1962) 58 Cal.2d 912

[Werner v. State Bar](#) (1954) 42 Cal.2d 187

[Jones v. State Bar](#) (1946) 29 Cal.2d 181

[In re Gaffney](#) (1946) 28 Cal.2d 761

[Preston v. State Bar](#) (1946) 28 Cal.2d 643

[In re Andreani](#) (1939) 14 Cal.2d 736

[In the Matter of Ellerman](#) (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 899

[In the Matter of Bodell](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

[In the Matter of Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 309, 320

Standards same for disbarred and resigned with charges pending

[In the Matter of Bodell](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Tax delinquencies not involving concealed assets

[In the Matter of Bodell](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

Testimony by members given in support of reinstatement is governed by [rule](#) 1-200(B) of the Rules of Professional Conduct

[In the Matter of Bodell](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459

REPORTING FEES [\[See\]](#) Advancement of funds.]

Failure to pay for contracted services

[CAL](#) 1979-48

RESIGNATION [\[See\]](#) Disabled lawyer. Disbarment. Suspension.]

Business and Professions Code section 6180 et seq.

As active member of State Bar

Business and Professions Code sections 6004-6007

Duties of resigned attorney

Rule 9.20, California Rules of Court

Resignation requires passage of responsibility examination as a condition of reinstatement, not a condition precedent to filing of a petition for reinstatement

[In the Matter of Sheppard](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Resignation with disciplinary charges requires passage of professional responsibility examination and demonstration of rehabilitation, present moral qualifications, and present learning and ability in the general law as conditions of reinstatement

[In the Matter of Sheppard](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Resigned attorney may not represent parties in state administrative hearings

[Benninghoff v. Superior Court](#) (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

RESTRICTIVE COVENANT BETWEEN LAWYERS

With disciplinary charges pending
criminal defendant's state constitutional right to counsel
violated when during trial attorney resigns with charges
pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
reimbursement of Client Security Fund is a condition of
reinstatement, not a condition precedent to filing of petition for
reinstatement

In the Matter of Jauregui (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)

CAL 2009-176, CAL 1988-104

LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990),

LA 445 (1987)

SF 2012-1

Business and Professions Code section 16602, applicability

Howard v. Babcock (1993) 6 Cal.4th 409

Collaborative family law practice

OC 2011-01

Confidential settlement agreements

LA 512 (2004)

Contract term compelling departing partners to forfeit a significant
sum of money should they decide to compete with their former
partners not contrary per se to public policy

Haight, Brown & Bonesteel v. Superior Court (1991) 234
Cal.App.3d 963

Contract term providing that if an attorney leaves the firm and takes
clients, then 80% of the subsequent fees shall be paid to the firm
may be enforceable

Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1

Covenant not to compete

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]

Matull & Associates v. Cloutier (1987) 194 Cal.App.3d 1049

LA 480 (1995)

Law Partners' Agreement imposing reasonable toll on departing
partners who compete with firm is enforceable

Howard v. Babcock (1993) 6 Cal.4th 409 [7 Cal.Rptr.2d 687]

In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State
Bar Ct. Rptr. 592

RETAINER [See Client trust account, Non-refundable retainer.
Contract for employment. Fee.]

Rule, 3-700(D)(2), California Rule of Professional Conduct

Securities and Exchange Commission v. Interlink Data Network
(9th Cir. 1996) 77 F.3d 1201

In re Montgomery Drilling Co. (E.D. Cal. 1990) 121 B.R. 32

Katz v. Workers' Compensation Appeals Board (1981) 30 Cal.3d
353, 356 at fn. 2 [178 Cal.Rptr. 815]

Baranowski v. State Bar (1979) 24 Cal.3d 153, 163

T & R Foods, Inc. v. Rose (1996) 47 Cal.App.4th Supp. 1 [56
Cal.Rptr.2d 41]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct.
Rptr. 315

In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct.
Rptr. 752

SF 1980-1

RULE AGAINST PERPETUITIES

Lucas v. Hamm (1961) 56 Cal.2d 583, 592 [15 Cal.Rptr. 821]

RULES OF PRACTICE BEFORE THE STATE BAR COURT

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar
Rules, and in West's Annotated California Codes, Court Rules,
vol. 23, pt 3

Text available through State Bar's home page:

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State Bar of California

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San Francisco, California 94105

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RULES OF PROCEDURE OF THE STATE BAR OF CALIFORNIA

Text is located in:

Deerings Annotated California Codes, Rules of Court, State Bar
Rules, and in

West's Annotated California Codes, Court Rules, vol. 23, pt 3

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State Bar Court, State Bar of California

180 Howard Street

San Francisco, California 94105

Telephone: (415) 538-2050

Rule 205 [requirement of motion for relief from actual suspension]
not a valid reason for failure to recommend a specific period of
stayed suspension

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 220

recommendation extending actual suspension until
compliance with rule 205 must state definite period of actual
suspension and, if appropriate, stayed suspension

In the Matter of Stansbury (Review Dept. 2000) 4 Cal.
State Bar Ct. Rptr. 103

Rule 220(b) [requirement to file a decision within 90 days of
submission]

neither mandatory nor jurisdictional, but directory

In the Matter of Petilla (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 231

Rule 221 (b)(2) (request for review filed prior to ruling)

In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar
Ct. Rptr. 67

Rule 262 [dismissal]

In the Matter of Silverton (Review Dept. 2001) 4 Cal. State Bar
Ct. Rptr. 252

Rule 270(c) [disclosure of private reproval]

Mack v. State Bar of California (2001) 92 Cal.App.4th 957 [112
Cal.Rptr.2d 341]

Rules 271 and 290

examined in connection with Section 6078 of Business and
Professions Code and rule 9.19, California Rules of Court

In the Matter of Respondent Z (Review Dept. 1999) 4 Cal.
State Bar Ct. Rptr. 85

Rule 283(b) [costs recoverable by an exonerated attorney]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct.
Rptr. 263

Rule 290 [completion of Ethics School if discipline is imposed]

may be required as a probation condition

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 220

may be required at the time of a ruling on a motion to end
actual suspension

In the Matter of Bailey (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 220

Rule 300 Interlocutory Review

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 289

In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State
Bar Ct. Rptr. 91

probation modification rulings

In the Matter of Taggart (Review Dept. 2001) 4 Cal. State
Bar Ct. Rptr. 302

Rule 301(a)(2) [trial transcript required for review]

In the Matter of Wu (Review Dept. 2001) 4 Cal. State Bar Ct.
Rptr. 263

Rule 301 (d) (filing of post-trial motion)

In the Matter of Ozowski (Review Dept. 2007) 5 Cal. State Bar
Ct. Rptr. 67

Rule 305 [independent de novo review]
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 305(a) Great Weight to Credibility Determinations by Hearing Judge
In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
In the Matter of Lais (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

Rule 561 [standard of proof in probation revocation, preponderance of evidence]
In the Matter of Taggart (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302

Rule 634 Standard 1.4(c)(ii) Proceeding, Petitioner's Burden of Proof, Preponderance of the Evidence
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Rule 639 Standard 1.4(c)(ii) Proceeding, Review Under Rule 300, Abuse of Discretion or Error of Law
In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Rule 655 Reinstatement
In the Matter of Sheppard (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 91

Rule 662
In the Matter of MacKenzie (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 56

RULES OF PROFESSIONAL CONDUCT [The full text of the rules are reprinted in part I A above. The annotated Rules of Professional Conduct are found in:

Deerings Annotated California Codes, Rules of Court, State Bar Rules, and in
 West's Annotated California Codes, Court Rules, vol. 23, pt 3, p. 319]

Text available through State Bar's home page:

<http://www.calbar.ca.gov>

CAVEAT: Subject headings must be consulted for cases interpreting particular Rules of Professional Conduct in addition to rule headings.

Duty to abide with

Standing Com. on Dis. of United States v. Ross (9th Cir. 1984) 735 F.2d 1168, 1170

adopted as standard of professional conduct

-Federal District Court, Eastern District

In re Tevis (9th Cir. BAP 2006) 347 B.R. 679
 attorney ethics rules do not apply only to attorneys who are acting in their role as advocates for others

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

attorney ethics rules do not apply to non-lawyers and law entities

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

attorney's conduct evaluated by the Rules of Professional Conduct in effect at the time of the misconduct

Image Technical Services v. Eastman Kodak (C.D. 1993) 820 F.Supp. 1212

Dudugjian v. State Bar (1991) 52 Cal.3d 1092, 1094, fn. 1 [278 Cal.Rptr. 90]

King v. State Bar (1990) 52 Cal.3d 307 [276 Cal.Rptr. 176]

Kelson v. State Bar (1976) 17 Cal.3d 1, 4 fn. 1

Jackson v. State Bar (1975) 15 Cal.3d 372, 374, fn. 1 [124 Cal.Rptr. 185, 540 P.2d 25]

Tomlinson v. State Bar (1975) 13 Cal.3d 567, 569 fn. 1 [119 Cal.Rptr. 335, 531 P.2d 1119]

In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343

civil case

Western Continental Operating Co. v. Natural Gas Corp. (1989) 212 Cal.App.3d 752 [261 Cal.Rptr. 100]

Cazares v. Saenz (1989) 208 Cal.App.3d 279 [256 Cal.Rptr. 209]

Government attorneys

applicability to

People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]

In re Lee G. (1991) 1 Cal.App.4th 17, 34 [1 Cal.Rptr.2d 375]

Civil Service Commission v. Superior Court (1984) 163 Cal.App.3d 70, 84

CAL 2002-158

Interpretation of

rules conclusively set ethical duties

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

-effect of expert testimony

David Welch Company v. Erskine and Tully (1988) 203 Cal.App.3d 884 [250 Cal.Rptr. 339]

Judicial notice of

Evidence Code section 451

Jurisdiction

California courts non-disciplinary jurisdiction over non-resident California attorney

Crea v. Busby (1996) 48 Cal.App.4th 509 [555 Cal.Rptr.2d 513]

Edmunds v. Superior Court (1994) 24 Cal.App.4th 221

over out-of-state arbitration representatives

Code of Civil Procedure section 1282.4

Purpose of, generally

Allen v. Academic Games League of America (C.D. 1993) 831 F.Supp. 785

Elan Transdermal Limited v. Cygnus Therapeutic Systems (N.D. 1992) 809 F.Supp. 1383

Zitney v. State Bar (1966) 64 Cal.2d 787, 793 [51 Cal.Rptr. 825]

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

govern discipline of attorneys and do not create disqualification standards for courts but may be used for guidance

Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

CURRENT RULES OF PROFESSIONAL CONDUCT (operative November 1, 2018)

Rule 1.0 Purpose and Function of the Rules of Professional Conduct

101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)

definition of "screened" (Comment [5])

CLA 2021-1

Rule 1.1 Competence

attorney must ensure competence when advising client regarding litigation funding

CAL 2020-204

expert witness testified falsely at deposition

SD 2023-1

obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

technology competence, duty of

-remote work

CAL 2023-208

Rule 1.2 Scope of Representation and Allocation of Authority

Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

CAL 2021-207

Rule 1.2.1 Advising or Assisting the Violation of Law

CAL 2020-202, LA 531 (2019)

Rule 1.4 Communication with Client

expert witness testified falsely at deposition

SD 2023-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

[Rule](#) 1.5 Fees for Legal Services

compensation of government counsel by contingency fee is prohibited in most if not all circumstances

[People ex rel. City of San Diego v. Experian Data Group](#)

(2022) 77 Cal.App.5th 1006 [293 Cal.Rptr.3d 149]

refund of fee advanced

SD 2019-3

[Rule](#) 1.6 Confidential Information of a Client

[CAL](#) 2021-207, [CAL](#) 2021-205, [CAL](#) 2019-200

expert witness testified falsely at deposition

SD 2023-1

[Rule](#) 1.7 Conflict of Interest: Current Clients

[Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc.](#) (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]

[CAL](#) 2021-205, LA 533 (2020)

101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)

concurrent representation of clients with adverse interests

[A.F. v. Jeffrey F.](#) (2022) 79 Cal.App.5th 737 [294 Cal.Rptr.3d 700]

[Rule](#) 1.8.5 Payment of Personal or Business Expenses Incurred by or for a Client

LA 532 (2019)

[Rule](#) 1.8.6 Compensation from One Other than Client

litigation funding

[CAL](#) 2020-204

[Rule](#) 1.9 Duties To Former Clients

[Victaulic Company v. American Home Assurance Company et al.](#) (2022) 80 Cal.App.5th 485 [295 Cal.Rptr.3d 738]

[CAL](#) 2021-205

[Rule](#) 1.10 Imputation of Conflicts of Interest: General Rule

[CAL](#) 2021-205

[Rule](#) 1.11 Special Conflicts of Interest for Former and Current Government Officials and Employees

CLA 2021-1

[Rule](#) 1.12 Former Judge, Arbitrator, Mediator or Other Third-Party Neutral

[Hassett v. Olson](#) (2022) 78 Cal.App.5th 866 [293 Cal.Rptr.3d 802]

CLA 2021-1

[Rule](#) 1.15 Safekeeping Funds and Property of Clients and Other Persons

[Dickson v. Mann](#) (2024) 103 Cal.App.5th 935 [323 Cal.Rptr.3d 481]

refund of fee advanced

SD 2019-3

[Rule](#) 1.16 Declining or Terminating Representation

[CAL](#) 2019-200

expert witness testified falsely at deposition

SD 2023-1

[Rule](#) 1.18 Duties To Prospective Client

[Syre v. Douglas](#) (2024) 104 Cal.App.5th 280 [324 Cal.Rptr.3d 553]

[CAL](#) 2021-205

CLA 2021-1

[Rule](#) 3.1 Meritorious Claims and Contentions

[In the Matter of Fisher](#) (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999

[Rule](#) 3.3 Candor Toward the Tribunal

[Levine v. Berschneider](#) (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]

[CAL](#) 2019-200

expert witness testified falsely at deposition

SD 2023-1

obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

[Shapell Social Rental Properties v. Chico's FAS Inc.](#) (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

[Rule](#) 3.4 Fairness to Opposing Party and Counsel

expert witness testified falsely at deposition

SD 2023-1

obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

[Shapell Social Rental Properties v. Chico's FAS Inc.](#) (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

[Rule](#) 3.7 Lawyer as Witness

[Lopez v. Lopez](#) (2022) 81 Cal.App.5th 412 [297 Cal.Rptr.3d 163]

[Doe v. Yim](#) (2020) 55 Cal.App.5th 573 [269 Cal.Rptr.3d 613]

[Rule](#) 3.10 Threatening Criminal, Administrative, or Disciplinary Charges

[Falcon Brands, Inc. v. Mousavi & Lee, LLP](#) (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]

[Rule](#) 4.2 Communication with a Represented Person

[Doe v. Superior Court of San Diego County](#) (2019) 36 Cal.App.5th 199 [248 Cal.Rptr.3d 314]

[Rule](#) 4.3 Communication with an Unrepresented Person

LA 531 (2019)

[Rule](#) 4.4 Duties Concerning Inadvertently Transmitted Writing

LA 531 (2019)

[Rule](#) 5.1 Responsibilities of Managerial and Supervisory Lawyers

law firm's remote practice

-remote work

[CAL](#) 2023-208

-outside vendors and contractors

[CAL](#) 2023-208

[Rule](#) 5.2 Responsibilities of a Subordinate Lawyer

law firm's remote practice

-remote work

[CAL](#) 2023-208

[Rule](#) 5.3 Responsibilities Regarding Nonlawyer Assistance

law firm's remote practice

-remote work

[CAL](#) 2023-208

[Rule](#) 5.4 Financial and Similar Arrangements with Nonlawyers

SD 2019-2

[Rule](#) 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

SF 2021-1

law firm's remote practice

-remote work

[CAL](#) 2023-208

remote practice of law

SF 2021-1

"systematic or continuous presence in California" defined

SF 2021-1

[Rule](#) 7.1 Communications Concerning a Lawyer's Services

[CAL](#) 2019-199

[Rule](#) 7.2 Advertising

[CAL](#) 2019-199

paragraph (b)

SD 2019-2

[Rule](#) 7.3 Solicitation of Clients

SD 2018-2

[Rule](#) 8.1.1 Compliance with Conditions of Discipline and Agreements in Lieu of Discipline

[In the Matter of Fisher](#) (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999

[Rule](#) 8.4 Misconduct

LA 531 (2019)

[Rule](#) 8.4.1 Prohibited Discrimination, Harassment and Retaliation

[CAL](#) 2021-207

[Rule](#) 8.5 Disciplinary Authority; Choice of Law

[In the Matter of Fisher](#) (Review Dept. 2022) 5 Cal. State Bar Ct. Rptr. 999

FORMER RULES OF PROFESSIONAL CONDUCT (operative May 27, 1989–October 31, 2018)

[Rule](#) 1-100 Rules of Professional Conduct, In General.

[Bankruptcy of Mortgage & Realty Trust](#) (1996) 196 B.R. 740
[City and County of San Francisco v. Cobra Solutions, Inc.](#) (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]
Cotchett, Pitre & McCarthy v. Universal Paragon Corp. (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
GeneThera, Inc. v. Troy and Gould (2009) 171 Cal.App.4th 901 [90 Cal.Rptr.3d 218]
Oaks Management Corp. v. Superior Court (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]
In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Zaheri Corp. v. New Motor Vehicle Board (Mitsubishi Motor Sales of America) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
 101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
[CAL](#) 2014-190, [CAL](#) 2012-184, [CAL](#) 2001-155, [CAL](#) 1998-152, [CAL](#) 1996-145, [CAL](#) 1997-149, [CAL](#) 1997-148
 LA 527 (2015), LA 504 (2000), LA 470 (1992)
 SD 2011-2, SD 1993-1, SD 1989-4
 consideration of ethical rules of other jurisdictions
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
 duty to abide with
 -Central District of California has adopted the "State Bar Act, the Rules of Professional Conduct of the State Bar of California" as the standard of professional conduct in the district
San Gabriel Basin Water Quality Authority v. Aerojet-General Corp. (C.D. Cal. 2000) 105 F.Supp.2d 1095
 "lawyer" defined
Rodriguez v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]
 purpose of the rules
 -protection of the public and promotion of confidence in the legal profession
Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]
 Rules of Professional Conduct serve as an expression of public policy to protect the public
Bird, Marella, Boxer & Wolpert v. Superior Court (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]
 willful violation is disciplinary offense
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
 -"associate" defined
Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]
[Rule](#) 1-110 Disciplinary Authority of the State Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Posthuma (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 813
In the Matter of Meyer (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 697
[Rule](#) 1-120 Assisting, Soliciting, or Inducing Violations.
[CAL](#) 2012-183, [CAL](#) 1993-128, [CAL](#) 1992-126
 LA 522 (2009), LA 518 (2006)

[Rule](#) 1-200 False Statement Regarding Admission to the Bar.
In the Matter of Pasyanos (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 746
In the Matter of Bodell (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 459
[Rule](#) 1-300 Unauthorized Practice of Law.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418
In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
[CAL](#) 2001-155, SD 2007-1
[Rule](#) 1-310 Forming a Partnership With a Non-Lawyer.
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[CAL](#) 1999-154, [CAL](#) 1995-142, [CAL](#) 1995-141
 LA 518 (2006), LA 510 (2003), LA 488 (1996)
[Rule](#) 1-311 Employment of Disbarred, Suspended, Resigned, or Voluntary Inactive Member
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
[Rule](#) 1-320 Financial Arrangements With Non-Lawyers.
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
McIntosh v. Mills (2004) 121 Cal.App.4th 333 [17 Cal.Rptr.3d 66]
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
In the Matter of Kreitenberg (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 469
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
[CAL](#) 1999-154, [CAL](#) 1997-148, [CAL](#) 1995-143, [CAL](#) 1995-142, [CAL](#) 1995-141, [CAL](#) 1992-126
 LA 523 (2009), LA 518 (2006), LA 515 (2005), LA 510 (2003), LA 488 (1996), LA 461, LA 457
 SD 1989-2
[Rule](#) 1-400 Advertising and Solicitation.
Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Rubin v. Green (1993) 4 Cal.4th 1187
Best Buy Stores, L.P. v. Superior Court (2006) 137 Cal.App.4th 772 [40 Cal.Rptr.3d 575]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
[CAL](#) 2016-196, [CAL](#) 2012-186, [CAL](#) 2004-167, [CAL](#) 2004-166, [CAL](#) 2004-165, [CAL](#) 2001-155, [CAL](#) 1999-154, [CAL](#) 1997-150, [CAL](#) 1997-148, [CAL](#) 1995-144, [CAL](#) 1995-143, [CAL](#) 1995-142, [CAL](#) 1995-141, [CAL](#) 1993-129
 LA 494 (1998) LA 474 (1993)
 SD 2018-2, SD 2018-1, SD 1996-1, SD 1992-3. OC 93-001
 Standard 1
In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

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Standard 4
SD 2000-1

Standard 5
In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239

Standard 7
LA 530 (2018)

Standard 8
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
LA 516 (2006)

Standard 9
LA 516 (2006), LA 511 (2003)
use of former employer's client lists for solicitation purposes
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

Rule 1-500 Agreements Restricting a Member's Practice.

In re J.T. Thorpe, Inc.; Thorpe Insulation Co., Debtors
Michael J. Mandelbrot; The Mandelbrot Law Firm; The Mandelbrot Law Firm, Appellants, v. J.T. Thorpe Settlement Trust; Thorpe Insulation Company Asbestos Settlement Trust; Charles B. Renfrew, Administrative Law Judge, Futures Representative, Appellees (9th Cir. 2017) 870 F.3d 1121
In the Matter of Respondent X (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 592
CAL 2012-185, CAL 2009-176
LA 512 (2004), LA 480 (1995), LA 468 (1992), LA 460 (1990)
OC 2011-01, SF 2012-1

Rule 1-600 Legal Service Programs.

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
CAL 1997-148, CAL 1992-126
LA 500 (1999)

Rule 1-650 Limited Legal Services Programs

CAL 2011-182

Rule 1-700 Member as Candidate for Judicial Office

In the Matter of Parish (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 370
statement accusing judicial opponent of involvement in bribery and corporate fraud was a factual misrepresentation made with reckless disregard for the truth
In the Matter of Parish (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 370

Rule 1-710 Member as Temporary Judge, Referee, or Court-Appointed Arbitrator

LA 514 (2005)

Rule 2-100 Communication With a Represented Party.

United States v. Talao (9th Cir. 2000) 222 F.3d 1133
Graham v. U.S. (9th Cir. 1996) 96 F.3d 446
Karnazes v. Ares (2016) 244 Cal.App.4th 344 [198 Cal.Rptr.3d 155]
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
McMillan v. Shadow Ridge At Oak Park Homeowners Ass'n (2008) 165 Cal.App.4th 960 [81 Cal.Rptr.3d 550]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Snider v. Superior Court (2003) 113 Cal.App.4th 1187 [7 Cal.Rptr.3d 119]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Truitt v. Superior Court (1997) 59 Cal.App.4th 1183
Jorgensen v. Taco Bell (1996) 50 Cal.App.4th 1398 [58 Cal.Rptr.2d 178]
Jackson v. Ingersoll-Rand (1996) 42 Cal.App.4th 1163
Continental Insurance Company v. Superior Court (1995) 32 Cal.App.4th 94 [37 Cal.Rptr.2d 843]

In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

*In the Matter of Twitty (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 664

CAL 2011-181, CAL 2009-178, CAL 1996-145, CAL 1993-133, CAL 1993-131, CAL 1991-125, CAL 1989-110, LA 508 (2002), LA 502 (1999), LA 490, LA 487, LA 472
SD 2011-2, SD 2005-1

public officer, board committee or body exception

-not applicable where questions posed by attorney for opposing party to public employees were designed to obtain evidence for use in litigation

Guthrey v. California Department of Corrections and Rehabilitation (E.D. Cal. 2012) 2012 WL 3249554, 2012 U.S. Dist. Lexis 110862

U.S. v. Sierra Pacific Industries (E.D. Cal. 2011) 759 F.Supp.2d 1215

Rule 2-200 Financial Arrangements Among Lawyers.

Hance v. Super Store Industries (2020) 44 Cal.App.5th 676 [257 Cal.Rptr.3d 761]

Barnes, Crosby, Fitzgerald & Zeman LLP v. Ringler (2012) 212 Cal.App.4th 172 [151 Cal.Rptr.3d 134]

Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

Olsen v. Harbison (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

Mark v. Spencer (2008) 166 Cal.App.4th 219 [82 Cal.Rptr.3d 569]

Mink v. MacCabee (2004) 121 Cal.App.4th 835 [17 Cal.Rptr.3d 486]

Sims v. Charness (2001) 86 Cal.App.4th 884 [103 Cal.Rptr.2d 619]

Margolin v. Shemaria (2000) 85 Cal.App.4th 891 [102 Cal.Rptr.2d 502]

Scolinos v. Kolts (1995) 37 Cal.App.4th 635 [44 Cal.Rptr.2d 31]
CAL 2004-165

LA 518 (2006), LA 503 (2000), LA 486, LA 473 (1993), LA 470 (1992), LA 467 (1992)

association of outside counsel not a basis for exemption from rule 2-200 requirements

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

does not apply to partnership agreements with respect to fees from unfinished cases taken by departing partner

Anderson, McPharlin & Connors v. Yee (2005) 135 Cal.App.4th 129 [37 Cal.Rptr.3d 627]

failure to comply with rule 2-200 does not preclude a quantum meruit recovery for services rendered in reliance on an unenforceable fee-sharing agreement

Huskinson & Brown v. Wolf (2004) 32 Cal.4th 453 [9 Cal.Rptr.3d 693]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

-attorney precluded from recovering from client

Strong v. Beydoun (2008) 166 Cal.App.4th 1398 [83 Cal.Rptr.3d 632]

-failure to comply with rule 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with rule 3-300 which disallows a quantum meruit recovery

Fair v. Bakhtiari et al. (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

purpose of the rule

-protection of the public and promotion of confidence in the legal profession

Chambers v. Kay (2002) 29 Cal.4th 142 [126 Cal.Rptr.2d 536]

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terminated attorney could not recover attorney's fees in quantum meruit from former co-counsel notwithstanding compliance with [rule](#) 2-200

[Olsen v. Harbison](#) (2010) 191 Cal.App.4th 325 [119 Cal.Rptr.3d 460]

use of client confidential information in action to recover unpaid attorney referral fees

[Dietz v. Meisenheimer et al.](#) (2009) 177 Cal.App.4th 771 [177 Cal.Rptr.3d 464]

[Rule](#) 2-300 Sale or Purchase of a Law Practice of a Member, Living, or Deceased.

LA 475 (1993)

[Rule](#) 2-400 Discriminatory Conduct in a Law Practice (operative March 1, 1994)

[Rule](#) 3-100 Confidential Information of a Client

[Frye v. Tenderloin Housing Clinic, Inc.](#) (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

[Elijah W. v. Superior Court of Los Angeles](#) (2013) 216 Cal.App.4th 140 [156 Cal.Rptr.3d 592]

[CAL](#) 2016-195, [CAL](#) 2015-193, [CAL](#) 2012-183, [CAL](#) 2011-182, [CAL](#) 2010-179, [CAL](#) 2008-175, [CAL](#) 2007-173, [CAL](#) 2005-168, [CAL](#) 2003-161

LA 529 (2017), LA 528 (2017), LA 525 (2012), LA 520 (2007) OC 2011-01

SD 2012-1

SF 2014-1, SF 2011-1

attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client

[Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

[Rule](#) 3-110 Failing to Act Competently

[In re White](#) (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

[Oliveros v. County of Los Angeles](#) (2004) 120 Cal.App.4th 1389 [16 Cal.Rptr.3d 638]

[In re O.S.](#) (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]

[In the Matter of Romano](#) (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

[In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

[In the Matter of Seltzer](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 263

[In the Matter of Field](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171

[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

[In the Matter of Riordan](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 41

[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

[In the Matter of Malek-Yonan](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

[In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

[In the Matter of Doran](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

[In the Matter of Greenwood](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831

[In the Matter of Aulakh](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

[In the Matter of Hindin](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657

[In the Matter of Bragg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

[In the Matter of Sullivan, II](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608

[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

[In the Matter of Riley](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

[CAL](#) 2015-193, [CAL](#) 2014-190, [CAL](#) 2012-184, [CAL](#) 2012-183, [CAL](#) 2011-182, [CAL](#) 2010-179, [CAL](#) 2008-175, [CAL](#) 2007-173, [CAL](#) 2005-168, [CAL](#) 2004-165, [CAL](#) 2003-164, [CAL](#) 2003-163, [CAL](#) 2003-162, [CAL](#) 2003-161, [CAL](#) 2002-158, [CAL](#) 1997-150, [CAL](#) 1992-126

LA 529 (2017), LA 522 (2009), LA 521 (2007), LA 518 (2006), LA 512 (2004), LA 504 (2000), LA 502 (1999), LA 488 (1996), LA 471 (1992)

SD 2012-1, SD 2007-1, SD 1997-2

OC 2011-02, OC 2011-01

SF 2011-1

attorney violates 3-110(A) when he failed to represent client with undivided loyalty, to exercise independent judgment on client's behalf, and to act in client's best interests

[Rule](#) 1.1

[CAL](#) 2020-204

[Price v. Lehtinen](#) (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

negligent legal representation by itself does not prove misconduct

[In the Matter of Torres](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 138

[Rule](#) 3-120 Sexual Relations With Client

OC 2003-02

[Rule](#) 3-200 Prohibited Objectives of Employment.

[Canatella v. Stovitz](#) (2005) 365 F.Supp.2d 1064

[Padres L.P. v. Henderson](#) (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]

[Simonian v. Patterson](#) (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]

[Bach v. McNelis](#) (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

[In the Matter of Lais](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 112

[CAL](#) 1996-146

LA 522 (2009), LA 502 (1999)

high ethical and professional standards of an attorney and an officer of the court require him to inform client that an attorney is precluded from pursuing an appeal that is frivolous or taken for the purpose of delay

[Gong v. Kwong](#) (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]

[Rule](#) 3-210 Advising the Violation of Law.

[Hetos Investments, Ltd. v. Kurtin](#) (2003) 110 Cal.App.4th 36 [1 Cal.Rptr.3d 472]

[In the Matter of Fandey](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 767

[CAL](#) 2013-189, [CAL](#) 2003-162, [CAL](#) 1996-146

LA 527 (2015), LA 522 (2009), LA 520 (2007), LA 502 (1999) SD 1993-1

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attorneys may give legal advice and assistance limited to activities permissible under California state law provided the client is advised of possible liability under federal law and other potential adverse consequences

LA 527, SF 2015-1

[Rule 3-300](#) Avoiding Adverse Interests.

[In re Tallant](#) (9th Cir. 1998) 218 B.R. 58

[Frye v. Tenderloin Housing Clinic, Inc.](#) (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

[In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

[Fletcher v. Davis](#) (2004) 33 Cal.4th 61 [14 Cal.Rptr.3d 58]

[*Santa Clara County Counsel Attorneys Assn. v. Woodside](#) (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

[In re Marriage of Murchison](#) (2016) 245 Cal.App.4th 847 [199 Cal.Rptr.3d 800]

[Fair v. Bakhtiari et al.](#) (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

[Plummer v. Day/Eisenberg, LLP](#) (2010) 184 Cal.App.4th 38 [108 Cal.Rptr.3d 455]

[BGJ Associates, L.L.C. v. Wilson](#) (2003) 113 Cal.App.4th 1217 [7 Cal.Rptr.3d 140]

[Mayhew v. Benninghoff, III](#) (1997) 53 Cal.App.4th 1365 [62 Cal.Rptr.2d 27]

[Passante, Jr. v. McWilliam](#) (1997) 53 Cal.App.4th 1240 [62 Cal.Rptr.2d 298]

[In the Matter of Song](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

[In the Matter of Allen](#) (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 198

[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

[In the Matter of Peavey](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483

[In the Matter of Gillis](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 387

[In the Matter of Silverton](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

[In the Matter of Priamos](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 824

[In the Matter of Fonte](#) (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

[Inquiry Concerning Judge Seeman](#), Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

[CAL](#) 2009-178, [CAL](#) 2006-170, [CAL](#) 2003-164, [CAL](#) 2002-159, [CAL](#) 1999-154, [CAL](#) 1995-140, [CAL](#) 1995-141, [CAL](#) 1994-135, [CAL](#) 1994-136, [CAL](#) 1993-130, [CAL](#) 1989-116

LA 521 (2007), LA 507 (2001), LA 496 (1998), LA 492 (1998), LA 477 (1994)

OC 2011-02, OC 93-002

SD 1992-1, SD 1989-2, SF 1997-1

attorney purchases judgment from opposing party, then seeks enforcement of that judgment against former client

[Styles v. Mumbert](#) (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

business transactions with a client

[In the Matter of Lingwood](#) (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

failure to comply with [rule](#) 2-200 but still permitting a quantum meruit recovery distinguished from failure to comply with [rule](#) 3-300 which disallows a quantum meruit recovery

[Fair v. Bakhtiari et al.](#) (2011) 195 Cal.App.4th 1135 [125 Cal.Rptr.3d 765]

[Rule 3-310](#) Avoiding the Representation of Adverse Interests.

[Rodriguez v. Disner](#) (9th Cir. 2012) 688 F.3d 645]

[Abbott v. United States IRS](#) (9th Cir. 2005) 399 F.3d 1083

[In re S.S. Retail Stores Corp.](#) (9th Cir. 2000) 216 F.3d 882 [36 Bankr.Ct.Dec. 79]

[Image Technical Services v. Eastman Kodak Co.](#) (9th Cir. 1998) 136 F.3d 1354

[In re Tevis](#) (9th Cir. BAP 2006) 347 B.R. 679 [39 Cal.Rptr.3d 1]

[In re Rindlisbacher](#) (9th Cir. BAP 1998) 225 B.R. 180, fn. 4 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

[Openwave Systems, Inc. v. Myriad France S.A.S.](#) (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147

[Concat LP v. Unilevel, PLC](#) (N.D. Cal. 2004) 350 F.Supp.2d 796

[Visa U.S.A. Inc. v. First Data Corp.](#) (N.D. Cal. 2003) 241 F.Supp.2d 1100

[San Gabriel Basin Water Quality Authority v. Aerojet- General Corp.](#) (C.D. Cal. 2000) 105 F.Supp.2d 1095

[Bankruptcy of Mortgage & Realty Trust](#) (C.D. Cal. 1996) 195 B.R. 740

[City and County of San Francisco v. Cobra Solutions, Inc.](#) (2006) 38 Cal.4th 839 [43 Cal.Rptr.3d 771]

[Frye v. Tenderloin Housing Clinic, Inc.](#) (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

[People ex rel. Dept. of Corporations v. Speedee Oil Change Systems](#) (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]

[Flatt v. Superior Court](#) (1994) 9 Cal.4th 275 [36 Cal.Rptr.2d 537]

[*Santa Clara County Counsel Attorneys Assn. v. Woodside](#) (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

[Bridgepoint Construction Services, Inc. v. Newton](#) (2018) 26 Cal.App.5th 966 [237 Cal.Rptr.3d 598]

[Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County](#) (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]

[Yanez v. Plummer](#) (2013) 221 Cal.App.4th 180 [164 Cal.Rptr.3d 309]

[Fiduciary Trust International of California v. Superior Court](#) (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]

[Castleman v. Sagaser](#) (2013) 216 Cal.App.4th 481 [156 Cal.Rptr.3d 492]

[Havasus Lakeshore Investments, Inc., LLC v. Fleming](#) (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]

[Kennedy v. Eldridge](#) (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

[Fremont Reorganization Corp. v. Faigin](#) (2011) 198 Cal.App.4th 1153 [131 Cal.Rptr.3d 478]

[Banning Ranch Conservancy v. Superior Court](#) (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

[Blue Water Sunset, LLC v. Markowitz](#) (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]

[Great Lakes Construction Inc. v. Burman](#) (2010) 186 Cal.App.4th 1347 [114 Cal.Rptr.3d 301]

[Montgomery v. Superior Court](#) (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]

[Kirk v. First American Title Ins. Co.](#) (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]

[United States Fire Insurance v. Sheppard, Mullin, Richter, Hampton](#) (2009) 171 Cal.App.4th 1617 [90 Cal.Rptr.3d 669]

[People v. Lopez](#) (2008) 168 Cal.App.4th 801 [85 Cal.Rptr.3d 675]

[Sharp v. Next Entertainment, Inc.](#) (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]

[Med-Trans Corp., Inc. v. City of California City](#) (2007) 156 Cal.App.4th 655 [68 Cal.Rptr.3d 17]

[Freeman v. Schack](#) (2007) 154 Cal.App.4th 719 [64 Cal.Rptr.3d 867]

[Mardirossian & Associates, Inc. v. Ersoff](#) (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

[Lazy Acres Market Inc. v. Tseng](#) (2007) 152 Cal.App.4th 1431 [62 Cal.Rptr.3d 378]

[Ochoa v. Fordel, Inc.](#) (2007) 146 Cal.App.4th 898 [53 Cal.Rptr.3d 277]

[Faughn v. Perez](#) (2006) 145 Cal.App.4th 592 [51 Cal.Rptr.3d 692]

[Oaks Management Corp. v. Superior Court](#) (2006) 145 Cal.App.4th 453 [51 Cal.Rptr.3d 561]

[Dino v. Pelayos](#) (2006) 145 Cal.App.4th 347 [51 Cal.Rptr.3d 620]

[Fremont Indemnity Co. v. Fremont General Corp.](#) (2006) 143 Cal.App.4th 50 [49 Cal.Rptr.3d 82]

[Rhabum v. Superior Court](#) (2006) 140 Cal.App.4th 1566 [45 Cal.Rptr.3d 464]

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People v. Baylis (2006) 139 Cal.App.4th 1054 [43 Cal.Rptr.3d 559]
Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]
Brand v. 20th Century Insurance Company (2004) 124 Cal.App.4th 594 [21 Cal.Rptr.3d 380]
City of Santa Barbara v. Stenson (2004) 122 Cal.App.4th 17 [18 Cal.Rptr.3d 403]
La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
Farris v. Firemen's Fund Insurance Company (2004) 119 Cal.App.4th 671 [14 Cal.Rptr.3d 618]
Derivi Construction & Architecture Inc. v. Wong (2004) 118 Cal.App.4th 1268 [14 Cal.Rptr.3d 329]
Pour Le Bebe, Inc. v. Guess? Inc. (2003) 112 Cal.App.4th 810 [5 Cal.Rptr.3d 442]
Jessen v. Hartford Cas. Ins. Co. (2003) 111 Cal.App.4th 698 [3 Cal.Rptr.3d 877]
Koo v. Rubio's Restaurants, Inc. (2003) 109 Cal.App.4th 719 [135 Cal.Rptr.2d 415]
Hernandez v. Paicius (2003) 109 Cal.App.4th 452 [134 Cal.Rptr.2d 756]
In re Marriage of Friedman (2002) 100 Cal.App.4th 65 [122 Cal.Rptr.2d 412]
Frazier v. Superior Court (Ames) (2002) 97 Cal.App.4th 23 [118 Cal.Rptr.2d 129]
American Airlines v. Sheppard Mullin, Richter & Hampton (2002) 96 Cal.App.4th 1017 [117 Cal.Rptr.2d 685]
City National Bank v. Adams (2002) 96 Cal.App.4th 315 [117 Cal.Rptr.2d 125]
Benasra v. Mitchell Silberberg & Knupp (2002) 96 Cal.App.4th 96 [116 Cal.Rptr.2d 644]
Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
Adams v. Aerojet-General Corp. (2001) 86 Cal.App.4th 1324 [104 Cal.Rptr.2d 116]
Pringle v. La Chappelle (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
State Farm Mutual Automobile Insurance Company v. Federal Insurance Company (1999) 72 Cal.App.4th 1422 [86 Cal.Rptr.2d 20]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Strasbourg, Pearson, Tulcin, Wolff, Inc., et al. v. Wiz Technology (1999) 69 Cal.App.4th 1399 [82 Cal.Rptr.2d 326]
Mosier v. Southern California Physicians Insurance Exchange (1998) 63 Cal.App.4th 1022 [74 Cal.Rptr.2d 550]
Forrest v. Baeza (1997) 58 Cal.App.4th 65 [67 Cal.Rptr.2d 857]
People v. Pastrano (1997) 52 Cal.App.4th 610 [60 Cal.Rptr.2d 620]
People v. Christian (1996) 41 Cal.App.4th 986 [48 Cal.Rptr.2d 867]
Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp. (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
Stanley v. Richmond (1995) 35 Cal.App.4th 1070 [41 Cal.Rptr.2d 768]
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
In the Matter of Rubin (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797
In re Casey (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 117
In the Matter of Maloney and Virsik (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 774
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752

101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
80 Ops. Cal. Atty. Gen. 36 (2/7/97; No. 96-301)
CAL 2014-191, CAL 2011-182, CAL 2009-178, CAL 2004-165, CAL 2003-164, CAL 2003-163, CAL 2003-162, CAL 2003-161, CAL 2002-159, CAL 2002-158, CAL 2001-156, CAL 1999-154, CAL 1999-153, CAL 1998-152, CAL 1997-148, CAL 1995-141, CAL 1995-140, CAL 1995-139, CAL 1993-138, CAL 1993-129, CAL 1993-128, CAL 1992-126, CAL 1989-116, CAL 1989-113
LA 521 (2007), LA 513 (2005), LA 507 (2001), LA 506 (2001), LA 502 (1999), LA 501 (1999), LA 500 (1999), LA 492 (1998), LA 471 (1992), LA 468 (1992), LA 465 (1991), LA 463, LA 461, LA 462, LA 459 (1990), LA 379
SD 2017-1, SD 2013-1, SD 2006-1, SD 1997-2, SD 1990-3, SD 1989-4
OC 2012-1, OC 2011-02, OC 2011-01, OC 95-002, OC 94-003
attorney has a clear conflict of interest when he represents client in bankruptcy, solicits client to use his services as a real estate broker, and serves client as loan broker
Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
paragraph (B)
CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
SD 2017-1
paragraph (C)
101 Ops. Cal. Atty Gen. 1 (04/03/18; No. 14-301)
paragraph (C)(1) and (2)
ECC Capital Corporation et al., v. Manatt, Phelps & Phillips, LLP (2017) 9 Cal.App.5th 885 [215 Cal.Rptr.3d 492]
paragraph (C)(3)
Sheppard, Mullin, Richter & Hampton, LLP v. J-M Manufacturing Company, Inc. (2018) 6 Cal.5th 59 [237 Cal.Rptr.3d 424]
paragraph (E)
California Self-Insurers' Security Fund v. Superior Court (2018) 19 Cal.App.5th 1065 [228 Cal.Rptr.3d 546]
Fiduciary Trust International of California v. Superior Court (2013) 218 Cal.App.4th 465 [160 Cal.Rptr.3d 1216]
Kirk v. First American Title Ins. Co. (2010) 183 Cal.App.4th 776 [108 Cal.Rptr.3d 620]
-attorney's purchase of judgment from adverse party and his attempt to enforce that judgment against former client in the same matter established a certainty that attorney possessed confidential information that could be used against former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
-no conflict where the court found that the partner who switched sides had no involvement in the instant action and had not discussed the action with the attorneys at the new law firm and where the firm had not used the new partner's services relating to the instant action
Openwave Systems, Inc. v. Myriad France S.A.S. (N.D. Cal. 2011) 2011 WL 1225978, 2011 U.S. Dist. Lexis 93147
paragraph (F)
LA 510 (2003)
-fees paid by 3rd party payor
Sharp v. Next Entertainment, Inc. (2008) 163 Cal.App.4th 410 [78 Cal.Rptr.3d 37]
Rule 3-320 Relationship With Other Party's Lawyer.
SD 1989-4
34 Santa Clara L. Rev. 1157 (1994)
Rule 3-400 Limiting Liability to Client.
In the Matter of Fonte (Review Dept. 1994) 2 Cal. State Bar Ct. Rptr. 752
CAL 2009-178, CAL 1992-127, CAL 1989-116
LA 502 (1999), LA 489(1997), LA 471 (1992)
OC 2011-01

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[Rule 3-500](#) Communication.

[Nehad v. Mukasey](#) (9th Cir. 2008) 535 F.3d 962
[Price v. Lehtinen](#) (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404
[First Interstate Bank of Arizona v. Murphy, Weir & Butler](#) (9th Cir. 2000) 210 F.3d 983
[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d]
[In re O.S.](#) (2002) 102 Cal.App.4th 1402 [126 Cal.Rptr.2d 571]
[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
[In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
[CAL](#) 2012-184, [CAL](#) 2009-178, [CAL](#) 2008-175, [CAL](#) 2004-165, [CAL](#) 2003-163, [CAL](#) 2003-161, [CAL](#) 1998-152, [CAL](#) 1997-151, [CAL](#) 1994-135
 LA 528 (2017), LA 520 (2007), LA 518 (2006), LA 506 (2001), LA 473 (1993)
 SD 2017-1, SD 2012-1, SD 2007-1, SD 2006-1, SD 2004-1, SD 2001-1
 SF 2011-1

[Rule 3-510](#) Communication of Settlement Offer.

[Nehad v. Mukasey](#) (9th Cir. 2008) 535 F.3d 962
[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788
[CAL](#) 2009-176, [CAL](#) 1994-136, [CAL](#) 1994-135
 LA 512 (2004)

[Rule 3-600](#) Organization as Client

[Beachcomber Management Crystal Cove, LLC, et al v. The Superior Court of Orange County](#) (2017) 13 Cal.App.5th 1105 [220 Cal.Rptr.3d 872]
[Ontiveros v. Constable](#) (2016) 245 Cal.App.4th 686 [199 Cal.Rptr.3d 836]
[Coldren v. Hart, King & Coldren, Inc.](#) (2015) 239 Cal.App.4th 237 [190 Cal.Rptr.3d 644]
[Havasus Lakeshore Investments, Inc., LLC v. Fleming](#) (2013) 217 Cal.App.4th 770 [158 Cal.Rptr.3d 311]
[Blue Water Sunset, LLC v. Markowitz](#) (2011) 192 Cal.App.4th 477 [122 Cal.Rptr.3d 641]
[La Jolla Cove Motel and Hotel Apartments Inc. v. Superior Court](#) (2004) 121 Cal.App.4th 773 [17 Cal.Rptr.3d 467]
[Venture Law Group v. Superior Court](#) (2004) 118 Cal.App.4th 96 [12 Cal.Rptr.3d 656]
[Pringle v. La Chappelle](#) (1999) 73 Cal.App.4th 1000 [87 Cal.Rptr.2d 90]
[Morrison Knudsen Corp. v. Hancock, Rothert & Bunshoft, LLP](#) (1999) 69 Cal.App.4th 223 [81 Cal.Rptr.2d 425]
[Brooklyn Navy Yard Cogeneration Partners v. Superior Court](#) (1997) 60 Cal.App.4th 248 [70 Cal.Rptr.2d 419]
[Forrest v. Baeza](#) (1997) 58 Cal.App.4th 65
[Metro-Goldwyn-Mayer, Inc. v. Tracinda Corp.](#) (1995) 36 Cal.App.4th 1832 [43 Cal.Rptr.2d 327]
[*Ronson v. Superior Court](#) (1994) 24 Cal.App.4th 94
[Responsible Citizens v. Superior Court](#) (1993) 16 Cal.App.4th 1717
[Skarbrevik v. Cohen, England & Whitfield](#) (1991) 231 Cal.App.3d 692, 703 [282 Cal.Rptr. 627]
[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
[*Matter of Jennings](#) (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 337
[CAL](#) 2001-156, [CAL](#) 1999-153, [CAL](#) 1994-137
 SD 2017-1, OC 2011-02

[Rule 3-700](#) Termination of Employment

[Nehad v. Mukasey](#) (9th Cir. 2008) 535 F.3d 962
[In re Aguilar and Kent](#) (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
[Williams v. Russ](#) (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]
[Eddy v. Fields](#) (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
[Rus, Miliband & Smith v. Conkle & Olesten](#) (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
[Cal Pak Delivery, Inc. v. United Parcel Service](#) (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
[Ramirez v. Sturdevant](#) (1994) 21 Cal.App.4th 904, 915 [26 Cal.Rptr.2d 554]
[In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296
[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93
[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
[In the Matter of Wells](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
[In the Matter of Copren](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861
[In the Matter of Regan](#) (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688
[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
[In the Matter of Valinoti](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
[In the Matter of Gadda](#) (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 416
[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
[In the Matter of Dahlz](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220
[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126
[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907
[In the Matter of Doran](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
[In the Matter of Greenwood](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 831
[In the Matter of Aulakh](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690
[In the Matter of Hindin](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 657
[In the Matter of Sullivan, II](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 608
[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547
[In the Matter of Dale K. Nees](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 459
[CAL](#) 2015-194, [CAL](#) 2015-192, [CAL](#) 2014-190, [CAL](#) 2013-189, [CAL](#) 2009-177, [CAL](#) 2007-174, [CAL](#) 2003-163, [CAL](#) 2001-157, [CAL](#) 1999-153, [CAL](#) 1994-134, [CAL](#) 1992-127, [CAL](#) 1989-111
 LA 528 (2017), LA 521 (2007), LA 520 (2007), LA 504 (2000), LA 502 (1999), LA 498 (1999), LA 493, LA 491, LA 471, LA 462
 SD 2004-1, SD 2001-1, SD 1997-1, SD 1990-2
 OC 2011-01, SF 2011-1
 client coerced into accepting settlement under threat of attorney's withdrawal
[Nehad v. Mukasey](#) (9th Cir. 2008) 535 F.3d 962
 disclosure of confidences at motion for withdrawal
[Manfredi & Levine v. Superior Court](#) (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]

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[CAL](#) 2015-192

duty to release to client mental health care records is not altered by written warning from mental health care provider that disclosure may be detrimental to client

LA 509 (2002)

failure to return unearned fees

[In the Matter of Roger M. Lindmark](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 668

failure to provide status reports to law firm on client matters when attorney-employees abruptly resigned from law firm

[Reeves v. Hanlon](#) (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

[Rule](#) 4-100 Preserving Identity of Funds and Property of a Client.

[Hooser v. Superior Court](#) (2000) 84 Cal.App.4th 997 [101 Cal.Rptr.2d 341]

[T & R Foods, Inc. v. Rose](#) (1996) 47 Cal.App.4th Supp. 1 [56 Cal.Rptr.2d 41]

[Securities and Exchange Commission v. Interlink Data Network of Los Angeles](#) (9th Cir. 1996) 77 F.3d 1201

[In re Montgomery Drilling Co.](#) (E.D. Cal. 1990) 121 B.R. 32

[In the Matter of Rubin](#) (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 797

[In re Huang](#) (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

[In the Matter of Song](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 273

[In the Matter of Lawrence](#) (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 239

[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

[In the Matter of Thomson](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966

[In re Brockway](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944

[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

[In the Matter of Wells](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896

[In re Tenner](#) (Review Dept. 2004) 4 Cal. State Bar Ct. Rptr. 688

[In the Matter of Malek-Yonan](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Johnson](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

[In the Matter of Moriarty](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

[In the Matter of Lais](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

[In the Matter of Silver](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 902

[In the Matter of Doran](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

[In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

[In the Matter of Feldsott](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 754

[In the Matter of Berg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

[In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

[In the Matter of Aulakh](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 690

[In the Matter of Kaplan](#) (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

[In the Matter of Broderick](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 138

[In the Matter of Riley](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 91

[In the Matter of Robins](#) (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 708

[Inquiry Concerning Judge Seeman](#), Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

[CAL](#) 2009-177, [CAL](#) 2008-175, [CAL](#) 2006-171, [CAL](#) 2005-169, [CAL](#) 2002-159, [CAL](#) 2001-157

LA 485 (1995), LA 484 (1995) LA 475 (1993)

OC 99-002

overdraft protection

[CAL](#) 2005-169

unilateral disbursement of funds without consent of corporate client

[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

[Rule](#) 4-200 Fees for Legal Services

[In re Silverton](#) (2005) 36 Cal.4th 81 [29 Cal.Rptr.3d 766]

[Cotchett, Pitre & McCarthy v. Universal Paragon Corp.](#) (2010) 187 Cal.App.4th 1405 [114 Cal.Rptr.3d 781]

[Bird, Marella, Boxer & Wolpert v. Superior Court](#) (2003) 106 Cal.App.4th 419 [130 Cal.Rptr.2d 782]

[Shaffer v. Superior Court](#) (1995) 33 Cal.App.4th 993 [39 Cal.Rptr.2d 506]

[Ramirez v. Sturdevant](#) (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

[In the Matter of Conner](#) (Review Dept. 2008) 5 Cal. State Bar Ct. Rptr. 93

[In the Matter of Wells](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896

[In the Matter of Van Sickle](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 980

[In the Matter of Phillips](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

[In the Matter of Silverton](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 252

[In the Matter of Bailey](#) (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 220

[In the Matter of Lantz](#) (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

[In the Matter of Kroff](#) (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

[In the Matter of Yagman](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

[In the Matter of Berg](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 725

[CAL](#) 2006-170, [CAL](#) 1994-136, [CAL](#) 1994-135, [CAL](#) 1988-101

LA 526 (2015), LA 523 (2009), LA 521 (2007), LA 515 (2005),

LA 507 (2001), LA 505 (2000), LA 499 (1999), LA 479 (1994),

LA 467 (1992), LA 458 (1990)

SD 2013-3, OC 99-001, SF 1999-1

elder abuse cases

-Welfare and Institutions Code § 15657.1 incorporates [rule](#)

4-200 by reference

[Conservatorship of Levitt](#) (2001) 93 Cal.App.4th 544 [113 Cal.Rptr.2d 294]

loan modification services

-collecting pre-performance fees in violation of the law

[In the Matter of Gordon](#) (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 610

[In the Matter of Swazi Elkanzi Taylor](#) (Review Dept. 2012) 5 Cal. State Bar Ct. Rptr. 221

[Rule](#) 4-210 Payment of Personal or Business Expenses Incurred

by or for a Client.

[Boccardo v. Commissioner of Internal Revenue](#) (9th Cir. 1995) 56 F.3d 1016

[Hernandez v. Siegal](#) (2014) 230 Cal.App.4th 165 [178 Cal.Rptr.3d 417]

[CAL](#) 1996-147

LA 517 (2006), LA 499 (1999), LA 495 (1998)

SF 1989-1

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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.

[Inquiry Concerning Judge Seeman](#), Com. on Jud. Performance, Ann. Rep. (2013), Public Censure and Bar, p. 15

[CAL](#) 2011-180

LA 462

[Rule](#) 5-100 Threatening Criminal, Administrative, or Disciplinary Charges.

[Flatley v. Mauro](#) (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]

[Mendoza v. Hamzeh](#) (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]

[Cohen v. Brown](#) (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

[Ross v. Creel Printing & Publishing Co.](#) (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

[In re Elkins](#) (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

[In the Matter of Davis](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576

[In the Matter of Malek-Yonan](#) (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

[CAL](#) 1991-124, [CAL](#) 1989-106, [CAL](#) 1983-73

LA 469 (1992)

SD 2005-1

[Rule](#) 5-110 Performing the Duty of Member in Government Service. (operative September 14, 1992 to April 30, 2017)

[CAL](#) 1989-106, [CAL](#) 1991-24(I)

[Rule](#) 5-110 Special Responsibilities of a Prosecutor. (operative May 1, 2017 to present)

prosecutor must disclose and/or conduct an investigation when the prosecutor is presented with “new, credible and material” evidence of a wrongful conviction

[Rule](#) 5-110(F)

prosecutor must exercise reasonable care to prevent persons under the prosecutor’s supervision from making an extrajudicial statement the prosecutor would be prohibited from making under rule 5-120

[Rule](#) 5-110(E)

prosecutor must make reasonable efforts to assure the accused has been advised of the right to, and the procedure for, obtaining counsel, and has been given reasonable opportunity to obtain counsel probate matters

[Rule](#) 5-110(B)

prosecutor must not seek to obtain from an unrepresented accused a waiver of pretrial rights, unless the tribunal has approved the accused’s appearance in pro per

[Rule](#) 5-110(C)

prosecutor must seek to remedy a conviction when the prosecutor “knows of clear and convincing evidence” establishing that a wrongful conviction occurred

[Rule](#) 5-110(G)

[Rule](#) 5-120 Trial Publicity (operative October 1, 1995).

statements found not in violation of rule

[Ramirez v. Trans Union, LLC](#) (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120

[Rule](#) 5-200 Trial Conduct.

[Murdoch v. Castro](#) (9th Cir. 2010) 609 F.3d 983

[In re Attorney Lynn Hubbard III](#) (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

[In re Aguilar and Kent](#) (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

[Mardirossian & Associates, Inc. v. Ersoff](#) (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

[Hanson v. Superior Court of Siskiyou County](#) (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

[Bryan v. Bank of America](#) (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

[*Datig v. Dove Books, Inc.](#) (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

[In the Matter of Moriarty](#) (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

[In the Matter of Jeffers](#) (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

[CAL](#) 2008-175

LA 522 (2009), LA 504 (2000), LA 502 (1999), LA 497 (1999), LA 482 (1995), LA 464 (1991)

OC 95-001, OC 94-003

SD 2017-1, SD 2012-1, SD 2011-1, SD 1990-2

attorney commits a direct contempt when he impugns the integrity of the court by statements made in open court either orally or in writing

[In re White](#) (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

[Rule](#) 5-210 Member as Witness.

[Bankruptcy of Mortgage & Realty Trust](#) (C.D. Cal. 1996) 195 B.R. 740

[People v. Dunkle](#) (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]

[Kennedy v. Eldridge](#) (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]

[Smith, Smith & Kring v. Superior Court](#) (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

[CAL](#) 1993-133, SD 2017-1

case law articulates an exception not found in Rule 5-210 permitting an attorney to act as a witness where the evidence is otherwise not available

[People v. Donaldson](#) (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]

[Rule](#) 5-220 Suppression of Evidence.

[In re Attorney Lynn Hubbard III](#) (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949

[R.S. Creative Inc. v. Creative Cotton Ltd., et al.](#) (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

LA 497 (1999), LA 466 (1991)

OC 2011-01

[Rule](#) 5-300 Contact With Officials.

[Zaheri Corp. v. New Motor Vehicle Board \(Mitsubishi Motor Sales of America\)](#) (1997) 55 Cal.App.4th 1305 [64 Cal.Rptr.2d 705]

LA 514 (2005)

SD 2013-2

OC 94-001

allegation by habeas corpus petitioner that trial judge & prosecutor colluded in an ex parte communication to exclude certain prospective jurors from the panel

[In re Freeman](#) (2006) 38 Cal.4th 630 [42 Cal.Rptr.3d 850]

technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule

[People v. Hundal](#) (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

[Rule](#) 5-310 Prohibited Contact With Witnesses.

[CAL](#) 1997-149

[Rule](#) 5-320 Contact With Jurors.

[In re Loftus](#) (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 80

SD 2010-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)

Rule 1-100 Rules of Professional Conduct, In General. [[See](#) Admission to the bar.]

[CAL](#) 1975-33

LA 342 (1973)

SD 1977-2, SD 1974-6, SD 1972-17

SF 1977-2, SF 1977-1

Rule 1-101 Maintaining Integrity and Competence of the Legal Profession. [[See](#) Admission to the bar.]

Rule 2-101 Professional Employment. [[See](#) Advertising. Business activity. Solicitation.]

Business and Professions Code section 6105

[CAL](#) 1988-105, [CAL](#) 1987-91, [CAL](#) 1986-90, [CAL](#) 1982-68, [CAL](#) 1982-67, [CAL](#) 1982-66, [CAL](#) 1982-65, [CAL](#) 1981-61, [CAL](#) 1981-60, [CAL](#) 1981-56, [CAL](#) 1980-54

LA 449 (1988), LA 446 (1987), LA 434 (1984), LA 430 (1984),

LA 423 (1983), LA 421 (1983), LA 413 (1983), LA 419 (1983),

LA 404 (1983), LA 392 (1983), LA 401 (1982), LA 385 (1980),

LA 384 (1980), LA 381 (1979)

FORMER RULES OF PROFESSIONAL CONDUCT (operative January 1, 1975–May 26, 1989)

SF 1980-1, SF 1979-1
 subsection (B) & (C)
[CAL](#) 1983-75

Rule 2-102 Legal Service Programs. [See Group legal services. Legal services.]
[CAL](#) 1987-91, [CAL](#) 1982-65
 LA 444 (1987), LA 401 (1982)
 SD 1983-6

Rule 2-105 Advising Inquirers Through the Media on Specific Legal Problems. [See Advising inquirers through media. Broadcasting.]
[CAL](#) 1976-40, [CAL](#) 1975-32
 LA 336 (1973), LA 326 (1972), LA 311 (1969)
 SD 1976-4, SD 1976-2, SD 1974-16, SD 1969-6

Rule 2-107 Fees for Legal Services. [See Fees.]
[Glendora Community Redevelopment Agency v. Demeter](#) (1984) 155 Cal.App.3d 465, 474 [202 Cal.Rptr. 389]
[Roar v. Lodi Medical Group, Inc.](#) (1982) 129 Cal.App.3d 318, 329 [181 Cal.Rptr. 41]
[Estate of Efron](#) (1981) 117 Cal.App.3d 915, 926 [173 Cal.Rptr. 93]
[In re Marriage of Cueva](#) (1978) 86 Cal.App.3d 290, 296 [149 Cal.Rptr. 918]
[Baron v. Mare](#) (1975) 47 Cal.App. 304, 312 [120 Cal.Rptr. 675]
[CAL](#) 1987-94, [CAL](#) 1987-91, [CAL](#) 1988-12(12), [CAL](#) 1983-72, [CAL](#) 1982-67, [CAL](#) 1982-65, [CAL](#) 1980-53
 LA 431 (1984), LA 416 (1983), LA 413 (1983), LA 391 (1981), LA 370 (1978), LA 360 (1976)
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Rule 2-108 Financial Arrangements among Lawyers. [See Division of fees. Referral of legal business.]
[Moran v. Harris](#) (1982) 131 Cal.App.3d 913
[Breckler v. Thaler](#) (1978) 87 Cal.App.3d 189, 194-197 [151 Cal.Rptr. 50]
[Altschul v. Sayble](#) (1978) 83 Cal.App.3d 153 [147 Cal.Rptr. 716]
[CAL](#) 1981-61, [CAL](#) 1975-34
 LA 423 (1983), LA 413 (1983), LA 392 (1983), LA 385 (1980)
 SD 1978-5, SD 1977-2, SD 1976-13, SD 1976-12
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Rule 2-109 Agreements Restricting the Practice of a Member of the State Bar. [See Restrictive covenant between lawyers.]
[CAL](#) 2009-176
 LA 468 (1992), LA 445 (1987)

Rule 2-110 Acceptance of Employment. [See Acceptance of employment.]
[CAL](#) 1982-65
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Rule 2-111 Withdrawal From Employment. [See Substitution of attorney. Termination of attorney-client relationship. Withdrawal from employment.]
[Kirsch v. Duryea](#) (1978) 21 Cal.3d 303, 310-311 [146 Cal.Rptr. 218]
[Comden v. Superior Court](#) (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9]
[People v. Goldstein](#) (1982) 130 Cal.App.3d 1024, 1032 [182 Cal.Rptr. 207]
[People v. Goldstein](#) (1981) 126 Cal.App.3d 550, 556 [178 Cal.Rptr. 894]
[Reich v. Club Universe](#) (1981) 125 Cal.App.3d 965, 972 [178 Cal.Rptr. 473]
[Lyle v. Superior Court](#) (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]
[Pollack v. Lytle](#) (1981) 120 Cal.App.3d 931, 949 [175 Cal.Rptr. 81]
[Chronometrics, Inc. v. Sysgen, Inc.](#) (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]
[Chadwick v. Superior Court](#) (1980) 106 Cal.App.3d 108, 118 [164 Cal.Rptr. 864]
[People v. Ballard](#) (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]

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[Graphic Process Co. v. Superior Court](#) (1979) 95 Cal.App.3d 43, 49 [156 Cal.Rptr. 841]
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[People ex rel. Younger v. Superior Court](#) (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]
[*People v. Superior Court \(Hollenbeck\)](#) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
[Chaleff v. Superior Court](#) (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
[Vann v. Shilleh](#) (1975) 54 Cal.App.3d 192, 197 [126 Cal.Rptr. 401]
[Academy of Calif. Opt. Inc. v. Superior Court](#) (1975) 51 Cal.App.3d 999, 1006 [124 Cal.Rptr. 668]
[People v. Guerrero](#) (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]
[CAL](#) 1988-96, [CAL](#) 1983-74, [CAL](#) 1982-65, [CAL](#) 1981-64, [CAL](#) 1981-62, [CAL](#) 1979-50, [CAL](#) 1979-49
 LA 417 (1983), LA 399 (1982), LA 394 (1982), LA 371 (1977), LA 367 (1977), LA 362 (1976), LA 360 (1976), LA 356 (1976), LA 323 (1971), LA 312 (1969), LA 305 (1968)
 SD 1983-10, SD 1978-7, SD 1977-3
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[*People v. Superior Court](#) (1978) 84 Cal.App.3d 491 [148 Cal.Rptr. 704]
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 SF 1984-1

Rule 3-101 Aiding the Unauthorized Practice of Law. [See Unauthorized practice of law.]
[Gafcon, Inc. v. Ponsor & Associates](#) (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]
[In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1988-103, [CAL](#) 1982-68, [CAL](#) 1987-91
 LA 436 (1985), LA 426 (1984), LA 413 (1983), LA 402 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 338 (1973), LA 327 (1972)
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[CAL](#) 1984-79

Rule 3-102 Financial Arrangements With Non-lawyers. [See Division of fees.]
[In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1982-65, [CAL](#) 1981-60, [CAL](#) 1977-44, [CAL](#) 1975-34
 LA 447 (1987), LA 446 (1987), LA 444 (1987), LA 437 (1985), LA 431 (1984), LA 426 (1984), LA 423 (1983), LA 413 (1983), LA 401 (1982), LA 384 (1980), LA 372 (1978), LA 359 (1976), LA 327 (1972)
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Rule 3-103 Forming a Partnership With a Non-lawyer [See Business activity, partnership. Misconduct, partnership. Partner, non-lawyer.]
[In the Matter of Steele](#) (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708
[CAL](#) 1988-103, [CAL](#) 1984-79
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FORMER RULES OF PROFESSIONAL CONDUCT (operative 1928–1975)

LA 335 (1983), LA 372 (1978), LA 335 (1973)
SD 1984-1, SD 1983-4, SD 1975-18, SD 1975-13, SD 1974-7,
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Rule 4-101 Accepting Employment Adverse to a Client. [See
Acceptance of employment. Conflict of interest. Confidences of
client.]
[CAL](#) 1987-91, [CAL](#) 1982-65, [CAL](#) 1981-63, [CAL](#) 1981-61,
[CAL](#) 1981-57, [CAL](#) 1980-52
LA 451 (1988), LA 450 (1988), LA 448 (1987), LA 439 (1986),
LA 433 (1984), LA 406 (1982), LA 395 (1982), LA 423 (1983),
LA 418 (1983), LA 413 (1983), LA 409 (1983), LA 392 (1981),
LA 377 (1978), LA 366 (1977), LA 363 (1976), LA 344 (1974),
LA 341 (1973)
SD 1984-2, SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1,
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SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1969-1,
SD 1968-3
SF 1979-2, SF 1973-6
Rule 5-101 Avoiding Adverse Interest. [See Conflict of interest.]
[CAL](#) 1987-94, [CAL](#) 1982-65, [CAL](#) 1981-63, [CAL](#) 1981-62,
[CAL](#) 1981-56, [CAL](#) 1981-55
LA 451 (1988), LA 416 (1983), LA 409 (1983), LA 407 (1982),
LA 398 (1982), LA 347 (1975), LA 317 (1970)
SD 1987-2, SD 1984-1, SD 1976-14, SD 1975-19
Rule 5-102 Avoiding Representation of Adverse Interest. [See
Conflict of interest.]
[CAL](#) 1988-96, [CAL](#) 1987-92, [CAL](#) 1987-91, [CAL](#) 1982-65,
[CAL](#) 1981-63, [CAL](#) 1981-61, [CAL](#) 1981-59, [CAL](#) 1979-49,
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LA 413 (1983), LA 412 (1983), LA 409 (1983), LA 406 (1982),
LA 398 (1982), LA 397 (1982), LA 395 (1982), LA 392 (1981),
LA 385 (1980), LA 384 (1980), LA 383 (1979), LA 382 (1979),
LA 377 (1978), LA 363 (1976), LA 353 (1976), LA 353 (1976),
LA 344 (1974), LA 341 (1973), LA 333 (1973)
SD 1978-11, SD 1978-10, SD 1977-6, SD 1977-1, SD 1976-
16, SD 1976-12, SD 1976-10, SD 1975-19, SD 1974-22, SD
1972-2, SD 1969-1, SD 1968-3
SF 1979-2, SF 1976-2
Rule 5-103 Purchasing Property at a Probate, Foreclosure or
Judicial Sale. [See Purchasing property at a probate, foreclosure
or judicial sale.]
LA 317 (1970)
See: 94 A.L.R.3d 863; 93 A.L.R.3d 1091; 93 A.L.R.3d 1070;
75 A.L.R.3d 309; 35 A.L.R.3d 674; 19 A.L.R.3d 589, 620; 98
A.L.R.2d 1237; 97 A.L.R.2d 207; 66 A.L.R. 229;
29 Hast. L.J. 841; 13 Hast. L.J. 562 Cal. L.R. 612;
29 Cal. L.R. 93, 50 J.B.C. 383, 13 U.C.D. 412, 7 Sw.R. 613
Rule 5-104 Payment of Personal Business Expenses Incurred
By or For a Client. [See Advancement of funds. Costs. Expenses.]
[CAL](#) 1981-55, [CAL](#) 1976-38
LA 434 (1984), LA 432 (1984), LA 379 (1979), LA 357 (1976)
SD 1976-8
SF 1976-2
Rule 5-105 Communication of Written Settlement Offer [See
Settlement.]
In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar
Ct. Rptr. 708
LA 393 (1981)
Rule 6-101 Failing to Act Competently. [See Competence.
Ineffective assistance of counsel. Misconduct.]
[CAL](#) 1988-96, [CAL](#) 1987-92, [CAL](#) 1987-91, [CAL](#) 1982-65,
[CAL](#) 1981-64, [CAL](#) 1981-61, [CAL](#) 1979-51, [CAL](#) 1979-50,
[CAL](#) 1977-45
LA 385 (1980), LA 383 (1979), LA 379 (1979)
SD 1982-69
Rule 6-102 Limiting Liability to Client. [See Limiting liability to
client.]
[CAL](#) 1981-56, [CAL](#) 1979-50, [CAL](#) 1977-47

Rule 7-101 Advising the Violation of Law. [See Advising violation
of law.]
[CAL](#) 1986-89, [CAL](#) 1981-58, [CAL](#) 1975-33
SD 1983-10
Rule 7-102 Performing the Duty of Member of the State Bar in
Government Service. [See Attorneys of governmental agencies.]
LA 429 (1984), SD 1983-3
Rule 7-103 Communicating With an Adverse Party Represented
by Counsel. [See Adverse party.]
[CAL](#) 1979-49, [CAL](#) 1977-43, [CAL](#) 1975-33
LA 442 (1987), LA 416 (1983), LA 411 (1983), LA 410 (1983),
LA 397 (1982), LA 389 (1981), LA 376 (1978), LA 375 (1978),
LA 369 (1977), LA 350 (1975), LA 341 (1973), LA 339 (1973),
LA 334 (1973), LA 315 (1970)
SD 1984-5, SD 1983-11, SD 1983-9, SD 1983-2, SD 1978-9,
SD 1978-8, SD 1978-6, SD 1978-4, SD 1978-3, SD 1976-14,
SD 1972-5, SD 1968-2
SF 1973-25
Rule 7-104 Threatening Criminal Prosecution. [See Threatening
criminal prosecution.]
[CAL](#) 1983-73
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LA 408 (1982), LA 394 (1982)
SD 1983-3, SF 1977-2
Rule 7-106 Communication With or Investigation of Jurors. [See
Contact with jurors. Jurors, communication with or investigation
of.]
[CAL](#) 1988-100, [CAL](#) 1987-95, [CAL](#) 1976-39
Rule 7-107 Contact With Witnesses. [See Witness.]
[CAL](#) 1983-74, LA(I) 1975-3, SD 1984-4
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[CAL](#) 1984-76
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[CAL](#) 1984-79
Rule 7-108 Contact With Officials. [See Contact with officials.
Judges.]
LA 387 (1981), LA 343 (1974)
subsection (B)
[CAL](#) 1984-78
LA 451 (1988)
Rule 8-101 Preserving Identity of Funds and Property of a Client.
[See Client trust account.]
Fitzsimmons v. State Bar (1983) 34 Cal.3d 327 [193 Cal.Rptr.
896, 667 P.2d 700]
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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
subsection (B)(3)
SF 1984-1

FORMER RULES OF PROFESSIONAL CONDUCT (operative 1928–1975)

Rule 2-101 General Prohibition Against Solicitation of
Professional Employment. (Repealed by order of Supreme
Court, effective April 1, 1979.)
[CAL](#) 1977-44, [CAL](#) 1977-42, [CAL](#) 1975-32
LA 346 (1975), LA 342 (1973)
SD 1976-13, SD 1976-11, SD 1976-9, SD 1976-8, SD 1976-4,
SD 1976-2, SD 1975-17, SD 1975-15, SD 1975-14, SD 1975-7,
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SD 1972-9, SD 1969-7, SD 1969-6,
SF 1976-2, SF 1975-3
Rule 2-102 Publicity in General. (Repealed by order of Supreme
Court, effective April 1, 1979.)
[CAL](#) 1975-32

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LA 349 (1975), LA 346 (1975), LA 328 (1972), LA 327 (1972), LA 316 (1970), LA 307 (1968)
SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-14, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-7, SD 1974-11, SD 1974-10, SD 1973-8, SD 1973-10, SD 1973-4, SD 1973-14, SD 1972-16, SD 1969-6
SF 1976-2

Rule 2-103 Professional Notices, Letterheads, Offices, and Law Lists. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1982-66, [CAL](#) 1975-32, [CAL](#) 1971-24

LA 384 (1980), LA 349 (1975), LA 346 (1975), LA 345 (1975), LA 340 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972), LA 325 (1972), LA 324 (1971), LA 320 (1970), LA 310 (1969), LA 306 (1968)

SD 1976-11, SD 1976-7, SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-16, SD 1975-15, SD 1975-14, SD 1975-11, SD 1975-9, SD 1975-7, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21, SD 1974-19, SD 1974-11, SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-6, SD 1973-1, SD 1972-16, SD 1969-6, SD 1969-5, SD 1969-4

SF 1976-2, SF 1975-3, SF 1975-1, SF 1974-5, SF 1974-1

Rule 2-104 Recommendation for Professional Employment. (Repealed by order of Supreme Court, effective April 1, 1979.)

[CAL](#) 1977-44, [CAL](#) 1977-42, [CAL](#) 1975-32

LA 339 (1973), LA 336 (1973), LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 322 (1971), LA 313 (1969), LA 311 (1969)

SD 1978-2, SD 1976-11, SD 1976-9, SD 1976-7, SD 1976-4, SD 1976-3, SD 1976-2, SD 1976-1, SD 1975-18, SD 1975-17, SD 1975-14, SD 1975-13, SD 1975-7, SD 1975-6, SD 1975-5, SD 1975-3, SD 1975-2, SD 1974-23, SD 1974-21 1/2, SD 1974-21, SD 1974-19, SD 1974-17, SD 1974-11, SD 1974-7, SD 1973-10, SD 1973-8, SD 1973-7, SD 1973-6, SD 1972-9, SD 1969-6

SF 1976-2, SF 1975-3

Rule 2-106 Specialization. (Repealed by order of Supreme Court, effective April 1, 1979.)

SD 1976-4, SD 1976-2, SD 1975-17, SD 1975-16, SD 1975-15

SF 1976-2

Rule 1 (Rules of Professional Conduct, In General)

[CAL](#) 1971-27, [CAL](#) 1971-24, [CAL](#) 1970-22, [CAL](#) 1970-20, [CAL](#) 1969-18, [CAL](#) 1967-8, [CAL](#) 1967-12, [CAL](#) 1967-11, [CAL](#) 1967-10, [CAL](#) 1966-5, [CAL](#) 1965-3

LA 339 (1973), LA 336 (1973), LA 335 (1973), LA 323 (1971), LA 320 (1970), LA 287 (1965)

SD 1974-6, SD 1972-17, SD 1972-2

SF 1973-26, SF 1973-23, SF 1973-7, SF 1972-1

Rule 2 (Advertising and Solicitation)

[CAL](#) 1982-65, [CAL](#) 1972-29, [CAL](#) 1971-27, [CAL](#) 1971-24, [CAL](#) 1970-20, [CAL](#) 1969-19, [CAL](#) 1969-18, [CAL](#) 1969-17, [CAL](#) 1968-15, [CAL](#) 1968-13, [CAL](#) 1967-12, [CAL](#) 1967-10, [CAL](#) 1967-8, [CAL](#) 1967-7, LA 342 (1973), LA 340 (1973), LA 336 (1973), LA 335 (1973), LA 332 (1973), LA 331 (1973), LA 328 (1972), LA 327 (1972), LA 326 (1972), LA 324 (1971), LA 322 (1971), LA 321 (1971), LA 319 (1970), LA 318 (1970), LA 316 (1970), LA 314 (1970), LA 313 (1969), LA 308 (1968), LA 307 (1968), LA 303 (1968), LA 301 (1967), LA 299 (1965), LA 298 (1965), LA 297 (1965), LA 296 (1965), LA 294 (1966), LA 293 (1965), LA 289 (1965), LA 287 (1965), LA 286, LA 285 (1964), LA 281 (1963), LA 280 (1963), LA 268 (1960), LA 262 (1959), LA 260 (1959), LA 258 (1959), LA 257 (1959), LA 256 (1959), LA 255 (1958), LA 250 (1958), LA 247 (1957), LA 244 (1957), LA 241 (1957), LA 240 (1957), LA 236 (1956), LA 235 (1956), LA 227 (1955), LA 225 (1955), LA 224 (1955), LA 221 (1954), LA 215 (1953), LA 214 (1953), LA 210 (1953), LA 209 (1953), LA 206 (1953), LA 201 (1952), LA 200 (1952), LA 199 (1952), LA 198 (1952), LA 196 (1952), LA 187 (1951), LA 185 (1951), LA 184 (1951), LA 181 (1951), LA 180 (1951), LA 179 (1951), LA 178 (1950), LA 175 (1950), LA 173 (1950), LA 172 (1950), LA 171 (1950), LA 169 (1949), LA 167 (1948), LA 165 (1947), LA 164 (1947), LA 163 (1947), LA 160 (1945), LA 158 (1945), LA 157 (1945), LA 156 (1945), LA 155 (1945),

LA 153 (1945), LA 152 (1945), LA 151 (1945), LA 150 (1945), LA 148 (1944), LA 147 (1943), LA 145 (1943), LA 142 (1943), LA 140 (1942), LA 137 (1941), LA 135 (1941), LA 134 (1940), LA 131 (1940), LA 128 (1940), LA 127 (1940), LA 122 (1939), LA 119 (1938), LA 110 (1937), LA 107 (1936), LA 104 (1936), LA 101 (1936), LA 100 (1936), LA 98 (1936), LA 97 (1936), LA 96 (1936), LA 95 (1936), LA 92 (1936), LA 90 (1935), LA 87 (1935), LA 85 (1935), LA 84 (1935), LA 83 (1935), LA 71 (1933), LA 70 (1933), LA 65 (1931), LA 64 (1930), LA 63 (1930), LA 62 (1930), LA 58 (1928), LA 55 (1928), LA 43 (1927), LA 42 (1927), LA 38 (1927), LA 34 (1927), LA 29 (1925), LA 28 (1925), LA 26 (1925), LA 25 (1923), LA 24 (1923), LA 17 (1922), LA 13 (1921), LA 12 (1921), LA 11 (1921), LA 8 (1920), LA 3 (1917), LA 1 (1917)

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SF 1974-2, SF 1973-27, SF 1973-11, SF 1973-7, SF 1972-1

Rule 3 (Touting, Division of Fees, Aiding Unauthorized Practice of Law, Exploitation of Lawyer's Services)

[CAL](#) 1982-65, [CAL](#) 1975-34, [CAL](#) 1971-24, [CAL](#) 1969-18

LA 344 (1974), LA 339 (1973), LA 338 (1973), LA 335 (1973), LA 332 (1973), LA 328 (1972), LA 327 (1972), LA 325 (1972), LA 314 (1970), LA 306 (1968), LA 301 (1967), LA 299 (1966), LA 298 (1966), LA 295 (1966), LA 292 (1965), LA 286 (1965), LA 279 (1963), LA 277 (1963), LA 270 (1962), LA 262 (1959), LA 249 (1958), LA 240 (1957), LA 222 (1954), LA 194 (1952), LA 190 (1952), LA 166 (1947), LA 162 (1947), LA 156 (1945), LA 151 (1945), LA 149 (1944), LA 137 (1941), LA 135 (1941), LA 106 (1936), LA 99 (1936), LA 96 (1936), LA 89 (1935), LA 80 (1935), LA 73 (1934), LA 69 (1933), LA 61 (1930), LA 59 (1930), LA 54 (1927), LA 44 (1927), LA 36 (1927), LA 35 (1927), LA 18 (1922), LA 16 (1922), LA 12 (1921), LA 4 (1917)

SD 1975-18, SD 1975-17, SD 1975-13, SD 1974-23, SD 1974-21 1/2, SD 1974-17, SD 1974-7, SD 1972-10, SD 1969-6

SF 1974-4, SF 1973-27, SF 1973-23, SF 1973-16

Rule 4 (Avoiding Adverse Interests)

[CAL](#) 1981-62

LA 333 (1973), LA 317 (1970), LA 291 (1965), LA 262 (1959), LA 228 (1955)

SF 1973-16, SF 1973-12

Rule 5 (Accepting Employment Adverse to Client)

LA 344 (1974), LA 341 (1973), LA 333 (1963), LA 276 (1963), LA 269 (1962), LA 266 (1959), LA 262 (1959), LA 252 (1958), LA 246 (1957), LA 231 (1955), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 192 (1952), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 117 (1937), LA 77 (1934), LA 74 (1934), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 30 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)

SD 1976-10, SD 1975-1, SD 1974-15, SD 1974-14, SD 1974-13, SD 1974-12, SD 1972-2, SD 1972-1, SD 1970-2, SD 1969-1, SD 1968-3

SF 1973-22, SF 1973-19, SF 1973-15, SF 1973-10, SF 1973-6

Rule 6 (Disclosure to a Client of Relation with Adverse Party and Interest in Subject Matter)

LA 333 (1973), LA 276 (1963), LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 141 (1943), LA 117 (1937), LA 108 (1936), LA 72 (1934), LA 52 (1927), LA 51 (1927), LA 31 (1925), LA 27 (1925), LA 6 (1918), LA 2 (1917)

SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3,

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Rule 7 (Representation of Conflicting Interests)

[CAL](#) 1970-22

LA 343 (1974), LA 341 (1973), LA 333 (1973), LA 298 (1966), LA 291 (1965), LA 284 (1964), LA 276 (1963), LA 273 (1962),

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LA 269 (1962), LA 252 (1958), LA 246 (1957), LA 219 (1954), LA 217 (1953), LA 207 (1953), LA 193 (1952), LA 170 (1949), LA 144 (1943), LA 141 (1943), LA 139 (1941), LA 138 (1941), LA 136 (1941), LA 130 (1940), LA 126 (1940), LA 121 (1938), LA 118 (1938), LA 108 (1936), LA 94 (1936), LA 72 (1934), LA 57 (1928), LA 51 (1927), LA 27 (1927), LA 23 (1923), LA 22 (1923), LA 6 (1918), LA 2 (1917)
SD 1972-2, SD 1972-1, SD 1969-1, SD 1968-3
SF 1973-26, SF 1973-22, SF 1973-19, SF 1973-15
Rule 8 (Purchase of Property at Probate, Foreclosure, or Judicial Sale)
Rule 9 (Duty in Respect to Client's Funds and Property)
LA 149 (1944)
SF 1973-14, SF 1970-3
Rule 10 (Advising Commencement, Prosecution or Defense of a Case Unless Consulted or Related)
LA 331 (1973), LA 326 (1972), LA (1969), LA 163 (1947), LA 158 (1945), LA 122 (1939), LA 93 (1936), LA 62 (1930)
Rule 11 (Advising Violation of the Law)
LA 47 (1927), LA 41 (1927)
Rule 12 (Communicating With an Adverse Party Represented by Counsel)
[CAL](#) 1979-49, [CAL](#) 1975-33, [CAL](#) 1965-3
LA 350 (1975), LA 341 (1973), LA 339 (1973), LA 326 (1972), LA 315 (1970), LA 234 (1956), LA 350 (1975), LA 213 (1953)
SD 1978-8, SD 1968-2
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Rule 13 (Acceptance of Employment for Purpose of Harassment, Delay, or Spite)
LA 208 (1953)
Rule 14 (Disclosure to Public Body of Professional Capacity)
Rule 15 (Advising Person to Avoid Service of Process or to Secret Self, or Otherwise Make Testimony Unavailable)
Rule 16 (Communicating with Judge not in Open Court, in Absence of Opposing Counsel)
LA 56 (1928), LA 37 (1927)
Rule 17 (Trial Conduct, Misquotation to and Deception of Judge)
Rule 18 (Advising Inquirers in Respect to Specific Legal Questions through the Media)
[CAL](#) 1972-29, [CAL](#) 1969-17, [CAL](#) 1967-12
LA 318 (1970), LA 307 (1968), LA 299 (1966), LA 286 (1965), LA 221 (1954), LA 200 (1952), LA 186 (1951), LA 175 (1950), LA 87 (1935), LA 34 (1927), LA 8 (1920)
SD 1974-16, SD 1969-6
Rule 19 (Employment of Unlicensed Person to Appear on Behalf of Member before a Board or Agency)
LA 332 (1973), LA 166 (1947), LA 156 (1945), LA 143 (1943)
SD 1974-1, SF 1974-1
Rule 20 (Participation of Members in a Legal Aid Plan)
SD 1978-2, SD 1975-17, SD 1974-19, SD 1974-9
Rule 22 (Division of Fees Among Lawyers)
LA 332 (1973)
Rule 23 (Furnishing Legal Services Pursuant to Arrangement for Prepaid Legal Services)
SD 1975-13
RUNNERS AND CAPPERS [See Solicitation of business.]
Business and Professions Code sections 6076, 6150-6154
Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)
[Rule](#) 1-400, Rules of Professional Conduct (operative as of May 27, 1989)
Runners and Cappers Act
[In re Arnoff](#) (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]
[Goldman v. State Bar](#) (1977) 20 Cal.3d 130, 134, 138 [141 Cal.Rptr. 447]
[Younger v. State Bar](#) (1974) 12 Cal.3d 274 [113 Cal.Rptr. 829]
[Honoroff v. State Bar](#) (1958) 50 Cal.2d 202, 205
[Hildebrand v. State Bar](#) (1950) 36 Cal.2d 504, 506 [225 P.2d 508]
[People v. Kitsis](#) (1977) 77 Cal.App.3d Supp. 1 [143 Cal.Rptr. 537]
[Hutchins v. Municipal Court](#) (1977) 61 Cal.App.3d 77 [132 Cal.Rptr. 758]
[People v. Levy](#) (1935) 8 Cal.App.2d Supp. 763

[In re Oheb](#) (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
[In the Matter of Scapa and Brown](#) (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
[In the Matter of Nelson](#) (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 178
[CAL](#) 1995-143
Agent
Business and Professions Code section 6151(b)
Defined
Business and Professions Code section 6151(a)
Falsification of medical reports and bills
[In re Gross](#) (1983) 33 Cal.3d 561 [189 Cal.Rptr. 848, 659 P.2d 1137]
Living trust marketer sends attorney clients
[CAL](#) 1997-148
Penalty
Business and Professions Code section 6153
Release from liability claim
fraudulent if executed within 15 days after physical confinement or prior to release from clinic or health facility
Business and Professions Code section 6152(b)
Unlawful acts
Business and Professions Code section 6152(a)
SALE OR PURCHASE OF A LAW PRACTICE
[Rule](#) 2-300, California Rules of Professional Conduct
Valuation of law practice may require deduction of operating costs
[In re Marriage of Kilbourne](#) (1991) 232 Cal.App.3d 1518
SANCTIONS [See Acceptance of employment.]
[Corralejo v. Quiroga](#) (1984) 152 Cal.App.3d 871 [199 Cal.Rptr. 733]
Abuse of discovery
[Masimo Corporation v. The Vanderpool Law Firm, Inc.](#) (2024) 101 Cal.App.5th 902 [320 Cal.Rptr.3d 704]
[Cornerstone Realty Advisors, LLC v. Summit Healthcare](#) (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]
[Guzman v. General Motors Corp.](#) (1984) 154 Cal.App.3d 438, 445-447 [201 Cal.Rptr. 246]
Abuse of discretion in imposing
[Conservatorship of Becerra](#) (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
[Hernandez v. Vitamin Shoppe Industries Inc.](#) (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
[People v. Superior Court \(Meraz\)](#) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
28 U.S.C. § 1927 permits an award of sanctions against attorneys, not against law firms
[Kaass Law v. Wells Fargo Bank](#) (9th Cir. 2015) 799 F.3d 1290
bankruptcy court abused its discretion by using its § 105(a) inherent powers as alternative authority for sanctioning attorney
[Eskanos & Adler, P.C. v. Leetien](#) (9th Cir. 2002) 309 F.3d 1210
bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute
[In re Pham](#) (9th Cir. BAP 2015) 536 B.R. 424
court abused its discretion by denying motion for continuance thus terminating sanctions and granting summary judgment
[Levingston v. Kaiser Foundation Health Plan, Inc.](#) (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]
court cannot sanction pro hac vice attorney for misconduct in a manner that a California attorney could not be sanctioned
[Sheller v. Superior Court](#) (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]
court has no statutory authority to impose monetary sanctions against pro hac vice attorney for misconduct, but in its discretion, court may revoke attorney's status
[Sheller v. Superior Court](#) (2008) 158 Cal.App.4th 1697 [71 Cal.Rptr.3d 207]

district court did not give attorney notice or opportunity to be heard
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
 under Penal Code § 1054.5(c)
 -before excluding witness testimony court must consider and exhaust all other sanctions
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
 Against attorney for conduct violative of American Bar Association standards but which is not addressed by California authorities are subject to reversal
State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 Against attorney for failure to appear at oral argument without adequate justification
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]
 Against attorney for failure to appear at trial
In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]
 Against attorney for failure to list asset on debtor's bankruptcy schedule
In re Kayne (9th Cir. BAP 2011) 453 B.R. 372
 Against attorney for motion to substitute in as a party against his former client in the same matter in which the attorney had represented the former client
Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]
 Against attorney is reviewable only after final judgment is entered
Sanders Associates v. Summargraphics Corp (1993) 2 F.3d 394
 order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision
Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
 Against attorney for taking all actions necessary to protect his client's rights
*Silliman v. Municipal Court (1983) 143 Cal.App.3d 327 [191 Cal.Rptr. 735]
 Against law firm for continuing to pursue unlawful detainer action in state court despite automatic stay by bankruptcy court
In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726
 Against non-party attorneys is final and appealable by the person sanctioned when imposed
Mesirow v. Pepperidge Farm, Inc. (9th Cir. 1983) 703 F.2d 339, 345
 Against non-party attorneys may be abuse of discretion
Westlake North Property Owners Association v. City of Thousand Oaks (9th Cir. 1990) 915 F.2d 1301
 Against the attorney for disclosure of information contained in a confidential child custody report
In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]
 Against the attorney for violation of protective order
Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 Agreement regarding allocation of future sanction payments may be ethical with adequate disclosure to the client
CAL 1997-151
 Arbitration proceedings
 arbitrator's award of sanctions proper for mishandling of inadvertently received privileged documents
Bak et al. v. MCL Financial Group, Inc. (2009) 170 Cal.App.4th 1118 [88 Cal.Rptr.3d 800]
 Attempt to depose opposing counsel
Estate of Ruchti (1993) 12 Cal.App.4th 1593 [16 Cal.Rptr.2d 151]

Attorneys fees awarded as sanctions for
 failure to comply with discovery order
Falstaff Brewing Corp. v. Miller Brewing Co. (9th Cir. 1983) 702 F.2d 770
 filing false documents under penalty of perjury
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
 frivolous legal arguments not subject to automatic stay in attorney's bankruptcy proceeding
Berg v. Good Samaritan Hospital (9th Cir. 2000) 230 F.3d 1165
 improper for violation of a Rule of Court
Sino Century Development Limited v. Farley (2012) 211 Cal.App.4th 688 [149 Cal.Rptr.3d 866]
 improper for violation of a Rule of Professional Conduct
Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
 in dissolution matter
In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]
 Authority of court
 Code of Civil Procedure section 128.5
 -inherent authority of appellate court
Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
Odbert v. United States (D.C. Cal. 1983) 576 F.Supp 825, 828-829
People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
Rush v. Weinzettl (1993) 14 Cal.App.4th 66 [17 Cal.Rptr.2d 354]
 attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
 available where attorney makes reckless misstatements of fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
In re Deville (9th Cir. BAP 2002) 280 B.R. 483
 bankruptcy court has the power to disbar or suspend for misconduct
In re Lehtinen (9th Cir. 2009) 564 F.3d 1052
 court allowed to impose sanctions on its own motion, but attorney must be afforded procedural due process protections pursuant to CCP § 177.5
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]
 court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]
 court may not impose sanction summarily and orally from the bench; CCP § 177.5 requires that sanction be written and contain a detailed recitation of the conduct or circumstances justifying such sanction
People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

SANCTIONS

for delay

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

In re Deville (9th Cir. BAP 2002) 280 B.R. 483

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]

People v. Johnson (1984) 157 Cal.App.3d Supp.1, 8 fn. 5 [204 Cal.Rptr. 563]

-award of "reasonable expenses" as sanction under CCP § 437c does not include authority to include attorney's fees
Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]

improper sanctions imposed when court uses mediator's report in violation of Evidence Code Section 1121 (mediation confidentiality)

Foxgate Homeowners' Association, Inc. v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]

inherent power

Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]

no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference

Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]

Awarded by the court

Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

after rendering of verdict

Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]

belong to client unless express attorney-client agreement or court order to contrary

In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838

in order to be awarded, a compensatory award must be linked to a harm caused by attorney's statement; large non-compensatory awards are akin to criminal contempt

Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024

Bad faith

no bad faith violation found where attorney did not, in fact, violate the district court's order

Miller v. City of Los Angeles (9th Cir. 2011) 661 F.3d 1024

trial court's thorough recitation of reasons supporting finding of bad faith constituted an implied finding of bad faith sufficient to support sanctions against appellant's counsel for failure to appear at trial

In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]

when attorney disregarded clients' instructions

In re Marriage of Sahafzadeh-Taeb & Taeb (2019) 39 Cal.App.5th 124 [251 Cal.Rptr.3d 610]

Bankruptcy court

against attorney for failure to list asset on debtor's bankruptcy schedule

In re Kayne (9th Cir. BAP 2011) 453 B.R. 372

against law firm for violation of automatic stay imposed by bankruptcy court

In re H. Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726

authority to impose its own sanctions and to refer the matter to the State Bar

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute

In re Pham (9th Cir. BAP 2015) 536 B.R. 424

consideration of ABA standards to categorize misconduct and to identify the appropriate sanction

Price v. Lehtinen (In re Lehtinen) (9th Cir. BAP 2005) 332 B.R. 404

court did not err when it imposed discovery sanctions against attorney/debtor for transferring property with intent to hinder, delay or defraud creditor

In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]

imposition of sanctions against attorney for filing bankruptcy petition without corporate authorization and failing to conduct reasonable inquiry was appropriate

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

sanctions not justified where creditor did not actively participate in settlement negotiations in violation of discharge injunction and sanctions were not appropriate against district attorney who negotiated repayment of gambling debt in a criminal proceeding; strong public policy advising against interference by bankruptcy court in state criminal matters

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

Complaint filed without legal or factual justification

Ramsey v. City of Lake Elsinore (1990) 220 Cal.App.3d 1530 [269 Cal.Rptr. 198]

Copyright action under 17 U.S.C. § 505

Neft v. Vidmark, Inc. (9th Cir. 1991) 923 F.2d 746

Court initiated

court-initiated sanctions in the Ninth-Circuit is "akin to contempt" which requires more than ignorance or negligence on the part of an attorney

Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886

Deposition

bankruptcy court cannot rely on local rules to sanction nonparty debtors and their attorney in deposition dispute

In re Pham (9th Cir. BAP 2015) 536 B.R. 424

instructions not to answer sanctionable

Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

Discovery sanctions

client's conduct was not a contributing cause of the terminating sanctions and attorney's declaration of fault entitles client to relief from the judgment

Rodriguez v. Brill (2015) 234 Cal.App.4th 715 [184 Cal.Rptr.3d 265]

complaint need not specify by dollar amount the attorney fees that will be incurred and sought in a case ultimately resolved by a default judgment entered as a terminating sanction

Simke, Chodos, Silberfeld & Anteau v. Athans (2011) 195 Cal.App.4th 1275 [128 Cal.Rptr.3d 95]

discovery sanctions against attorney may be a significant development and should be communicated to the client

CAL 1997-151

discovery sanction order makes attorney liable for client's costs and expenses

Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162

discovery sanction order against attorney who no longer represents party in lawsuit was immediately appealable

Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]

Barton v. Ahmanson (1993) 17 Cal.App.4th 1358 [22 Cal.Rptr.2d 56]

discovery sanctions not available to attorney who litigates in propria persona under Code of Civil Procedure sections 2030(1) and 2023(b)(1)

Kravitz v. Superior Court (Milner) (2001) 91 Cal.App.4th 1015 [111 Cal.Rptr.2d 385]

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

dismissal of special circumstance allegation improper as discovery sanction

People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]

terminating sanctions appropriate for willful failure to comply with discovery order

Los Defensores, Inc. v. Gomez (2014) 223 Cal.App.4th 377 [166 Cal.Rptr.3d 899]

to reimburse a party proving truth of a requested admission under CCP § 2033(o)

Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

to reimburse a party proving truth of a requested admission under CCP § 2033.420

Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

trustee lacked standing to appeal order awarding discovery sanctions against counsel

In re Hessco Industries, Inc. (9th Cir. BAP 2003) 295 B.R. 372

when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

Dismissal of action

client entitled to relief from terminating sanctions caused solely by her attorney's neglect of discovery

Rodriguez v. Brill (2015) 234 Cal.App.4th 715 [184 Cal.Rptr.3d 265]

dismissal of special circumstance allegation improper as discovery sanction

People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]

for failure to comply with court order

Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037

for flagrant and repeated violations of the court's orders

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

for misuse of discovery process

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

in malpractice action where plaintiff allowed the entire client file to be destroyed

Williams v. Russ (2008) 167 Cal.App.4th 1215 [84 Cal.Rptr.3d 813]

where sanction amounted to dismissal of action, court must consider if noncompliance involved willfulness, fault or bad faith

R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

Dissolution

In re the Marriage of Tharp (2010) 188 Cal.App.4th 1295 [116 Cal.Rptr.3d 375]

In re Marriage of Hobdy (2004) 123 Cal.App.4th 360 [20 Cal.Rptr.3d 104]

District court's inherent authority to sanction by awarding attorney fees

Chambers v. NASCO, Inc. (1991) 501 U.S. 32 [111 S.Ct. 2123]

Primus Automotive Financial Services, Inc. v. Batarsee (9th Cir. 1997) 115 F.3d 644

denied by court of appeal

Fields v. Gates (9th Cir. 2000) 233 F.3d 1174

Evidence

destruction of

Unigard Security Ins. Co. v. Lakewood Engineering and Manufacturing (9th Cir. 1992) 982 F.2d 363

intentional concealment of

Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]

Excessive imposition of court ordered monetary sanctions may result in State Bar discipline

Canatella v. California (9th Cir. 2002) 304 F.3d 843

Failure to obey court order to appear personally

People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]

Failure to obtain court's permission to withdraw in 39 cases

Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1

False statements

sanctioned for false statements to the court and concealment of facts regarding actions of opposing counsel

Levine v. Berschneider (2020) 56 Cal.App.5th 916 [270 Cal.Rptr.3d 768]

Federal Rule of Bankruptcy Procedure 9011

bankruptcy court has inherent power to impose district-wide suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

case law interpreting rule 11 is applicable to Rule 9011

Shalaby v. Mansdorf (In re Nakhuda) (9th Cir. BAP 2016) 544 B.R. 886

Federal Rule of Civil Procedure 11

cannot be awarded to a client against his own attorney

Mark Industries, Limited v. Sea Captain's Choice (9th Cir. 1995) 50 F.3d 703

factually unfounded motions

Hammer v. Career College Association (9th Cir. 1992) 979 F.2d 758

Stitt v. Williams (9th Cir. 1990) 919 F.2d 516

failure to investigate a client's domicile before filing a diversity action

Hendrix v. Naphtal (9th Cir. 1992) 971 F.2d 398

failure to make reasonable inquiry

Warren v. Guelker (9th Cir. 1994) 29 F.3d 1386

Maisonville v. America, Inc. (9th Cir. 1990) 902 F.2d 746

frivolous complaint

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146

Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626

"judge shopping"

Fields v. Gates (9th Cir. 2000) 233 F.3d 1174

meritless suit

Business Guides Inc. v. Chromatic Communications Enterprises Inc. (1991) 498 U.S. 533 [111 S.Ct. 922]

McCright v. Santoki (9th Cir. 1992) 977 F.2d 590

King v. Idaho Funeral Service Association (9th Cir. 1988) 862 F.2d 744

method of calculation

Lyddon v. Geothermal Properties (9th Cir. 1993) 996 F.2d 212

Lockary v. Kayfet (9th Cir. 1992) 974 F.2d 1166

no inherent power to sanction when case already dismissed

Fields v. Gates (9th Cir. 2000) 233 F.3d 1174

non-frivolous complaint

In re Keegan Management Co. (9th Cir. 1996) 78 F.3d 431

not require payment for any activities outside the context of district court proceedings

Partington v. Gedan (9th Cir. 1991) 923 F.2d 686

SANCTIONS

- objective reasonableness standard
 - Unigard Security Insurance Company v. Lakewood Engineering and Manufacturing Corporation (9th Cir. 1992) 982 F.2d 363
- sanctions
 - Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
 - levied on party not the attorney for the party
 - Lockary v. Kayfet (9th Cir. 1992) 974 F.2d 1166
 - levied only on lawyers, not law firms
 - Pavelic & LeFlor v. Marvel Entertainment Group (1989) 493 U.S. 120
- scope of
 - Lyddon v. Geothermal Properties (9th Cir. 1993) 996 F.2d 212
- signature – for purposes of Rule 11, “signature” is more than a typewritten name
 - Geibelhaus v. Spindrift Yachts (9th Cir. 1991) 938 F.2d 962
- Federal Rule of Civil Procedure 26
 - R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
- Federal Rule of Civil Procedure 37
 - R & R Sails, Inc. v. Insurance Co. of Pennsylvania (9th Cir. 2012) 673 F.3d 1240
 - Unigard Security Ins. Co. v. Lakewood Engineering and Manufacturing Corp. (9th Cir. 1992) 982 F.2d 363
 - order imposing sanctions on attorney pursuant to Rule 37(a)(4) is not final decision and thus not immediately appealable
 - Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
 - Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
- Federal Rule of Civil Procedure 41(a)(2)
 - Heckethorn v. Sunan Corp. (9th Cir. 1993) 992 F.2d 240
- Federal Rule of Civil Procedure 41(b)
 - Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037
- Fees and costs
 - Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
 - In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577 [198 Cal.Rptr. 90]
 - award of “reasonable expenses” as sanction under CCP § 437(c) does not include authority to include attorney’s fees
 - Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
- For bad faith
 - appeal taken solely for purpose of delay
 - United States v. Blodgett (9th Cir. 1983) 709 F.2d 608
 - Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
 - award of “reasonable expenses” as sanction under CCP § 437c does not include authority to include attorney’s fees
 - Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]
 - courts levying sanctions must make explicit findings regarding an attorney’s conduct
 - In re Silberkraus (9th Cir. 2003) 336 F.3d 864
 - Primus Automotive Financial Services, Inc. v. Batarse (9th Cir. 1997) 115 F.3d 644
 - evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith
 - Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 - failure to disclose to court and/or opposing counsel receipt of confidential information
 - Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
 - State Compensation Insurance Fund v. WPS, Inc. (1999) 70 Cal.App.4th 644 [82 Cal.Rptr.2d 799]
 - Aerojet-General Corp. v. Transport Indemnity Insurance (1993) 18 Cal.App.4th 996
 - failure to dismiss a defendant
 - MGIC Indemnity Corporation v. Moore (9th Cir. 1991) 952 F.2d 1120
 - intentional concealment of evidence
 - Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]
 - violation of protective order
 - Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
 - when attorney disregarded clients’ instructions
 - Trulis v. Barton (9th Cir. 1995) 67 F.3d 779
 - willful actions/recklessness coupled with frivolousness, harassment, or improper purpose
 - Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
 - Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
 - In re Deville (9th Cir. BAP 2002) 280 B.R. 483
 - In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - *Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]
 - attorney’s fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
 - Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
- For contempt of court
 - against defendant contractor for failing to take reasonable steps to comply with settlement agreement
 - Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085
 - against law firm for continuing to pursue unlawful detainer action in state court despite automatic stay by bankruptcy court
 - In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726
 - inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court
 - In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]
 - In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]
 - In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
 - it was improper for trial court to impose multiple punitive contempt judgments for attorney’s failure to pay discovery sanctions
 - In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
- For default
 - Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
- For delay
 - In re DeVille (9th Cir. 2004) 361 F.3d 539, 58
 - In re Silberkraus (9th Cir. 2003) 336 F.3d 864
 - Hamilton v. Neptune Orient Lines (9th Cir. 1987) 811 F.2d 498, 500
 - Thompson v. Tega-Rand Intern. (9th Cir. 1984) 740 F.2d 762, 764
 - In re DeVille (9th Cir. BAP 2002) 280 B.R. 483
 - Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
 - In re Marriage of Erndt and Terhorst (2021) 59 Cal.App.5th 898 [273 Cal.Rptr.3d 765]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 - *Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112 Cal.Rptr.2d 119]

- Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
- Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
- Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- Tkaczuk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]
- attorney should not accept so much employment, that the attorney is unable to appear due to other case commitments
- People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]
- attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se
- Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]
- family law
- Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
- sanctions under CCP § 128.5 require notice of grounds and opportunity to respond
- Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
- Jansen Associates, Inc. v. Codercard, Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]
- In re Marriage of Quinlan (1989) 209 Cal.App.3d 1417 [257 Cal.Rptr. 850]
- For discovery abuses
- Hyde & Drath v. Baker (9th Cir. 1994) 24 F.3d 1162
- Masimo Corporation v. The Vanderpool Law Firm, Inc. (2024) 101 Cal.App.5th 902 [320 Cal.Rptr.3d 704]
- Cornerstone Realty Advisors, LLC v. Summit Healthcare (2020) 56 Cal.App.5th 771 [270 Cal.Rptr.3d 653]
- Ellis v. Toshiba America Information Systems, Inc. (2013) 218 Cal.App.4th 853 [160 Cal.Rptr.3d 557]
- In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
- Karlsson v. Ford Motor Co. (2006) 140 Cal.App.4th 1202 [45 Cal.Rptr.3d 265]
- Kaplan v. Hartunian (1994) 21 Cal.App.4th 1611 [26 Cal.Rptr.2d 786]
- Ghanooni v. Super Shuttle of Los Angeles (1993) 20 Cal.App.4th 256 [24 Cal.Rptr.2d 501]
- Imuta v. Nakano (1991) 233 Cal.App.3d 1570
- dismissal of special circumstance allegation improper as discovery sanction
- People v. Superior Court (Meraz) (2008) 163 Cal.App.4th 28 [77 Cal.Rptr.3d 352]
- failure of law firm to disclose corporate client's suspended status is sanctionable even though firm did not engage in any abuse of the discovery process
- Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- order imposing sanctions on attorney pursuant to Federal Rule of Civil Procedure 37(a)(4) is not final decision and thus not immediately appealable
- Cunningham v. Hamilton County, Ohio (1999) 527 U.S. 198 [119 S.Ct. 1915, L.Ed.2d 184]
- when attorney fails to attend court-ordered depositions regarding disciplinary charges, sanctions permitting his testimony are not proper
- In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19
- For failure to admit facts contained in request for admissions
- Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]
- For failure to comply with court order
- Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
- Pacific Harbor Capital, Inc. v. Carnival Air Lines, Inc. (9th Cir. 2000) 210 F.3d 1112
- Sanders v. Union Pacific Railroad Company (1998) 154 F.3d 1037
- Ellis v. Toshiba America Information Systems, Inc. (2013) 218 Cal.App.4th 853 [160 Cal.Rptr.3d 557]
- Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]
- In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]
- Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]
- People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]
- In re Ringgold (2006) 142 Cal.App.4th 1001 [48 Cal.Rptr.3d 507]
- Karlsson v. Ford Motor Co. (2006) 140 Cal.App.4th 1202 [45 Cal.Rptr.3d 265]
- People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]
- Twentieth Century Insurance Company v. Choong (2000) 79 Cal.App.4th 1274 [94 Cal.Rptr.2d 753]
- violation or Rule of Professional Conduct is not a violation of a court order
- Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]
- For failure to disclose corporate client's suspended status
- Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
- For failure to meet and confer with adversary
- Bullock v. Vultee (1990) 224 Cal.App.3d 526 [273 Cal.Rptr. 704]
- For failure to participate meaningfully in judicial arbitration
- Rietveld v. Rosebud Storage Partners (2004) 121 Cal.App.4th 250 [16 Cal.Rptr.3d 791]
- attorney not subject to sanctions under local rules where such rules are inconsistent with statutory procedures
- Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]
- For failure to settle case
- Moncharsh v. Heily & Blase (1992) 3 Cal.4th 1
- Barrientos v. City of Los Angeles (1994) 30 Cal.App.4th 63 [35 Cal.Rptr.2d 520]
- For frivolous appeal
- Scott v. Younger (9th Cir. 1984) 739 F.2d 1464, 1467
- DeWitt v. Western Pacific Railroad Company (9th Cir. 1983) 719 F.2d 1448
- Clarity Co. Consulting, LLC v. Gabriel (2022) 77 Cal.App.5th 454 [292 Cal.Rptr.3d 532]
- Champlin/GEI Wind Holdings, LLC v. Avery (2023) 92 Cal.App.5th 218 [309 Cal.Rptr.3d 361]
- Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
- In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
- Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
- Pollock v. University of Southern California (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
- Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
- DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
- Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
- Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
- Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
- Caro v. Smith (1997) 59 Cal.App.4th 725 [69 Cal.Rptr.2d 306]
- In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]
- Say v. Castellano (1994) 22 Cal.App.4th 88 [27 Cal.Rptr.2d 270]
- Cohen v. General Motors (1992) 2 Cal.App.4th 893
- Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]

SANCTIONS

- Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
- McDonald v. Scripps Newspaper (1989) 210 Cal.App.3d 100 [257 Cal.Rptr. 473]
- National Secretarial Service v. Froehlich (1989) 210 Cal.App.3d 510 [258 Cal.Rptr. 506]
- Corona v. Lundigan (1984) 158 Cal.App.3d 764, 769 [204 Cal.Rptr. 846]
- Wax v. Infante (1982) 138 Cal.App.3d 138 [187 Cal.Rptr. 686]
- In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- bad faith, vexatious, wanton, or oppressive reasons
- Int'l. Union of P.I.W v. Western Indus. Main. (9th Cir. 1983) 707 F.2d 425, 428
- by disbarred attorney
- merits substantial sanctions
- Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
- family law
- order to pay former wife's attorney's fees by former husband an appropriate sanction for former husband's frivolous appeal of court's denial of his motion to stop further payment of child's support
- Gong v. Kwong (2008) 163 Cal.App.4th 510 [77 Cal.Rptr.3d 540]
- granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
- Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
- in frivolous habeas corpus petitions, sanctions should be imposed sparingly, except in most egregious cases, so as not to discourage use of the writ
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- notification of State Bar
- Papadakis v. Zelis (1992) 8 Cal.App.4th 1146 [11 Cal.Rptr.2d 411]
- Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
- sanctions imposed on client for filing a frivolous appeal does not constitute malpractice as a matter of law
- Dawson v. Toledano (2003) 109 Cal.App.4th 387 [134 Cal.Rptr.2d 689]
- For frivolous claims
- sanctions award against successor attorney for frivolous claims filed by predecessor attorney not supported
- Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]
- For frivolous complaint
- In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
- Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146
- Gaskell v. Weir (9th Cir. 1993) 10 F.3d 626
- McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270 Cal.Rptr.3d 803]
- In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
- denied, no authority of court when an attorney presents a frivolous claim to an arbitrator during binding arbitration
- Optimal Markets, Inc. v. Salant (2013) 221 Cal.App.4th 912 [164 Cal.Rptr.3d 901]
- For frivolous motion
- In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
- In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
- CPI Builders, Inc. v. IMPCO Technologies, Inc. (2001) 94 Cal.App.4th 1167 [114 Cal.Rptr.2d 851]
- Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]
- In re the Marriage of Burgard (1999) 72 Cal.App.4th 74 [84 Cal.Rptr.2d 739]
- Monex International v. Peinado (1990) 224 Cal.App.3d 1619 [274 Cal.Rptr. 667]
- action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose
- Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]
- fees awarded to plaintiff in anti-SLAPP motion where plaintiff showed a probability of prevailing on the merits and motion was found to be frivolous and without merit
- Doe v. Luster (2006) 145 Cal.App.4th 139 [51 Cal.Rptr.3d 403]
- Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]
- For frivolous petition
- In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- For frivolous petition demonstrating pattern of delay
- Gottlieb v. Superior Court (1991) 232 Cal.App.3d 804 [283 Cal.Rptr. 771]
- For frivolous pleadings
- 580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]
- requires subjective bad faith
- Lamas v. Diaz (1990) 218 Cal.App.3d 1043 [267 Cal.Rptr. 427]
- For misleading responses to requests for admission
- Marchand v. Mercy Medical Center (9th Cir. 1994) 22 F.3d 933
- For multiplying proceedings unreasonably and vexatious under 28 U.S.C. section 1927
- Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
- Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
- Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
- In re DeVille (9th Cir. BAP 2002) 280 B.R. 483
- For obstreperous actions of counsel
- In re Marriage of Daniels (1993) 19 Cal.App.4th 1102
- For repeated requests for reconsideration
- Conn v. Borjorquez (9th Cir. 1992) 967 F.2d 1418
- For unjustified litigation
- *Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
- For violation of California Rules of Professional Conduct
- family court may not order attorney to pay sanctions for hiring co-counsel, who could not practice in California, based on California Rules of Court
- In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
- For violation of protective order
- Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]
- For waste of court's resources
- sanctions imposed to compensate court in part for cost to process, review, and decide frivolous petitions
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
- Harsh judicial words constitute sanction only if they are expressly identified as reprimand
- Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- Imposed by State Bar against disciplined attorneys under Business and Professions Code § 6086.13
- In re Taggart (2001) 249 F.3d 987
- Inability to pay
- attorney made no effort to introduce evidence of inability to pay the \$50,000 sanction
- In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]
- attorney unable to present evidence of financial inability to pay monetary sanctions when court calculated fees attorney received from clients to file frivolous appeals
- In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

Inherent power of court

In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
available where attorney makes reckless misstatements of
fact and law coupled with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606
F.3d 1216

Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
bankruptcy court abused its discretion by using its § 105(a)
inherent powers as alternative authority for sanctioning
attorney

Eskanos & Adler, P.C. v. Leetien (9th Cir. 2002) 309 F.3d
1210

bankruptcy court has authority to impose sanctions against
law firm for continuing to pursue unlawful detainer action in
state court despite automatic stay by bankruptcy court

In re H. Granados Communications, Inc. (9th Cir. BAP
2013) 503 B.R. 726

bankruptcy court has inherent power to impose district-wide
suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
trial court's award of attorney's fees against plaintiff's counsel
for violation of an in limine order was neither within the court's
inherent powers nor was authorized by statute

Clark v. Optical Coating Laboratory, Inc. (2008) 165
Cal.App.4th 150 [80 Cal.Rptr.3d 812]

Insults and affronts to court and opposing counsel,
confrontational, accusatory and disdainful tone, civility required;
sanctions appropriate

People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146
Cal.Rptr.3d 823]

Judicial

Business and Professions Code section 6068(o)(3)
duty to report monetary sanctions over \$1,000 except for
discovery sanctions

Sarraf v. Standard Insurance Co. (9th Cir. 1996) 102 F.3d
991

Hill v. MacMillan/McGraw Hill Company (9th Cir. 1996) 102
F.3d 422

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122
Cal.Rptr.2d 630]

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal.
State Bar Ct. Rptr. 862

In the Matter of Blum (Review Dept. 1994) 3 Cal. State Bar
Ct. Rptr. 170

CAL 1997-151

Law firm has standing to appeal monetary sanction on firm
attorney

Twentieth Century Insurance Company v. Choong (2000) 79
Cal.App.4th 1274 [94 Cal.Rptr.2d 753]

Limitations on

Caldwell v. Samuels Jewelers (1990) 222 Cal.App.3d 970
[272 Cal.Rptr. 126]

Altmeyer v. AICCO (1984) 156 Cal.App.3d 855, 864-866 [203
Cal.Rptr. 106]

Stegman v. Bank of America (1984) 156 Cal.App.3d 843 [203
Cal.Rptr. 103]

court had no authority to award costs of future depositions as
monetary sanction for coaching plaintiff during deposition
where those costs had not yet been incurred

Tucker v. Pacific Bell Mobile Services (2010) 186
Cal.App.4th 1548 [115 Cal.Rptr.3d 9]

juvenile proceeding

In re Sean R. (1989) 214 Cal.App.3d 662

trial court's award of attorney's fees against plaintiff's counsel
for violation of an in limine order was neither within the court's
inherent powers nor was authorized by statute

Clark v. Optical Coating Laboratory, Inc. (2008) 165
Cal.App.4th 150 [80 Cal.Rptr.3d 812]

May not be imposed without hearing

Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d
788 [244 Cal.Rptr. 48]

Meritless suit results in Federal Rule of Civil Procedure, Rule 11,
sanctions on attorney

Truesdell v. Southern California Permanente Medical Group
(9th Cir. 2002) 293 F.3d 1146

King v. Idaho Funeral Service Association (9th Cir. 1988) 862
F.2d 744

Meritorious cause of action

improper basis for imposing sanctions

Atchison, Topeka and Santa Fe R.R. Co. v. Stockton Port
District (1983) 140 Cal.App.3d 111 [189 Cal.Rptr. 208]

Misrepresentation of evidence in argument

In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004

Misuse of discovery under CCP section 2023 need not be willful
Kohan v. Cohan (1991) 229 Cal.App.3d 967 [280 Cal.Rptr.
474]

Monetary

Code of Civil Procedure section 128

Lind v. Medevac, Inc. (1990) 219 Cal.App.3d 516 [268
Cal.Rptr. 359]

Code of Civil Procedure section 128.7

*Laborde v. Aronson (2001) 92 Cal.App.4th 459 [112
Cal.Rptr.2d 119]

-attorney's fees may not be awarded as a sanction under
Code of Civil Procedure § 128.7 to a prevailing attorney
acting in pro se

Musaelian v. Adams (2009) 45 Cal.4th 512 [87
Cal.Rptr.3d 475]

-does not authorize sanctions in the form of an award of
attorney fees to self represented attorneys

Musaelian v. Adams (2009) 45 Cal.4th 512 [87
Cal.Rptr.3d 475]

Rule 9011 (Fed.Rules Bankr.Proc., 11 U.S.C.A)

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64
dismissal inappropriate for failure to pay

Jones v. Otero (1984) 156 Cal.App.3d 754, 759 [203
Cal.Rptr. 90]

for alleged violation of local court rules conduct must clearly
interfere with administration of justice

Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424

inapplicable to appellate courts

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103
Cal.Rptr.2d 148]

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

"safe harbor" provisions preclude the imposition of sanctions
who added fictitious defendants on the eve of trial

Goodstone v. Southwest Airlines (1998) 63 Cal.App.4th 406
[73 Cal.Rptr.2d 655]

Non-compliance with local rules

Rietveld v. Rosebud Storage Partners (2004) 121 Cal.App.4th
250 [16 Cal.Rptr.3d 791]

Non-party attorney may lack standing to seek sanctions for
harassment against a party attorney

Capotosto v. Collins (1991) 235 Cal.App.3d 1439

Pennwalt Corp. v. Durand-Wauland, Inc. (9th Cir. 1983) 708
F.2d 492, 495

Not properly imposed on client for alleged failure of counsel to
adhere to court rule

Estate of Meeker (1993) 13 Cal.App.4th 1099 [16 Cal.Rptr. 825]

On attorney and client

Cosenza v. Kramer (1984) 152 Cal.App.3d 1100 [200 Cal.Rptr.
18]

appropriate method for dealing with unjustified litigation

Sheldon Appel Co. v. Albert & Olikier (1989) 47 Cal.3d 863,
873-874 [254 Cal.Rptr. 336]

S.A. v. Maiden (2014) 229 Cal.App.4th 27 [176 Cal.Rptr.3d
567]

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87
Cal.Rptr.2d 719]

Probate court

award of monetary sanctions and attorney's fees improper for
violation of Rule of Professional Conduct

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474
[96 Cal.Rptr.3d 910]

SANCTIONS

Procedure for seeking sanctions

Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]

Prosecutor

failure to provide discovery to the public defender

People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

must not appropriate against district attorney in debt collection matter, strong public policy advising against interference by bankruptcy court in state criminal matters

Nash v. Clark County District Attorney's Office (In re Nash) (9th Cir. BAP 2012) 464 B.R. 874 [56 Bankr.Ct.Dec. 37]

Public defender

not imposed for filing misleading emergency petition where factual omission resulted from mistake

Jones v. Superior Court (1994) 26 Cal.App.4th 92 [31 Cal.Rptr.2d 264]

Purpose for sanctions award

Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]

Reciprocal Discovery Rule

In re Thomas F. (2003) 113 Cal.App.4th 1249 [7 Cal.Rptr.3d 19]

Reliance on State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith

Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

Reporting of sanctions

court neither required to report sanctionable conduct to the Bar nor to take action with other authorities

Collins v. State Department of Transportation (2004) 114 Cal.App.4th 859 [8 Cal.Rptr.3d 132]

Safe Harbor period to withdraw sanctions

Primo Hospitality Group v. Haney (2019) 37 Cal.App.5th 165 [249 Cal.Rptr.3d 601]

Scheduling depositions and serving subpoenas when opposing counsel is known to be out of the country

Tenderloin Housing Clinic, Inc. v. Sparks (1992) 8 Cal.App.4th 299

State Bar discipline imposed for repeated sanctions

Canatella v. Van De Kamp (9th Cir. 2007) 486 F.3d 1128

Terminating sanctions

dismissal with prejudice deemed appropriate sanction for attorney's repeated violation of court's order

Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

sanctions properly terminated when attorney threatens opposing attorney with physical harm and is openly contemptuous of trial court

Crawford v. JP Morgan Chase Bank (2015) 242 Cal.App.4th 1265 [195 Cal.Rptr.3d 868]

Trial court award of attorney fees

Benson v. Greitzer (1990) 220 Cal.App.3d 11 [269 Cal.Rptr. 201]

Two requirements: just and related to particular claim as to discovery

Wyle v. R.J. Reynolds Industries, Inc. (9th Cir. 1983) 709 F.2d 585, 591

Under 28 U.S.C. § 1927

permits an award of sanctions against attorneys, not against law firms

Kaass Law v. Wells Fargo Bank (9th Cir. 2015) 799 F.3d 1290

Under Code of Civil Procedure section 128.5

Hernandez v. Vitamin Shoppe Industries Inc. (2009) 174 Cal.App.4th 1441 [95 Cal.Rptr.3d 734]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]

In re Marriage of Adams (1997) 52 Cal.App.4th 911 [60 Cal.Rptr.2d 811]

Bach v. McNelis (1989) 207 Cal.App.3d 852 [255 Cal.Rptr. 232]

bad faith intentional concealment of evidence

Sherman v. Kinetic Concepts, Inc. (1998) 67 Cal.App.4th 1152 [79 Cal.Rptr.2d 641]

bad faith required for sanctions

Foxgate Homeowners' Association, Inc., v. Bramalea California, Inc. (2001) 26 Cal.4th 1 [108 Cal.Rptr.2d 642]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Muega v. Menocal (1996) 50 Cal.App.4th 868 [57 Cal.Rptr.2d 697]

Javor v. Dellinger (1992) 2 Cal.App.4th 1258

On v. Cow Hollow Properties (1990) 222 Cal.App.3d 1568 -evidence of call to State Bar ethics hotline insufficient for court to conclude that attorney acted in good faith

Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

bad faith submission of forged documents

Computer Prepared Accounts, Inc. v. Katz (1991) 232 Cal.App.3d 209 [283 Cal.Rptr. 345]

bad faith violation of protective order

Wallis v. PHL Associates, Inc. (2008) 168 Cal.App.4th 882 [86 Cal.Rptr.3d 297]

duty to report the imposition of sanctions to State Bar not excused solely because of the pendency of an appeal

In the Matter of Wyshak (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 70

In the Matter of Respondent Y (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 862, 867

filing a frivolous lawsuit

Andrus v. Estrada (1995) 39 Cal.App.4th 1030

filing false documents under penalty of perjury

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

order must specify attorney misconduct

Jansen Associates, Inc. v. Codercard Inc. (1990) 218 Cal.App.3d 1166 [267 Cal.Rptr. 516]

require written notice of hearing

O'Brien v. Cseh (1983) 148 Cal.App.3d 957 [196 Cal.Rptr. 409]

"reasonable expenses" cannot be read to amount to consequential damages

Brewster v. Southern Pacific Transportation Co. (1991) 235 Cal.App.3d 701

sanctions for making frivolous motion to strike

Clarity Co. Consulting, LLC v. Gabriel (2022) 77 Cal.App.5th 454 [292 Cal.Rptr.3d 532]

Under Code of Civil Procedure section 128.7, the purpose is to deter frivolous actions and give the offending party the opportunity to withdraw or correct the pleading

McCluskey v. Henry (2020) 56 Cal.App.5th 1197 [270 Cal.Rptr.3d 803]

Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]

In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]

Banks v. Hathaway, Perrett, Webster, Powers & Chrisman (2002) 97 Cal.App.4th 949 [118 Cal.Rptr.2d 803]

action not frivolous under CCP § 128.7 where it was supported by sufficient evidence to sustain a favorable jury verdict and where it was not prosecuted for an improper purpose

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

attorney's fees may not be awarded as a sanction under Code of Civil Procedure § 128.7 to a prevailing attorney acting in pro se

Musaelian v. Adams (2009) 45 Cal.4th 512 [87 Cal.Rptr.3d 475]

granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal

Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]

Under Code of Civil Procedure section 177.5

People v. Muhammad (2003) 108 Cal.App.4th 313 [133 Cal.Rptr.2d 308]

calculated decision to violate a court order

Scott Moody, Inc. v. Starr Surgical Company (2011) 195 Cal.App.4th 1043 [128 Cal.Rptr.3d 89]

imposition of monetary sanctions for failing to obey court order is within discretion of the trial court

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

no statutory authority under CCP § 177.5 for imposition of fees against prosecutor for submitting to the court a copy of opposing counsel's disciplinary record without first providing a copy to opposing counsel

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

sanctions resolved in court's favor when attorney fails to provide adequate record transcript to support position

People v. Whitus (2013) 209 Cal.App.4th Supp. 1 [146 Cal.Rptr.3d 823]

when attorney leaves courtroom after being told not to leave

Seykora v. Superior Court (1991) 232 Cal.App.3d 1075

Under Code of Civil Procedure sections 2030(1) and 2032(b)(1)

discovery sanctions not available to attorney who litigates in propria persona

Argaman v. Ratan (1999) 73 Cal.App.4th 1173 [86 Cal.Rptr.2d 917]

Under Code of Civil Procedure section 2033

Estate of Manuel (2010) 187 Cal.App.4th 400 [113 Cal.Rptr.3d 448]

Barnett v. Penske Truck Leasing (2001) 90 Cal.App.4th 494 [108 Cal.Rptr.2d 821]

Under Penal Code § 1054.5

People v. Superior Court (Mitchell) (2010) 184 Cal.App.4th 451 [109 Cal.Rptr.3d 207]

Vexatious litigant

attorney appearing for client is not a litigant

Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194

lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices

Kinney v. Clark (2017) 12 Cal.App.5th 724 [219 Cal.Rptr.3d 247]

In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]

Violation of the Rules of Professional Conduct

technical violation of the State Bar ethical rules does not necessarily constitute a violation of a court rule

People v. Hundal (2008) 168 Cal.App.4th 965 [86 Cal.Rptr.3d 166]

When defendant and attorneys fail to appear at deposition

Rockwell International Inc. v. Pos-A-Traction Industries (9th Cir. 1983) 712 F.2d 1324, 1326

SEARCH WARRANT FOR LAW OFFICE

Penal Code sections 1524, 1525

Conn v. Gabbert (1999) 526 U.S. 286 [119 S.Ct. 1292]

United States v. Mittleman (1993) 999 F.2d 440

Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

SEMINARS

LA 286 (1965), LA 221 (1954)

SD 1974-16, SD 1974-21

SETTLEMENT

Acceptance of settlement offers

subsequent rejection

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Agreement providing that trial court will determine prevailing party and award of attorney fees is valid and enforceable

Jackson v. Homeowners Association Monte Vista Estates-East (2001) 93 Cal.App.4th 773 [113 Cal.Rptr.2d 363]

Attorney General may appeal attorney fees in a settlement under Proposition 65

Consumer Defense Group v. Rental Housing Industry Members (2006) 137 Cal.App.4th 1185 [40 Cal.Rptr.3d 832]

Attorney may not seek written or oral agreement that client will not file, nor seek a representation from the client that they have not filed, nor intend to file, a State Bar complaint

CAL 2012-185

Authority of attorney

Mallott & Peterson v. Director, Office of Workers' Compensation Program (9th Cir. 1996) 98 F.3d 1170

Amjadi v. Brown (2021) 68 Cal.App.5th 383 [283 Cal.Rptr.3d 448]

Burckhard v. Del Monte Corp. (1996) 48 Cal.App.4th 1912 [56 Cal.Rptr.2d 569]

Robertson v. Kou-Pin Chen (1996) 44 Cal.App.4th 1290 [52 Cal.Rptr.2d 264]

Levy v. Superior Court (1995) 10 Cal.4th 578 [41 Cal.Rptr.2d 878]

SF 2023-1

general rule that attorney-agent lacks authority, without specific client authorization, to bind client to settlement agreement distinguished where the authorized corporate representative is an in-house attorney

Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 [135 Cal.Rptr.3d 591]

By attorney representing insured defendant for amount above policy limit

LA 239 (1957)

Check issued only to client, but delivered to attorney who has a lien

OC 99-002

Class action

abuse of discretion

Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]

class member has standing to appeal final award of costs and fees which were payable by defendants independently rather than from class settlement

Lobatz v. U.S. West Cellular (9th Cir. 2000) 222 F.3d 1142

court must have sufficient information to make an informed evaluation on fairness

Clark v. American Residential Services LLC (2009) 175 Cal.App.4th 785 [96 Cal.Rptr.3d 441]

fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff

Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

settlement shall not include attorney fees as portion of common fund established for benefit of class

AdTrader, Inc. v. Google LLC (9th Cir. 2021) 7 F.4th 803

Staton v. Boeing Co. (9th Cir. (Wash.) 2003) 327 F.3d 938

withdrawal by counsel who previously represented members opposed to the settlement, then later represented those in favor, was not improper

7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]

Client cannot be located

LA 441 (1987)

Client may negotiate settlement with opposing party without authorization from the attorneys involved in the case

In re Marriage of Hasso (1991) 229 Cal.App.3d 1174

Client objects

LA 49 (1927)

Communication of written offer

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

Communication with opposing party about

SD 1978-8

by client

LA 375 (1978)

SF 1973-25

SETTLEMENT

- counsel of opposing party refuses to acknowledge offer
LA 350 (1975)
- not represented by counsel
LA 170 (1949)
- represented by absent counsel
SD 1968-2
- represented by counsel
LA 350 (1975)
- Communications made during confidential mediation cannot be disclosed without express waiver of parties
Simmons v. Ghaderi (2008) 44 Cal.4th 570 [80 Cal.Rptr.3d 83]
Radford v. Shehorn (2010) 187 Cal.App.4th 852 [114 Cal.Rptr.3d 499]
Eisendath v. Superior Court (2003) 109 Cal.App.4th 351 [134 Cal.Rptr.2d 716]
- Confidential settlement agreement
McPhearson v. Michaels Company (2002) 96 Cal.App.4th 843 [117 Cal.Rptr.2d 489]
Gilbert v. National Corporation for Housing Partnerships (1999) 71 Cal.App.4th 1240 [84 Cal.Rptr. 204]
Winkler v. Superior Court (1996) 51 Cal.App.4th 233 [58 Cal.Rptr.2d 791]
LA 512 (2003)
- confidentiality provisions in the settlement agreement can extend to the attorney signing off the agreement for form and content on behalf of the client
Monster Energy Company v. Schechter (2019) 7 Cal.5th 781 [249 Cal.Rptr.3d 295]
- renders CCP § 998 offer invalid
Barella v. Exchange Bank (2001) 84 Cal.App.4th 793 [101 Cal.Rptr.2d 167]
- Condition settlement on plaintiff's attorney waiving fees
Venegas v. Mitchell (1990) 110 S.Ct. 1679
Evans v. Jeff D. (1986) 475 U.S. 717 [106 S.Ct. 1531]
Pony v. County of Los Angeles (9th Cir. 2006) 433 F.3d 1138
Bernhardt v. Los Angeles County (9th Cir. 2003) 339 F.3d 920
CAL 2009-176
LA 505 (2000), LA 445 (1987)
- Conflict between joint clients
SD 2013-1
- Conflicting instructions from insurance company and assured
LA 344 (1974)
- Corporation's settlement proceeds are claimed by individual members of the board of directors
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
- Defense misrepresented principal benefits of settlement
Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]
- Deposition of opposing counsel to inquiry of bad or unreasonable conduct of defendant in settlement process
Spectra-Physics, Inc. v. Superior Court (1988) 198 Cal.App.3d 1487 [244 Cal.Rptr. 258]
- Disclosure of death of client
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
LA 300 (1967)
- Duty to inform opposing party of mistake
no duty found
LA 380 (1979)
- Endorsement of client check
successor attorney authorizes an employee to simulate the prior attorney's signature on a settlement draft
In the Matter of Respondent H (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 234
- Enforceable where attorney stipulated to waiver of mediation confidentiality; client consent not required as substantial rights not affected
Stewart v. Preston Pipeline Inc. (2005) 134 Cal.App.4th 1565 [36 Cal.Rptr.3d 901]
- Exonerate client in public eye, attorney no duty to
Zalta v. Billips (1978) 81 Cal.App.3d 183 [144 Cal.Rptr. 888]
- Insurance defense matter
New Plumbing Contractors, Inc. v. Edwards, Sooy & Byron (2002) 99 Cal.App.4th 799 [121 Cal.Rptr.2d 472]
- Insurer's attorney has duty to include insured's independent counsel in settlement negotiations and to fully exchange information
Novak v. Low, Ball & Lynch (1999) 77 Cal.App.4th 278 [91 Cal.Rptr.2d 453]
- Joint clients
SD 2013-1
- Judgment call
settlements are often protected judgment calls of attorney
Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
- Lay person who is adjuster, with
SD 1978-8
- Lay person who is employee
LA 277 (1963), LA(I) 1972-19
- Malpractice claim
breach of contract action available if settlement agreement cannot be enforced under CCP § 664.6
Harris v. Rudin, Richman & Appel (1999) 74 Cal.App.4th 299 [97 Cal.Rptr.2d 822]
- settlement with client of fee dispute and release from liability for potential malpractice including a Civil Code § 1542 waiver
CAL 2009-178
- Marital settlement agreements
attorney approval not required for parties in dissolution matter to enter into a written marital settlement agreement
In re Marriage of Hasso (1991) 229 Cal.App.3d 1174
- scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict
In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]
- Minor's compromise
trial court has jurisdiction to divide attorney fees between prior and current attorneys as part of minor's settlement approval
Padilla v. McClellan (2001) 93 Cal.App.4th 1100 [113 Cal.Rptr.2d 680]
- Negotiation for an in propria persona litigant
LA 502 (1999)
- Negotiations not to prosecute
CAL 1986-89
- No client consent obtained
Sampson v. State Bar (1974) 12 Cal.3d 70 [115 Cal.Rptr. 43]
Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]
CAL 1994-136
- Offer
Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]
Cassin v. Financial Ind. Co. (1958) 160 Cal.App.2d 631 [325 P.2d 228]
- fee-waiver offer to plaintiff is not ethically prohibited
CAL 2009-176
- informing client of written offer to settle
Rule 3-510, Rules of Professional Conduct
- plaintiff entitled to award of attorney's fees as prevailing party where sum of jury damage award and defendant's post-settlement offer exceed defendant's pre-trial settlement offer
Mesa Forest Products Inc. v. St. Paul Mercury Insurance Co. (1999) 73 Cal.App.4th 324 [86 Cal.Rptr.2d 398]
- settlement offer silent as to right to recover attorney's fees and costs does not constitute a waiver of that right
Ritzenthaler v. Fireside Thrift (2001) 93 Cal.App.4th 986 [113 Cal.Rptr.2d 579]

settlement offer under Code of Civil Procedure section 998, that is silent as to right to recover attorney's fees and costs does not constitute a waiver of that right

Chinn v. KMR Property Management (2008) 166 Cal.App.4th 175 [82 Cal.Rptr.3d 586]

which include fee-waiver provisions under fee shifting statutes
CAL 2009-176

Oral acceptance of settlement offers
subsequent rejection

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Represent in settlement when fee owed by client comes out of settlement

LA 350 (1975), SD 1975-4

Requires client's consent

Elyadayan v. Hoffman (2003) 104 Cal.App.4th 1421 [129 Cal.Rptr.2d 41]

Sampson v. State Bar (1974) 12 Cal.3d 70, 82

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497
LA 505 (2000)

Restricts right of attorney to practice law

Rule 1-500, Rules of Professional Conduct

stipulation barring attorney from submitting claims to asbestos trust may be proper when attorney admits to conduct that casts doubt on his fitness to practice

In re J.T. Thope, Inc.; Thorpe Insulation Co., Debtors Michael J. Mandelbrot; The Mandelbrot Law Firm; The Mandelbrot Law Firm, Appellants, v. J.T. Thorpe Settlement Trust; Thorpe Insulation Company Asbestos Settlement Trust; Charles B. Renfrew, Administrative Law Judge, Futures Representative, Appellees (9th Cir. 2017) 870 F.3d 1121

Revocation of settlement offer

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Scrivener services by a single attorney for both husband and wife in dissolution of marriage requires informed written consent for potential conflict

In re Marriage of Egedi (2001) 88 Cal.App.4th 17 [105 Cal.Rptr.2d 518]

Stop payment of check for
LA(I) 1966-5

Structured settlement, use of

Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Franck v. Polaris E-Z Go Division of Textron (1984) 157 Cal.App.3d 1107, 1116, 1119

31 A.L.R.4th 96 (1984)

31 Am.Jur. Trials 605 (1984)

70 A.B.A.J. 67 (May 1994)

CAL 1994-135, CAL 1987-94

Unauthorized settlement

client coerced into accepting settlement under threat of attorney's withdrawal

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

client may not accept benefits of a settlement negotiated by that client's attorney and, at the same time, disavow the settlement to the extent that it is against the client's perceived interest

Hurvitz v. St. Paul Fire & Marine Ins. Co. (2003) 109 Cal.App.4th 918 [135 Cal.Rptr.2d 703]

no client consent or knowledge

Bambic v. State Bar (1985) 40 Cal.3d 314 [219 Cal.Rptr. 489]

Sampson v. State Bar (1974) 12 Cal.3d 70, 82 [115 Cal.Rptr. 43]

Bodisco v. State Bar (1962) 58 Cal.2d 495, 497 [24 Cal.Rptr. 835]

Alvarado Community Hospital v. Superior Court (1985) 173 Cal.App.3d 476, 480-481 [219 Cal.Rptr. 52]

CAL 1994-135

LA 441 (1987)

ratification, client enforcement of beneficial part of

City of Fresno v. Baboian (1975) 52 Cal.App.3d 753 [125 Cal.Rptr. 332]

Under Code of Civil Procedure 998

court has discretion in evaluating the reasonableness of the settlement offer or its refusal

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

expert witness fees awarded to public entity where plaintiffs failed to raise at trial the issue of the award's financial impact on them or to create a factual record to resolve the issue in their favor

Clark v. Optical Coating Laboratory, Inc. (2008) 165 Cal.App.4th 150 [80 Cal.Rptr.3d 812]

when a Section 998 offer is silent on costs and fees, the prevailing party is entitled to costs and fees, the prevailing party is entitled to costs and fees, if authorized by statute or contract

Wohlgemuth v. Caterpillar Inc. (2012) 207 Cal.App.4th 1252 [144 Cal.Rptr.3d 545]

withdrawal of oral acceptance

Gray v. Stewart (2002) 97 Cal.App.4th 1394 [119 Cal.Rptr.2d 217]

Workers' Compensation cases

claimant's attorney is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

Written offer of, communication to client

Rule 5-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-510, Rules of Professional Conduct (operative as of May 27, 1989)

In the Matter of Yagman (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 788

SEXUAL RELATIONS WITH CLIENT

Rule 3-120, Rules of Professional Conduct.

Business & Professions Code Section 6106.9

McDaniel v. Gile (1991) 230 Cal.App.3d 363 [281 Cal.Rptr. 242]

Barbara A. v. John G. (1983) 145 Cal.App.3d 369 [193 Cal.Rptr. 422]

CAL 1987-92, OC 2003-02

SMALL CLAIMS COURT

Attorney's appearance in

Dorsey v. Superior Court (2015) 241 Cal.App.4th 583 [193 Cal.Rptr.3d 834]

LA 105 (1936)

SOLICITATION OF BUSINESS [See Advertising. Business activity. Fee. Lay intermediaries. Referral of legal business. Runners and cappers.]

Business and Professions Code sections 6150-6154, 6157

Rule 2-101(B),(C),(D), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

CAL 1988-105

LA(I) 1974-6, LA(I) 1972-16, LA(I) 1959-2,

Acceptance of employment resulting from unsolicited advice

Colonial Life & Accident Ins. Co. v. Superior Court (1982) 31 Cal.3d 785 [183 Cal.Rptr. 810, 647 P.2d 86]

Ambulance chasing

Tonini v. State Bar (1956) 46 Cal.2d 491, 497

Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]

Waterman v. State Bar (1939) 14 Cal.2d 224 [93 P.2d 95]

McCue v. State Bar (1935) 4 Cal.2d 79 [47 P.2d 268]

Clark v. State Bar (1931) 214 Cal. 281, 284 [4 P.2d 944]

Dudney v. State Bar (1931) 214 Cal. 238, 239 [4 P.2d 770]

Dahl v. State Bar (1931) 213 Cal. 160 [1 P.2d 977]

Irving v. State Bar (1931) 213 Cal. 81 [1 P.2d 2]

Howe v. State Bar (1931) 212 Cal. 222 [298 P. 25]

Smallberg v. State Bar (1931) 212 Cal. 113 [297 P. 916]

Shaw v. State Bar (1931) 212 Cal. 52 [297 P. 532]

SOLICITATION OF BUSINESS

- Smith v. State Bar (1930) 211 Cal. 249 [294 P. 1057]
- Townsend v. State Bar (1930) 210 Cal. 362 [291 P. 837]
- SD 2000-1
- investigation service in personal injury matters
- CAL 1995-144, LA 474 (1993)
- Announcement to clients
 - of association of firm specializing in tax matters
 - LA 119 (1938)
- Assigned counsel, by
 - Business and Professions Code section 6152(d)
 - SD 1968-4
- Attorney remunerates another for soliciting or obtaining professional employment
 - Hildebrand v. State Bar (1950) 36 Cal.2d 504, 510 [225 P.2d 508]
 - Hildebrand v. State Bar (1941) 18 Cal.2d 816, 824 [117 P.2d 860]
 - Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
- Bid for legal work
 - LA 342 (1973)
- Blogging by attorney
 - CAL 2016-196
- Broadcasting [See Advertising, Broadcasting and Solicitation, Radio or television.]
- Brochure
 - randomly distributed
 - LA 419 (1983)
- Business activity as means for
 - LA 262 (1959), LA(I) 1965-3
- By adjustment of fees
 - lower fees
 - in return for guaranteed additional work
 - LA 322 (1971)
- By attorney
 - of attorney
 - CAL 1981-61
 - of clients
 - SD 2018-2
 - engaged in dual occupation
 - real estate business
 - CAL 1981-61
 - LA 446 (1987), LA 413 (1983), LA 140 (1942)
 - of those with interests similar to those of existing client
 - SD 1976-3
- By attorney at hospital
 - Business and Professions Code sections 6150-6154
 - Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 450
 - Milton v. State Bar (1958) 49 Cal.2d 686, 688 [321 P.2d 13]
 - Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]
 - Fish v. State Bar (1931) 214 Cal. 215, 221 [4 P.2d 937]
- By attorney's investigator
 - Rose v. State Bar (1989) 49 Cal.3d 646, 659
 - LA 474 (1993)
- By business card delivered to accident victim at scene of accident
 - SD 2000-1
- By heir hunter
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
- By insurance company attorney
 - representation of assured
 - LA 336 (1973)
- By lay employee
 - LA 381 (1979)
- By lay entity
 - Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
 - CAL 1995-143, CAL 1995-144
 - LA 474 (1993)
 - attorney employed by
 - to advise, counsel and represent employees of
 - LA 137 (1941)
- client for own counsel
 - LA(I) 1975-1, SD 1974-20
- contract to acquire tax title to property
 - involving referral to lawyer for compensation
 - LA 135 (1941)
- group representation
 - LA 257 (1959)
- management consultant company
 - LA 446 (1987)
- real estate business
 - LA 140 (1942)
 - associated with attorney
 - LA 140 (1942)
- recommends particular lawyer
 - LA 314 (1970), LA 158 (1945), LA 155 (1945), LA 148 (1944), LA(I) 1934-1
 - SD 1983-4, SD 1973-8
- referral, systematic
 - LA 349 (1975), LA 262 (1959), LA 151 (1944), LA(I) 1948-3
 - SD 1983-4, SD 1974-21 1/2, SD 1973-8
- By legal research service
 - operated by attorneys
 - constitutes practice of law
 - LA 301 (1967)
- By letter
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Primus (1978) 436 U.S. 412, 416 [98 S.Ct. 1893, 56 L. Ed. 2d 417]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - Utz v. State Bar (1942) 21 Cal.2d 100, 105 [130 P.2d 377]
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
 - In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315
 - CAL 1995-142, CAL 1988-105, CAL 1982-67, CAL 1981-61, CAL 1980-54
 - LA 404 (1983), LA 24 (1923), LA 3 (1917)
 - SD 1992-3, SD 1983-5, OC 93-001
 - of creditors
 - advising of claims of which unaware
 - offering to represent on percentage basis
 - LA 122 (1939)
 - statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
 - Los Angeles Police Department v. United Reporting Publishing Corp. (1999) 528 U.S. 32 [120 S.Ct. 483]
 - target mail
 - Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
 - In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
 - Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
 - People v. Morse (1993) 21 Cal.App.4th 816 [25 Cal.Rptr.2d 816]
 - using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
 - Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
 - targeted to specific potential clients
 - CAL 1995-142, CAL 1988-105
 - SD 1992-3, OC 93-001
 - to members of trade association
 - announce resignation of public office and opening of private practice
 - LA 127 (1940)
 - announce specialized legal services
 - LA 127 (1940)
 - to other lawyers
 - describing qualifications
 - LA 29 (1925)

- offering to represent in other jurisdictions
LA 71 (1933)
- requesting referral
CAL 1981-61, SF 1970-2
- to prospective clients
CAL 1980-54, SD 1983-5
- advising of meritorious claims
LA 404 (1983), LA 62 (1930)
- using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
- using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)
Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]
- By mail [See supra, by letter.]
- card, professional
 - designation of specialized legal services
LA 127 (1940)
 - to other lawyers
LA 419 (1983), LA 127 (1940)
- target mail
Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]
In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]
Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]
People v. Morse (1993) 21 Cal.App.4th 259 [25 Cal.Rptr.2d 816]
- statute that places conditions on use of public access of names and addresses of individuals arrested by police is not facially invalid
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- targeted to specific potential clients
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- to lawyers
 - opening law office, announcing
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 - requesting referrals
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- to prospective clients
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- By non-lawyer
 - who will receive part of recovery
 - claims against corporation
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- By physician
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- By telephone
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- not prohibited if prospective client calls a qualified lawyer referral service because it is reasonable for a lawyer to conclude that the lawyer is communicating with a person who potentially wants to employ him or her
SD 2018-2
- offer to conduct seminars
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- By third party
 - Goldman v. State Bar (1977) 20 Cal.3d 130 [141 Cal.Rptr. 447]
 - Urbano v. State Bar (1977) 19 Cal.3d 16 [136 Cal.Rptr. 572]
 - Kelson v. State Bar (1976) 17 Cal.3d 1 [130 Cal.Rptr. 29]
 - Geffen v. State Bar (1975) 14 Cal.3d 843 [122 Cal.Rptr. 865]
 - Younger v. State Bar (1974) 12 Cal.3d 274 [113 Cal.Rptr. 829]
 - Ashe v. State Bar (1969) 71 Cal.2d 123 [77 Cal.Rptr. 233]
 - Linnick v. State Bar (1964) 62 Cal.2d 17, 20 [41 Cal.Rptr. 1]
 - Best v. State Bar (1962) 57 Cal.2d 633, 635, 637 [21 Cal.Rptr. 589, 371 P.2d 325]
 - Griffith v. State Bar (1953) 40 Cal.2d 470, 471 [254 P.2d 22]
 - Utz v. State Bar (1942) 21 Cal.2d 100, 108 [130 P.2d 377]
 - Hildebrand v. State Bar (1941) 18 Cal.2d 816 [117 P.2d 860]
 - Werner v. State Bar (1939) 13 Cal.2d 666, 673 [91 P.2d 881]
 - Roth v. State Bar (1937) 8 Cal.2d 656, 659 [67 P.2d 337]
 - Sawyer v. State Bar (1934) 220 Cal. 702, 711 [32 P.2d 369]
 - Fish v. State Bar (1931) 214 Cal. 215, 218 [4 P.2d 937]
 - Smallberg v. State Bar (1931) 212 Cal. 113, 118 [297 P. 916]
 - In the Matter of Kroff (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 838
 - In the Matter of Scapa and Brown (Review Dept. 1993) 2 Cal. State Bar Ct. Rptr. 635
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 - in debt collection matter
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- Card, professional
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- delivered to accident victim at scene of accident
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- Class action
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-prior to certification
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In re McKesson HBOC, Inc. Securities Litigation (N.D. Cal. 2001) 126 F.Supp.2d 1239
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Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

SOLICITATION OF BUSINESS

- Howard Gunty Profit Sharing Plan, et al. v. Superior Court (Greenwood) (2001) 88 Cal.App.4th 572 [105 Cal.Rptr.2d 896]
Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]
- Collections
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- Communicate information about claims or actions in law to parties
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- Communication distinguished
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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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Central Hudson Gas & Electric Corp. v. Public Service Comm. Of New York (1980) 447 U.S. 557 [100 S.Ct. 2343]
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LA 494 (1998)
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- Dual practices/occupation
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- Group legal services as a means for
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- Brotherhood of Railroad Trainmen v. Virginia State Bar (1964) 377 U.S. 1 [12 L.Ed. 89, 84 S.Ct. 1113]
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- Heirs of decedent
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- In newspaper
Jacoby v. State Bar (1977) 19 Cal.3d 359 [138 Cal.Rptr. 77]
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LA 93 (1936)
-employed by attorney
LA 96 (1936)
- In publications
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- 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
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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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CAL 2004-166
court order directing interactive website to remove challenged third party reviews from its website when not named as a defendant violated Communications Decency Act immunity to operator (47 U.S.C. Section 230)
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court order requiring attorney to remove her web pages was more restrictive than necessary, infringing on attorney's free speech rights

Steiner v. Superior Court (2013) 220 Cal.App.4th 1479 [164 Cal.Rptr.3d 155]

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Ohralik v. Ohio State Bar Association (1977) 436 U.S. 447, 454 [98 S.Ct. 1912, 98 St. Ct. 1925, 56 L. Ed. 2d 444]

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CAL 1981-61

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Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]

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Hildebrand v. State Bar (1950) 36 Cal.2d 504, 509 [225 P.2d 508]

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Shapiro v. Kentucky Bar Association (1988) 486 U.S. 466 [108 S.Ct. 1916]

In re Morse (1995) 11 Cal.4th 184 [44 Cal.Rptr.2d 620]

Parris v. Superior Court (2003) 109 Cal.App.4th 285 [135 Cal.Rptr.2d 90]

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CAL 1995-142, CAL 1988-105, OC 93-001, SD 1992-3

Mailing postcards to potential clients

Libarian v. State Bar (1944) 25 Cal.2d 314 [153 P.2d 739]

Mayer v. State Bar (1934) 2 Cal.2d 71, 73 [39 P.2d 206]

Management consultant firm

LA 446 (1987)

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Non-legal lecture engagements

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In re Primus (1977) 436 U.S. 412, 420 [98 S.Ct. 1893, 56 L. Ed. 2d 417]

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Of claims against corporation

by non-lawyer

-who will receive part of recovery

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LA 93 (1936)

Potential members of class action

Gulf Oil Company v. Bernard (1981) 452 U.S. 89 [101 S.Ct. 2193]

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Atari, Inc. v. Superior Court (1985) 166 Cal.App.3d 867 [212 Cal.Rptr. 773]

using contact information obtained from DMV records violated the Drivers Privacy Protection Act (DPPA)

Maracich v. Spears (2013) 570 U.S. 48 [133 S.Ct. 2191]

Presentation

use of a living trust marketer to solicit clients for the attorney

CAL 1997-148

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CAL 1995-143

Pro bono services

lawyer to provide

LA 55 (1928)

Public defender, exemption for

Business and Professions Code section 6152(d)

In re Brindle (1979) 91 Cal.App.3d 660, 682 [154 Cal.Rptr. 563]

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LA 446 (1987)

Radio or television, use of

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--identification of name of lawyer

LA 299 (1966)

--televised trial

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Random distribution

LA 419 (1983)

Recommend or designate other lawyer

LA 313 (1969), LA 216 (1953)

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-religious organization members, referred to attorney employed by

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Geffen v. Moss (1975) 53 Cal.App.3d 215, 226 [125 Cal.Rptr. 687]

Emmons, Williams, Mires & Leech v. State Bar (1970) 6 Cal.App.3d 565, 570 [86 Cal.Rptr. 367]

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Rule 2-101(B), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]

Runners and cappers

Business and Professions Code sections 6150 et seq., 6152, 6153 and 6160 et seq.

Rule 2-101(C), Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-400, Rules of Professional Conduct (operative as of May 27, 1989)

attorney agrees to use and compensate for services

Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]

Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]

In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

LA 474 (1993)

attorney supplies "capper" with list of potential clients

Business and Professions Code section 6154

Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]

Honoroff v. State Bar (1958) 50 Cal.2d 202, 205 [323 P.2d 1003]

LA 474 (1993)

contract secured by is void, use of

Brotherhood of Railroad Trainmen v. VA (1964) 377 U.S. 1 [845 S.Ct. 1113, 12 L. Ed 2d 89]

NAACP v. Button (1963) 371 U.S. 415, 423 [9 L.Ed.2d 405, 83 S.Ct. 328]

Rubin v. Green (1993) 4 Cal.4th 1187 [17 Cal.Rptr.2d 828]

Kitsis v. State Bar (1979) 23 Cal.3d 857, 863 [153 Cal.Rptr. 836]

In re Arnoff (1978) 22 Cal.3d 740 [150 Cal.Rptr. 479]

Hildebrand v. State Bar (1950) 36 Cal.2d 504, 506 [225 P.2d 508]

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CAL 1997-148

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LA 134 (1940)

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CAL 2012-186, SD 2018-1

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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]

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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Violation of Rules of Professional Conduct, waiver by client

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Penal Code section 1524(c)

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Gordon, III v. Superior Court (1997) 55 Cal.App.4th 1546 [65 Cal.Rptr.2d 53]

PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]

Court's inherent authority to appoint special master to assist in examining documents seized from attorney's offices and in ruling on privilege does not include the power to require parties to bear the cost of a special master's services

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

Oversight of attorney disciplinary system

In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

Trial court cannot condition its willingness to rule on claims of privilege upon a party's agreement to pay for the services of a special master

People v. Superior Court (Laff) (2001) 25 Cal.4th 703 [107 Cal.Rptr.2d 323]

SPECIALIZATION [See Legal specialization. Practice of law.]

STATE BAR ACT

Business and Professions Code sections 6000-6228. [The full text of the State Bar Act is reprinted above in part I.A. of this Compendium.]

Cross Reference Table

origins of the State Bar Act. [See part I.A. to this Compendium, at Cross Reference Table.]

Historical role of the State Bar

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STATE BAR OF CALIFORNIA [See Admission to the bar. Ethics committees.]

Business and Professions Code sections 6000-6228

California Constitution, Article 6, section 6

Civil Code section 43.95

Civil Code section 365

Civil Code section 1141.18 (c)

Corporations Code section 10830 (d)

Education Code section 94360

Education Code section 94361

Government Code section 10307

Government Code section 12011.5

Penal Code section 1524

Penal Code section 13825

Revenue and Taxation Code section 2374(d)

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Advice of a State Bar employee cannot give attorney permission to violate the Rules of Professional Conduct or the Business and Professions Code

Sheffield v. State Bar (1943) 22 Cal.2d 627 [140 P.2d 376]

As an adjunct of the California Supreme Court

Kohn v. State Bar of California (9th Cir. 2023) 87 F.4th 1021
Hirsh v. Justices of the Supreme Court of the State of California (1995) 67 F.3d 708

Benjamin J. Ramos dba University of Honolulu School of Law v. California Committee of Bar Examiners (1994) 857 F.Supp.702

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Lebbos v. State Bar (1991) 53 Cal.3d 37

Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]

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Canatella v. California (9th Cir. 2002) 304 F.3d 843

In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

Conservatorship of Becerra (2009) 175 Cal.App.4th 1474 [96 Cal.Rptr.3d 910]

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power to discipline attorneys is held exclusively by the Supreme Court and by the State Bar

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75 Ops. Cal. Atty. Gen. 137 (9/3/92; No. 92-202)

interim Discipline Assessment

In re Attorney Discipline System; Requests of the Governor and the State Bar (1999) 19 Cal.4th 582 [79 Cal.Rptr.2d 836, 967 P.2d 49]

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-State Bar of Nevada may use dues to conduct a public information and education campaign on the role of lawyers in the judicial system

Gardner v. State Bar of Nevada (9th Cir. (Nevada) 2002) 284 F.3d 1040

Duty to comply with and be familiar with standards of professional conduct required of members of the State Bar of California, Civil Local Rule 11-4

CRS Recovery, Inc. v. Laxton (9th Cir. 2010) 600 F.3d 1138

Eleventh amendment immunity; updated three-factor test distinguished from Mitchell factors

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Enforceability of State Bar rules concerning delegates participating in the State Bar Conference of Delegates

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California's decision to regulate lawyers principally via a judicially supervised administrative body attached to the State

Bar of California has a rational basis and is thus constitutional
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Federal courts may require membership in the State Bar of California to assure the character and moral fitness and to bring any misconduct to the attention of the State Bar

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-not required to register as a law corporation

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Legislature cannot impair the judicial functions of the Supreme Court of California

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In re Rose (2000) 22 Cal.4th 430 [83 Cal.Rptr.2d 298]

State Bar prosecutors have absolute immunity from monetary liability for performance of prosecutorial functions

Wu v. State Bar of California (C.D. Cal. 1996) 953 F.Supp. 315

Statutory privileges and immunities protect State Bar and staff from action brought by a disbarred attorney

Rosenthal v. Vogt (1991) 229 Cal.App.3d 69 [280 Cal.Rptr. 1]

Supreme Court on recommendation of State Bar alone may issue disciplinary proceedings against an attorney

Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329 [178 Cal.Rptr. 801, 636 P.2d 1139]

Unified Bar

Morrow, et al. v. State Bar (9th Cir. 1999) 188 F.3d 1174

Hoffman v. State Bar of California (2003) 113 Cal.App.4th 630 [6 Cal.Rptr.3d 592]

STATUTE OF LIMITATIONS [See Professional Liability.]

Actions against attorneys, under CCP 340.6

Foxen v. Carpenter (2016) 6 Cal.App.5th 284 [211 Cal.Rptr.3d 372]

Vafi v. McCloskey (2011) 193 Cal.App.4th 874 [122 Cal.Rptr.3d 608]

STIPULATION

client's claim of conversion against attorney is not time-barred under statute, as the claim does not require proof that attorney violated "professional obligation"

Lee v. Hanley (2015) 61 Cal.4th 1226 [191 Cal.Rptr.3d 536]

dismissal reversed to determine whether client's action against attorney arose from the performance of legal services

Lee v. Hanley (2014) 227 Cal.App.4th 1295 [174 Cal.Rptr.3d 489]

Criminal offense of conspiracy to defraud by false pretenses or false promises is subject to three-year statute of limitations

People v. Milstein (2012) 211 Cal.App.4th 1158 [150 Cal.Rptr.3d 290]

Habeas petition

attorney abandonment may constitute extraordinary circumstances that may require relief

Foley v. Biter (9th Cir. 2015) 793 F.3d 998

death row inmate entitled to assistance from conflict-free counsel in federal habeas petition to argue equitable tolling

Christeson v. Roper (2015) 574 U.S. 373 [135 S.Ct. 891]

prisoner may be entitled to equitable tolling where there were extraordinary circumstances; attorney who resigns, running "writ mill" may be extraordinary

Porter v. Ollison (9th Cir. 2010) 620 F.3d 952

tolling of habeas petition deadline when prisoner did not have access to file

Lott v. Mueller (9th Cir. 2002) 304 F.3d 918

STIPULATION [See Authority of attorney, stipulation.]

SUBPOENA

Grand jury subpoena of court-appointed defense counsel to testify against client would likely destroy the attorney-client relationship

U.S. v. Bergeson (9th Cir. (Or.) 2005) 425 F.3d 1221

Of attorney information regarding client [See Search warrant.]

Prosecutor is not automatically entitled to subpoena a lawyer to testify against his client before a grand jury merely because the information sought is not privileged

U.S. v. Bergeson (9th Cir. (Or.) 2005) 425 F.3d 1221

Protection from discovery

subpoena duces tecum served on non-party DA for the production of documents, prepared by another entity, not enforceable as the documents were not generated by DA personnel nor was the DA qualified to attest to their authenticity

Cooley v. Superior Court (2006) 140 Cal.App.4th 1039 [45 Cal.Rptr.3d 183]

SUBSTITUTION OF COUNSEL [See Withdrawal.]

Code of Civil Procedure sections 284, 285

Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Abuse of discretion in denying criminal defendant's request for substitution

U.S. v. Torres-Rodriguez (9th Cir. 1991) 930 F.2d 1375

People v. Ferenz (2024) 99 Cal.App.5th 1032 [318 Cal.Rptr.3d 301]

Adverse party

notice of

Code of Civil Procedure section 285

Appeal

Rule 8.36 and rule 8.768, California Rules of Court

Application for

Code of Civil Procedure section 284

"Appointed" distinguished from "retained" counsel for purposes of determining the right of an indigent defendant to replace an attorney without cause

People v. Turner (1992) 7 Cal.App.4th 1214

Attorney interest in case

Isrin v. Superior Court (1965) 63 Cal.2d 153, 158 [45 Cal.Rptr. 320]

Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]

O'Connell v. Superior Court (1935) 2 Cal.2d 418, 423 [41 P.2d 334]

Estate of Cazaurang (1934) 1 Cal.2d 712, 716 [36 P.2d 1069]

Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 598]

Hoult v. Beam (1960) 178 Cal.App.2d 736 [3 Cal.Rptr. 191]

Attorney interest in subject matter

Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]

Authority of attorney

Alliance Bank v. Murray (1984) 161 Cal.App.3d 1, 7 [207 Cal.Rptr. 233]

actual authority from client to represent is more important than the substitution document recording it

In re Marriage of Park (1980) 27 Cal.3d 337 [165 Cal.Rptr. 792, 612 P.2d 882]

Baker v. Boxx (1991) 226 Cal.App.3d 1303

attorney had no right to file proposed fee order after discharge and substitution out of case

In re Marriage of Read (2002) 97 Cal.App.4th 476 [118 Cal.Rptr.2d 497]

defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law

*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

disagreement between attorney and client as to which motions to file is not a sufficient reason to require substitution

People v. Turner (1992) 7 Cal.App.4th 913

Based on public defender's excessive caseload and limited resources

People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]

In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]

Client has absolute right to

General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

*Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]

Fracasse v. Brent (1972) 6 Cal.3d 784, 790

Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]

In the Matter of Phillips (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 315

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LA 489 (1997), LA 481

discharge retained counsel in criminal case

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

Conflict of interest

Styles v. Mumbert (2008) 164 Cal.App.4th 1163 [79 Cal.Rptr.3d 880]

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Conflicts of clients in different proceedings

Levensen v. Superior Court (1983) 34 Cal.3d 530

Consent to

Code of Civil Procedure section 284

SD 1972-17

Conservatorship proceedings

prospective conservatee's due process interest in his statutory right to counsel requires, upon his request for substitute appointed counsel, that he be given a hearing to state the reasons for his request

In re Conservatorship of Estate of David L. (2008) 164 Cal.App.4th 701 [79 Cal.Rptr.3d 530]

Contingent fee agreement

Tracy v. MacIntyre (1938) 29 Cal.App.2d 145 [84P.2d 526]

Court order
 Code of Civil Procedure section 284

Death of attorney
 Code of Civil Procedure section 286

Denial of criminal defendant's motion for substitution of counsel without first conducting proper inquiry is abuse of discretion
U.S. v. Adelzo-Gonzalez (9th Cir. 2001) 268 F.3d 772
People v. Solorzano (2005) 126 Cal.App.4th 1063 [24 Cal.Rptr.3d 735]

Dissolution of a corporation or partnership
Fox v. Abrams (1985) 163 Cal.App.3d 610 [210 Cal.Rptr. 260]

Duty to represent client until obtain court approval, if required
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
CAL 1994-134

Excusable neglect not found when attorney fails to file for trial de novo as a result of taking over a large case load from another attorney including the arbitration matter
Ayala v. Southwest Leasing and Rental (1992) 7 Cal.App.4th 40 [8 Cal.Rptr.2d 637]

Failure to file substitution form constitutes negligence and may not be imputed to the client
Gallegos v. Gallegos (1994) 23 Cal.App.4th 68 [28 Cal.Rptr.2d 350]

Grand jury subpoena seeking non-privileged documents held by law firms takes precedence over civil protective order
In re Grand Jury Subpoenas (White) (9th Cir. 2010) 627 F.3d 1143

In propria se
 *People v. Smith (1984) 152 Cal.App.3d 618, 622 [199 Cal.Rptr. 656]

Local rule of substitution
Hock v. Superior Court of San Diego County (1990) 221 Cal.App.3d 670 [270 Cal.Rptr. 579]

Motion made one day before trial scheduled
People v. Yackee (1984) 161 Cal.App.3d 843 [208 Cal.Rptr. 44]

New attorney's authority
Estate of Hultin (1974) 29 Cal.2d 825 [178 P.2d 756]
Wells Fargo & Co. v. San Francisco (1944) 25 Cal.2d 37 [152 P.2d 625]
McMahon v. Thomas (1896) 114 Cal. 588 [46 P. 732]
Carrara v. Carrara (1953) 121 Cal.App.2d 59 [262 P.2d 591]
Ross v. Ross (1953) 120 Cal.App.2d 70 [260 P.2d 652]
Davis v. Rudolph (1947) 80 Cal.App.2d 397 [181 P.2d 765]
Jackson v. Jackson (1945) 71 Cal.App.2d 837 [163 P.2d 780]
Estate of Morgan (1928) 94 Cal.App. 617 [271 P. 762]
McMunn v. Lehrke (1915) 29 Cal.App. 298 [155 P. 473]

Notice
 Code of Civil Procedure section 284
 *Santa Clara County Counsel Attorneys Assn. v. Woodside (1994) 7 Cal.4th 525 [28 Cal.Rptr.2d 617]
In re Martinez (1959) 52 Cal.2d 808, 813 [345 P.2d 449]
Echlin v. Superior Court (1939) 13 Cal.2d 368, 372 [90 P.2d 63]
Wright v. Security First National Bank (1939) 13 Cal.2d 139, 141 [88 P.2d 125]
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
Todd v. Superior Court of San Francisco (1919) 181 Cal. 406, 411-413 [184 P. 684]
Gage v. Atwater (1902) 136 Cal. 170, 172 [68 P. 581]
Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]
Lee v. Superior Court (1896) 112 Cal. 354 [44 P. 666]
Ex parte Clarke (1881) 62 Cal. 490
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Marriage of Warner (1974) 38 Cal.App.3d 714 [113 Cal.Rptr. 556]
People v. Ward (1972) 27 Cal.App.3d 218, 231 [103 Cal.Rptr. 671]
People v. Cohen (1970) 12 Cal.App.3d 298, 319 [90 Cal.Rptr. 612]

Skelly v. Richman (1970) 10 Cal.App.3d 844, 856 [89 Cal.Rptr. 556]
Cloer v. Superior Court (1969) 271 Cal.App.2d 143, 145 [76 Cal.Rptr. 217]
People v. Donel (1967) 255 Cal.App.2d 394, 401 [63 Cal.Rptr. 168]
People ex rel. Department of Public Works v. Hook (1967) 248 Cal.App.2d 618, 623 [56 Cal.Rptr. 683]
Estate of McManus (1963) 214 Cal.App.2d 390, 395 [29 Cal.Rptr. 543]
People v. Metrim Corp. (1960) 187 Cal.App.2d 289, 292 [9 Cal.Rptr. 584]
Hoult v. Beam (1960) 178 Cal.App.2d 736, 738 [3 Cal.Rptr. 191]
Bergan v. Badham (1956) 142 Cal.App.2d Supp. 855 [297 P.2d 815]
Sherman v. Panno (1954) 129 Cal.App.2d 375 [277 P.2d 80]
Metzenbaum v. Metzenbaum (1953) 115 Cal.App.2d 771, 775 [252 P.2d 1014]
Tracy v. MacIntyre (1938) 29 Cal.App.2d 145, 148 [84 P.2d 526]
Foster v. Superior Court (1938) 26 Cal.App.2d 230, 233 [79 P.2d 144]
Atchinson v. Hulse (1930) 107 Cal.App. 640, 644 [290 P. 916]
Warden v. Lamb (1929) 98 Cal.App. 738 [277 P. 867]
Security Bank etc. Co. v. Wilbur (1922) 56 Cal.App. 604 [205 P. 886]
CAL 1994-134

Notice of
 change of attorney
 Code of Civil Procedure section 284

death of attorney
 -replacement after
 Code of Civil Procedure section 286

suspension of attorney
Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]

to adverse party
 Code of Civil Procedure section 285

Notice of substitution
Gill v. Southern Pacific Co. (1916) 174 Cal. 84 [161 P. 1153]

On motion of trial court
People v. Lucev (1986) 188 Cal.App.3d 551, 556
 on request of criminal defendant
South v. Superior Court (1986) 188 Cal.App.3d 1055, 1060

Original attorney's authority
People v. Bouchard (1957) 49 Cal.2d 438 [317 P.2d 971]
Reynolds v. Reynolds (1943) 21 Cal.2d 580 [134 P.2d 251]
In re Marriage of Borson (1974) 37 Cal.App.3d 632 [112 Cal.Rptr. 432]
People v. Hook (1967) 248 Cal.App.2d 618 [56 Cal.Rptr. 683]
Sherman v. Panno (1954) 129 Cal.App.2d 375 [277 P.2d 80]

Pre-signed substitution forms
 LA 371 (1977)

Procedure
 Code of Civil Procedure section 284
 Rule 8.36, California Rules of Court
Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]
Wright v. Security etc. Bank (1939) 13 Cal.2d 139 [88 P.2d 125]
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
Rundberg v. Belcher (1897) 118 Cal. 589 [50 P. 670]
Smith v. Whittier (1892) 95 Cal. 279 [30 P. 529]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

Refusal to execute
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950-951 [203 Cal.Rptr. 463]

Removal of
 appointment of replacement on
 Code of Civil Procedure section 286

SUIT AGAINST CLIENT

Replacement of
on death of attorney
Code of Civil Procedure section 286
on removal of
Code of Civil Procedure section 286
on retirement of attorney
Code of Civil Procedure section 286
on suspension of attorney
Code of Civil Procedure section 286
Aldrich v. San Fernando Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]
on termination of services
Code of Civil Procedure section 286
Retirement of attorney
notice of replacement of, on
Code of Civil Procedure section 286
Scheduling conflict
People v. Harden (1982) 132 Cal.App.3d 622, 629
Shareholder who leaves firm has no ownership or lien interest upon fees owed to firm by client
City of Morgan Hill v. Brown (1999) 71 Cal.App.4th 1114 [84 Cal.Rptr.2d 361]
Crouse v. Brobeck, Phleger & Harrison (1998) 67 Cal.App.4th 1509 [80 Cal.Rptr.2d 94]
Signed by client at outset of employment
improper
LA 371 (1977)
Substituted counsel
defendant's right to conflict free counsel required that new appointed counsel be present before conducting further proceedings in open court to hear PD's request to be re-appointed
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
diligence of new counsel substituted in at the last minute
Yao v. Anaheim Eye Medical Group, Inc. (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]
duty with respect to client's file
LA(l) 1964-5, LA(l) 1959-4
SD 1970-3, SF 1975-4
fee
-contingent
LA 50 (1927)
may recover for full performance under employment contract
Di Loreto v. O'Neill (1991) 1 Cal.App.4th 149
notice to
LA 183 (1951), LA 154 (1945)
substitute counsel should only be appointed upon showing that defendant's right to counsel has been substantially impaired
People v. Sanchez (2010) 189 Cal.App.4th 374 [116 Cal.Rptr.3d 871]
Substituting counsel
borrowed file of client's returned to substituted counsel
LA 253 (1958)
Suspension of attorney
notice of replacement of
Code of Civil Procedure section 286
Termination of services
Code of Civil Procedure section 286
Timeliness of motion for
United States v. Moore (9th Cir. 1998) 159 F.3d 1154
Trial court denial of motion to substitute, denies right to effective assistance of counsel
Schell v. Witek (1999) 181 F.3d 1094
Withdrawal in domestic actions
Code of Civil Procedure section 285.1

SUIT AGAINST CLIENT [See Fee, unpaid.]

Dismiss one party's in order to enhance chances of other
LA(l) 1968-6
For unpaid fee
LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953), LA 109 (1936)

SURVEILLANCE

Undercover surveillance of opposing party
LA 315 (1970)

SUSPENSION [See Disabled lawyer. Disbarment. Resignation.]

Bankruptcy court has inherent power to impose district-wide suspension of attorney

In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238

Duties of suspended lawyer

Rule 9.20, California Rules of Court

-purpose of imposition of requirement to comply with Rule 9.20

In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646

In the Matter of Copren (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 861

Failure to comply with rule 9.20, California Rules of Court

Shapiro v. State Bar (1990) 51 Cal.3d 251 [794 P.2d 572]

In the Matter of Amponsah (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 646

In the Matter of Eldridge (Review Dept. 2017) 5 Cal. State Bar Ct. Rptr. 413

Standard 1.4(c)(ii) proceeding for relief from actual suspension

alcohol and drug addiction brought under control

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

not a reinstatement proceeding

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

petitioner's burden of proof, preponderance of the evidence

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

standard of review

-abuse of discretion or error of law

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

-substantial evidence supported hearing judge's findings

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

summary nature of proceeding

In the Matter of Terrones (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 289

Suspended attorney

authority to represent party in litigation

Aldrich v. San Fernando Valley Lumber Co. (1985) 170 Cal.App.3d 725, 741 [216 Cal.Rptr. 300]

discipline may be aggravated if attorney fails to take all steps necessary, short of practicing law, to protect client's interest

In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563

must be licensed at time services performed to recover fees

Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]

referrals from

LA(l) 1937-1

share office with

LA(l) 1937-1

TAX

Attorney's fees paid in tort-based action were excluded from client's gross income

Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Contingency fee portion of settlement recovery constitutes taxable income

C.I.R. v. Banks (2005) 543 U.S. 426 [125 S.Ct. 826]

Determination of whether attorney's fees are to be included in gross income involves how federal law operates in light of a state's definition of attorney's rights in the action

Banaitis v. Commissioner of Internal Revenue (9th Cir. 2003) 340 F.3d 1074

Failure of attorney to pay

In re Fahey (1973) 8 Cal.3d 842, 849-854

Fees paid directly to plaintiff's counsel by defendant pursuant to ADEA's fee-shifting provision is taxable income to plaintiff
Sinyard v. Commissioner of Internal Revenue (9th Cir. 2001) 268 F.3d 756

TEACHING [See Business activity. Educational activity. Judge. Law practice.]

TERMINATION OF ATTORNEY-CLIENT RELATIONSHIP [See Substitution of counsel. Withdrawal from employment.]

Rule 2-111, Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

Agreement evidenced parties' intent to establish an ongoing attorney-client relationship of an open-ended nature, terminable only by specific methods described in the agreement and under conditions that included attorney's return of all property and funds to the client

M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

By client [See Discharge of attorney by client.]

Client may have a reasonable belief that attorney continued the client's representation even though attorney had not communicated with the client for two and a half years

Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]

By court

Wang v. Nesse (2022) 81 Cal.App.5th 428 [297 Cal.Rptr.3d 149]

Compliance with rule 9.20, California Rules of Court, in connection with disbarment

Bercovich v. State Bar (1990) 50 Cal.3d 116

Completion of tasks

Wang v. Nesse (2022) 81 Cal.App.5th 428 [297 Cal.Rptr.3d 149]

Conflict of interest

People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Death or incapacity of attorney

appeal from judgment not extended by death of the attorney

Voinich v. Poe (1921) 52 Cal.App. 597 [199 P. 74]

Code of Civil Procedure section 286 requires notice to a party that his attorney has died

California Water Service v. Sidebotham & Son (1964) 224 Cal.App.2d 715 [37 Cal.Rptr. 1]

death of one member of the firm leaves option to consider employment terminated

Little v. Caldwell (1894) 101 Cal. 553 [36 P. 107]

party whose attorney has ceased to act must appoint new attorney

Unwin v. Barstow-San Antonio Oil Co. (1918) 36 Cal.App. 508 [172 P. 622]

written notice required by adverse party to appoint another attorney

Code of Civil Procedure section 286

Larkin v. Superior Court (1916) 176 Cal. 719 [154 P. 841]

Death or incapacity of client

LA 300

death of client-defendant terminates attorney's authority to represent him in a suit

Swartfager v. Wells (1942) 53 Cal.App.2d 522 [128 P.2d 128]

insanity or incapacity of client terminates authority of attorney

Sullivan v. Dunne (1926) 198 Cal. 183 [244 P. 343]

relation of attorney-client not terminated by death of client in a special contract of employment

Estate of Malloy (1929) 99 Cal.App. 96 [278 P. 488]

retention or destruction of files

LA 491 (1997)

Dependency proceeding

inability to provide competent legal services because of disagreement with a minor client

LA 504 (2000)

Discharge of attorney by client

Wang v. Nesse (2022) 81 Cal.App.5th 428 [297 Cal.Rptr.3d 149]

absolute right to discharge

General Dynamics v. Superior Court (1994) 7 Cal.4th 1164 [876 P.2d 487]

Fracasse v. Brent (1972) 6 Cal.3d 784 [100 Cal.Rptr. 385, 494 P.2d 9]

CAL 1994-134

LA 489 (1997), LA 481

-attorney in an action may be changed at any time

Gage v. Atwater (1902) 136 Cal. 170 [68 P. 581]

-executors had absolute right to change attorneys at any stage of probate proceedings

Estate of McManus (1963) 214 Cal.App.2d 390 [29 Cal.Rptr. 543]

-if discharged without cause, client liable for compensation and damages

Echlin v. Superior Court (1939) 13 Cal.2d 368 [90 P.2d 63]

-may change attorneys at any stage of action even if contingent fee exists

Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]

-may discharge attorney at any time unless attorney has vested interest

Kirk v. Culley (1927) 202 Cal. 501 [261 P. 994]

-plaintiff was without authority to substitute an attorney adverse to interests of associates

Scott v. Donahue (1928) 93 Cal.App. 256 [269 P. 774]

-retained attorney in criminal case

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

-right of a litigant to change attorneys at any stage of a proceeding

Estate of Hardenberg (1936) 6 Cal.2d 371 [57 P.2d 914]

-right to change attorney at any state in action absence any relation of attorney to subject matter

Meadow v. Superior Court (1963) 59 Cal.2d 610 [30 Cal.Rptr. 824, 381 P.2d 648]

-right to discharge attorney even if attorney rendered valuable services

O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]

-to prohibit discharge, attorney must have a "power coupled with an interest"

People v. Metrim Corp (1960) 187 Cal.App.2d 289 [9 Cal.Rptr. 584]

-wrongfully discharged under contingent fee contract entitled same compensation as if completed contemplated services

Herron v. State Farm Mut. Ins. Co. (1961) 56 Cal.2d 202 [14 Cal.Rptr. 294, 363 P.2d 310]

criminal matters

Code of Civil Procedure 284

-client's motion to discharge counsel does not require showing of incompetency

People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]

People v. Ortiz (1989) 210 Cal.App.3d 833 [258 Cal.Rptr. 581]

-court discretion for continuance

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

-denial of defendant's motion to discharge retained counsel was abuse of discretion

U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337

TESTIMONY

-right to discharge retained counsel
U.S. v. Brown (9th Cir. 2015) 785 F.3d 1337
People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]
People v. Munoz (2006) 138 Cal.App.4th 860 [41 Cal.Rptr.3d 842]
People v. Lara (2001) 86 Cal.App.4th 139 [103 Cal.Rptr.2d 201]

duty is not dissolved
-corporate attorney cannot take sides in a serious dispute between owners (dissolution)
Woods v. Superior Court (1983) 149 Cal.App.3d 931 [197 Cal.Rptr. 185]

minimal duties of attorney
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

power coupled with an interest
-agreement did not result in a contract coupled with an interest
Fields v. Potts (1956) 140 Cal.App.2d 697 [295 P.2d 965]
-contingent fee contract and assignment were ineffectual to create a power coupled with an interest
Estate of Cazaurang (1934) 1 Cal.2d 712 [36 P.2d 1069]
-interest must be specific, must be in the subject matter of the litigation and must be beneficial
Redevelopment Agency v. Superior Court (1961) 195 Cal.App.2d 591 [16 Cal.Rptr. 45]
-interest not created by execution of a contingent fee contract
Bandy v. Mt. Diablo Unified School Dist. (1976) 56 Cal.App.3d 230 [126 Cal.Rptr. 890]
-must be a specific, present, and coexisting interest in the subject of the power or agency
O'Connell v. Superior Court (1935) 2 Cal.2d 418 [41 P.2d 334]
-must be an interest in the thing itself
Scott v. Superior Court (1928) 205 Cal. 525 [271 P. 906]
-no exception when the relation of the attorney to subject matter arises from his employment
Telander v. Telander (1943) 60 Cal.App.2d 207 [140 P.2d 204]

unwarranted discharge by court
-defendant's exclusion from an in-camera conference regarding defense counsel's withdrawal deprived defendant of due process of law
*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811
-order preventing attorneys from representing clients contrary to wishes of all those involved
Cloer v. Superior Court (1969) 271 Cal.App.2d 143 [76 Cal.Rptr. 217]
-over attorney's and defendant's consistent and repeated objections
Smith v. Superior Court (1968) 68 Cal.2d 547 [68 Cal.Rptr. 1, 440 P.2d 65]

Dismissal of case may not terminate attorney-client relationship
In the Matter of Whitehead (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 354

Factors demonstrating ongoing attorney client relationship with corporate client
M'Guinness v. Johnson (2016) 243 Cal.App.4th 602 [196 Cal.Rptr.3d 662]

Failure to move to withdraw as counsel paired with client's belief that he was represented constitutes abandonment of a client
Foley v. Biter (9th Cir. 2015) 793 F.3d 998

Not necessary to terminate prior agreement where there was only a framework for future representation, contract was not self effectuating, it required reciprocal actions by attorney and client
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

Objective standard governs end of relationship
Canton Poultry & Deli, Inc. v. Stockwell, Harris (2003) 109 Cal.App.4th 1219 [135 Cal.Rptr.2d 695]
Worthington v. Rusconi (1994) 29 Cal.App.4th 1488 [35 Cal.Rptr.2d 169]
firm's representation terminated when firm emailed client that it "must withdraw" as client's attorney, that its "attorney-client relationship with client is terminated forthwith," and that it "no longer represents client with regard to any matters."
GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]

Scheduling conflict
People v. Harden (1982) 132 Cal.App.3d 622, 629 [183 Cal.Rptr. 252]

Standard for determining end of relationship
Lockton v. O'Rourke (2010) 184 Cal.App.4th 1051 [109 Cal.Rptr.3d 392]

Undue influence
attorney used party's financial entanglements to coerce an agreement with plaintiff
Donnelly v. Ayer (1986) 183 Cal.App.3d 978, 984 [228 Cal.Rptr. 764]

TESTIMONY [See Witness.]

Copy of results of discovery given to lawyer with some interest in the matter

LA(l) 1965-16

THIRD PARTY [See Client Trust Account. Conflict of Interest, Fee, paid by third party. Duties of attorney. Liens. Professional liability.]

THREATENING ADMINISTRATIVE ACTION WITH EEOC

CAL 1984-81

THREATENING CRIMINAL PROSECUTION

Rule 7-104, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-100, Rules of Professional Conduct (operative as of May 27, 1989)

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Flatley v. Mauro (2006) 39 Cal.4th 299 [46 Cal.Rptr.3d 606]

Crane v. State Bar (1981) 30 Cal.3d 117, 123 [177 Cal.Rptr. 670, 635 P.2d 163]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]

Arden v. State Bar (1959) 52 Cal.2d 310, 314-315, 320-321 [341 P.2d 6]

Libarian v. State Bar (1952) 38 Cal.2d 328, 328-329 [239 P.2d 865]

Lindenbaum v. State Bar (1945) 26 Cal.2d 565, 566-573 [160 P.2d 9]

Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]

Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]

Ross v. Creel Printing & Publishing Co. (2002) 100 Cal.App.4th 736 [122 Cal.Rptr.2d 787]

Kinnamon v. Staitman & Snyder (1977) 66 Cal.App.3d 893, 894-897 [136 Cal.Rptr. 321]

In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627

LA 469 (1992)

SD 2005-1

Anti-SLAPP
letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege

Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]

plaintiff's letter to defendant is extortion as a matter of law, therefore it is not protected under the anti-SLAPP statute

Stenehiem v. Sareen (2014) 226 Cal.App.4th 1405 [173 Cal.Rptr.3d 173]

- Client of attorney
 assisting client in the filing of an improper State Bar complaint
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
 bad check for fees
 LA 5 (1918)
- Disciplinary action
 attorney may not advise client to do what attorney may not do
CAL 1983-73, LA 469 (1992), SD 2005-1
- Extortion
 lawyer's threat to inform acquiring company about alleged criminal activities was clearly calculated to apply maximum settlement pressure, so that lawyer was thereby attempting to obtain property from another by wrongful use of force or fear
Falcon Brands, Inc. v. Mousavi & Lee, LLP (2022) 74 Cal.App.5th 506 [289 Cal.Rptr.3d 521]
- Filing of Bar complaint as a prohibited act of extortion
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- In attempt to collect fees due and owing
Bluestein v. State Bar (1974) 13 Cal.3d 162, 166-170 [118 Cal.Rptr. 175, 529 P.2d 599]
Cohen v. Brown (2009) 173 Cal.App.4th 302 [93 Cal.Rptr.3d 24]
- Letter threatening reporting party to Attorney General, District Attorney, IRS, coupled with a demand for money is extortion as a matter of law and not protected under litigation privilege
Mendoza v. Hamzeh (2013) 215 Cal.App.4th 799 [155 Cal.Rptr.3d 832]
- Public prosecutor
CAL 1989-106, SF 1975-6
 Statement that "all available legal remedies will be pursued" may not be improper
CAL 1991-124
- Threat may be implied
Crane v. State Bar (1981) 30 Cal.3d 117 [177 Cal.Rptr. 670]
In the Matter of Malek-Yonan (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 627
- TRADE NAME** [See Advertising, fictitious name. Practice of law, fictitious name.]
 Business and Professions Code section 6164]
- TRIAL CONDUCT**
 Business and Professions Code sections 6068(a)
 changing vote while serving as a juror in order to shorten deliberations and get back to law practice
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
 counsel's flagrant and repeated violations of the court's orders
Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]
- Business and Professions Code section 6068(b)
 accusing judge of lack of integrity
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
In re Siegel (1975) 45 Cal.App.3d 843, 845 [120 Cal.Rptr. 8]
 advising client to violate court order
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]
 arguing to jury that goal of defense and prosecution counsel is to misrepresent facts
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
 disrespectful reference to defense attorney
 -prosecutor effectively calling defense attorney a liar
United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
 disrespectful reference to prosecutor
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]
 disrespectful remarks concerning judge
Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
 -counsel's use of "succubustic" describing a female judicial officer and accusing judge of failure to follow the law in court filings are reportable
Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
 falsely maligning appellate court judges
Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]
 impugning integrity of prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
 knowingly presenting falsified check
Reznik v. State Bar (1969) 1 Cal.3d 198, 203 [81 Cal.Rptr. 769, 460 P.2d 969]
 no discipline for factual statements unless the State Bar proves that such statements are false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
 no discipline for rhetorical hyperbole incapable of being proved true or false
Standing Committee on Discipline of the United States District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
 repeated statements in pleadings and letters that impugned the integrity of numerous judges
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775
 series of offensive statements against judges and others
Lebbos v. State Bar (1991) 53 Cal.3d 37
Sacramento County Department of Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
 unwarranted charges of bias against superior court judges
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]
Martinez v. O'Hara (2019) 32 Cal.App.5th 853 [244 Cal.Rptr.3d 226]
- Business and Professions Code sections 6068(b), (c), (d), (g)
 attacked those involved with State Bar and State Bar Court by commencing a federal civil rights action against the justices of the Supreme Court, State Bar Court judges and attorneys of the State Bar
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
- Business and Professions Code section 6068(d)
 affirmative false representation actionable even though no harm results
Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]
 attorney never directly asked by court, not guilty of intentionally misleading court by not expressly revealing facts
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1] OC 95-001

TRIAL CONDUCT

breach of an attorney's duty to be truthful in statements made to a court
In re Aguilar and Kent (2004) 34 Cal.4th 386 [18 Cal.Rptr.3d 874]

citing case known not to be controlling, failure to cite known controlling case
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]

client's absence from court, attorney may not answer court's inquiry if harmful to client
 SD 2011-1

concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 620 [125 Cal.Rptr. 471, 542 P.2d 631]

concealment of known material information
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
 OC 95-001

counsel married to bailiff/court reporter
CAL 1987-93

disrespectful reference to prosecutor
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]
Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]

disrespectful remarks concerning judge
Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]

duty to disclose possible violation of court order by third party, no duty found
 LA 394 (1982)

failure to disclose material facts
In re Attorney Lynn Hubbard III (S.D. Cal. 2013) 2013 WL 435945, 2013 U.S. Dist. Lexis 14949
Rodgers v. State Bar (1989) 48 Cal.3d 300 [256 Cal.Rptr. 381, 768 P.2d 1058]
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
 OC 95-001

falsely maligning appellate court judges
Ramirez v. State Bar (1980) 28 Cal.3d 402, 412 [169 Cal.Rptr. 206, 619 P.2d 399]

falsely maligning prosecutor and legal profession
Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

knowingly allowing client to testify falsely
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664, 372 P.2d 656]

law firm representing corporation has duty to disclose to the court and to opposing counsel corporate client's suspended status
Palm Valley Homeowners Association v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

misleading judge by concealment of request for continuance
Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]
 OC 95-001

misleading judge through failure to disclose, filing false documents
Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]
In the Matter of Regan (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 844
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

misleading judge through knowing concealment of material facts
Best v. State Bar (1962) 57 Cal.2d 633 [21 Cal.Rptr. 589, 371 P.2d 325]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
 OC 95-001

misleading judge through the use of misleading, inaccurate, and incomplete responses to discovery requests and presentation of fraudulent evidence
Pumphrey v. K.W. Thompson Tool Co. (9th Cir. 1995) 62 F.3d 1128

misrepresentations made to the opposing counsel and the court
 LA 482 (1995), OC 95-001

misrepresentation of appellate decision in opening brief
Sacramento County Department Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]

naming a person as a plaintiff in a lawsuit without the person's knowledge or consent
Lebbos v. State Bar (1991) 53 Cal.3d 37
In the Matter of Shinn (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 96

no duty to disclose assistance to an in propria persona litigant unless a court rule requires disclosure
 LA 502 (1999)

offensive gender based remarks to a government attorney
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110

offensive references to opposing parties and counsel
Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]

offering false evidence, subornation of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448, 487 P.2d 1016]

presentation of known false fact presumes intent to deceive
Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]

presentation of known false fact which tends to mislead sufficient for violation
Vickers v. State Bar (1948) 32 Cal.2d 247 [196 P.2d 10]

presenting documents containing known false allegations
Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]

pretended non-participation in fraudulent claim made to insurance company
People v. Benson (1962) 206 Cal.App.2d 519, 531 [23 Cal.Rptr. 908]

violation found even if attempt to mislead is unsuccessful
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Business and Professions Code section 6068(f)
 unconstitutional vagueness of "offensive personality"
United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110
In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775

Rules 7-105, 7-106, 7-107, and 7-108, Rules of Professional Conduct (operative until May 26, 1989)
Rules 5-200, 5-320, 5-310, and 5-300, Rules of Professional Conduct (operative as of May 27, 1989)
 Absence of attorney during jury deliberations not prejudicial to appellant
People v. Nunez (1983) 144 Cal.App.3d 697 [192 Cal.Rptr. 788]

- Administration of justice
 - attempted interference with
 - Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]
 - In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- Admonishment of defense counsel by trial court in front of jury was proper for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
 - People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- Advising client to disobey court order
 - Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 117 [116 Cal.Rptr. 713]
- Advocacy of counsel
 - money sanctions for violation of lawful court order not applicable to
 - Code of Civil Procedure section 177.5
- Altering copy of court order
 - Lebbos v. State Bar (1991) 53 Cal.3d 37
- Altering evidence in criminal trial
 - Price v. State Bar (1982) 30 Cal.3d 537 [179 Cal.Rptr. 914, 638 P.2d 1311]
- Attorney admitted to Supreme Court Bar in order to represent self in appeal from sanctions imposed by 9th Circuit
 - In the Matter of Admission of Christopher A. Brose (1983) 77 L.Ed.2d 1360
- Attorney misconduct must sufficiently permeate an entire proceeding and affect result
 - McKinley v. City of Eloy (9th Cir. 1983) 705 F.2d 1110, 1117
- Attorney sanctions for frivolous appeal
 - In re Marriage of Flaherty (1982) 31 Cal.3d 637 [183 Cal.Rptr. 508, 646 P.2d 179]
 - Champlin/GEI Wind Holdings, LLC v. Avery (2023) 92 Cal.App.5th 218 [309 Cal.Rptr.3d 361]
 - Olsen v. Harbison (2005) 134 Cal.App.4th 278 [35 Cal.Rptr.3d 909]
 - Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
 - Padres L.P. v. Henderson (2003) 114 Cal.App.4th 495 [8 Cal.Rptr.3d 584]
 - Pollock v. University of Southern California (2003) 112 Cal.App.4th 1416 [6 Cal.Rptr.3d 122]
 - Barnard v. Langer (2003) 109 Cal.App.4th 1453 [1 Cal.Rptr.3d 175]
 - DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
 - Simonian v. Patterson (1994) 27 Cal.App.4th 773 [32 Cal.Rptr.2d 722]
 - Bank of America v. Henkin (1986) 185 Cal.App.3d 919 [230 Cal.Rptr. 113]
 - In re Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
- Candor
 - client's absence from court, attorney may not answer court's inquiry if harmful to client
 - SD 2011-1
 - duty of
 - advise adversary of contribution to campaign committee of presiding judge in case
 - LA 387 (1981)
 - disclosure
 - counsel married to bailiff
 - CAL 1987-93
 - counsel married to court reporter
 - CAL 1987-93
 - that client cannot be located
 - CAL 1989-111
 - in admission proceedings
 - State Bar v. Lanbert (1954) 43 Cal.2d 636, 642 [276 P.2d 596]
 - in attorney disciplinary proceedings
 - Barreiro v. State Bar (1970) 2 Cal.3d 912, 926 [88 Cal.Rptr. 192, 471 P.2d 992]
- In re Honoroff (1958) 50 Cal.2d 202, 210 [323 P.2d 1003]
- Burns v. State Bar (1955) 45 Cal.2d 296 [288 P.2d 514]
- In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
- In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
- in criminal matter defense counsel must turn over to law enforcement cash received from a client which are the actual bills used in a crime
 - LA 466 (1991)
- electronic data, concealing in violation of law
 - SD 2012-1
- Citing as controlling law a case not in point
 - Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
- Citing unpublished opinions
 - Ninth Circuit Rule 36-3(b), no sanctions ordered
 - Hart v. Massanari (9th Cir. 2001) 266 F.3d 1155
 - Sorchini v. City of Covina (9th Cir. 2001) 250 F.3d 706
 - Rule 8.1115, California Rules of Court
 - In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639
- Client's role
 - People v. Davis (1984) 161 Cal.App.3d 796, 802-804 [207 Cal.Rptr. 846]
- Closing argument
 - conviction obtained on what appeared to be prosecutor's misstatement of the evidence when in fact court reporter's official transcript has since been corrected and no misstatement actually occurred
 - U.S. v. Mageno (9th Cir. 2015) 786 F.3d 768
 - defense counsel prohibited from expressing opinion as to defendant's innocence
 - People v. Tyler (1991) 231 Cal.App.3d 1692 [283 Cal.Rptr. 268]
- misstatement of the law
 - district attorney misrepresented the law that it infected the case with prejudicial error
 - People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
- prejudicial statement made during
 - United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439
 - Jackson v. Park (2021) 66 Cal.App.5th 1196 [281 Cal.Rptr.3d 634]
 - People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
 - Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]
 - Menasco v. Snyder (1984) 157 Cal.App.3d 736 [203 Cal.Rptr. 842]
- prosecutorial misconduct to repeatedly use "cockroaches" to describe defendants and other gang members, suggested guilt by association
 - People v. Arredondo (2018) 21 Cal.App.5th 493 [230 Cal.Rptr.3d 380]
- prosecutor's use of a visual aid in the form of a jigsaw puzzle to demonstrate reasonable doubt standard impermissibly misstated the law to the jury
 - People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
- Collateral attack, defined
 - Church v. Jamison (2006) 143 Cal.App.4th 1568 [50 Cal.Rptr.3d 166]
- Communication with judge ex parte
 - filing brief without knowledge of opposing counsel
 - LA 56 (1928)
 - trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
 - Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]
- Communication with juror
 - CAL 1988-100, CAL 1976-39

TRIAL CONDUCT

Communication with member of grand jury

Matter of Tyler (1884) 64 Cal. 434 [1 P. 884]

Contempt of court

appointment of counsel as “advisor” to criminal defendant

-refusal to accept

Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

attorney assists husband to assist subpoena service

In re Holmes (1983) 145 Cal.App.3d 934

contempt proceedings for impugning the integrity of the court are criminal in nature even though they arise from a civil action

In re Mahoney (2021) 65 Cal.App.5th 376 [280 Cal.Rptr.3d 2]

In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

defense attorney’s isolated reference to the possible penalty did not warrant summary contempt

Watson v. Block (9th Cir. 1996) 102 F.3d 433

due process requires that reasonable notice be given as to the charges and the opportunity to be heard

Little v. Kern County Superior Court (9th Cir. 2002) 294 F.3d 1075

filing of a false affidavit of disqualification against judge

Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]

inclusion of contemptuous statements in a document filed in a court is contempt committed in the immediate presence of the court and thus constitutes direct contempt of court

In the Matter of Koven (2005) 134 Cal.App.4th 262 [35 Cal.Rptr.3d 917]

indirect contempt

-presiding judge may defer contempt adjudication to another judge

Hanson v. Superior Court of Siskiyou County (2001) 91 Cal.App.4th 75 [109 Cal.Rptr.2d 782]

Court order

appointment of counsel as “advisor” to criminal defendant

-refusal to accept

In re Ronald A. Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]

Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]

attorney’s direct violation of court order by asking a witness for opinion on cause of an accident at trial does not warrant mistrial or new trial

Pope v. Babick (2014) 229 Cal.App.4th 1238 [178 Cal.Rptr.3d 42]

compliance with to produce privileged material

-court may not find waiver of privilege when objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

-opinion letter by outside counsel to corporate counsel covered by attorney-client privilege

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

-test validity of court order

Roberts v. Superior Court (1973) 9 Cal.3d 330, 335-336 [107 Cal.Rptr. 309, 508 P.2d 309]

dismissal of action for flagrant and repeated violations of the court’s orders is within the authority of the trial court

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

disobedience of void court order

Maltaman v. State Bar (1987) 43 Cal.3d 924

imposition of monetary sanctions for failing to obey court order is within discretion of the trial conduct

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

Court order, violation of

money sanctions

-not applicable to advocacy of counsel

Code of Civil Procedure section 177.5

Criminal proceedings

failure to file timely notice of appeal

-recusal of lawyer for conflict of interest

In re Fountain (1977) 74 Cal.App.3d 715 [141 Cal.Rptr. 654]

gender based peremptory challenge of venire persons violates Equal Protection Clause

United States v. De Gross (9th Cir. 1992) 960 F.2d 1433

misstatement of evidence by defense counsel in opening argument

People v. Coleman (1992) 5 Cal.App.4th 646

tardy request to allow defendant-witness to change clothes before testifying

People v. Froehlig (1991) 1 Cal.App.4th 260

Criticism of the court

Matter of Humphrey (1917) 174 Cal. 290, 295 [163 P. 60]

Cross-complaint

duty to decline to file when totally meritless and frivolous

LA 464 (1991)

Cumulative effect of errors results in prejudice

U.S. v. Preston (9th Cir. 2017) 873 F.3d 829

Delaying tactics

People v. Keshishian (2008) 162 Cal.App.4th 425 [75 Cal.Rptr.3d 539]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Bryan v. Bank of America (2001) 86 Cal.App.4th 185 [103 Cal.Rptr.2d 148]

In re Marriage of Gumabao (1984) 150 Cal.App.3d 572, 577

Depositions

duty to protect client interest by asserting proper objections and consulting with client where appropriate to fulfill duty of competent representation

LA 497 (1999)

instructions not to answer sanctionable

Stewart v. Colonial Western Agency, Inc. (2001) 87 Cal.App.4th 1006 [105 Cal.Rptr.2d 115]

Destruction of evidence

Penal Code section 135

R.S. Creative Inc. v. Creative Cotton Ltd., et al. (1999) 75 Cal.App.4th 486 [89 Cal.Rptr.2d 353]

Dismissal with prejudice deemed appropriate sanction for attorney’s repeated violation of court’s order

Osborne v. Todd Farm Service (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

Duty to advise court of a violation of a court order by third party

LA 394 (1982)

Duty to disclose adverse case in controlling jurisdiction

Southern Pacific Transportation v. P.U.C. of the State of California (9th Cir. 1983) 716 F.2d 1285, 1291

failure to discuss most pertinent legal authority

Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]

Duty to disclose expert witness notes

People v. Lamb (2006) 136 Cal.App.4th 575 [40 Cal.Rptr.3d 609]

Duty to inform court that corporate client is suspended

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

LA 408 (1982)

Duty to reveal altered evidence

SD 1983-3

Duty to reveal facts

failing to correct a judge’s misapprehension of fact

Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]

Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

failure to file briefs on time
In re Young (9th Cir. 1976) 537 F.2d 326

failure to reveal harmful facts
Snyder v. State Bar (1976) 18 Cal.3d 286 [133 Cal.Rptr. 864, 555 P.2d 1104]
 -client's prior criminal conviction
CAL 1986-87

negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

use of false evidence of perjured testimony
 Penal Code sections 127, 132-135, 137
 when asked directly, that client cannot be located
CAL 1989-111

Ex parte communication with judge
CAL 1984-82, CAL 1984-78

communications between agency prosecutor and agency judge
Chevron Stations, Inc. v. Alcoholic Beverage Control Appeals Board (2007) 149 Cal.App.4th 116 [57 Cal.Rptr.3d 6]

ex parte communications between trial judge and a deliberating jury are prohibited
People v. Bradford (2007) 154 Cal.App.4th 1390 [65 Cal.Rptr.3d 548]

judge engaged in improper ex parte conversations with parties and counsel about matters coming before him as a judge
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

trial court had no authority to impose sanctions for attorney's ex parte request to set date for status conference
Blum v. Republic Bank (1999) 73 Cal.App.4th 245 [86 Cal.Rptr.2d 226]

Ex parte tampering with selection of potential jurors
Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]

Extensions
 answer
 -attorney cannot assume extension of time to answer without communication from opposing counsel
Lott v. Franklin (1988) 206 Cal.App.3d 521

Failure to file jury instructions with Joint Issues Conference Statement
Cooks v. Superior Court (1990) 224 Cal.App.3d 723

Failure to monitor progress of client's case results in denial of motion for a preferential trial date
Shaffer v. Weber (1991) 233 Cal.App.3d 944

False statements of fact or law
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989
 attorney disciplined for false averments of fact by clients
Barton v. State Bar (1931) 213 Cal. 186, 188 [2 P.2d 149]
 attorney gives false testimony while under oath in court
Green v. State Bar (1931) 213 Cal. 403, 405
 citing case known not to be controlling
Shaeffer v. State Bar (1945) 26 Cal.2d 739, 747 [160 P.2d 825]
 concealment of request for continuance not distinguishable from false statement of fact
Grove v. State Bar (1965) 63 Cal.2d 312, 315 [46 Cal.Rptr. 513, 405 P.2d 553]
 court responsible for ascertaining attorney's role in preparation and presentation of sham evidence
Paul Oil Company, Inc. v. Federated Mutual Insurance (1998) 154 F.3d 1049
 deputy district attorney hints that defendant has prior criminal record, where such remarks have no basis in fact
People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]

false accounting
CAL 1988-96

false declarations made to court
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Myrdall (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 363

false representations made to the State Bar
Lebbos v. State Bar (1991) 53 Cal.3d 37
Olguin v. State Bar (1980) 28 Cal.3d 195, 200 [167 Cal.Rptr. 876, 616 P.2d 858]
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269

false statement of fact made to jury
City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647, 558 P.2d 545]

false statement to opposing counsel
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
CAL 2015-194

in pleading
 -verified by client
 LA 33 (1927)

knowingly presenting false evidence
Hayes v. Brown (9th Cir. 2005) 399 F.3d 972

presentation of known false fact presumes intent to deceive
Pickering v. State Bar (1944) 24 Cal.2d 141, 144 [148 P.2d 1]
Vaughn v. Municipal Court (1967) 252 Cal.App.2d 348, 358 [60 Cal.Rptr. 575]

presentation of known false fact which tends to mislead sufficiently
Vickers v. State Bar (1948) 32 Cal.2d 247, 253 [196 P.2d 10]

presenting altered document to court
Utz v. State Bar (1942) 21 Cal.2d 100, 104 [130 P.2d 377]

False testimony
 attorney induces
 -no civil liability
Rens v. Woods (1987) 193 Cal.App.3d 1134

by client
 SD 1983-8
 -attorney knowingly allows
 Business and Professions Code section 6068(d)
 Penal Code section 127
 Rule 7-101, Rules of Professional Conduct (former rule)
In re Branch (1968) 70 Cal.3d 200, 210
People v. Pike (1962) 58 Cal.2d, 70, 97
People v. Lucas (1969) 1 Cal.App.3d 637, 643

by witness
CAL 2019-200

offer by attorney
 -no duty to
 Business and Professions Code section 6068(d)

False verification
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

Falsely maligning judge
 abuse of judge of the trial court in brief filed in appellate court treated as contempt of appellate court
Sears v. Starbird (1888) 75 Cal. 91 [16 P. 531]
 affidavit accuses superior court judges of criminal conspiracy
Bar Association v. Philbrook (1917) 35 Cal.App. 460 [170 P. 440]
 appeal accuses trial court judge of conspiracy
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446

appellate court judges
Ramirez v. State Bar (1980) 28 Cal.3d 402 [169 Cal.Rptr. 206]

TRIAL CONDUCT

- assailing state Supreme Court justice in filed brief
In re Philbrook (1895) 105 Cal. 471, 477 [38 P. 511, 38 P. 884]
- attacking judge by publicly making false and inflammatory statements
Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
- attacking judge in letter to court dictated by attorney, signed by client
Ex parte Ewell (1925) 71 Cal.App. 744, 748 [236 P. 205]
- circular attack of official and personal acts of judge
In re Graves (1923) 64 Cal.App. 176, 181 [221 P. 411]
- closing brief contains disrespectful language
Baldwin v. Daniels (1957) 154 Cal.App.2d 153, 155 [315 P.2d 889]
- disrespectful remarks concerning judge
Hogan v. State Bar (1951) 36 Cal.2d 807, 810 [228 P.2d 554]
Sacramento County Department Health and Human Services v. Kelly E. (2006) 138 Cal.App.4th 396 [41 Cal.Rptr.3d 453]
In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160
- trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial
People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]
- making false statements to disqualify a judge
Lebbos v. State Bar (1991) 53 Cal.3d 37
Fine v. Superior Court (2002) 97 Cal.App.4th 651 [119 Cal.Rptr.2d 376]
- Filing false affidavit
Hustedt v. Workers' Compensation Appeals Board (1981) 30 Cal.3d 329, 348 [178 Cal.Rptr. 801, 636 P.2d 1139]
Light v. State Bar (1939) 14 Cal.2d 328 [94 P.2d 35]
In re Wharton (1896) 114 Cal. 367 [46 P. 172]
In re Knott (1887) 71 Cal. 584 [12 P. 780]
- in support of application for admission to bar
Spearz v. State Bar (1930) 211 Cal. 183, 187 [294 P. 697]
- Following conclusion of case, the issue of whether law firm should have been disqualified is moot
Nakano v. United States (9th Cir. 1983) 698 F.2d 1059, 1060
- Free speech right of the attorney at issue
Gentile v. State Bar of Nevada (1991) 501 U.S. 1030 [111 S.Ct. 2720]
Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430
Zal v. Steppe (9th Cir. 1991) 968 F.2d 924
Canatella v. Stovitz (2005) 365 F.Supp.2d 1064
- Frivolous appeal
 - sanctions
 - against attorney
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]
DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]
Pierotti, et al. v. Torian (2000) 81 Cal.App.4th 17 [96 Cal.Rptr.2d 553]
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
Bach v. County of Butte (1989) 215 Cal.App.3d 294
Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]
Kapelus v. Newport Equity Funds, Inc. (1983) 147 Cal.App.3d 1, 9 [194 Cal.Rptr. 893]
In the Matter of Scott (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 446
 - denied where plaintiff had probable cause to sue defendant
Morrison v. Rudolph (2002) 103 Cal.App.4th 506 [126 Cal.Rptr.2d 747]
 - notification of State Bar
Bank of California v. Varakin (1990) 216 Cal.App.3d 1630
 - against attorney and client for delay
Harris v. Sandro (2002) 96 Cal.App.4th 1310 [117 Cal.Rptr.2d 910]
 - for delay
 -defendant
Hersch v. Citizens (1983) 146 Cal.App.3d 1002, 1012 [194 Cal.Rptr. 628]
 - for frivolous Marvin appeal
Kurokawa v. Blum (1988) 199 Cal.App.3d 976 [245 Cal.Rptr. 463]
 - granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]
 - motion devoid of merit, bad faith
Karwasky v. Zachay (1983) 146 Cal.App.3d 679 [194 Cal.Rptr. 292]
- Frivolous matter
In re Brooks-Hamilton (9th Cir. 2009) 400 B.R. 238
County of Kern v. Jadwin (2011) 197 Cal.App.4th 65 [127 Cal.Rptr.3d 837]
 attorney appearing for client is not litigant for purposes of being sanctioned as vexatious litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194
- lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
In re Shieh (1993) 17 Cal.App.4th 1154 [21 Cal.Rptr.2d 886]
- Frivolous motion
 - for purposes of delay, discipline imposed
Bernstein v. State Bar (1990) 50 Cal.3d 221
 - for purposes of delay, sanctions imposed
In re Mark B. (2007) 149 Cal.App.4th 61 [56 Cal.Rptr.3d 697]
 - sanctions
In re Disciplinary Action Mooney (9th Cir. 1988) 841 F.2d 1003
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]
 - unlawful workplace activity below some threshold level of significance not an issue of public interest for purposes of anti-SLAPP motion to strike, even though it implicates public policy
Carpenter v. Jack In The Box Corp. (2007) 151 Cal.App.4th 454 [59 Cal.Rptr.3d 839]
- Frivolous petition
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 defense counsel did not oppose dismissal of petition filed by pro se defendant, for unconditional release where there were no changed circumstances
People v. Reynolds (2010) 181 Cal.App.4th 1402 [105 Cal.Rptr.3d 560]
- Frivolous pleading
 - anti-SLAPP
RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc. (2020) 56 Cal.App.5th 413 [270 Cal.Rptr.3d 425]
 - sanctions
580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

Immunity

attorney not entitled to judicial immunity for preparing order for judge

Burton v. Infinity Capital Management (9th Cir. 2014) 753 F.3d 954

fabricating evidence, filing false crime report, making comments to the media, and investigating crime against attorney may not be protected by absolute immunity

Milstein v. Cooley (9th Cir. 2001) 257 F.3d 1004

may not shield from civil rights claim where district attorney misstates facts in affidavit to secure arrest warrant

Morley v. Walker (1999) 175 F.3d 756

Improper remarks about opposing party during trial corrected by sustained objections and court's admonishment

West v. Johnson & Johnson Products, Inc. (1985) 174 Cal.App.3d 831 [220 Cal.Rptr. 437]

trial court properly admonished defense counsel in front of jury for numerous instances of misconduct amounting to unprofessional conduct throughout course of trial

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Incompetent representation

basis for reversal of judgment

-must be reported by clerk to State Bar

Business and Professions Code section 6086.7

Insinuation

Curcio v. Svanevik (1984) 155 Cal.App.3d 955 [202 Cal.Rptr. 499]

Juror lists

attempted interference with

Noland v. State Bar (1965) 63 Cal.2d 298, 302 [46 Cal.Rptr. 305, 405 P.2d 129]

Litigation privilege

Herterich v. Peltner (2018) 20 Cal.App.5th 1132 [229 Cal.Rptr.3d 744]

Shafer v. Berger, Kahn et al. (2003) 107 Cal.App.4th 54 [131 Cal.Rptr.2d 777]

failure to redact opposing party's personal information

G.W. v. Intelligator (2010) 185 Cal.App.4th 606 [110 Cal.Rptr.3d 559]

may not apply to republication of privileged statements to non-participants in the action

Cole v. Patricia A. Meyer & Associates, APC (2012) 206 Cal.App.4th 1095 [142 Cal.Rptr.3d 646]

responding party may establish facts that would, if accepted, show that litigation was not contemplated in good faith and under serious consideration

RGC Gaslamp, LLC v. Ehmcke Sheet Metal Co., Inc. (2020) 56 Cal.App.5th 413 [270 Cal.Rptr.3d 425]

Local court rules

dismissal of action appropriate sanction for violations of fast track rules

Intel Corp. v. USAIR, Inc. (1991) 228 Cal.App.3d 1559 [279 Cal.Rptr. 569]

Media and press statements

Rule 5-120, Rules of Professional Conduct (operative October 1, 1995)

may be regulated under "clear and present danger" standard

Gentile v. State Bar of Nevada (1991) 501 U.S. 1030 [111 S.Ct. 2720]

Standing Committee on Discipline of the U.S. District Court v. Yagman (9th Cir. 1995) 55 F.3d 1430

Misconduct by counsel

People v. Burnett (1993) 12 Cal.App.4th 469 [15 Cal.Rptr.2d 638]

attorney's direct violation of court order by asking a witness for opinion on cause of an accident at trial does not warrant mistrial or new trial

Pope v. Babick (2014) 229 Cal.App.4th 1238 [178 Cal.Rptr.3d 42]

basis for reversal of judgment

-must be reported by clerk to State Bar

Business and Professions Code section 6086.7

Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]

no misconduct found in lawyer's aggressive solicitation of improper opinion testimony

Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]

prosecutor effectively calling defense counsel a liar

United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439

Misconduct by judge

trial judges' misconduct which deprives plaintiff of fair trial warrants judgment reversal

Haluck v. Ricoh Electronics, Inc. (2007) 151 Cal.App.4th 994 [60 Cal.Rptr.3d 542]

Misleading judge or other party

In re Disciplinary Action Curl (9th Cir. 1986) 803 F.2d 1004

Maltaman v. State Bar (1987) 43 Cal.3d 924

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141

In the Matter of Moriarty (Review Dept. 1999) 4 Cal. State Bar Ct. Rptr. 9

In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490

In the Matter of Conroy (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 86

altering and filing stipulations

Lebbos v. State Bar (1991) 53 Cal.3d 37

attorney knowingly presents false statements which tend to deceive/mislead the court

U.S. v. Sullivan (9th Cir. 2008) 522 F.3d 967

Davis v. State Bar (1983) 37 Cal.3d 231

In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

client's absence from court, attorney may not answer court's inquiry if harmful to client

SD 2011-1

co-counsel for criminal defendant conspire to procure improper dismissal of case by falsely representing whereabouts of client

In re Richardson (1930) 209 Cal. 492, 499

concealment of material fact is as misleading as an overtly false statement

Di Sabatino v. State Bar (1980) 27 Cal.3d 159

Griffs v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

In the Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

OC 95-001

concealment of suspended corporate client's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

deceit concerning disbursements of funds held for benefit of both spouses in marital dissolution

In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

defense misrepresented principal benefits of settlement

Aviation Data, Inc. v. American Express Travel Related Services Company, Inc. (2007) 152 Cal.App.4th 1522 [62 Cal.Rptr.3d 396]

distortion of record by deletion of critical language in quoting from record

Amstar Corp. v. Envirotech Corp. (9th Cir. 1984) 730 F.2d 1476

TRIAL CONDUCT

electronic data, concealing in violation of law
SD 2012-1
false statement of law
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
fees requested where none incurred and no supervision of non-attorneys
LA 522 (2009)
knowingly presenting a false statement intending to mislead the court
In the Matter of Johnson (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 179
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
In the Matter of Brimberry (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 390
In the Matter of Farrell (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 490
*In the Matter of Temkin (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 321
litigation privilege
-company's defamation suit may continue against attorneys based on press release and listing on internet
GetFugu, Inc. v. Patton Boggs LLP (2013) 220 Cal.App.4th 141 [162 Cal.Rptr.3d 831]
-dismissal of defamation action against law firm justified
Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]
Dove Audio Inc. v. Rosenfeld, Meyer and Susman (1996) 47 Cal.App.4th 777 [54 Cal.Rptr.2d 830]
-judicial or litigation privilege as bar to tort actions based on misrepresentations in context of proceedings
Silberg v. Anderson (1990) 50 Cal.3d 205
Home Insurance Co. v. Zurich Insurance Co. (2002) 96 Cal.App.4th 17 [116 Cal.Rptr.2d 583]
-may not apply to plaintiff's unfair competition claim against attorney if plaintiff not a party to earlier litigation
American Products Co., Inc. v. Law Offices of Geller, Stewart & Foley, LLP (2005) 134 Cal.App.4th 1332 [37 Cal.Rptr.3d 93]
making misrepresentation to judge while attorney served on a jury
In the Matter of Fahy (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 141
misleading judge that attorney was not "advised" to get his client to mediation and denial of receipt of written order
Bach v. State Bar (1987) 43 Cal.3d 848, 855-856 [239 Cal.Rptr. 302]
misleading judge through failure to disclose, filing false documents
Eschwig v. State Bar (1969) 1 Cal.3d 8, 17 [81 Cal.Rptr. 352, 459 P.2d 904]
In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166
negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization
*Datiq v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]
pre-signed verification forms
Drociak v. State Bar (1991) 52 Cal.3d 1085 [278 Cal.Rptr. 86]
prosecutor misleads defense counsel by altering evidence
Price v. State Bar (1982) 30 Cal.3d 537, 542 [179 Cal.Rptr. 305, 405 P.2d 129]
regarding suspended status of corporate client
Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]
LA 408 (1982)
social media "friend" request to represented party
SD 2011-2
verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

Misleading pleadings
Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]
appellant must fairly set forth all the significant facts
Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]
attorney acting as guardian presents known misleading account to probate court
Clark v. State Bar (1952) 39 Cal.2d 161, 174 [246 P.2d 1]
false averments of fact by attorney in petition for adoption
Bruns v. State Bar (1931) 213 Cal. 151, 155
filing dishonest and inaccurate pleadings denounced even where no direct evidence of malice, intent to deceive, or hope of personal gain
Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 473 [169 Cal.Rptr. 581, 619 P.2d 1005]
making false allegations in petition to probate court
Paine v. State Bar (1939) 14 Cal.2d 150 [93 P.2d 103]
misrepresentation of record on appeal -sanctions imposed
In re Disciplinary Action Boucher (9th Cir. 1988) 850 F.2d 597
no difference whether judicial officer misled by false statement, misleading silence, or combination of both; allowing client to sign known false affidavit
In re Lincoln (1929) 102 Cal.App. 733, 741
Misrepresentation by counsel, willful
basis for reversal of judgment
-must be reported by clerk to State Bar
Business and Professions Code section 6086.7
failure to provide exculpatory evidence and location of witness favorable to defense
In the Matter of Field (Review Dept. 2010) 5 Cal. State Bar Ct. Rptr. 171
Misrepresentations made to opposing counsel
CAL 2015-194, LA 482 (1995)
Misstatement of the law
district attorney misrepresented the law that it infected the case with prejudicial error
People v. Cowan (2017) 8 Cal.App.5th 1152 [214 Cal.Rptr.3d 576]
prosecutor's use of a visual aid in the form of PowerPoint jigsaw puzzle to illustrate reasonable doubt standard impermissibly misstated the law to the jury
People v. Katzenberger (2009) 178 Cal.App.4th 1260 [101 Cal.Rptr.3d 122]
Monetary sanctions not warranted where attorney's conduct of returning late from lunch and failure to await court preparation of a verdict form did not clearly interfere with administration of justice
Wehrli v. Pagliotti (9th Cir. 1991) 947 F.2d 1424
Motion for relief from mistake appropriate where attorney neglected to pay transfer of venue fees resulting in dismissal of client's matter
Gee v. Estate of James Charles Jewett (2016) 6 Cal.App.5th 477 [211 Cal.Rptr.3d 137]
Non-disclosure of material facts
concealing assets from judgment creditor
Lebbos v. State Bar (1991) 53 Cal.3d 37
In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211
concealing known material letter from court
Sullins v. State Bar (1975) 15 Cal.3d 609, 617 [125 Cal.Rptr. 471, 542 P.2d 631]
failure to disclose material facts to bail commissioner
Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 164 [162 Cal.Rptr. 458, 606 P.2d 765]
failure to disclose to court attorney's purchase of principal estate asset while representing executrix
Rule 5-103, Rules of Professional Conduct
Eschwig v. State Bar (1969) 1 Cal.3d 8, 15 [81 Cal.Rptr. 352, 459 P.2d 904]

failure to disclose to judge earlier order affecting same parties; knowing failure to disclose to judge intended use of granted ex parte order

Snyder v. State Bar (1976) 18 Cal.3d 286, 291 [133 Cal.Rptr. 864, 555 P.2d 1104]

failure to disclose to judge known whereabouts of absent opposing counsel

OC 95-001

misleading the court

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

negligent failure to cite applicable case violates [rule](#) 5-200(B)

Mardirossian & Associates, Inc. v. Ersoff (2007) 153 Cal.App.4th 257 [62 Cal.Rptr.3d 665]

negligent, not intentional misrepresentation, is still misrepresentation and attorney must inform court upon such realization

*Datig v. Dove Books, Inc. (1999) 73 Cal.App.4th 964 [87 Cal.Rptr.2d 719]

suspended corporate client's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

Obligation to advise opposing counsel of impending default is part of attorney's responsibility to court and legal profession and takes precedence over obligation to represent client effectively

Shapell Social Rental Properties v. Chico's FAS Inc. (2022) 85 Cal.App.5th 198 [300 Cal.Rptr.3d 209]

Obstruction of justice

In re Richardson (1930) 209 Cal. 492, 499 [288 P. 669]

In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157

Offensive descriptions of opposing party's counsel

United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110

Snyder v. State Bar (1976) 18 Cal.3d 286, 292 [133 Cal.Rptr. 864, 555 P.2d 1104]

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129 [116 Cal.Rptr. 713]

Offensive personality

United States v. Rodrigues (9th Cir. 1998) 159 F.3d 439

United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110

Lebbos v. State Bar (1991) 53 Cal.3d 37

Van Sloten v. State Bar (1989) 48 Cal.3d 921, 925

Weber v. State Bar (1988) 47 Cal.3d 492, 500

Dixon v. State Bar (1982) 32 Cal.3d 728, 735

Ramirez v. State Bar (1980) 28 Cal.3d 402, 404, 406

Snyder v. State Bar (1976) 18 Cal.3d 286, 292

People v. Chong (1999) 76 Cal.App.4th 232 [90 Cal.Rptr.2d 198]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 129

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

In the Matter of Varakin (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 179

unconstitutional vagueness

United States v. Wunsch (9th Cir. 1996) 84 F.3d 1110

In the Matter of Anderson (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 775

Omission of material statements of fact or law

Scofield v. State Bar (1965) 62 Cal.2d 624, 628 [43 Cal.Rptr. 825, 401 P.2d 217]

In the Matter of Chestnut (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 166

Peremptory challenges to exclude all Asians from the jury as possible trial court error

People v. Lopez (1991) 3 Cal.App.4th Supp. 11 [5 Cal.Rptr.2d 775]

Perjury

by client

-criminal proceeding

Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]

Lowery v. Caldwell (9th Cir. 1978) 575 F.2d 727

People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

People v. Gadson (1993) 19 Cal.App.4th 1700 [24 Cal.Rptr.2d 219]

OC 2003-01

-disclosure of

-by attorney

People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

People v. Brown (1988) 203 Cal.App.3d 1335

[CAL](#) 1983-74

LA 386 (1981), LA 305 (1968)

-no civil liability for attorney for inducing false testimony by client

Rens v. Woods (1987) 193 Cal.App.3d 1134

narrative form of testimony is best choice when attorney fears client will commit perjury

People v. Guzman (1988) 45 Cal.3d 915 [248 Cal.Rptr. 467]

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

of former client in ongoing case

LA 386 (1977)

withdrawal

OC 2003-01

-by attorney

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]

People v. Brown (1988) 203 Cal.App.3d 1335

[CAL](#) 1983-74

SD 1983-8

LA 305 (1968)

Prejudicial conduct of counsel

reversal of verdict on appeal

Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]

Simmons v. Southern Pac. Transp. Co. (1976) 62 Cal.App.3d 341 [133 Cal.Rptr. 42]

Prejudicial statements during closing argument [\[See](#)

Closing argument]

Privileged acts of attorney

attorney's acts found not privileged under Civil Code section 47(2)

Argentieri v. Zuckerberg (2017) 8 Cal.App.5th 768 [214 Cal.Rptr.3d 358]

Durant Software v. Herman (1989) 209 Cal.App.3d 229 [257 Cal.Rptr. 200]

attorney's acts privileged under Civil Code section 47(2)

Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]

Home Ins. Co. v. Zurich Ins. Co. (2002) 96 Cal.App.4th 17

[116 Cal.Rptr.2d 583]

"interest of justice" test

Silberg v. Anderson (1990) 50 Cal.3d 205 [786 P.2d 365]

Preserving objections

Perry v. Kia Motors America, Inc. (2023) 91 Cal.App.5th 1088 [308 Cal.Rptr.3d 696]

Pro hac vice attorney

Rule 9.40, California Rules of Court

Paculan v. George (9th Cir. 2000) 229 F.3d 1226

censure for failure to follow local court rules

United States v. Ries (9th Cir. 1996) 100 F.3d 1469

United States v. Summet (9th Cir. 1988) 862 F.2d 784

TRIAL CONDUCT

Public defender

assignment to act as advisory counsel proper even though attorney is officially relieved of the representation

Ligda v. Superior Court (1970) 5 Cal.App.3d 811 [85 Cal.Rptr. 744]

refusal to obey court order to proceed with care excused when counsel is unprepared

Hughes v. Superior Court (1980) 106 Cal.App.3d 1 [164 Cal.Rptr. 721]

Punctuality for court appearances

Clark v. Los Angeles Superior Court (1992) 6 Cal.App.4th 58 [7 Cal.Rptr.2d 772]

In re Allis (9th Cir. 1976) 531 F.2d 1391

Removal of defense counsel warranted when counsel's repeated delays are the result of a medical condition

Maniscalco v. Superior Court (1991) 234 Cal.App.3d 846

Repeated threatening telephone calls

In re Elkins (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 160

Repeating questions after objection sustained

Martinez v. State Bar of California Dept. of Transportation (2015) 238 Cal.App.4th 559 [189 Cal.Rptr.3d 325]

Dominguez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

Repetitive motions

Even Zohar Construction and Remodeling, Inc. v. Bellaire Townhouses, LLC (2013) 215 Cal.App.4th 277 [155 Cal.Rptr.3d 321]

Representation by incompetent counsel not enough for reversal

Kim v. Orellana (1983) 145 Cal.App.3d 1024 [193 Cal.Rptr. 827]

Respect for judiciary

published letter written about opinion of a judge

Lloyd v. Superior Court (1982) 133 Cal.App.3d 896 [184 Cal.Rptr. 467]

Reversal of judgment in judicial proceeding

altering evidence in criminal trial

Price v. State Bar (1982) 30 Cal.3d 537, 549 [179 Cal.Rptr. 914, 638 P.2d 1311]

based upon counsel's

-incompetent representation

Business and Professions Code section 6086.7

-misconduct

Business and Professions Code section 6086.7

-willful misrepresentation

Business and Professions Code section 6086.7

--report to State Bar

Business and Professions Code section 6086.7

Rule 7-105, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-200, Rules of Professional Conduct (operative as of May 27, 1989)

concealment of material facts just as misleading as explicit false statements

Di Sabatino v. State Bar (1980) 27 Cal.3d 159, 162 [162 Cal.Rptr. 458, 606 P.2d 765]

Griffis v. S.S. Kresge Company (1984) 150 Cal.App.3d 491 [197 Cal.Rptr. 771]

*Matter of Harney (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 266

In the Matter of Jeffers (Review Dept. 1994) 3 Cal. State Bar Ct. Rptr. 211

denying known material fact in argument to jury

City of Los Angeles v. Decker (1977) 18 Cal.3d 860, 871 [135 Cal.Rptr. 647]

false pleading

Giovanazzi v. State Bar (1980) 28 Cal.3d 465, 469 [169 Cal.Rptr. 581, 619 P.2d 1005]

false statement of law

Ainsworth v. State Bar (1988) 46 Cal.3d 1218

presenting fabricated documents, making false representation in response to State Bar investigation

Olquin v. State Bar (1980) 28 Cal.3d 195, 199 [167 Cal.Rptr. 876, 616 P.2d 858]

prosecutorial misconduct to hint that defendant has prior criminal record where such remarks have no basis in fact

People v. Bolton (1979) 23 Cal.3d 208, 213 [152 Cal.Rptr. 141, 589 P.2d 396]

regarding suspended status of corporate client

LA 408 (1982)

Sanctions

attorney wrongfully held in contempt for refusing to turn over documents to third party

In re Koehler (2010) 181 Cal.App.4th 1153 [104 Cal.Rptr.3d 877]

bankruptcy court imposed discovery sanctions against attorney/debtor for transferring property with intent to hinder, delay or defraud creditor

In re Hansen (9th Cir. BAP 2007) 368 B.R. 868

bankruptcy court's inherent power allows it to sanction "bad faith" or "willful misconduct" by attorneys

In re Lehtinen (9th Cir. 2009) 564 F.3d 1052

In re Blue Pine Group, Inc. (9th Cir. BAP 2011) 457 B.R. 64

concealment of suspended corporate client's status

Palm Valley Homeowners Association, Inc. v. Design MTC (2000) 85 Cal.App.4th 553 [102 Cal.Rptr.2d 350]

delay

In re Silberkraus (9th Cir. 2003) 336 F.3d 864

In the Matter of Torres (Review Dept. 2007) 5 Cal. State Bar Ct. Rptr. 19

disclosure by attorney were done maliciously, recklessly, and without justification in violation of confidential child custody report

In re Marriage of Anka & Yaeger (2019) 31 Cal.App.5th 1115 [242 Cal.Rptr.3d 884]

failure to comply with court order

Kelly v. Wengler (9th Cir. 2016) 822 F.3d 1085

Osborne v. Todd Farm Services (2016) 247 Cal.App.4th 43 [202 Cal.Rptr.3d 84]

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

-law firm must pay sanctions for continuing to pursue unlawful detainer action despite automatic stay imposed by bankruptcy court

In re H Granados Communications, Inc. (9th Cir. BAP 2013) 503 B.R. 726

failure to file an opposition to summary judgment does not make the failure willful and thus court's grant of terminating sanctions was abuse of discretion

Levingston v. Kaiser Foundation Health Plan, Inc. (2018) 26 Cal.App.5th 309 [237 Cal.Rptr.3d 45]

Federal Rule 11 sanctions levied only on lawyers, not law firms

Pavelic & LeFlore v. Marvel Entertainment Group (1989) 493 U.S. 120 [110 S.Ct. 456]

Truesdell v. Southern California Permanente Medical Group (9th Cir. 2002) 293 F.3d 1146

frivolous appeal

Johnson v. Lewis (2004) 120 Cal.App.4th 443 [15 Cal.Rptr.3d 507]

DeRose v. Heurlin (2002) 100 Cal.App.4th 158 [122 Cal.Rptr.2d 630]

Dana Commercial Credit v. Ferns & Ferns (2001) 90 Cal.App.4th 142 [108 Cal.Rptr.2d 278]

Young v. Rosenthal (1989) 212 Cal.App.3d 96 [260 Cal.Rptr. 369]

People v. Dependable Insurance Co. (1988) 204 Cal.App.3d 871

Bach v. County of Butte (1985) 172 Cal.App.3d 848 [218 Cal.Rptr. 613]

Conservatorship of Gollock (1982) 130 Cal.App.3d 271 [181 Cal.Rptr. 547]

-granting of additional sanctions against plaintiffs and their trial attorney warranted based on frivolous appeal
Bucur v. Ahmad (2016) 244 Cal.App.4th 175 [198 Cal.Rptr.3d 127]

frivolous pleadings
580 Folsom Associates v. Prometheus Development Co. (1990) 223 Cal.App.3d 1 [272 Cal.Rptr. 227]

-in favor of dismissed party for bad faith tactics of plaintiff's attorney
Frank Annino & Sons v. McArthur Restaurants (1989) 215 Cal.App.3d 353

limitations
 -court had no authority to award costs of future depositions as monetary sanction for coaching plaintiff during deposition where those costs had not yet been incurred
Tucker v. Pacific Bell Mobile Services (2010) 186 Cal.App.4th 1548 [115 Cal.Rptr.3d 9]

-juvenile proceeding
In re Sean R. (1989) 214 Cal.App.3d 662

multiplying proceedings unreasonably and vexatiously under 28 U.S.C. section 1927
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Stanley v. Woodford (9th Cir. 2006) 449 F.3d 1060
Gomez v. Vernon (9th Cir. (Idaho) 2001) 255 F.3d 1118 [50 Fed. R. Serv.3d (Callaghan) 436]
In re DeVille (9th Cir. BAP 2002) 280 B.R. 483

pro hac vice attorney
 -censure for failure to follow local court rules
United States v. Summet (9th Cir. 1988) 862 F.2d 784

reckless misstatements of law and fact, combined with an improper purpose
Lahiri v. Universal Music and Video (9th Cir. 2010) 606 F.3d 1216
Fink v. Gomez (9th Cir. 2001) 239 F.3d 989

second petition for removal frivolous when its basis has been previously rejected
Peabody v. Maud Van Cortland Hill Schroll Trust (9th Cir. 1989) 892 F.2d 772

tardiness
United States v. Stoneberger (9th Cir. 1986) 805 F.2d 1391
Tkaczyk v. City of Los Angeles (1988) 204 Cal.App.3d 349 [251 Cal.Rptr. 75]

terminating sanctions was proper when attorney threatens opposing attorney with physical harm and is openly contemptuous of trial court
Crawford v. JP Morgan Chase Bank (2015) 242 Cal.App.4th 1265 [195 Cal.Rptr.3d 868]

under Family Code
Shenefield v. Shenefield (2022) 75 Cal.App.5th 619 [290 Cal.Rptr.3d 641]

violation of local court rule
 -attorney not subject to sanctions under local rules for failing to meet and confer with opposing counsel before moving for new trial
Pacific Trends Lamp & Lighting Products, Inc. v. J. White Inc. (1998) 65 Cal.App.4th 1131 [76 Cal.Rptr. 918]

-cannot be imposed for mere negligent violation
Zambrano v. City of Tustin (9th Cir. 1989) 885 F.2d 1473

-cannot be imposed unless sanctioning court first gives attorney opportunity to be heard
Brekhus & Williams v. Parker-Rhodes (1988) 198 Cal.App.3d 788 [244 Cal.Rptr. 48]

Signing declarations under penalty of perjury on behalf of clients and witnesses may be improper and a conflict of interest
In re Marriage of Reese and Guy (1999) 73 Cal.App.4th 1214 [87 Cal.Rptr.2d 339]

Solicitation of perjured testimony
In re Allen (1959) 52 Cal.2d 762, 768 [344 P.2d 609]

Special appearances
 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]

Statement
 use of one that may have been improperly obtained
 LA 376 (1978)

Subornation of perjury
 attorney instructs client to commit perjury
Paonessa v. State Bar (1954) 43 Cal.2d 222, 226

attorney may not knowingly allow witness to testify falsely, whether he or she is criminal defendant or otherwise
Jackson v. Brown (9th Cir. 2008) 513 F.3d 1057
People v. Pike (1962) 58 Cal.2d 70, 97 [22 Cal.Rptr. 664]

criminal defendant insists on testifying perjurally, appropriate and necessary for defense counsel to present request to withdraw
People v. Brown (1988) 203 Cal.App.3d 1335

knowingly countenance the commission of perjury
In re Jones (1971) 5 Cal.3d 390, 400 [96 Cal.Rptr. 448]

lack of sufficient evidence to prove attorney advised client to commit perjury
In re Petersen (1929) 208 Cal. 42, 52 [280 P. 124]

no duty to offer on client's behalf testimony which is untrue (in criminal proceeding)
In re Branch (1969) 70 Cal.2d 200, 212 [74 Cal.Rptr. 233]

penalty
In re Jones (1929) 208 Cal. 240, 242-243 [280 P. 964]

presentation of known false claim to insurance company by attorney
People v. Benson (1962) 206 Cal.App.2d 519, 530 [23 Cal.Rptr. 908]

procure and countenance the commission of perjury
In re Allen (1959) 52 Cal.2d 762, 767 [344 P.2d 609]

public defender questions veracity of criminal defendant's witnesses
In re Atchley (1957) 48 Cal.2d 408, 418 [310 P.2d 15]

requires proof of corrupt agreement between attorney and witness
In the Matter of Hertz (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 456

rule prohibiting ex parte communications does not bar discussions initiated by employee of defendant corporation with government attorney for the purpose of disclosing that corporate officers are attempting to suborn perjury and obstruct justice
United States v. Talao (9th Cir. 2000) 222 F.3d 1133

Suppression of evidence
 Penal Code section 135

Tape recorder, use during trial
People v. Ashley (1990) 220 Cal.App.3d 919 [269 Cal.Rptr. 769]

Two attorneys may question a deponent when deponent has agreed
Rockwell International Inc. v. Pos-A-Traction Industries (1983) 712 F.2d 1324, 1325

Verification, false
In the Matter of Downey (Review Dept. 2009) 5 Cal. State Bar Ct. Rptr. 151

Vexatious litigant
 attorney appearing for client is not litigant
Weissman v. Quail Lodge Inc. (9th Cir. 1999) 179 F.3d 1194

lawyer declared vexatious litigant based on a multiple filings of frivolous matters and the use of a client as a puppet or conduit for abusive litigation practices
In re Kinney (2011) 201 Cal.App.4th 951 [135 Cal.Rptr.3d 471]

Vicarious disqualification of a firm does not automatically follow the personal disqualification of the tainted attorney, a former settlement judge
County of Los Angeles v. United States District Court (Forsyth) (9th Cir. 2000) 223 F.3d 990

TRIAL PUBLICITY

Violation of lawful court order

money sanctions

-not applicable to advocacy of counsel

Code of Civil Procedure section 177.5

Voir dire

defendant in a criminal case may not engage in purposeful race discrimination in the exercise of peremptory challenges

Georgia v. McCollum (1992) 505 U.S. 42 [112 S.Ct. 2348]

denial of defense request to voir dire on racial bias not an abuse of discretion peremptory challenge based on gender violated Equal Protection Clause

United States v. De Gross (9th Cir. 1992) 960 F.2d 1433

People v. Chaney (1991) 234 Cal.App.3d 853

discriminatory exclusions of Hispanic juror results in reversal of convictions when Batson/Wheeler motion denied

People v. Gutierrez (2017) 2 Cal.5th 1150 [218 Cal.Rptr.3d 289]

proposition 115 restrictions on jury voir dire by counsel not in violation of U.S. Constitution

People v. Adam (1991) 235 Cal.App.3d 916

prosecutor's peremptory challenge of sole black juror

People v. Christopher (1991) 1 Cal.App.4th 666

Withdrawal when client commits perjury

LA(l) 1974-7

Withdrawal when client intends to commit perjury

CAL 1983-74

LA 362 (1976)

OC 2003-01

Yield to rulings of court

Business and Professions Code section 6103

Dominquez v. Pantalone (1989) 212 Cal.App.3d 201 [260 Cal.Rptr. 431]

whether right or wrong

People v. Ward (2009) 173 Cal.App.4th 1518 [93 Cal.Rptr.3d 871]

Hawk v. Superior Court (1974) 42 Cal.App.3d 108, 126 [116 Cal.Rptr. 713]

TRIAL PUBLICITY

Rule 5-120, Rules of Professional Conduct (operative October 1, 1995).

Statements found not in violation of rule

Ramirez v. Trans Union, LLC (N.D. Cal. 2013) 2013 WL 1164921, 2013 U.S. Dist. Lexis 39120

TRUST ACCOUNT [See Client's trust account.]

TRUSTEE [See Assignment. Bankruptcy. Estate, trustee.]

Action brought by beneficiaries

against attorney for trustee

Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

against trustee

Leader v. Cords (2010) 182 Cal.App.4th 1588 [107 Cal.Rptr.3d 505]

Attorney as trustee, client as beneficiary

Probate Code sections 15687 and 16004(c)

Schneider v. State Bar (1987) 43 Cal.3d 784

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

In the Matter of Hultman (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 297

attorney violated fiduciary duties under Probate Code

In the Matter of Lingwood (Review Dept. 2019) 5 Cal. State Bar Ct. Rptr. 660

duty to third party

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Attorney-client privilege

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

trust obligations between the United States and Indian tribes are defined by statute and are not comparable to a private trust relationship

U.S. v. Jicarilla Apache Nation (2011) 564 U.S. 162 [131 S.Ct. 2313]

Attorney-client relationship does not extend to beneficiaries

Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]

Fletcher v. Superior Court (1996) 44 Cal.App.4th 773 [52 Cal.Rptr.2d 65]

Goldberg v. Frye (1990) 217 Cal.App.3d 1258, 1269

Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264, 282

Breach of trustee fiduciary duty

Donovan v. Mazzola (9th Cir. 1983) 716 F.2d 1226, 1234

Moore v. Shaw (2004) 116 Cal.App.4th 182 [10 Cal.Rptr.3d 154]

Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

In the Matter of McCarthy (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 364

Cannot assign legal malpractice claim by trustee of bankruptcy estate

Curtis v. Kellogg & Andelson (1999) 73 Cal.App.4th 492 [86 Cal.Rptr.2d 536]

Baum v. Duckor, Spradling & Metzger (1999) 72 Cal.App.4th 54 [84 Cal.Rptr.2d 703]

bankruptcy estate representative pursuing claim for the estate is not an assignee

Office of Statewide Health Planning and Development v. Musick, Peeler & Garrett (1999) 76 Cal.App.4th 830 [90 Cal.Rptr.2d 705]

Employs himself as counsel for trustee

LA(l) 1966-2

Escrow holder

In re Marriage of Wagoner (1986) 176 Cal.App.3d 936 [222 Cal.Rptr. 479]

Legatee for testamentary trust

LA 219 (1954)

Non-attorney trustee who represents trust in action to protect trust property engages in unauthorized practice of law

Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

Receiver entitled to attorney-client privilege

Shannon v. Superior Court (1990) 217 Cal.App.3d 986 [266 Cal.Rptr. 242]

Standing to sue corporate attorneys of "sham" corporation for malpractice

Loyd v. Paine Webber, Inc. (9th Cir. 2000) 208 F.3d 755

Successor trustee "stands in the shoes" of predecessor trustee and thus may assert legal malpractice claims against predecessor's attorney

Kelly v. Orr (2016) 243 Cal.App.4th 940 [196 Cal.Rptr.3d 901]

Trustee as client of attorney

Probate Code section 16247

Moeller v. Superior Court (1997) 16 Cal.4th 1124 [69 Cal.Rptr.2d 317]

Morgan v. Superior Court (2018) 23 Cal.App.5th 1026 [233 Cal.Rptr.3d 647]

Fiduciary Trust International of California v. Klein (2017) 9 Cal.App.5th 1184 [216 Cal.Rptr.3d 61]

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Wolf v. Mitchell, Silberberg & Knupp, et al. (1999) 76 Cal.App.4th 1030 [90 Cal.Rptr.2d 792]

successor fiduciary has the same powers and duties as the predecessor including the power to sue attorney for malpractice

Borisoff v. Taylor and Faust (2004) 33 Cal.4th 523 [15 Cal.Rptr.3d 735]

Unauthorized practice of law not found where non-attorney represents himself as sole trustee, sole settlor and beneficiary in litigation involving trust property

Aulio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]

UNAUTHORIZED PRACTICE OF LAW

Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)

Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)

Business and Professions Code section 6105

McGregor v. State Bar (1944) 24 Cal.2d 283, 287

Business and Professions Code section 6125

76 Cal. Ops. Gen. 208 (9/17/93; opn. no. 93-416)

76 Cal. Ops. Gen. 193 (8/30/93; opn. no. 93-303)

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]

Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 173-174 [118 Cal.Rptr. 175, 529 P.2d 599]

Biakanja v. Irving (1958) 49 Cal.2d 647, 651 [320 P.2d 16]

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

In re Gordon J. (1980) 108 Cal.App.3d 907, 914

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]

Howard v. Superior Court (1975) 52 Cal.App.3d 722, 726

Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507, 512 [120 Cal.Rptr. 207]

In re Steven C. (1970) 9 Cal.App.3d 255, 265

People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]

People v. Sipper (1943) 61 Cal.App.2d Supp.844, 846 [142 P.2d 960]

In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

In the Matter of Tishgart (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 338

In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
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Business and Professions Code section 6126

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

Farnham v. State Bar (1976) 7 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]

Gerhard v. Stephens (1968) 68 Cal.2d 864, 917-918 [69 Cal.Rptr. 612, 442 P.2d 692]

Crawford v. State Bar (1960) 54 Cal.2d 659, 666 [7 Cal.Rptr. 746, 355 P.2d 490]

People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

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In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

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SD 1983-12, SD 1983-7

Advertising as entitled to practice law

contempt of court

Business and Professions Code section 6127

lawyer disbarred or under suspension

Business and Professions Code section 6126

misdemeanor

Business and Professions Code section 6126

non-lawyers

Business and Professions Code section 6127(b)

Aiding and abetting

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]

Ridley v. State Bar (1972) 6 Cal.3d 551, 558 [99 Cal.Rptr. 873, 493 P.2d 105]

Crawford v. State Bar (1960) 54 Cal.2d 659, 667 [7 Cal.Rptr. 746, 355 P.2d 490]

Griffith v. State Bar (1953) 40 Cal.2d 470, 472

Geibel v. State Bar (1938) 11 Cal.2d 412, 424 [79 P.2d 1073]

Dudney v. State Bar (1937) 8 Cal.2d 555, 562

Smallberg v. State Bar (1931) 212 Cal. 113, 119

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

Gafcon, Inc. v. Ponsor & Associates (2002) 98 Cal.App.4th 1388 [120 Cal.Rptr.2d 392]

In the Matter of DeClue (Review Dept. 2016) 5 Cal. State Bar Ct. Rptr. 437

In the Matter of Romano (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 391

In re Huang (Review Dept. 2014) 5 Cal. State Bar Ct. Rptr. 296

In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498

In the Matter of Steele (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 708

advising non-lawyer who performs services in forming corporations for charge

LA 69 (1933)

association with firm rendering advice concerning construction

CAL 1969-18

attorney as employee of lay organization providing services to other attorneys

LA 359 (1976)

-independent contractor for

LA 327 (1972)

by client

LA 402 (1982)

client

LA 436 (1985), LA 402 (1982)

collections

CAL 1982-68, LA 522 (2009)

contracts

-advising agent concerning legality of

-being negotiated by agent for fee

LA 80 (1935)

corporation provides paid legal services

-for employees

-directs employees to one attorney

LA 292 (1965)

disbarred lawyer to practice

Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746, 355 P.2d 490]

LA 402 (1982)

UNAUTHORIZED PRACTICE OF LAW

- employees of dual practice brokerage/law firm
LA 413 (1983), LA 384 (1980)
- employment agency
LA 359 (1976), LA 327 (1972)
- financial management company, attorney as shareholder
LA 372 (1978)
- foreign attorney
LA 426 (1984)
SD 2007-1
- living trust marketers
In re Mid-American Living Trust Association, Inc., et al.
(Mo. 1996) 927 S.W.2d 855
The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
- out-of-state lawyer
 - renting office to
 - where public might be misled to believe person admitted in California
LA 99 (1936)
- outsourced legal services
LA 518 (2006)
SD 2007-1
- partnership with doctor providing legal services
LA 335 (1973)
- resigned attorney allowed to practice
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
Rule 1-311, allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920
- uncharged violation of rule 1-300(A) considered in aggravation and involved moral turpitude
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615
- Arbitration
Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
- certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
- representing party while suspended from practice of law
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
- unlicensed practice of law does not completely invalidate an agreement pursuant to which firm attorneys also engaged in the licensed practice of law, thereby rendering the agreement enforceable
Brawerman v. Loeb & Loeb LLP (2022) 81 Cal.App.5th 1106 [297 Cal.Rptr.3d 771]
- Assuming and acting as attorney without authority
- contempt of court
Business and Professions Code section 6127(a)
Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 536 [42 Cal.Rptr. 888]
- Attorneys
Bagg v. Wickizer (1935) 9 Cal.App.2d 753
- California attorney is disbarred for practicing law in other states by settling consumer debt matters and holding himself out as entitled to practice in those jurisdictions
In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250
- controlled by consultants
CAL 1984-79
- criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar
In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]
- People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]
- disbarred while
In re McKelvey (1927) 82 Cal.App. 426, 429 [255 P. 834]
- out-of-state
 - arbitration representatives
Code of Civil Procedure section 1282.4
 - California Rules of Court do not require out-of-state law firms to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]
 - hired as "consultant" who merely assists California lawyer may recover attorney fees
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
 - lawyer renting office to
 - where public might be led to believe person admitted in California
LA 99 (1936)
- resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
- law corporations are members of the State Bar and are bound by rules prohibiting aiding resigned attorneys in the unauthorized practice of law
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
- suspended from practice, while
Porter v. State Bar (1990) 52 Cal.3d 518
In re Naney (1990) 51 Cal.3d 186
Arm v. State Bar (1990) 50 Cal.3d 763 [268 Cal.Rptr. 789, 789 P.2d 922]
Silva-Vidor v. State Bar (1989) 49 Cal.3d 1071
Hitchcock v. State Bar (1989) 48 Cal.3d 690 [257 Cal.Rptr. 696, 771 P.2d 394]
Ainsworth v. State Bar (1988) 46 Cal.3d 1218
Chasteen v. State Bar (1985) 40 Cal.3d 586, 591 [220 Cal.Rptr. 842]
Farnham v. State Bar (1976) 17 Cal.3d 605, 612 [131 Cal.Rptr. 661, 552 P.2d 445]
In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889]
Ridley v. State Bar (1972) 6 Cal.3d 551, 559 [99 Cal.Rptr. 873, 393 P.2d 105]
Abraham v. State Bar (1941) 17 Cal.2d 625 [111 P.2d 317]
Hill v. State Bar of California (1939) 14 Cal.2d 732, 735
In re the Marriage of Bianco (2013) 221 Cal.App.4th 826 [164 Cal.Rptr.3d 785]
*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]
People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]
Gomes v. Roney (1979) 88 Cal.App.3d 274 [151 Cal.Rptr. 756]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Mason (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 639
In the Matter of Acuna (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 495
In the Matter of Lynch (Review Dept. 1995) 3 Cal. State Bar Ct. Rptr. 287
In the Matter of Taylor (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 563
In the Matter of Burckhardt (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343
In the Matter of Trousil (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 229

Bankruptcy

11 U.S.C. § 110(c) enacted to remedy widespread fraud and the unauthorized practice of law in the bankruptcy petition preparers industry

In re Reynoso (9th Cir. 2007) 477 F.3d 1117

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]

attorney must be admitted to practice in the jurisdiction where the services were rendered

In re Peterson (1994) 163 B.R. 665

attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

In re Mendez (9th Cir. BAP 1999) 231 B.R. 86

Complaints about

Contact: Unauthorized Practice of Law

Office of Complaint Intake

State Bar of California

845 Figueroa Street, Suite 100

Los Angeles, California 90017-5450

Telephone: (800) 843-9053

Questions regarding research assistance on activities of law clerks, paralegals, and inactive members.

Contact: Unauthorized Practice of Law

Office of Professional Competence

180 Howard Street

San Francisco, CA 94105

(415) 538-2150

(800) 238-4427 (within CA)

Contempt of court

Business and Professions Code section 6127

advertising or holding oneself as entitled to practice

Business and Professions Code section 6127(b)

assuming and acting as attorney without authority

Business and Professions Code section 6127(a)

Contract preparation

by non-lawyer

-for compensation

--involving legal knowledge of skill

LA 80 (1935)

Corporations

Merco Const. Eng. v. Municipal Court (1978) 21 Cal.3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]

People v. Merchants Protective Corp. (1922) 189 Cal. 531, 535

Channel Lumber Co. Inc. v. Simon (2000) 78 Cal.App.4th 1222 [93 Cal.Rptr.2d 482]

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]

Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 657-658 [142 Cal.Rptr. 367]

People v. California Protective Corp. (1926) 76 Cal.App. 354, 360

76 Cal. Ops. Gen. 208 (9/27/93; opn. no. 93-303)

appearing in small claims court

Code of Civil Procedure section 116.540

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

collections

LA 522 (2009)

Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

in-house attorney

SD 1975-18

law corporations are members of the State Bar and are bound by rules prohibiting aiding resigned attorneys in the unauthorized practice of law

People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]

need not be represented by counsel before administrative agencies and their tribunals

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

sole proprietorship on appeal

Code of Civil Procedure section 904.3

to provide financial and other services

LA 372 (1978)

Defined

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

In re Peterson (1994) 163 B.R. 665

In re Glad (9th Cir. 1989) 98 B.R. 976

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]

Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]

People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]

Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698

76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)

OC 94-002, SF 2021-1

inactive members of the bar

In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121

LA 426 (1984)

SD 1983-12

Definition of "attorney"

Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]

Department of Unauthorized Practice of Law. [See Complaints or Questions.]

Deposition in California for use in another state

Code of Civil Procedure sections 2026, 2029

Disgorgement of fees

bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate

In re Peterson (1994) 163 B.R. 665

bankruptcy petition preparer ordered to disgorge excessive fees for engaging in unauthorized practice of law

Taub v. Weber (9th Cir. 2004) 366 F.3d 966

non-attorney who offered financial services and referred debtor to bankruptcy counsel not required to disgorge fees where court found no evidence of unauthorized practice of law

In re Peterson (1994) 163 B.R. 665

"Do-it-yourself"

Howard v. Superior Court (1975) 52 Cal.App.3d 722 [125 Cal.Rptr. 255]

SD 1983-12

Eviction services

People v. Landlord Professional Services, Inc. (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]

Expert witnesses provided by consulting service

CAL 1984-79

UNAUTHORIZED PRACTICE OF LAW

Federal court

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Spanos v. Skours (1966) 364 F.2d 161

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

McCue v. State Bar (1930) 211 Cal. 57 [293 P. 47]

bankruptcy court

-attorney not licensed in Arizona, but who is admitted to practice before Arizona district court, can receive fee as counsel for Chapter 13 debtor

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

In re Mendez (9th Cir. BAP 1999) 231 B.R. 86

-suspension from federal practice is not dictated by state rules

In re Poole (9th Cir. BAP 2000) 222 F.3d 618

disbarment from state does not result in automatic disbarment from Federal Court

In the Matter of Ruffalo (1968) 390 U.S. 544 [88 S.Ct. 1222]

Federal District Courts (Central, Eastern, Northern re State Bar Membership)

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Giannini v. Real (9th Cir. 1990) 911 F.2d 354

Federal district judge's request for attorney fees in action to amend a local rule

Tashima v. Administrative Office of the United States Courts (9th Cir. 1991) 967 F.2d 1264

Federal law

State Bar Act does not regulate practice before United States courts

Sperry v. State of Florida (1963) 373 U.S. 379

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Augustine v. Department of Veterans Affairs (Fed. Cir. 2005) 429 F.3d 1334

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

state prohibition of practicing law without a license is assimilated into federal law under Assimilative Crimes Act

United States v. Clark (9th Cir. 1999) 195 F.3d 446

Fees for legal services

bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate

In re Peterson (1994) 163 B.R. 665

must be licensed at time services performed to recover

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]

Hardy v. San Fernando Valley Chamber of Commerce (1950) 99 Cal.App.2d 572, 576 [222 P.2d 314]

In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896

-out-of-state attorney who merely assists California lawyer may recover attorney fees

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

-pro hac vice

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857

Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]

non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

out-of-state attorney who merely assists California lawyer may recover attorney fees

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Financing arrangements jointly controlled by buyer and seller may constitute unlawful, unfair, and fraudulent business practices

Hernandez v. Atlantic Finance Co. (1980) 105 Cal.App.3d 65 [164 Cal.Rptr. 279]

Foreign attorney in law office

Rule 9.44, California Rules of Court
LA 426 (1984)

Ghostwriting pleadings

U.S. v. Kimsey (9th Cir. 2012) 668 F.3d 691

Guardian ad litem

Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]

J.W., a Minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]

Holding oneself out as entitled to practice law

Business and Professions Code section 6127

California attorney held himself out as entitled to practice law in other states

In the Matter of Lenard (Review Dept. 2013) 5 Cal. State Bar Ct. Rptr. 250

contempt of court

Business and Professions Code section 6127(b)

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

disclaimer explaining that the advertiser is not licensed may permit use of terms (i.e., "accountants") which are normally used only by state licensees

Moore v. California State Board of Accountancy (1992) 2 Cal.4th 999 [9 Cal.Rptr.2d 358]

honorific "ESQ" appended to a signature creates an impression that the person signing is presently able and entitled to practice law

People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]

In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83

CAL 1999-154

lawyer

-disbarred or under suspension

Business and Professions Code sections 6125, 6126, and 6127

Crawford v. State Bar (1960) 54 Cal.2d 659 [7 Cal.Rptr. 746]

-resigned with charges pending mid-trial

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

Brown v. Grimes (2011) 192 Cal.App.4th 265 [120 Cal.Rptr.3d 893]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

letterhead of New York law firm listing a California lawyer as "admitted in California only"

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

misdemeanor where person not active member of the State Bar of California

Business and Professions Code section 6126 (a)

non-lawyers

Business and Professions Code section 6127(b)

In re Naney (1990) 51 Cal.3d 186 [793 P.2d 54]

- In re Cadwell (1975) 15 Cal.3d 762 [125 Cal.Rptr. 889, 543 P.2d 257]
 -use of terms "Legal Aid," "Legal Aid Services," "Legal Services"
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]
 non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
 suspension order disqualifies an attorney not only from practicing law but also from holding himself or herself out as entitled to practice
Arm v. State Bar (1990) 50 Cal.3d 763, 775 [268 Cal.Rptr. 789, 789 P.2d 922]
In the Matter of Hoffman (Review Dept. 2020) 5 Cal. State Bar Ct. Rptr. 698
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
In the Matter of Wyrick (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 83
 while living out-of-state, indicating only that respondent was licensed in California, no indication such as "only" in California or "not licensed" in other state
In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896
 Immigration matters
 law corporations allowed a resigned member to provide legal services in INS matters to clients in violation of rules of professional conduct and the State Bar act
People ex rel. Herrera v. Stender (2012) 212 Cal.App.4th 614 [152 Cal.Rptr.3d 16]
 use of Notarios or Notarios publicos
In the Matter of Valinoti (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 498
 Inactive member
In the Matter of Tady (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 121
 Individuals with Disabilities Education Act (IDEA) allows parents to prosecute claims under the act on their own behalf without representation by counsel
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
 Ineffective assistance of counsel
People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]
People v. Johnson (1990) 224 Cal.App.3d 52
 in-house counsel representing insureds
CAL 1987-91
 Internet advertising
CAL 2001-155
 Investigation service
 in personal injury matters
 -not agree to collect any claim for damages
 --not practice of law
LA 81 (1935)
 Law firm's remote practice
CAL 2023-208
 Lay person
 may not represent another
Simon v. Hartford Life, Inc. (9th Cir. 2008) 546 F.3d 661
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
J.W., a minor, etc. v. Superior Court (1993) 17 Cal.App.4th 958 [22 Cal.Rptr.2d 527]
Abar v. Rogers (1981) 124 Cal.App.3d 862 [177 Cal.Rptr. 655]
 -assignment of debt for breach of contract did not create attorney-client relationship between assignor and assignee
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
 -"counsel mandate" precludes parents from representing minor children pro se
Grizell v. San Elijo Elementary School (9th Cir. 2024) 110 F.4th 1177
 may not represent unincorporated association in court
Clean Air Transport Systems v. San Mateo County Transit District (1988) 198 Cal.App.3d 576 [243 Cal.Rptr. 799]
 referral agreement with layperson unenforceable for non-compliance with Business and Professions Code § 6155
Jackson v. Legalmatch.com (2019) 42 Cal.App.5th 760 [255 Cal.Rptr.3d 741]
Hyon v. Selten (2007) 152 Cal.App.4th 463 [60 Cal.Rptr.3d 896]
 represents before administrative agency
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
LA 195 (1952)
 resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
 self-representation
 -trustees representing themselves is not an unauthorized practice of law
Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260 Cal.Rptr.3d 844]
 -trustees seeking judicial clarification on how to interpret trust document where the matter is between trustees and trust beneficiaries in the context of probate proceeding is not an unauthorized practice of law
Donkin v. Donkin (2020) 47 Cal.App.5th 469 [260 Cal.Rptr.3d 844]
 treble damages warranted for injury caused by unlicensed practice of law
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
McKay v. Longsworth (1989) 211 Cal.App.3d 1592 [260 Cal.Rptr. 250]
 Legal services corporation which includes non-attorney see shareholders
LA 444 (1987)
 Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services
Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]
 Lending name of attorney
 to be used by non-lawyer
 -in collection cases
LA 61 (1930)
 Lending to non-attorney
 Business and Professions Code section 6105
McGregor v. State Bar (1944) 24 Cal.2d 283, 286-287 [148 P.2d 865]
 Letterhead
 in-house counsel for insurance company representing insureds
CAL 1987-91
 use of attorney's by non-lawyer
CAL 1969-18

UNAUTHORIZED PRACTICE OF LAW

Licensed attorneys practicing in another jurisdiction where they are not licensed including in a federal court which required membership in the state where resident resided and practicing in that state

In the Matter of Wells (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 896

Licensed attorneys who are not active members of the State Bar of California

certification of non-resident, out-of-state attorney arbitration representatives

Code of Civil Procedure section 1282.4

effect on underlying matter

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

People v. Anderson (2015) 234 Cal.App.4th 1411 [185 Cal.Rptr.3d 75]

*People v. Barillas (1996) 45 Cal.App.4th 1233 [53 Cal.Rptr.2d 418]

People v. Medler (1986) 177 Cal.App.3d 927 [223 Cal.Rptr. 401]

Gomez v. Roney (1979) 88 Cal.App.3d 274

-criminal defendant's state constitutional right to counsel violated when during trial attorney resigns with charges pending from the bar

In re Johnson (1992) 1 Cal.4th 689 [4 Cal.Rptr.2d 170]

People v. Vigil (2008) 169 Cal.App.4th 8 [86 Cal.Rptr.3d 528]

out-of-state attorneys

Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815

Russell v. Hug (9th Cir. 2002) 275 F.3d 812

Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273

Giannini v. Real (9th Cir. 1990) 911 F.2d 354

Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]

In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]

Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]

Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]

-subject to liability for malpractice

Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]

outsourced legal services

LA 518 (2006)

SD 2007-1

see also:

40 So.Cal.L.Rev. 569

11 ALR3d 907

19 Stanf.L.Rev. 856

Living Trusts

In re Mid-American Living Trust Association, Inc., et al. (Mo. 1996) 927 S.W.2d 855

The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426

CAL 1997-148

unauthorized practice of law not found where non-attorney represents himself as sole trustee, sole settlor and beneficiary in litigation involving trust property

Aulisio v. Bancroft (2014) 230 Cal.App.4th 1516 [179 Cal.Rptr.3d 408]

Medical-legal consulting service

Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1

Name of attorney

use of, by non-lawyer

LA 16 (1922)

Non-lawyers

In re Peterson (1994) 163 B.R. 665

bankruptcy petition preparers

In re Reynoso (9th Cir. 2007) 477 F.3d 1117

-bankruptcy court required under the bankruptcy code to disallow any fee paid to BPP found to be in excess of the value of services

Scott v. United States (In re Doser) (9th Cir. 2005) 412 F.3d 1056

-code provision requiring public disclosure of petition preparers' social security numbers does not violate equal protection, due process, and right to privacy

In re Crawford (9th Cir. 1999) 194 F.3d 954 [3 Cal. Bankr. Ct. Rep. 46]

certified law student

People v. Perez (1979) 24 Cal.3d 133, 142 [155 Cal.Rptr. 176, 594 P.2d 1]

certified public accountant

Zelkin v. Caruso Discount Corp. (1960) 186 Cal.App.2d 802, 805-806 [9 Cal.Rptr. 220]

Agran v. Shapiro (1954) 127 Cal.App.2d Supp. 807, 815 [273 P.2d 619]

collection agencies

Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]

LeDoux v. Credit Research Corp. (1975) 52 Cal.App.3d 451, 454 [125 Cal.Rptr. 166]

Cohn v. Thompson (1932) 128 Cal.App.Supp. 783, 787 LA 522 (2009)

contract negotiation

In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]

corporation

-Corporations Code Section 13406(b) does not govern all nonprofit corporations providing legal services

Frye v. Tenderloin Housing Clinic, Inc. (2006) 38 Cal.4th 23 [40 Cal.Rptr.3d 221]

-need not be represented by counsel before administrative agencies

Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]

-representation by, prohibited in court of law

Merco Constr. Eng. Inc. v. Municipal Court (1978) 21 Cal.3d 724 [147 Cal.Rptr. 631, 581 P.2d 636]

corporation formation

LA 69 (1933)

divorce center

SD 1983-12

effect on underlying matter

Russell v. Dopp (1995) 36 Cal.App.4th 765 [42 Cal.Rptr.2d 768]

City of Downey v. Johnson (1968) 263 Cal.App.2d 775 [69 Cal.Rptr. 630]

People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]

eviction service

People v. Landlords Professional Services (1989) 215 Cal.App.3d 1599 [264 Cal.Rptr. 548]

executor of estate

City of Downey v. Johnson (1968) 263 Cal.App.2d 775, 778 [69 Cal.Rptr. 830]

heir hunter

Estate of Butler (1947) 29 Cal.2d 644, 651 [177 P.2d 16]

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]

Estate of Collins (1968) 268 Cal.App.2d 86, 92 [73 Cal.Rptr. 599]

immigration consultants

-no denial of due process where immigrants followed the advice of non-attorney immigration consultant and affirmatively declined assistance of counsel

Hernandez v. Mukasey (9th Cir. 2008) 524 F.3d 1014

insurance adjuster

Insurance Code section 14000 et seq.

Insurance Code section 15002 et seq.

In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

insurance company
Woodriff v. McDonald's Restaurants (1977) 75 Cal.App.3d 655, 658 [142 Cal.Rptr. 367]

law clerks
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
Johnson v. Davidson (1921) 54 Cal.App. 251, 257 [202 P. 159]
 SD 1983-7, SD 1974-5

law students
In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]
 SD 1983-7, SD 1974-1, SD 1973-9

living trust marketers
In re Mid-American Living Trust Association, Inc., et al. (Mo. 1996) 927 S.W.2d 855
The Florida Bar Re Advisory Opinion-Nonlawyer Preparation of Living Trusts (Fla. 1992) 613 So.2d 426
CAL 1997-148

negotiate reaffirmation agreement with chapter 7 debtors
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
In the Matter of Bragg (Review Dept. 1997) 3 Cal. State Bar Ct. Rptr. 615

non-member administrative proceeding advisor
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

notary public
Biakanja v. Irving (1958) 49 Cal.2d 647 [320 P.2d 16]
Vanderhoof v. Prudential Sav. & Loan Assn. (1975) 46 Cal.App.3d 507 [120 Cal.Rptr. 207]
 76 Ops. Cal. Atty. Gen. 193 (8/30/93; No. 93-303)

outsourced legal services
 LA 518 (2006)

paralegals
Jacoby v. State Bar (1977) 19 Cal.3d 359, 364, fn.3
 LA 522 (2009), OC 94-002
 -appearance before Workers' Compensation Appeals Board
CAL 1988-103
 -general guidelines
 SD 1983-7, SD 1976-9

parents may prosecute claims under the Individuals with Disabilities Education Act without representation by counsel
Winkelman, ex rel. Winkelman v. Parma City School Dist. (2007) 550 U.S. 516 [127 S.Ct. 1994]

penalties and other effects
In re Carpenter (1931) 213 Cal. 122 [1 P.2d 983]
Mickel v. Murphy (1957) 147 Cal.App.2d 718, 722 [305 P.2d 993]

probation officer
In re Steven C. (1970) 9 Cal.App.3d 255, 265 [88 Cal.Rptr. 97]

providing small claims, para-court services in partnership with attorney
 SD 1983-4

real estate brokers
People v. Sipper (1943) 61 Cal.App.2d Supp. 844, 846-847 [142 P.2d 960]

resigned attorney
 -attorney allowed resigned attorney to sign up clients, split fees, negotiate, engage in insurance fraud
In re Oheb (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 920

resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]

scrivener
 -petition preparer's interpretation of such terms as "market value" and "secured claim or exemption" went beyond his role of scrivener
Taub v. Weber (9th Cir. 2004) 366 F.3d 966

trustee represents interests of beneficiaries
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]

unlawful detainer assistants
Brockey v. Moore (2003) 107 Cal.App.4th 86 [131 Cal.Rptr.2d 746]

Out-of-state attorneys
Winterrowd v. American General Annuity Insurance Co. (9th Cir. 2009) 556 F.3d 815
Russell v. Hug (9th Cir. 2002) 275 F.3d 812
Giannini v. Real (9th Cir. 1990) 911 F.2d 354
In re McCue (1930) 211 Cal. 57, 67 [293 P. 47]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
Cowen v. Calabrese (1964) 230 Cal.App.2d 870, 872 [41 Cal.Rptr. 441]

as ghostwriter
 OC 2014-1

bankruptcy attorney admitted in one state but not admitted in the jurisdiction where he rendered the legal services ordered to disgorge fees to the estate
In re Peterson (1994) 163 B.R. 665

California may exercise personal jurisdiction over out-of-state law firm that employs California member performing legal services governed by California law
Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

certification of non-resident, out-of-state attorney representatives
 Code of Civil Procedure section 1282.4
 foreign attorney's declaration of fault entitled client to relief under CCP § 473
Rodrigues v. Superior Court (2005) 127 Cal.App.4th 1027 [26 Cal.Rptr.3d 194]

out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]

remote practice of law
 SF 2021-1

subject to liability for malpractice
Kracht v. Perrin, Gartland & Doyle (1990) 219 Cal.App.3d 1019 [268 Cal.Rptr. 637]

see also:
 40 So. Cal. L. Rev. 569
 11 ALR 907
 19 Stanf. L. Rev. 856

Outsourced legal services
 LA 518 (2006)
 SD 2007-1

Participate in activity that assists unauthorized practice of law
 LA 286 (1965)
 as partner in agency conducting small claims court actions
 SD 1983-4

renting law office
 -to out-of-state lawyer
 --where public led to believe person admitted in California
 LA 99 (1936)

Partnership with non-lawyer
 LA 444 (1987), LA 372 (1978), LA 335 (1973)

Power of attorney
Alexander v. Robertson (9th Cir. 1990) 882 F.2d 421
Porter v. State Bar (1990) 52 Cal.3d 518
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]

UNAUTHORIZED PRACTICE OF LAW

Estate of Wright (2001) 90 Cal.App.4th 228 [108 Cal.Rptr.2d 572]
Ziegler v. Nickel (1998) 64 Cal.App.4th 545 [75 Cal.Rptr.2d 312]
Drake v. Superior Court (1994) 21 Cal.App.4th 1826 [26 Cal.Rptr.2d 829]
People ex rel. Dept. of Public Works v. Malone (1965) 232 Cal.App.2d 531, 537 [42 Cal.Rptr. 888]
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
Practice in jurisdiction, outside of California, where attorney is not licensed
In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1
Practice of law, defined
76 Ops. Cal. Atty. Gen. 208 (9/17/93; No. 93-416)
In re Reynoso (9th Cir. 2007) 477 F.3d 1117
Taub v. Weber (9th Cir. 2004) 366 F.3d 966
Birbrower, Montalbano, Condon & Frank v. Superior Court (1998) 17 Cal.4th 119 [70 Cal.Rptr.2d 858]
Morgan v. State Bar (1990) 51 Cal.3d 598
Farnham v. State Bar (1976) 17 Cal.3d 605 [131 Cal.Rptr. 661]
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 542 [86 Cal.Rptr. 673]
People v. Starski (2017) 7 Cal.App.5th 215 [212 Cal.Rptr.3d 622]
Fink v. Shemtov (2013) 210 Cal.App.4th 599 [148 Cal.Rptr.3d 570]
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
Simons v. Stevenson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]
Estate of Condon (1998) 65 Cal.App.4th 1138 [76 Cal.Rptr.2d 922]
OC 94-002, SD 1983-4, SD 1983-7
Preparation of legal documents
In re Garcia (9th Cir. BAP 2005) 335 B.R. 717
Law Offices of Matthew Higbee v. Expungement Assistance Services (2013) 214 Cal.App.4th 544 [153 Cal.Rptr.3d 865]
Prepare petition for court of another state
LA 218 (1953)
Pro hac vice
Rule 9.40, California Rules of Court
Paculan v. George (9th Cir. 2000) 229 F.3d 1226
Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
Arizona requirement for pro hac vice admission could not be waived orally by a hearing officer
Shapiro v. Paradise Valley Unified School District No. 69 (9th Cir. 2004) 374 F.3d 857
attorney's pattern of inability to practice law in an unethical and orderly manner, including pending disciplinary proceedings and lack of candor supports court's rejection of pro hac vice application in criminal case
Bundy v. U.S. District Court of Nevada (9th Cir. 2016) 840 F.3d 1034
counsel for plaintiffs "practice law in California" without pro hac vice admission therefore fee section of settlement deemed illegal
Golba v. Dick's Sporting Goods (2015) 238 Cal.App.4th 1251 [190 Cal.Rptr.3d 337]
defendant not entitled to pro hac vice representation by attorney who failed to follow court rules
United States v. Ries (9th Cir. 1996) 100 F.3d 1469
duties of associate counsel
People v. Cooks (1983) 141 Cal.App.3d 224 [190 Cal.Rptr. 211]
out-of-state law firms not required to apply to appear *pro hac vice* in California courts when firm employs attorneys who are licensed to practice law in California to represent clients
Daybreak Group, Inc. v. Three Creeks Ranch, LLC (2008) 162 Cal.App.4th 37 [75 Cal.Rptr.3d 365]

Qualification for non-lawyer immigration consultant
People v. Salcido (2019) 42 Cal.App.5th 529 [255 Cal.Rptr.3d 628]
Questions about research assistance on activities of law clerks, paralegals, and inactive members.
Contact: Unauthorized Practice of Law
Office of Professional Competence
180 Howard Street
San Francisco, CA 94105
(415) 538-2150
(800) 238-4427 (within CA)
Remote practice of law
SF 2021-1
Remote work
CAL 2023-208
Representation by non-lawyer in court of law prohibited
Rule 3-101, Rules of Professional Conduct (operative until May 26, 1989)
Rule 1-300, Rules of Professional Conduct (operative as of May 27, 1989)
Merco Const. Eng. v. Municipal Court (1978) 21 Cal.3d 724, 727, 733 [147 Cal.Rptr. 631, 581 P.2d 636]
Bluestein v. State Bar (1974) 13 Cal.3d 162, 173 [118 Cal.Rptr. 175, 529 P.2d 599]
In the Matter of Thomson (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 966
Sanctions
guarantee of right to counsel denied when representation is provided by an attorney who has submitted a resignation with disciplinary charges pending and placed on inactive status
In re Johnson (1992) 1 Cal.App.4th 689
monetary award against law firm proper sanction for aiding in unauthorized practice of law
In re Carlos (C.D. Cal. 1998) 227 B.R. 535 [3 Cal. Bankr. Ct. Rep. 80]
voiding judgment inappropriate where it neither protects judicial integrity nor vindicates interests of parties
Retail Clerks Union Joint Pension Trust v. Freedom Food Center, Inc. (9th Cir. 1991) 938 F.2d 136
Alexander v. Robertson (9th Cir. 1989) 882 F.2d 421
Special hearings
administrative proceeding
Z. A. v. San Bruno Park School District (9th Cir. 1999) 165 F.3d 1273
-resigned attorney may not represent parties in state administrative hearings
Benninghoff v. Superior Court (2006) 136 Cal.App.4th 61 [38 Cal.Rptr.3d 759]
alcohol beverage control appeals board
Caressa Camille Inc. v. Alcohol Beverage Control Appeals Board (2002) 99 Cal.App.4th 1094 [121 Cal.Rptr.2d 758]
certification of non-resident, out-of-state attorney representatives
Code of Civil Procedure section 1282.4
city council proceedings
Baron v. City of Los Angeles (1970) 2 Cal.3d 535, 543 [86 Cal.Rptr. 673, 496 P.2d 353]
justice court proceedings
Gray v. Justice's Court (1937) 18 Cal.App.2d 420, 423 [63 P.2d 1160]
patent
Sperry v. Florida (1963) 373 U.S. 379 [83 S.Ct. 1322, 10 L. Ed. 2d 428]
Schroeder v. Wheeler (1932) 126 Cal.App.367 [14 P.2d 903]
public utilities commission proceedings
Consumers Lobby Against Monopolies v. PUC (1979) 25 Cal.3d 891, 913 [160 Cal.Rptr. 124, 603 P.2d 41]
80 Ops. Cal. Atty. Gen. 221 (8/5/97; No. 97-409)
securities arbitration proceedings
Linsco/Private Ledger v. Investors Arbitration Services (1996) 50 Cal.App.4th 1633 [58 Cal.Rptr.2d 613]

workers' compensation proceedings

Eagle Indemnity Co. v. Industrial Accident Commission (1933) 217 Cal. 244, 247 [18 P.2d 341]

CAL 1988-103

-disbarred or suspended attorney may be excluded from participation in Workers' Compensation proceedings

Title 8 CA Administration Code section 10779

-non-attorney's law firm representative of injured employee at workers' compensation proceeding may not be entitled to same fees as licensed attorney

99 Cents Only Stores v. Workers' Compensation Appeals Board (2000) 80 Cal.App.4th 644 [95 Cal.Rptr.2d 659]

State Bar Act of 1927

Section 47.49

People v. Ring (1937) 26 Cal.App.2d Supp. 768, 771

Trademark matters

unlawful practice before the United State Patent and Trademark Office

In the Matter of Wittenberg (Review Dept. 2015) 5 Cal. State Bar Ct. Rptr. 418

Transactional matter

Simons v. Steverson (2001) 88 Cal.App.4th 693 [106 Cal.Rptr.2d 193]

Treble damages in civil action caused by unlicensed persons

CCP § 1029.8

Unfair business practices and unlawful advertising

Business and Professions Code section 17200

Unfair Competition Law

district attorney may hire private counsel to pursue civil penalties under California's Unfair Competition Law (UCL)

American Bankers Management Company, Inc. v. Heryford (9th Cir. 2018) 885 F.3d 629

law firm may sue online legal services provider for unfair competition based on unauthorized practice of law

Law Offices of Matthew Higbee v. Expungement Assistance Services (2013) 214 Cal.App.4th 544 [153 Cal.Rptr.3d 865]

Unincorporated association

lay person may not represent in court

Clean Air Transport Systems v. San Mateo County Transit District (1988) 198 Cal.App.3d 576 [243 Cal.Rptr. 799]

Virtual law office (VLO)

CAL 2012-184

"Writ mill"

In re White (2004) 121 Cal.App.4th 1453 [18 Cal.Rptr.3d 444]

UNPOPULAR CAUSE

Business and Professions Code section 6068(h)

UNREPRESENTED PERSON [See Communication, Not represented by counsel.]

USURY

California Constitution Art. 15, Usury § 1, par. 2

on past due receivables

CAL 1980-53

LA 374 (1978), LA 370 (1978)

SD 1983-1, SD 1976-8, SF 1970-1

Enforce usurious claim

LA 44 (1927)

VIOLATION OF THE LAW [See Advising violation of the law.]

WILL [See Estate. Trustee.]

Attorney as beneficiary

undue influence

Magee v. State Bar (1962) 58 Cal.2d 423 [24 Cal.Rptr. 839, 374 P.2d 807]

LA 462 (1990)

Attorney as beneficiary of trust

Bank of America v. Angel View Crippled Children's Foundation (1998) 72 Cal.App.4th 451 [85 Cal.Rptr.2d 117]

Attorney who drafted will was later employed as attorney for executor

Baker, Manock and Jensen v. Superior Court (2009) 175 Cal.App.4th 1414 [96 Cal.Rptr.3d 785]

Counsel for organization drafts for those leaving money to it

LA 428 (1984), LA(l) 1966-17

Failure to advise client regarding requirements governing presumptively disqualified donees may lead to liability to intended beneficiary

Winans v. Timar (2010) 183 Cal.App.4th 102 [107 Cal.Rptr.3d 167]

Osornio v. Weingarten (2004) 124 Cal.App.4th 304 [21 Cal.Rptr.3d 246]

Given to executor after incompetency of client

LA 229 (1955)

No duty to third-party beneficiaries

duty to a nonclient third party (son and grandchildren) only if the client's intent to benefit them is clear, but no duty exists when a client changes their will to favor someone else (wife), despite claims of malpractice by the nonclient third party

Grossman v. Wakeman (2024) 104 Cal.App.5th 1012 [325 Cal.Rptr.3d 163]

Person who must sign will is a client regardless of who has sought out and employed the attorney

SD 1990-3

Will depository

Probate Code sections 700 et seq. provide for termination of deposit with attorney, attorney may not use a commercial will depository without client consent

CAL 2007-173

Will revision considered protected activity for anti-SLAPP motion purposes

Cabral v. Martins (2009) 177 Cal.App.4th 471 [99 Cal.Rptr.3d 394]

attorney may register certain identifying information about a client's will or estate documents if the attorney can determine, based on knowledge of client, that disclosure will not be detrimental to the client and will advance the client's interests

CAL 2007-173

WIRETAPPING [See Recording.]

WITHDRAWAL FROM EMPLOYMENT [See Conflict of interest.

Files. Public office. Substitution of counsel.]

Code of Civil Procedure section 284 et seq.

Rule 3.1362, California Rules of Court

Rules 2-111 and 8-101, Rules of Professional Conduct (operative until May 26, 1989)

Rules 3-700 and 4-100, Rules of Professional Conduct (operative as of May 27, 1989)

Acts of attorney required to demonstrate the existence of a continuing attorney-client relationship

Shaoming City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

Appeal

indigent defendant constitutionally entitled to counsel's best argument for appeal before court rules on withdrawal

United States v. Griffy (9th Cir. 1990) 895 F.2d 561

Assisting the transition from one attorney to another is not providing assistance on the same subject matter of the representation and thus does not constitute a continuing attorney/client relationship

Shaoming City Maolong Wuzhong Down Products, Ltd., et. Al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]

Associate leaving law firm

Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]

CAL 2020-201, CAL 2014-190, CAL 1985-86, LA 405 (1982)

Attorney appointed by court to represent a minor

In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]

Attorney as advisor for an in propria persona litigant

LA 502 (1999)

Attorney as witness

Kirsch v. Duryea (1978) 21 Cal.3d 303, 310 [146 Cal.Rptr. 218, 578 P.2d 935]

Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]

WITHDRAWAL FROM EMPLOYMENT

Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
People v. Goldstein (1981) 126 Cal.App.3d 550, 554 [178 Cal.Rptr. 894]
Reich v. Club Universe (1981) 125 Cal.App.3d 965 [178 Cal.Rptr. 473]
Lyle v. Superior Court (1981) 122 Cal.App.3d 470, 474 [175 Cal.Rptr. 918]
Chronometrics, Inc. v. Sysgen, Inc. (1980) 110 Cal.App.3d 597, 605 [168 Cal.Rptr. 196]
People v. Ballard (1980) 104 Cal.App.3d 757, 761 [164 Cal.Rptr. 81]
Harris v. Superior Court (1979) 97 Cal.App.3d 488, 492 [158 Cal.Rptr. 807]
Graphic Process Co. v. Superior Court (1979) 95 Cal.App.3d 43, 50 [156 Cal.Rptr. 841]
Brown v. DeRugieris (1979) 92 Cal.App.3d 895 [155 Cal.Rptr. 301]
People ex rel. Younger v. Superior Court (1978) 86 Cal.App.3d 180 [150 Cal.Rptr. 156]
*People v. Superior Court (Hollenbeck) (1978) 84 Cal.App.3d 491, 500 [148 Cal.Rptr. 704]
People v. Guerrero (1975) 47 Cal.App.3d 441, 446 [120 Cal.Rptr. 732]
People v. Smith (1970) 13 Cal.App.3d 897, 903 [91 Cal.Rptr. 786]
Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423 [230 P.2d 57]
 LA 399 (1982)
 Attorney for guardian ad litem
Mossanen v. Manfred (2000) 77 Cal.App.4th 1402 [92 Cal.Rptr.2d 459]
Torres v. Friedman (1985) 169 Cal.App.3d 880, 888 [215 Cal.Rptr. 604]
 SD 2017-2
 Attorney who might be called as witness not required to withdraw with written consent of client
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
 Attorney-client relationship not established
 LA(l) 1968-7
 Before suing client for fee
 LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)
 Break-down in communications asserted as basis for withdrawal but court does not agree
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
 Cannot provide level of advocacy required by rule 6-101
People v. Munoz (1974) 411 Cal.App.3d 62 [115 Cal.Rptr. 726]
 Class action
 counsel owed a duty, post-judgment, to pursue class claims through enforcement of judgment
Barboza v. West Coast Digital GSM Inc. (2009) 179 Cal.App.4th 540 [102 Cal.Rptr.3d 295]
 duty of class counsel runs to the class and, in the event of conflicts, withdrawal is appropriate
7-Eleven Owners for Fair Franchising v. The Southland Corporation (2000) 85 Cal.App.4th 1135 [102 Cal.Rptr.2d 277]
 Client
 appears to have abandoned case
CAL 1989-111
 LA 441 (1987), LA(l) 1958-1
 burden to prove
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1048 [197 Cal.Rptr. 232]
 cannot be located
CAL 1989-111

LA 441 (1987)
 claims cannot pay fee
 LA 356 (1976)
 SD 1983-6
 commits
 -fraud
 LA 329 (1972)
 SF 1977-2
 -perjury
CAL 1983-74
 LA(l) 1974-7
 conducts undercover surveillance of opposing party
 LA 315 (1970)
 engaged in unlawful activity
 LA 353 (1976)
 intends to commit perjury
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Brown (1988) 203 Cal.App.3d 1335
 LA 362 (1976)
 objects to fee
 LA 211 (1953)
 perjured testimony
CAL 1983-74
 OC 2003-01
 plaintiff's failure to correct defendant's overpayment of a settlement may require withdrawal if plaintiff's conduct constitutes a fraud
 LA 520 (2007)
 refuses to file accurate fiduciary accounting
 SD 1983-10
 refuses to follow advice
 LA 362 (1976)
 threatens harm to attorney or attorney's staff
 -veiled threats to defense counsel's staff insufficient to declare conflict of interest and relieve counsel
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 unable to pay fee
 LA 251 (1958)
 uncooperativeness of client
Shukry Messih v. Lee Drug, Inc. (1985) 174 Cal.App.3d 312, 313-314 [220 Cal.Rptr. 43]
 Client conduct renders continued representation unreasonably difficult
 leads attorney to believe client needs a conservator
 OC 95-002
 Client's claim lacks merit
CAL 2019-198
 Client's refusal to cooperate with attorney's withdrawal does not excuse attorney from making motion to be removed as counsel of record
In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
 Code of Civil Procedure section 284
People v. Bouchard (1957) 49 Cal.2d 438, 440 [317 P.2d 971]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Roswall v. Municipal Court (1979) 89 Cal.App.3d 467, 472 [152 Cal.Rptr. 337]
Mandell v. Superior Court (1977) 67 Cal.App.3d 1, 4 [136 Cal.Rptr. 354]
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Kerfoot (1960) 184 Cal.App.2d 622, 635 [7 Cal.Rptr. 674]
Kalmus v. Kalmus (1951) 103 Cal.App.2d 405, 423-424 [230 P.2d 57]
 Compensation dispute
People v. Prince (1968) 268 Cal.App.2d 398, 406 [74 Cal.Rptr. 197]
People v. Collins (1966) 242 Cal.App.2d 626, 636 [51 Cal.Rptr. 604]

- Helpe v. Kluge (1951) 104 Cal.App.2d 461 [231 P.2d 505]
Cassell v. Gregori (1937) 28 Cal.App.2d Supp. 769, 771
Linn v. Superior Court (1926) 79 Cal.App. 721 [250 P. 880]
 LA 251 (1958), LA 212 (1953), SD 1983-6
- Competence of attorney
People v. Strozier (1993) 20 Cal.App.4th 55 [24 Cal.Rptr.2d 362]
- Conflict of interest
Hodcarriers, etc. Local Union v. Miller (1966) 243 Cal.App.2d 391 [52 Cal.Rptr. 251]
 SD 1972-1
 appearance of impropriety due to counsel's relationship with judge may be cured by withdrawal
In re Georgetown Park Apartments (9th Cir. 1992) 143 B.R. 557
 becoming apparent
 LA 333 (1973), LA 219 (1954)
 may be required where attorney represents corporation and officer in separate matters and then learns of officer's sexual harassment of employees of corporation
CAL 2003-163
 multiple representation
 -where client's interests become adverse
Zador Corp. v. Kwan (1995) 31 Cal.App.4th 1285 [37 Cal.Rptr.2d 754]
CAL 1988-96
 LA 471 (1992), LA 459 (1990), LA 427 (1984), LA 395 (1982)
 obligated to withdraw when consent cannot be obtained to an actual conflict
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
 public defender must re-evaluate minor's situation, when charged in a subsequent petition, and offer representation if a prior conflict no longer exists and other statutory requirements are met
Joshua P. v. Superior Court (2014) 226 Cal.App.4th 957 [172 Cal.Rptr.3d 509]
 removal of criminal defense attorney improper due to insufficient conflict of interest
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
 request by public defender to be re-appointed as counsel of record after withdrawing based on a conflict of interest required that defendant's new appointed counsel be present at the hearing
People v. Earp (2008) 160 Cal.App.4th 1223 [73 Cal.Rptr.3d 370]
 vicarious disqualification where "of counsel" attorney and law firm represented opposing parties and where "of counsel" attorney obtained confidential information and provided legal services to client
People ex rel. Dept. of Corporations v. Speedee Oil Change Systems (1999) 20 Cal.4th 1135 [86 Cal.Rptr.2d 816]
- Contract for employment
 includes provision allowing for unilateral withdrawal without prior notice or client consent
 SF 2023-1
 includes substitution of attorney clause
 LA 371 (1977)
- Control by court
DeRecat Corp. v. Dunn (1926) 197 Cal. 787 [242 P. 936]
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
Gion v. Stroud (1961) 191 Cal.App.2d 277 [12 Cal.Rptr. 540]
Cassel v. Gregori (1937) 28 Cal.App.2d Supp. 769 [70 P.2d 721]
Linn v. Superior Court (1926) 79 Cal.App. 721
 discretion
People v. Turner (1992) 7 Cal.App.4th 913
People v. Brown (1988) 203 Cal.App.3d 1335
- People v. Stevens (1984) 156 Cal.App.3d 1119, 1128 [203 Cal.Rptr. 505]
 substitution sought on morning of probation revocation hearing
People v. Turner (1992) 7 Cal.App.4th 913
 Counsel who represented defendant at preliminary examination only was not required to file formal motion to withdraw
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
- Criminal cases
 based on public defender's excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
 following impeachment of a prosecution witness by prosecutor's own testimony
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
 not required, defense counsel may Wendt appellate briefs instead
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
- De facto withdrawal
In the Matter of Miller (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131
 Delay in serving complaint excused, in part, because of a last minute change of attorneys
Yao v. Anaheim Eye Medical Group (1992) 10 Cal.App.4th 1024 [12 Cal.Rptr.2d 856]
- Dependency proceedings
In re Jesse C. (1999) 71 Cal.App.4th 1481 [84 Cal.Rptr.2d 609]
 inability to provide competent legal services because of disagreement with a minor client
 LA 504 (2000)
- Determination whether to grant or deny motion to withdraw as counsel of record lies within sound discretion of trial court
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
- Discharge of attorney
Wang v. Nesse (2022) 81 Cal.App.5th 428 [297 Cal.Rptr.3d 149]
Jeffrey v. Pounds (1977) 67 Cal.App.3d 6, 9 [136 Cal.Rptr. 373]
- Disclosure of client confidence or secret during withdrawal
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1129 [78 Cal.Rptr.2d 494]
People v. McLeod (1989) 210 Cal.App.3d 585 [258 Cal.Rptr. 496]
CAL 2015-192, LA 498 (1999)
- Disqualification of counsel
 entire firm disqualified
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
 trial court has power
William H. Raley Co. v. Superior Court (1983) 149 Cal.App.3d 1042, 1049 [197 Cal.Rptr. 232]
- Dissolution of law firm
CAL 2014-190
 notice to clients
Reeves v. Hanlon (2004) 33 Cal.4th 1140 [17 Cal.Rptr.3d 289]
CAL 2020-201, CAL 1985-86, LA 405 (1982)
- Domestic relations case
 Code of Civil Procedure section 285.1
Reynolds v. Reynolds (1943) 21 Cal.2d 580
 SF 1973-5, SF 1977-2
- Duties not altered by who terminates relationship
Kallen v. Delug (1984) 157 Cal.App.3d 940, 950 [203 Cal.Rptr. 879]
- Duty to avoid foreseeable prejudice
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
Martin v. State Bar (1991) 52 Cal.3d 1055
Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]

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- Kapelus v. State Bar (1987) 44 Cal.3d 179
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In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871
CAL 2014-190, CAL 1992-127
SF 2023-1
attorney's failure to file lawsuit or negotiate the settlement led to loss of claim after statute of limitation expired
In the Matter of Khishaveh (Review Dept. 2018) 5 Cal. State Bar Ct. Rptr. 564
rule barring withdraw from employment until the member has taken reasonable steps to avoid reasonably foreseeable prejudice to the rights of the client not violated where client consents to withdrawal and requests that its file be transferred to replacement counsel
GoTek Energy, Inc. v. SoCal IP Law Group, LLP (2016) 3 Cal.App.5th 1240 [208 Cal.Rptr.3d 428]
Duty to avoid reasonable prejudice
CAL 2019-198
Duty to client and administration of justice require effectuation of consensual withdrawal or motion under Code of Civil Procedure section 284
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Duty to impart information to third parties at former client's request
LA 360 (1976), LA 330 (1972)
Duty to represent client until court approves withdrawal
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
In re Jackson (1985) 170 Cal.App.3d 773 [216 Cal.Rptr. 539]
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CAL 1994-134
Effect on contingency fee contract
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]
Estate of Falco (1986) 188 Cal.App.3d 1004 [233 Cal.Rptr. 807]
Hensel v. Cohen (1984) 155 Cal.App.3d 563 [202 Cal.Rptr. 85]
Failure to communicate with clients regarding intention to withdraw
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
Failure to execute a substitution of attorney
Wolff v. State Bar (Review Dept. 2006) 5 Cal. State Bar Ct. Rptr. 1
In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652
Failure to move to withdraw as counsel paired with client's belief that he was represented constitutes abandonment of client
Foley v. Biter (9th Cir. 2015) 793 F.3d 998
Failure to return client property
Martin v. State Bar (1991) 52 Cal.3d 1055
Failure to return unearned fees
Harford v. State Bar (1990) 52 Cal.3d 93
In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
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Failure to take reasonable steps to avoid prejudice by first attorney's lack of cooperation with client's new attorney
Friedman v. State Bar (1990) 50 Cal.3d 235
Fee dispute
LA 521 (2007)
settlement negotiations do not require attorney to withdraw
CAL 2009-178
File
King v. State Bar (1990) 52 Cal.3d 307
Cal Pak Delivery v. United Parcel Service (1997) 52 Cal.App.4th 1 [60 Cal.Rptr.2d 207]
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CAL 1992-127, SF 2023-1
electronic file
CAL 2007-174
mental health records in file must be released to client notwithstanding written notice from health care provider that disclosure may be detrimental to client
LA 509 (2002)
multiple clients each demand the original
LA 493 (1998)
For non-payment of fee
LA 362 (1976), LA 212 (1953)
court cannot coerce attorney to represent defendant at trial without compensation when defendant paid for attorney's appearance at the preliminary examination only
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
failure or refusal to pay or secure proper fees or expenses as grounds for withdrawal
Lempert v. Superior Court (2003) 112 Cal.App.4th 1161 [5 Cal.Rptr.3d 700]
notice to client
LA 125 (1940)
SD 1978-7
suit for fees
LA 476 (1994) LA 407 (1982), LA 362 (1976) LA 212 (1953)
Formal substitution ordinarily ends the attorney/client relationship. However, the relationship can continue—notwithstanding the withdrawal and substitution—if objective evidence shows that the attorney continues to provide legal advice or services.
Shaoxing City Maolong Wuzhong Down Products, Ltd., et al. v. Keehn & Associates, APC, et al. (2015) 238 Cal.App.4th 1031 [190 Cal.Rptr.3d 90]
Former client, not party, objects to representation
LA(l) 1976-3
"Framework" agreement for future representation did not require withdrawal to terminate contract which was not self-effectuating because it required reciprocal actions by attorney and client, there was no current representation
Banning Ranch Conservancy v. Superior Court (2011) 193 Cal.App.4th 903 [123 Cal.Rptr.3d 348]

- Frivolous appeal
brief requirement prior to withdrawal discussing frivolous appeal deemed permissible
McCoy v. Court of Appeals of Wisconsin (1988) 486 U.S. 429 [108 S.Ct. 1895]
defense counsel believes that American Bar Association Model Rule 3.1 would be violated by asserting issues claimed by defendant
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921
- If client persists in illegitimate acts
Davis v. State Bar (1983) 33 Cal.3d 231 [188 Cal.Rptr. 441, 655 P.2d 1276]
- Improper withdrawal from employment
In the Matter of Lucero (Review Dept. 2024) 6 Cal. State Bar Ct. Rptr. 101
In the Matter of Edward Shkolnikov (Review Dept. 2021) 5 Cal. State Bar Ct. Rptr. 852
- Inability to provide services as agreed through virtual law office (VLO) setting
CAL 2012-184
- Inability to work with co-counsel
Beck v. Wecht (2002) 28 Cal.4th 289 [121 Cal.Rptr.2d 384]
- Incompetence of attorney
LA 383 (1979)
- Ineffective assistance of counsel as basis for motion
Smith v. Robbins (2000) 528 U.S. 259 [120 S.Ct. 746]
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
People v. Garcia (1991) 227 Cal.App.3d 1369 [278 Cal.Rptr. 517]
- Intent to withdraw is not necessary for finding client abandonment
In re Brockway (Review Dept. 2006) 4 Cal. State Bar Ct. Rptr. 944
- Legal aid lawyer
CAL 1981-64, SD 1983-6, SF 1973-5
- Mandatory withdrawal
Rule 2-111(B), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
In re Hickey (1990) 50 Cal.3d 571 [788 P.2d 684]
In the Matter of Davis (Review Dept. 2003) 4 Cal. State Bar Ct. Rptr. 576
CAL 2019-200, CAL 2019-198, CAL 2013-189, CAL 1995-139
attorney must withdraw if attorney obtains from insured that could provide basis for insurance carrier to deny coverage
LA 528 (2017)
client letter containing perceived insults of law firm is not a basis for mandatory withdrawal
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
client's case lacks merit
CAL 2019-198
expert witness testified falsely at deposition
SD 2023-1
- Minimal requirements
In the Matter of Dahlz (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 269
- Motion for
Rule 3.1362, California Rules of Court
attorney failed to seek permission to withdraw, as required by district court's rule
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
attorney may declare a conflict of interest without disclosing facts
Aceves v. Superior Court (1996) 51 Cal.App.4th 584 [59 Cal.Rptr.2d 280]
attorney should honor client's instructions not to disclose confidential information
LA 504 (2000)
based on public defender's excessive caseload and limited resources
People v. Jones (2010) 186 Cal.App.4th 216 [111 Cal.Rptr.3d 745]
In re Edward S. (2009) 173 Cal.App.4th 387 [92 Cal.Rptr.3d 725]
failure to file a brief in compliance with applicable procedures
U.S. v. Skurdal (9th Cir. MT 2003) 341 F.3d 921
may be denied if attorney fails to provide even general information regarding nature of ethical dilemma
Manfredi & Levine v. Superior Court (1998) 66 Cal.App.4th 1128 [78 Cal.Rptr.2d 494]
CAL 2015-192
- Neglect [See Neglect.]
protect client's position in litigation
LA 125 (1940)
Neighborhood Legal Assistance Foundation
SF 1973-5
Notice of withdrawal not communicated to client is prejudicial
In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32
Partial when case against one defendant weak
LA 223 (1954)
- Perjury
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Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
by client
Nix v. Whiteside (1986) 475 U.S. 157 [106 S.Ct. 988]
People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]
People v. Johnson (1998) 62 Cal.App.4th 608 [72 Cal.Rptr.2d 805]
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CAL 1983-74, LA 305 (1968), OC 2003-01
- Permissive withdrawal by attorney
Rule 2-111(C), Rules of Professional Conduct (operative until May 26, 1989)
Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)
Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]
Chaleff v. Superior Court (1977) 69 Cal.App.3d 721 [138 Cal.Rptr. 735]
Vann v. Shilleh (1975) 54 Cal.App.3d 192 [126 Cal.Rptr. 401]
Lane v. Storke (1909) 10 Cal.App. 347 [101 P. 937]
attorney's claim of permissive basis rejected
Rus, Miliband & Smith v. Conkle & Olesten (2003) 113 Cal.App.4th 656 [6 Cal.Rptr.3d 612]
client's conduct leads attorney to believe client needs a conservator
OC 95-002
expert witness testified falsely at deposition
SD 2023-1
- Prejudice to client
Mackey v. Hoffman (9th Cir. 2012) 682 F.3d 1247
Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962
Delgado v. Lewis (9th Cir. 2000) 223 F.3d 976
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Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]
Kapelus v. State Bar (1987) 44 Cal.3d 179
Frazer v. State Bar (1987) 43 Cal.3d 564 [238 Cal.Rptr. 54]
Franklin v. State Bar (1986) 41 Cal.3d 700
Stuart v. State Bar (1985) 40 Cal.3d 838, 842 [221 Cal.Rptr. 557]
Ramirez v. Sturdevant (1994) 21 Cal.App.4th 904 [26 Cal.Rptr.2d 554]

WITNESS

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In the Matter of Lais (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 907

In the Matter of Kaplan (Review Dept. 1996) 3 Cal. State Bar Ct. Rptr. 547

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Aguiluz (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 32

In the Matter of Ward (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 47

In the Matter of Collins (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 1

In the Matter of Frazier (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 676

In the Matter of Bach (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 631

arguing against the interest of client in making motion to withdraw

In the Matter of Doran (Review Dept. 1998) 3 Cal. State Bar Ct. Rptr. 871

collaborative family law practice, in order to avoid prejudice, the circumstances for withdrawal must be adequately addressed at the outset of the attorney-client relationship

OC 2011-01

Recusal of district attorney staff, conflict of interest

People v. Lopez (1984) 155 Cal.App.3d 813, 824-826

Representation ends when client actually has or reasonably should have no expectation that the attorney will provide further legal services for purposes of CCP 340.6(a)(2)

Gonzalez v. Kalu (2006) 140 Cal.App.4th 21 [43 Cal.Rptr.3d 866]

Representation of a corporation

Ferruzzo v. Superior Court (1980) 104 Cal.App.3d 501 [163 Cal.Rptr. 573]

Request for withdrawal properly denied despite prospect of client perjury

People v. Bolton (2008) 166 Cal.App.4th 343 [82 Cal.Rptr.3d 671]

People v. Brown (1988) 203 Cal.App.3d 1335

Return papers and property to client

SD 1997-1, SD 1984-3, SD 1977-3

Right to establish in retainer agreement

LA 371 (1977)

Scope of representation

Maxwell v. Cooltech, Inc. (1997) 57 Cal.App.4th 629 [67 Cal.Rptr.2d 293]

LA 483 (1995), LA 476 (1995)

Skilled counsel prejudices criminal defendant

People v. Gzikowski (1982) 32 Cal.3d 580 [186 Cal.Rptr. 339, 651 P.2d 1145]

Substitution of attorney clause in retainer agreement

LA 371 (1977)

Suit for fees

LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

Threat to withdraw if client refuses settlement

Nehad v. Mukasey (9th Cir. 2008) 535 F.3d 962

Timeliness of motion for substitution of counsel

United States v. Moore (9th Cir. 1998) 159 F.3d 1154

Unjustifiable delay in cooperating with client's new attorney

Conroy v. State Bar (1991) 53 Cal.3d 495

King v. State Bar (1990) 52 Cal.3d 307

Friedman v. State Bar (1990) 50 Cal.3d 235

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Unpaid fee

Rule 2-111(C)(1)(f), Rules of Professional Conduct (operative until May 26, 1989)

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Kallen v. Delug (1984) 157 Cal.App.3d 940 [203 Cal.Rptr. 879]

LA 476 (1994), LA 407 (1982), LA 371 (1977), LA 362 (1976), LA 356 (1976), LA 251 (1958), LA 212 (1953), LA(l) 1936-1

by third party

*Bradley v. Henry (9th Cir. 2005) 428 F.3d 811

CAL 1981-64

debtor's pursuit of discharge in bankruptcy is not breach of duty to pay

In re Rindlisbacher (9th Cir. BAP 1998) 225 B.R. 180 [33 Bankr.Ct.Dec. 258, 2 Cal. Bankr. Ct. Rep. 43]

no denial of effective assistance of counsel when defendant becomes indigent and retained counsel withdraws because court denies request to appoint the retained counsel

People v. Castillo (1991) 233 Cal.App.3d 36

settlement, conflicting instructions from insured and assured

LA 344 (1974)

suit for fees

LA 476 (1994), LA 407 (1982), LA 362 (1976), LA 212 (1953)

Violation of professional responsibility

Natali v. State Bar (1988) 45 Cal.3d 456 [247 Cal.Rptr. 165]

Vangness v. Superior Court (1984) 159 Cal.App.3d 1087, 1090-1091 [206 Cal.Rptr. 45]

failure to withdraw where required due to incapacity

Slavkin v. State Bar (1989) 49 Cal.3d 894 [264 Cal.Rptr. 131]

Violation of the withdrawal rule is not inconsistent with discipline for failure to communicate

In the Matter of Nunez (Review Dept. 1992) 2 Cal. State Bar Ct. Rptr. 196

In the Matter of Tindall (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 652

Witness

Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)

Rule 3-700, Rules of Professional Conduct (operative as of May 27, 1989)

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LA 367 (1977), LA 323 (1971)

for client

LA 399 (1982), LA 323 (1971), LA 203 (1952), LA(l) 1970-13

WITNESS [See Lay employee. Testimony.]

Rule 2-111(A)(4) and (5), Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)

Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)

Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)

Attorney as

Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]

Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]

Comden v. Superior Court (1978) 20 Cal.3d 906 [145 Cal.Rptr. 9, 576 P.2d 971]

SD 2017-1

about nature and value of services rendered

Brandt v. Superior Court (1985) 37 Cal.3d 813, 820 fn.7 [210 Cal.Rptr. 211]

Municipal Court v. Bloodgood (1982) 137 Cal.App.3d 29 [186 Cal.Rptr. 807]

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*Olson v. Superior Court (1984) 157 Cal.App.3d 780, 791 [204 Cal.Rptr. 217]

United States v. Edwards (9th Cir. 1998) 154 F.3d 915

against former client

LA 75 (1934)

associate of attorney as

LA 399 (1982)

before grand jury
In re Grand Jury Proceedings (9th Cir. 1998) 162 F.3d 554
 behalf of adverse party
 -duty to assert privilege
 LA 20 (1923)
 calling former associate as witness
 LA 399 (1982)
 client's right to counsel of choice
 Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
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 Geringer v. Blue Rider Finance (2023) 94 Cal.App.5th 813 [312 Cal.Rptr.3d 618]
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 Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
 Reynolds v. Superior Court (1986) 177 Cal.App.3d 1021 [223 Cal.Rptr. 258]
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 -calling former associate as witness
 LA 399 (1982)
 defense counsel testifies at penalty phase
 People v. Dunkle (2005) 36 Cal.4th 861 [32 Cal.Rptr.3d 23]
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 Noguchi v. Civil Service Comm. (1986) 187 Cal.App.3d 1521 [232 Cal.Rptr. 394]
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 Bankruptcy of Mortgage & Realty Trust (C.D. Cal. 1996) 195 B.R. 740
 -exception where roles of advocate and witness are irreconcilable, multiple conflicting and awkward roles; witness and advocate for son adverse to mother of grandson
 Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
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 -on behalf of client
 Rule 2-111(A)(4), Rules of Professional Conduct (operative until May 26, 1989)
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 Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
 People v. Goldstein (1982) 130 Cal.App.3d 1024 [182 Cal.Rptr. 207]
 LA 367 (1977)
 -on behalf of party other than client
 Rule 2-111(A)(5), Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-210, Rules of Professional Conduct (operative as of May 27, 1989)
 LA 323 (1971)
 prosecutor
 U.S. v. Prantil (1985) 756 F.2d 759
 People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
 purpose of ethical prohibition against attorney acting as both advocate and witness
 Kennedy v. Eldridge (2011) 201 Cal.App.4th 1197 [135 Cal.Rptr.3d 545]
 People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
 where representing client in same proceeding
 -called by party other than client
 Graphic Process v. Superior Court (1979) 95 Cal.App.3d 43 [156 Cal.Rptr. 841]

Communication with
 LA 490 (1997), LA 234 (1956), LA 213 (1953), LA(I) 1975-3 SD 1983-9
 Contact with
 Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
 communication with opposing party's expert who had been withdrawn as a witness but remained a consultant warranted disqualification
 County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
 defense attorney consults in confidence one defendant who becomes witness against other co-defendants
 -attorney may not represent other co-defendants
 LA 366 (1977)
 defense attorney contact treating physician of plaintiff
 -notification of attorney
 Rules of Professional Conduct, rule 7-107, former rule 15 SD 1983-9
 -suppressing evidence which attorney has a legal obligation to reveal or produce
 Rule 7-107(A), Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-220, Rules of Professional Conduct (operative as of May 27, 1989)
 Price v. State Bar (1982) 30 Cal.3d 537, 543-548 [179 Cal.Rptr. 914, 638 P.2d 1311]
 -advising or causing witness to secrete himself
 Rule 7-107, Rules of Professional Conduct (operative until May 26, 1989)
 Rule 5-310, Rules of Professional Conduct (operative as of May 27, 1989)
 Snyder v. State Bar (1976) 18 Cal.3d 286, 288-291 [133 Cal.Rptr. 864, 555 P.2d 1104]
 Waterman v. State Bar (1936) 8 Cal.2d 17, 18-21 [63 P.2d 1133]
 expert witness is former client of attorney
 LA 513 (2005)
 plaintiff's attorney in civil matter communicated with criminal defendant witness without consent of defendant's criminal defense attorney
 In the Matter of Dale (Review Dept. 2005) 4 Cal. State Bar Ct. Rptr. 798
 Contingent fee prohibited
 Ojeda v. Sharp Cabrillo Hospital (1992) 8 Cal.App.4th 1
 CAL 1984-79
 Intimidation of
 Earp v. Ornoski (9th Cir. 2005) 431 F.3d 1158
 People v. Woods (2006) 146 Cal.App.4th 106 [53 Cal.Rptr.3d 7]
 disbarment for soliciting intimidation of witness
 In re Lee (1988) 47 Cal.3d 471 [253 Cal.Rptr. 570]
 Judge
 solicited the commission of perjury in a federal investigation
 In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
 when testify as witness in a case in which he presides must give advance notice and obtain consent of parties
 People v. Sweeney (1984) 150 Cal.App.3d 553 [198 Cal.Rptr. 182]
 Non-party recovery of costs of subpoena duces tecum
 In re Marriage of Stephens (1984) 156 Cal.App.3d 909
 Payment to
 Hare v. McGue (1918) 178 Cal. 740
 Von Kessler v. Baker (1933) 131 Cal.App. 654
 LA(I) 1954-6
 by a criminal defendant for purposes of civil compromise (Penal Code 1377-78) where payment is made to complaining witness/victim in criminal matter
 People v. Moulton (1982) 131 Cal.App.3d Supp. 10 [182 Cal.Rptr. 761]

WORK PRODUCT

People v. Strub (1975) 49 Cal.App.3d Supp. 1 [122 Cal.Rptr. 374]
expert
Davis v. City and County of San Francisco (9th Cir. 1992) 976 F.2d 1536
LA(l) 1969-7
non-expert
CAL 1997-149
transportation, meals, lodging
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
Perjury
Heishman v. Ayers (9th Cir. 2010) 621 F.3d 1030
judge solicited the commission of perjury in a federal investigation
In the Matter of Jenkins (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 157
Physician as expert witness
SD 1984-4
communication with opposing party's medical expert who had been withdrawn as a witness but remained a consultant warranted disqualification
County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]
Prosecution
client in another matter
SD 1974-15
former client is
United States v. Henke (9th Cir. 2000) 222 F.3d 633
prosecutor as witness to impeach testimony of prosecution witness' testimony
People v. Donaldson (2001) 93 Cal.App.4th 916 [113 Cal.Rptr.2d 548]
CAL 1980-52
SD 1974-15
Purpose of rule 5-210
Smith, Smith & Kring v. Superior Court (1997) 60 Cal.App.4th 573 [70 Cal.Rptr.2d 507]
Request warrant for absent witness when responsible for non-appearance
LA(l) 1969-9
When counsel in case
LA 312 (1969), LA 203 (1952), LA(l) 1972-1, LA(l) 1970-13
partnership
LA 367 (1977), LA 323 (1971), LA 312 (1969)

WORK PRODUCT

Agency
work product includes work of those employed by [an attorney] or for him by his client
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Client's right to
Rose v. State Bar (1989) 49 Cal.3d 646 [262 Cal.Rptr. 702]
Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]
MGM, Inc. v. Superior Court (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]
Rumac v. Bottomley (1983) 143 Cal.App.3d 810, 812 In. 3 [192 Cal.Rptr. 104]
CAL 1994-134, CAL 1992-127, SD 2004-1, SD 1997-1, SF 1990-1
Common interest doctrine
determination of privilege under a joint prosecution or defense agreement
Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]
OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]
no waiver of the privilege under a join prosecution or defense agreement
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
Dominant purpose test
dominant purpose for counsel's retention was for legal advice
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Expert
need not be removed where plaintiff's expert was previously represented by defense counsel and where expert waives conflict
Montgomery v. Superior Court (2010) 186 Cal.App.4th 1051 [112 Cal.Rptr.3d 642]
Federal Rule of Civil Procedure 26(b)(3)
report prepared by expert-consultant is protected by the attorney's work product privilege
In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900
Of attorney
California Code of Civil Procedure section 2018 (b), (c), (f)
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Rico v. Mitsubishi (2007) 42 Cal.4th 807 [68 Cal.Rptr.3d 758]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]
2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]
Armenta v. Superior Court (2002) 101 Cal.App.4th 525 [124 Cal.Rptr.2d 273]
Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.App.4th 844]
State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]
Thompson v. Superior Court (1997) 53 Cal.App.4th 480 [61 Cal.Rptr.2d 785]
In re Tabatha G. (1994) 45 Cal.App.4th 1159 [53 Cal.Rptr.2d 93]
PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]
CAL 2013-188, CAL 1994-134, LA 531 (2019), SD 2004-1, SD 1997-1
applicable to non-attorney in propria persona litigant
Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]
Dowden v. Superior Court (1999) 73 Cal.App.4th 126 [86 Cal.Rptr.2d 180]
belongs to attorney
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Lasky, Haas, Cohler & Munter v. Superior Court (1985) 172 Cal.App.3d 264 [218 Cal.Rptr. 205]
belongs to client whether or not attorney has been paid
Weiss v. Marcus (1975) 51 Cal.3d 590
CAL 1992-127
LA 330, LA 362, SD 1997-1, SF 1984-1, SF 1975-4
belongs to law firm and not associate of firm
Ellis v. Superior Court (Nelson) (2017) 220 Cal.Rptr.3d 382 [12 Cal.App.5th 1233]
disclosure of putative class members' identity does not violate
Tien v. Superior Court (2006) 139 Cal.App.4th 528 [43 Cal.Rptr.3d 121]
does not extend to disclosure of identity of non-testifying expert
Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]

general (qualified) versus attorney's impressions, conclusions, opinions, or legal research or theories (absolute)
Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]
Wells Fargo Bank v. Superior Court (Boltwood) (2000) 22 Cal.4th 201 [901 Cal.Rptr.2d 716]
Southern California Edison Company v. Superior Court of Los Angeles County (2024) 102 Cal.App.5th 573 [321 Cal.Rptr.3d 617]
Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]
BP Alaska Exploration, Inc. v. Superior Court (1988) 199 Cal.App.3d 1240 [245 Cal.Rptr. 682]

identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)

Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]

intervention by non-party holder of privilege is not necessary or required to assert Evidence Code section 954 privilege

Mylan Laboratories, Inc. v. Soon-Shiong (1999) 76 Cal.App.4th 76 [90 Cal.Rptr.2d 111]

merely turning over documents prepared independently by party to attorney does not make them privileged

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

report prepared by expert-consultant is protected by the attorney's work product privilege

County of Los Angeles v. Superior Court (1990) 222 Cal.App.3d 647 [217 Cal.Rptr. 698]

restrictions on discovery of an attorney's impressions, conclusions, opinions or legal research, (CCP § 2018.030)

Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]

standing to assert absolute or qualified privilege

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080, 92 Cal.App.4th 1016A [111 Cal.Rptr.2d 284]

unwritten opinion work product is entitled to the protection of the absolute work product privilege

Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

Privilege

by sending letters containing work product to auditors of client, lawyers did not waive the right to assert attorney work product protection

Laguna Beach County Water District v. Superior Court (2004) 124 Cal.App.4th 1453 [22 Cal.Rptr.3d 387]

corporation may withhold from director documents that were generated in defense of a lawsuit that director filed against the corporation

Tritek Telecom, Inc. v. Superior Court (2009) 169 Cal.App.4th 1385 [87 Cal.Rptr.3d 455]

deputy district attorney cannot assert attorney-client privilege as to documents prepared in official capacity when the attorney is subject of criminal investigation

People ex rel. Lockyer v. Superior Court (Pfingst) (2000) 83 Cal.App.4th 387 [99 Cal.Rptr.2d 646]

does not extend to disclosure of identity of a non-testifying expert

Curtis v. Superior Court (2021) 62 Cal.App.5th 453 [276 Cal.Rptr.3d 676]

fraud or crime exception does not apply to work product

State Farm Fire and Casualty Co. v. Superior Court (1997) 54 Cal.App.4th 625 [62 Cal.Rptr.2d 834]

CAL 2013-188

hardship test for non-opinion work product discovery

Doubleday v. Ruh (1993) 149 F.R.D 601

Holmgren v. State Farm Mutual Automobile Insurance Company (9th Cir. 1992) 976 F.2d 573

In re Grand Jury Subpoena Issued to Mark Torf of Torf Environmental Management (9th Cir. (Idaho) 2004) 357 F.3d 900

identity of non-expert witnesses intended to be called at trial is entitled to a qualified work product privilege and cannot be compelled unless there is a showing that the party seeking the discovery will be unfairly prejudiced (CCP § 2018.030)

Snyder v. Superior Court (2007) 157 Cal.App.4th 1530 [69 Cal.Rptr.3d 600]

must yield to a compelling public purpose

PSC Geothermal Services Co. v. Superior Court (1994) 25 Cal.App.4th 1697 [31 Cal.Rptr.2d 213]

Kizer v. Sulnick (1988) 202 Cal.App.3d 431 [248 Cal.Rptr. 712]

not found

2,022 Ranch, LLC v. Superior Court (2003) 113 Cal.App.4th 1377 [7 Cal.Rptr.3d 197]

Green & Shinee v. Superior Court (2001) 88 Cal.App.4th 532 [105 Cal.Rptr.2d 886]

relationship to Proposition 115, "Crime Victims Justice Reform Act"

Izazaga v. Superior Court (1991) 54 Cal.3d 356

restrictions on discovery of an attorney's impressions, conclusions, opinions or legal research, (CCP § 2018.030)

Carehouse Convalescent Hospital v. Superior Court (2006) 143 Cal.App.4th 1558 [50 Cal.Rptr.3d 129]

standing to assert attorney-client privilege and work product doctrine

Meza v. H. Muehlstein & Co. (2009) 176 Cal.App.4th 969 [98 Cal.Rptr.3d 422]

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

unwritten opinion work product is entitled to the protection of the absolute work product privilege

Fireman's Fund Insurance Co. v. Superior Court (2011) 196 Cal.App.4th 1263 [127 Cal.Rptr.3d 768]

waiver

Electro Scientific Industries v. General Scanning (N.D. Cal. 1997) 175 F.R.D. 539

Pound v. DeMera DeMera Cameron (2005) 135 Cal.App.4th 70 [36 Cal.Rptr.3d 922]

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Metro-Goldwyn-Mayer Inc. v. Superior Court (1994) 25 Cal.App.4th 242 [30 Cal.Rptr.2d 371]

-common interest doctrine

Costco Wholesale Corp. v. Superior Court (2009) 47 Cal.4th 725 [101 Cal.Rptr.3d 758]

OXY Resources California LLC v. Superior Court (2004) 115 Cal.App.4th 874 [9 Cal.Rptr.3d 621]

-corporation waived attorney-client and work product privileges when it shared documents with government

McKesson HBOC, Inc., v. Superior Court (2004) 115 Cal.App.4th 1229 [9 Cal.Rptr.3d 812]

-defendant did not waive attorney-client and work product privileges when it shared documents with government

Regents of University of California v. Superior Court (2008) 165 Cal.App.4th 672 [81 Cal.Rptr.3d 186]

-employer did not waive attorney-client or attorney work product protections by providing sex discrimination claimant substantial discovery of employer's non-attorney in-house investigation report

Kaiser Foundation Hospitals v. Superior Court (1998) 66 Cal.App.4th 1217 [78 Cal.Rptr.2d 543]

-no waiver of work product protection where disclosing memoranda authored by corporate in-house counsel to outside law firm did not qualify as disclosure to adversary or conduit to adversary

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

WORKERS' COMPENSATION

-not found simply because objecting party submits an inadequate privilege log that fails to provide sufficient information to rule on merits of objections

Catalina Island Yacht Club v. Superior Court (2015) 242 Cal.App.4th 1116 [195 Cal.Rptr.3d 694]

-sharing memoranda with outside law firm did not waive work product protection; waiver was limited to underlying facts and data in the memo

United States v. Sanmina Corporation (9th Cir. 2020) 968 F.3d 1107

Witness interviews, conducted by investigators employed by counsel, are protected by work product privilege

Coito v. Superior Court (2012) 54 Cal.4th 480 [142 Cal.Rptr.3d 607]

Work product doctrine reaches documents prepared because of litigation even if they were prepared in connection with a business transaction or also served a business purpose

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065

Work product privilege and the client's right to his or her file pose an apparent conflict that has not been definitely resolved by the courts

Eddy v. Fields (2004) 121 Cal.App.4th 1543 [18 Cal.Rptr.3d 487]

Work product rule distinguished from attorney-client privilege

U.S. v. ChevronTexaco Corp. (2002) 241 F.Supp.2d 1065

McMorgan & Co. v. First California Mortgage Co. (N.D. Cal. 1997) 931 F.Supp. 703

Admiral Insurance v. U.S. Dist. Court for Dist. of Arizona (9th Cir. 1989) 881 F.2d 1486

Wellpoint Health Networks, Inc. v. Superior Court (1997) 59 Cal.App.4th 110 [68 Cal.Rptr.2d 844]

WORKERS' COMPENSATION [See Administrative agency.]

Advertising

Labor Code sections 5430-5434

79 Ops. Cal. Atty. Gen. 258 (11/21/96; No. 96-309)

Tillman v. Miller (N.D. GA 1995) 917 F.Supp. 799

Attorney-client privilege and work product doctrine

State Compensation Insurance Fund v. Superior Court (People) (2001) 91 Cal.App.4th 1080 [111 Cal.Rptr.2d 284, 66 Cal. Comp. Cases 1061]

Contingent fee contracts

to represent plaintiff

-exempt from written contract provisions

Business and Professions Code section 6147(c)

Disregard of order by a workers' compensation judge violates Business & Professions Code section 6103

In the Matter of Lantz (Review Dept. 2000) 4 Cal. State Bar Ct. Rptr. 126

Evidence Code section 915 is applicable in Workers' Compensation proceedings

The Regents of University of California v. Workers' Compensation Appeals Board and Lappi (2014) 226 Cal.App.4th 1530 [173 Cal.Rptr.3d 80]

Fees

award of fees to employee justified on the grounds that employer's petition for writ of review indisputably lacked merit

Crown Appliance v. Workers' Compensation Appeals Board (2004) 115 Cal.App.4th 620 [9 Cal.Rptr.3d 415]

burden is on attorney fee applicant to produce satisfactory evidence of relevant market rate (in workers' compensation case)

Van Skike v. Director, Office of Workers' Compensation Programs (2009) 557 F.3d 1041

claimant's attorneys is not entitled to fees from settlement proceeds under Labor Code §§ 3856 and 3860 if claimant received no benefit from the settlement

Draper v. Aceto (2001) 26 Cal.4th 1086 [113 Cal.Rptr.2d 61]

class action

-standing to pursue claim for interest on award of attorney's fees

Koszdin v. State Compensation Insurance Fund (2010) 186 Cal.App.4th 480 [112 Cal.Rptr.3d 494]

fees set by contract not binding where contract was deemed to have been drafted to circumvent court's authority to fix compensation under Labor Code § 4906

Vierra v. Workers' Compensation Appeals Board (2007) 154 Cal.App.4th 1142 [65 Cal.Rptr.3d 423]

successful claimant entitled to attorney fees under Longshore and Harbor Workers' Compensation Act

Seachris v. Brady-Hamilton Stevedore Company (9th Cir. 2021) 994 F.3d 1066

Dyer v. Cenex Harvest States Cooperative (9th Cir. 2009) 563 F.3d 1044

under Labor Code § 4607

Smith v. WCAB (2009) 46 Cal.4th 272 [92 Cal.Rptr.3d 894]

