



The Florida Bar

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THE FLORIDA BAR PROFESSIONAL ETHICS COMMITTEE AGENDA

Friday, January 22, 2016
9:30 a.m. until 12:30 p.m.
Hilton Orlando
Lake Buena Vista, Florida

1. Approval of the minutes of the June 25, 2015 meeting.
2. Report from Subcommittee for the Masters Seminar on Ethics 2016 by subcommittee chair Loula Giannet.
3. Informational Report. Florida Ethics Opinion 14-1 is now final after review by The Florida Bar Board of Governors. The proposed advisory opinion, based on Ethics Inquiry 32991, involves a lawyer's request regarding the ethical obligations involved in advising clients to "clean up" their social media pages before litigation is filed to remove embarrassing information that the lawyer believes is not material to the litigation.
4. Review of Florida Bar Staff Opinion 35283 at the request of a member of the subcommittee to review Florida Bar staff opinions. Florida Bar Staff Opinion 35283 concludes that the inquirer, who waived attorney's fees in a personal injury cases, may not also reduce the costs the inquirer advanced to the client in the matter now that there is a recovery under Rule 4-1.8(e), which prohibits financial assistance to a client. The subcommittee member disagrees and requests that the committee issue an opinion stating that the lawyer may reduce or waive costs the lawyer advanced to the client. Backup includes the original inquiry (dated July 28, 2015), Florida Bar Ethics Hotline Call Record 397275 (dated May 28, 2015), Florida Bar Staff Opinion 35282 (dated August 11, 2015), and Florida Ethics Opinion 96-1.
5. Review of Ethics Inquiry 35426, in which the inquirer requests reinstatement of Florida Ethics Opinion 67-5 regarding conflicts involved for a lawyer lobbying the legislature when the lawyer's partner is a legislator. The opinion was withdrawn by The Florida Bar Board of Governors on February 12, 1999, because the legislature instituted its own conflict of interest policy for public officials. Backup includes the inquirer's original request (dated September 15,

2015), Florida Ethics Opinion 67-5 (withdrawn by the Florida Bar Board of Governors on February 12, 1999), Florida Bar staff's denial of an opinion (dated October 1, 2015), inquirer's response (dated October 17, 2015), inquirer's request for committee review (dated October 28, 2015), news articles regarding the inquirer's request, backup materials from February 12, 1999 Florida Bar Board of Governors meeting regarding withdrawal of Florida Ethics Opinion 67-5.

6. Review of a denial of a staff opinion in Ethics Inquiry 35607, in which the inquirer asked regarding another lawyer's request that the inquirer's client execute a particular settlement agreement that included clauses which may prevent the inquirer's client from bringing a bar complaint against the opposing counsel and which contains a confidentiality clause. Staff declined to issue an ethics opinion because the inquiry involved the conduct of another attorney, legal questions, and the Professional Ethics Committee's policy that staff will not provide an opinion regarding a specific legal document. Backup includes the original inquiry (dated November 9, 2015), Florida Bar Ethics Hotline Call Record 411292 (dated November 30, 2015), Florida Bar Ethics Hotline Call Record 411305 (dated December 1, 2015), Florida Bar staff's response to the inquiry (dated December 4, 2015), the inquirer's request for committee review (dated December 30, 2015), Florida Ethics Opinion 04-2, ABA Formal Ethics Opinion 93-371, and ABA Formal Ethics Opinion 00-417.

7. **EXECUTIVE SESSION.** Report from staff on antitrust issues raised by *North Carolina Board of Dental Examiners v. FTC*, 135 S.Ct. 1101 (2015).

8. Discussion of other items at the direction of the chair. No backup materials.

9. Discussion of the future meeting schedule. The next meeting of the Professional Ethics Committee is tentatively scheduled for **Friday, June 17, 2016, from 2:00 p.m. until 5:00 p.m. at the Hilton Bonnet Creek in Orlando, Florida in conjunction with The Florida Bar Annual Convention.** No backup materials.