



The Florida Bar

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THE FLORIDA BAR PROFESSIONAL ETHICS COMMITTEE

AGENDA

Thursday, June 25, 2015
2:00 p.m. until 5:00 p.m.
Boca Raton Resort & Club
Boca Raton, Florida

1. Approval of the minutes of the January 23, 2015 meeting.
2. Report on the Masters Seminar on Ethics 2015 by subcommittee Chair Martinez.
3. Consideration of draft Proposed Advisory Opinion 14-1, based on Ethics Inquiry 32991, involving 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 matter. The request was denied for lack of precedent in Florida. At its January 24, 2014 meeting, the committee voted to direct staff to draft a proposed advisory opinion on the issue. At its June 27, 2014 meeting, a subcommittee was appointed to redraft the opinion in light of the committee's discussion. At its January 23, 2015 meeting, the committee voted to adopt Proposed Advisory Opinion 14-1 as drafted by the subcommittee. Official notice of its adoption was published in the February 15, 2015 issue of the Florida Bar *News*. Proposed Advisory Opinion 14-1 must be reconsidered in light of comments by Florida Bar members. Backup includes Proposed Advisory Opinion 14-1 as written by the subcommittee, official notice (dated February 15, 2015), comments from Florida Bar members in response to publication of official notice, Rule 4-3.4, Ethics Inquiry 32291 (received August 26, 2013), request for committee review (dated September 9, 2013), and relevant out-of-state ethics opinions. [*Additional materials were provided with the June 2014 and January 2015 agenda materials.*]
4. Consideration of request for Professional Ethics Committee review of a denial of a staff opinion in Ethics Inquiry 34699, involving the ethical propriety of members of a law firm representing private clients before a city commission, its boards and city staff if a member of the firm becomes a zoning hearing officer under the city's land development code. The request for

an opinion was denied as an issue likely involving the code of judicial conduct. Backup includes the original inquiry (dated February 20, 2015), staff's response (dated March 17, 2015), inquirer's request for committee review (dated March 24, 2015), and Rules Regulating The Florida Bar 4-1.7 and 4-1.12.

5. Consideration of Florida Bar Staff Opinion 34735 at the request of a member of the subcommittee to review staff opinions. Florida Bar Staff Opinion 34735 concludes that a lawyer who holds funds on behalf of a client must follow Florida law and treat the funds as abandoned property when the client does not respond to repeated requests by the lawyer to accept the funds. Backup includes the original inquiry (dated March 5, 2015), Florida Bar Staff Opinion 34735 (dated March 6, 2015), and Rule Regulating The Florida Bar 5-1.1(i).

6. Informational Item. Amendments to Rule 4-4.2 (Communication with Represented Persons) have been proposed by the City County & Local Government Law Section, the Florida Association of County Attorneys and Government Law Section. Comments in favor of the proposed amendments and in opposition to the proposed amendments have been received by the bar. The proponents of the amendments have made a new proposal with some compromise to attempt to address concerns of opponents. Backup includes the original proposal, revised amendments, comments received to date regarding the revised proposal, motions for summary judgment from *The Florida Bar v. Tobin*, and historical information about the rule.

7. Consideration of posting agendas and minutes of the committee on the bar's website, including how far back and how long to post. No backup materials.

8. Presentation of Certificates of Service by the chair to committee members Deborah A. A'Hearn, Linda S. Brehmer-Lanosa, James S. Haliczzer, and Miriam S. Ramos who are leaving the committee due to term limits.

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

10. Discussion of the future meeting schedule. The next meeting of the Professional Ethics Committee is tentatively scheduled for **Friday, September 18, 2015, from 9:30 a.m. until 12:30 p.m. at the Tampa Airport Marriott in Tampa, Florida in conjunction with The Florida Bar Fall Meeting.** No backup materials.