



# The Florida Bar

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## THE FLORIDA BAR PROFESSIONAL ETHICS COMMITTEE

### AGENDA

**Friday, October 19, 2018  
9:00 a.m. until 12:00 p.m.  
Tampa, Florida**

1. Approval of the minutes of the June 15, 2018 meeting.
2. Discussion of Masters Seminar on Ethics 2019.
3. Review of Florida Bar Staff Opinion 37896 at the request of the inquirer. The opinion concludes that the inquirer may not charge interest on costs in a contingent fee case where the inquirer advances costs and makes them contingent on the outcome because the costs are not liquidated until a recovery is made based on Florida Ethics Opinion 86-2. The Professional Ethics Committee voted 16-5 at its June 15, 2018 meeting to appoint a subcommittee to review the issue. Committee members Chinaris, Denney, Hintson, Skiscim and Tramont volunteered to serve on the subcommittee. Backup includes the original inquiry (dated November 7, 2017), a proposed advisory opinion drafted by the subcommittee, Florida Bar Staff Opinion 37896 (dated December 5, 2017), Request for Professional Ethics Committee review (dated January 11, 2018), Rule 4-1.5, a summary of relevant authorities on the issue, and relevant authority.
4. Request by the Florida Bar Board of Governors for review of the request by the Special Committee on Child and Parent Representation for Board of Governors endorsement of or use of the following in disciplinary cases (recommendation 7 of the final report): the ABA Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Florida Guidelines of Practice for Attorneys who Represent Children in Delinquency Proceedings. The Professional Ethics Committee voted 17-3 at its June 15, 2018 meeting to appoint a subcommittee to review the issue. Committee members Perez Alonso, Campbell, Courtvriend, Newsome, and Skiscim volunteered to serve on the subcommittee. Backup includes the subcommittee recommendation (dated September 17, 2018), a staff memo to the subcommittee (dated August 2, 2018), a memo from Judge Karlan (dated August 13, 2018), comments by Florida Bar member Monica Taibl (dated June 11, 2018), the 2017-18 final report of the Special Committee on Child and Parent Representation, the ABA Standards of Practice for

Attorneys Representing Parents in Abuse and Neglect Cases, and the Florida Guidelines of Practice for Attorneys who Represent Children in Delinquency Proceedings.

5. Review of a request from staff to consider ethics issues related to geographic targeting orders issued by the Financial Crimes Enforcement Network (FinCEN) that require certain lawyers to disclose specific information to FinCEN regarding real estate purchases that meet specific FinCEN requirements. The Professional Ethics Committee voted 20-1 at its June 15, 2018 meeting to defer the item to the next meeting and direct staff to seek additional information from FinCEN regarding the types of restrictions the geographic targeting orders have on communications with clients and the reporting obligations. Backup includes Articles from The Florida Bar's Real Property Probate and Trust Law Section *ActionLine* newsletter, excerpts from the section's Executive Council Meeting Agenda from December 10, 2016, FinCEN Fact Sheet from the American Land Title Association, Rule Regulating The Florida Bar 4-1.6, Florida Ethics Opinion 92-5, ABA Ethics Opinion 463, Articles on FinCEN, FAQ from FinCEN website, a geographic targeting order affecting South Florida, FinCEN press releases, and alerts from 3 title insurers.

6. Review of Florida Bar Staff Opinion 38678 at the request of the inquirer. The opinions concludes that the inquirer may not ethically receive a referral fee or commission for recommending that the inquirer's clients use the services of an independent insurance broker unless the inquirer 1) believes that the referral is in the client's best interests, 2) fully discloses the referral arrangement to the client, 3) obtains the client's informed consent, and 4) passes the benefit of the referral arrangement to the client. Backup includes the original inquiry (dated April 27, 2018 but received July 5, 2018), Florida Bar Ethics Hotline Call Record 475096 (dated April 10, 2018), Florida Bar Ethics Hotline Call Record 475165 (dated April 11, 2018), Florida Bar Staff Opinion 38678 (dated July 27, 2018), inquirer's request for Professional Ethics Committee review (dated August 26, 2018), Relevant Rules Regulating The Florida Bar, and relevant Florida ethics opinions.

7. Review of Florida Bar Staff Opinion 38273, regarding ethical obligations in participation in a networking group, at the request of committee member Thomas W. Young. Mr. Young indicated that the committee should consider adopting a formal advisory ethics opinion to address ethical issues of participation in networking groups, pointing out that other jurisdictions have formal advisory opinions on this topic, but Florida does not. Backup includes Mr. Young's memo (dated July 23, 2018), Ethics Inquiry 38273 (received March 6, 2810), Florida Bar Staff Opinion 38273 (dated March 12, 2018), relevant Rules Regulating The Florida Bar, and summary of relevant authority.

8. Review of Florida Bar Staff Opinion 38457 regarding potential conflicts involved with court-appointed criminal defense representation based on how court-appointed counsel are paid at the request of committee member Judge McCune. Backup includes email from Judge McCune (dated July 21, 2018), Ethics Inquiry 38457 (dated April 24, 2018), Florida Bar Ethics Hotline Call Record 474148 (dated March 29, 2018), and Florida Bar Staff Opinion 38457 (dated May 9, 2018), and summary of relevant authority.

9. Review of Florida Bar Staff Opinion 38045, regarding ethical obligations in a firm merger, at the request of committee member Timothy P. Chinaris. Mr. Chinaris asks committee review stating that the staff opinion may be unnecessarily discouraging the way 2 law firms propose to handle a firm merger. Backup includes Mr. Chinaris' email (dated September 21, 2018), Ethics Inquiry 38045 (dated January 16, 2018), Florida Bar Staff Opinion 38045 (dated February 14, 2018), and relevant Florida ethics opinions.

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

11. Discussion of the future meeting schedule. The next meeting of the Professional Ethics Committee is scheduled for **Friday, January 18, 2019, from 9:00 a.m. until 12:00 p.m. at the Doubletree by Hilton Orlando at SeaWorld.** No backup materials.