



The Florida Bar

651 East Jefferson Street
Tallahassee, FL 32399-2300

Joshua E. Doyle
Executive Director

850/561-5600
www.FLORIDABAR.org

THE FLORIDA BAR PROFESSIONAL ETHICS COMMITTEE

AGENDA

Friday, January 18, 2019
9:30 a.m. until 12:30 p.m.
Orlando, Florida

1. Approval of the minutes of the October 19, 2018 meeting.
2. Report on the Masters Seminar on Ethics 2019 by subcommittee chair Carolyn Johnson Levine.
3. Informational Item. Florida Ethics Opinion 18-1 issued by The Florida Bar Board of Governors regarding how qualifying providers and lawyer referral services may be paid is now final.
4. Informational Item. Florida Ethics Opinion 18-2, regarding charging interest on costs that are contingent on a recovery, was published in the November 15, 2018 bar *News* and became final when no comments were filed.
5. 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. This item was deferred at the October 19, 2018 meeting. 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), summary of relevant authority, and information provided by the Judicial Administrative Commission (dated October 18, 2018).
6. Review of Florida Bar Staff Opinion 38857 at the request of the inquirer. Florida Bar Staff Opinion 38857 concludes that the inquirer should not act as personal representative to an estate while representing multiple beneficiaries to the same estate. Backup includes Florida Bar Ethics Hotline Call Record #485358 (dated August 21, 2018), staff's email to the inquirer dated August 21, 2018, Ethics Inquiry 38857 (dated August 22, 2018), Florida Bar Staff Opinion

38857 (dated September 28, 2018), and the inquirer's request for Professional Ethics Committee review (dated October 18, 2018).

7. Review of a denial of a staff opinion in Ethics Inquiry 38957 at the request of the inquirer involving division of fees with a retired Florida Bar member who is ineligible to practice law in Florida. The opinion was denied because it involved past conduct of the inquirer. Backup includes Ethics Inquiry 38957 (received September 27, 2018), staff's denial of an opinion (dated November 5, 2018), inquirer's request for Professional Ethics Committee review (dated December 4, 2018), and relevant Florida ethics opinions.

8. Review of a request to amend the Florida Bar Procedures for Ruling on Questions of Ethics by the Standing Committee on Unlicensed Practice of Law to give ethics opinions to foreign and out-of-state lawyers who are subject to the Rules Regulating The Florida Bar. Backup includes letter from Standing Committee on Unlicensed Practice of Law Chair Dwayne Dickerson (dated November 1, 2018) and Florida Bar Procedures for Ruling on Questions of Ethics.

9. Discussion item at the request of committee member Michael Gelfand regarding recent committee discussion related to litigation funding. Backup includes Mr. Gelfand's email and other bar opinions from D.C, New York State, North Carolina, Pennsylvania and Philadelphia.

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 **2:00 p.m. until 5:00 p.m. on Friday, June 28, 2019, at the Boca Raton Resort & Club** in conjunction with The Florida Bar's Annual Convention. No backup materials.

12. **SUPPLEMENTAL ITEM:** Discussion item for the Subcommittee on Solicitation regarding a proposed amendment to the comment to the solicitation rule. The subcommittee drafted a proposed change to the comment to rule 4-7.18(a) requesting changes allowing solicitation on social media and in certain other circumstances. Backup includes a memo from the subcommittee and a draft rule change.