

DRAFT MINUTES

FOR THE

ATTORNEY ETHICS ADVISORY COMMITTEE

September 24, 2020

9:30 a.m.

State Courts Building, 1501 West Washington Street, Phoenix, Arizona
Conference Room 109

NOTE: Meeting of the Attorney Ethics Advisory Committee was conducted virtually. Members of the Committee and Staff attended virtually.

Present

Hon. Paul McMurdie (Chair)
Hon. Kim Ortiz
Michael Aaron
Sheena Singh Chiang
Kimberly Demarchi
Regina Nassen
Jon Sands
Anne Schrock
Charles Thomson
Geoffrey Trachtenberg
Maret Vessella
Angela Woolridge

Absent

Hon. John Napper (Vice Chair)
Maria Hubbard

Staff

Michelle Martinez
Christine Davis
Brianna Farmer
Ashleigh Hansen
Dominique Cidro

Guests

No. 1 Review and Approve August 27, 2020 Minutes

Motion: Approve August 27, 2020 Minutes

Moved by: Geoffrey Trachtenberg

Second: Anne Schrock

Motion Passed 12-0-2

No. 2 Discussion and possible action regarding:

- Ethics Opinion Request EO-20-0008.

Hon. Paul McMurdie presented.

EO-20-0008 addresses the threat of an email becoming bugged as it's being forwarded and opened. The request poses the question of whether or not it is permissible for an attorney to subscribe to a service that provides data collected by these "bugged" emails.

The Committee agreed to form a Subcommittee to develop an opinion utilizing information from the State Bar of Arizona, Rules of Professional Conduct Committee Ethics Opinion 07-03. The Subcommittee will complete more research on the use of meta data and meta data mining in its relation to an attorney's usage.

Subcommittee will include Regina Nassen, Geoffrey Trachtenburg and Hon. Kim Ortiz

Motion: Form Subcommittee.

Moved by: Anne Schrock

Second: Kim Demarchi

Motion Passed 12-0-2

No. 3 Update and possible action regarding Ethics Opinion drafts:

- EO-19-0003 (Nonlawyers with mandatory reporting)

Michelle Martinez presented on behalf of Mark Wilson.

The Opinion is currently being reviewed by the Staff Attorney's Office. The Committee should receive an update within 2 to 3 weeks.

- EO-20-0001 (Information to successor counsel)

Brianna Farmer presented updated draft.

Motion: Formally adopt EO-20-0001 and file draft with Clerk's Office.

Moved by: Charles Thomson

Second: Geoffrey Trachtenberg

Motion Passed 12-0-2

- o EO-19-0010 (Online Review)

Brianna Farmer presented.

The dissent drafted by Committee member Charles Thomson was provided to the Committee for review. The Committee suggested minor formatting and punctuation edits to the dissent.

Staff will address formatting concerns.

Motion: Post EO-19-0010 for Public Comment.

Moved by: Geoffrey Trachtenberg

Second: Charles Thomas

Motion Passed 12-0-2

No. 4 Discussion and possible action regarding topics to be addressed at future meetings

None.

No. 5 Call to Public

None.

Next Meeting: October 22, 2020

Adjourned: 9:50 AM