

Hello Miriam Raftery,

Thank you for your interest in my candidacy and for providing me with the opportunity to respond to your queries.

State Bar Questions

Yes, I am fully aware of all the Rules of Professional Responsibility and the associated commentary that follows each rule. Rule 5-100 (A) provides: (A) A member shall not threaten to present criminal, administrative, or disciplinary charges to obtain an advantage in a civil dispute. Rule 3-510 provides: (A) A member shall promptly communicate to the member's client: (1) All terms and conditions of any offer made to the client in a criminal matter; and (2) All amounts, terms, and conditions of any written offer of settlement made to the client in all other matters.

I am obligated to convey any settlement offer made by my client to opposing counsel by virtue of Rule 3-510. More importantly, Rule 5-100 prohibits the attorney/agent from “threatening” to “obtain an advantage”, but it does not prohibit, nor could it prohibit, a litigant from “threatening” to “obtain an advantage”. Moreover, the specific language of Rule 5-100 was notably changed in 1990 completely eliminating any liability to an attorney that “participates” in communicating the a threat made by a client to the attorney. The prior rule stated:

Rule 7-104 Threatening Criminal Prosecution: A member of the State Bar shall not threaten to present criminal, administrative or disciplinary charges to obtain an advantage in a civil action nor shall he present or participate in presenting criminal, administrative or disciplinary charges solely to obtain an advantage in a civil matter.

The language change to the Rule in 1990 mirrored 200+ years of principal/agency law which has consistently held that a principal is liable for the acts of an agent, but not vice versa. This has been codified in California Civil Code Sections 2295 through 2357.

Additionally, the condition precedent or demand was to “**start** mature settlement negotiations”, not that settlement negotiations had to end favorably or a specific result of settlement negotiations was demanded. The distinction is more than mere semantics because settlement negotiations always start on neutral grounds,

therefore, any alleged threat cannot be reasonably construed to be leveled to obtain an advantage.

There are two main parts to the appeal: the first part is set forth above the second part has to do with the failure of the State Bar Court to provide a fair and impartial State Bar Court Judge to preside over the Early Neutral Evaluation Conference or ENEC hearing. Prior to filing charges and posting those charges on the State Bar's website, an attorney has a right to request an ENEC hearing before a State Bar Court Judge in an attempt to settle the matter. The Rules of Procedure of the State Bar Court specifically state that the ENEC must be presided over by a State Bar Court Judge, who has to comply with the Canons of Judicial Ethics and is also subject to the disqualification statutes set forth under CCP sections 170.1 et. al.

I timely requested a ENEC hearing prior to the posting of the charges on the State Bar website and was provided an ENEC hearing presided over by a State Bar Court Judge named Judge Richard A. Patel, which meant nothing to me at the time. At the conclusion of a bizarre ENEC hearing, I phoned the attorney for the State Bar, Michael Glass, to ask if State Bar Court Judge Richard A. Patel was related to State Bar Investigator Leslie Patel. Another phone and several weeks later, State Bar Attorney Michael Glass stated that, of course, they are related, they are married! Leslie Patel was the primary investigator for the State Bar in bringing charges against me and prepared the case for the State Bar's prosecution. It is akin to a Superior Court judge presiding over a criminal matter in a case wherein the spouse was the District Attorney's Investigator on the case. The State Bar's incredulous position was that I was supposed to know that two people with the same last name were married. Under both substantive and procedural due process, the denial of a fair and impartial State Bar Court Judge to preside over the ENEC requires the reversal of Trial Court proceedings, the deletion of the allegations from the State Bar website and any proceedings to start anew, which translates to the State Bar only being able to bring one charge – the charge they closed on November 9, 2010, as attached herein.

As to your second query, I provide free legal advice to everyone that needs it and that has a substantive legal issue that is worthy of my attention. I, in no way, share their views, but I respect their right to express it. As you may or may not recall, David Goldberger, a Jewish Attorney for the ACLU, successfully represented the Nationalist Socialist Party of America or Nazis in their quest to march in Skokie Illinois. Mr. Goldberger believed, as I believe, that to protect our treasured right of free speech one must protect the rights of those that speak offensively even if we do not believe or support the content of their message. In short, I believe that everyone has a 1st Amendment right to display their ignorance, hate or love of flowers, dogs, pizza or people. I am more concerned by silence and repression than expression.

Sanctions

Your research is flawed in several respects. The Appellate opinion did not state why I was sanctioned, contrary to requirements of the California Rules of Court. The Appellate Court was supposed to cite the alleged misconduct so I could correct my behavior in the future, but they did not. Moreover, procedurally J.P. Morgan Chase needed to bring any request for sanctions by a separate noticed motion, not by requesting sanctions in its responsive brief, which they did not bring a separate motion. If sanctions were to be issued sua sponte by the Appellate Court, the Court needed to provide notice that it was considering sanctions, which they did not. I did not make any misrepresentations at any time, in any regard. I went on inactive status on January 28, 2013, at which time all written submissions to the Appellate Court had been completed in November of 2012. At no time did I represent my mother after Jan. of 2013, nor did I submit anything to the Appellate Court on behalf or my mother after Jan of 2013. The only action I took as an inactive attorney before the Appellate Court was my Pro Per appearance as a co-Appellant on the appeal at oral argument. The representation by the Appellate Court is factually inaccurate.

Civil Code Section 2356 (a)(2) dictates that the death of the principal ends the agency relationship, therefore, an attorney has no standing or obligation, legal or ethical, to inform the Court of the death of a client. Moreover, Clv. Code Section

2355 (b) dictates that the agency relationship ends upon the extinction of the subject matter, which upon the death of the principal the Power of Attorney document becomes null. The foregoing has been the law in California for over a hundred years. Unless the attorney is appointed as the administrator to the decedent's estate, the attorney has no standing to appear in court on behalf a legal entity (person) that no longer exists. Nevertheless, I did file a Request for Dismissal which was rejected by the Court.

Most importantly, I was mourning the death of my mother, arranging for her funeral, etc., when did the Court expect me to notify them? Was I supposed to notify the Court a day after she died, a week later and, more importantly how? There simply are no legal mechanisms for notifying the Court of the death of a client or litigant. An attorney cannot simply call up a Superior Court judge and say "By the way ...".

I have never practiced law in Nevada and, as such, have never been subject to professional discipline in Nevada.

I am running for Superior Court judge to unseat the most corrupt Superior Court judge in San Diego County and because I love the law. I believe that for a civilized society to flourish its citizens must have confidence that the laws will be applied equally and fairly to all regardless of discriminatory factors or favoritism. My opponent is outcome determinative, in that his decisions are based on favoritism, not the law which completely undermines the public's confidence in our non-violent dispute resolution system. When the public lacks confidence in the integrity and impartiality of our adjudicators, disputes are either left unresolved or their resolution is sought in an uncivilized manner. I seek to restore the public's confidence in the impartiality and integrity of judiciary because I am not beholden to anyone or anything, only my love of the law. No on the website yet, and no on the ballot statement.

Thanks for your interest and I wish you the best in all your endeavors.

Douglas J. Crawford

