

TOP Professional Responsibility LAWYERS



Erin M. Joyce

ERIN JOYCE LAW

PASADENA

PROFESSIONAL RESPONSIBILITY, ETHICS, AND
LEGAL MALPRACTICE



Erin M. Joyce spent 18 years as a State Bar prosecutor before opening her own shop, Erin Joyce Law PC, in 2017 to represent lawyers and guide them through what she calls “the sometimes Byzantine State Bar investigation process.”

People tell her, “You went to the dark side,” Joyce said. “No. I’m fighting the overreach when the disciplinary system goes after small law firms and solos.”

Joyce, who graduated first in her class at Southwestern Law School, also goes to bat for other licensed professionals. She spent a year and a half as chief special investigator for the Los Angeles Fire Department, overseeing Board of Rights hearings over employee misconduct there.

“But I wanted to be handling cases,” she said of her motivation for having her three-attorney boutique. “Just days before I launched, I got a referral from a well-respected defense counsel. That worked out great for me—I was kept busy working on apportioning fees among plaintiff lawyers on a big case. Then came one where an associate left a firm taking files with him. How should the owner of the firm negotiate that? We resolved it; it never got to litigation. I was very grateful for those first referrals.”

Joyce remains critical of the way the State Bar handles discipline cases, a system that remains under a harsh spotlight in the post-Thomas V. Girardi era. Girardi, a prominent plaintiff-side litigator accused of embezzling from client trust accounts,

flew under the State Bar’s radar for years and may have had improper relationships with bar officials, according to published accounts.

“The bar took discretion away from the Office of Chief Trial Counsel, which is a reason why I left,” she said. “I’m glad I’m out of it. After the Girardi case exploded, they tried to put in reforms. That was way after the barn door was left open, nothing but window dressing.”

An announced State Bar program to strengthen oversight of client trust accounts won’t work the way officials hope, Joyce said. “They’re using their failures to respond to Girardi client complaints to try to save face by calling for forensic accounting. Instead, they should be focusing on the complaints themselves.

The backlog there is huge, up 87% since 2015. Random audits will put a great burden on practicing attorneys. And random audits wouldn’t have prevented Girardi from stealing millions of dollars from clients, as he’s alleged to have done.”

She denounced as “not true,” the bar’s claim that such problems have been contained. “It’s not because they didn’t have random audits that they screwed up the Girardi cases,” she said. “It’s because they obviously had some cozy relationship with that law firm at the very highest levels, at the executive director level.”

— JOHN ROEMER

New Rule 5.1(b) mandates that "A lawyer having direct supervisory authority over another lawyer, whether or not a member or employee of the same firm, shall make reasonable efforts to ensure that the other lawyer complies with these rules and the State Bar Act."

Rule 5.3 imposes similar obligations on lawyers who supervise "nonlawyer assistants". It also requires the use of the same "reasonable efforts."

These important new prescribed duties can be difficult to fulfill when everyone is working remotely. However, they are not waived or diminished in any way. Regular team meetings, albeit remote, should be used to help satisfy this important duty.

DUTY TO COMMUNICATE

All lawyers, whether working remotely or not, have a duty to communicate promptly with clients all significant developments and other specific matters

outlined in Rules 1.4, 1.4.1 and 1.4.2. It is a fact that, even prior to the pandemic-caused remote working, the number one complaint against lawyers made to the State Bar involves the failure to properly communicate with clients. Busy lawyers have a tendency to forget this basic duty, especially when it comes to communicating "bad news" to clients. Even when working remotely, with all the obvious daily distractions, lawyers *must* promptly communicate virtually all developments to their clients.

THE STATE BAR HAS SPOKEN

The State Bar, in two formal opinions, has confirmed the principles and duties outlined in this article, especially as those duties relate to technology proficiency and the electronic storage of confidential client information.


In 2015, The State Bar of California Standing Committee on Professional

Responsibility and Conduct issued Formal Opinion 2015-193 related to the interaction of an attorney's duty of competence and the handling of electronically stored information. The opinion confirms lawyers' obligations to understand e-discovery and electronically stored information and obtain the technical knowledge and ability to not only engage in such methods, but ensure the protection of confidential client information.


In 2020, committee issued Formal Opinion 2020-203 to specify exactly what the ethical obligations of attorneys are in handling the electronic storage of confidential client information protected by Rule 1.6. The opinion concludes that lawyers who use electronic devices, which provide access to confidential client information, must identify the risks of unauthorized access to such devices, take reasonable steps

CONTINUED ON PAGE 25

CONGRATULATIONS



Erin Joyce, Esq. Top Professional Responsibility Lawyer 2022



ERIN JOYCE LAW, PC

117 East Colorado Blvd
Suite 465 Pasadena
California 91105

Call: 626.314.9050

ERINJOYCELAW.COM

CONGRATULATIONS

Erin Joyce, Esq.
Top Professional
Responsibility
Lawyer 2022



ERIN JOYCE LAW, PC

117 East Colorado Blvd
Suite 465 Pasadena
California 91105

Call: 626.314.9050

ERINJOYCELAW.COM