

SUPREME JUDICIAL COURT

BOSTON, MASSACHUSETTS 02108

NOTICE

Massachusetts Rules of Professional Conduct

At the request of the Justices, the Supreme Judicial Court's Standing Advisory Committee on the Rules of Professional Conduct ("Committee") examined the current Massachusetts Rules of Professional Conduct in light of amendments to the American Bar Association's Model Rules of Professional Conduct adopted following the work of the ABA Ethics 2000 Commission and the ABA Commission on Ethics 20/20.

In July 2013, with the Court's permission, the Committee published its proposed rules for comment. Following careful review of the comments received, the Committee on May 14, 2014 submitted to the Justices revised Proposed Rules of Professional Conduct. This proposal included amendments to all of the Massachusetts Rules with the exception of Rules 6.3, 6.4, 6.5, and 8.5.

The Justices of the Supreme Judicial Court today announced that they have taken the following actions.

1) The Justices will adopt Rules 1.0 - 1.5, 1.7, 1.11 - 3.4, 3.6, 3.7, 3.9 - 5.0, 5.2, 5.4 - 6.2, 7.1 - 7.5, and 8.1 - 8.3 in the form proposed by the Committee. The Justices will adopt Rules 1.8(b) and 1.9(c)(1) in the form proposed by the Committee's dissenters, and otherwise adopt Rules 1.8 and 1.9 in the form proposed by the Committee. The Justices will retain Rule 8.4(h) as recommended by the Committee's dissenters. These Rules are posted on the Court's website and are redlined against the Committee's submission of May 2014.

2) As recommended by the Committee, the Justices will hear argument on Rules 1.6(b)(2) and (b)(3) (disclosure of confidential information), Rule 1.10 (non-consensual screening of a personally disqualified lawyer to cure disqualification of a firm), Rule 3.5(d) (post-verdict juror communications), and Rules 5.1(d) and 5.3(d) (imposition of disciplinary responsibility on law firms). These arguments will be held on Thursday December 18 at 10 a.m. The format will be the same as an oral argument, but the Justices will be sitting in their administrative capacity.

3) Members of the Committee will argue in favor of the Committee's proposals. The opposition to Rules 1.6 and 1.10 will be argued by members of the Committee who dissented from the Committee's recommendations. The Committee's recommendation on Rule 3.5 was unanimous, and the Justices asked the Office of the Attorney General of the Commonwealth to

argue in favor of retaining Mass. R. Prof. Con. 3.5. The Committee's recommendation on Rules 5.1 and 5.3 was also unanimous. The Mass. Bar Association dissented from that recommendation, and the Justices asked the MBA to designate a member to argue in opposition to the Committee's position.

Attorney Regina E. Roman of Sugarman, Rogers, Barshak & Cohen, P.C. will argue the Committee's position on Rules 1.6(b)(2) and (b)(3), and attorney Elizabeth N. Mulvey of Crowe & Mulvey LLP will argue in opposition.

Attorney Timothy J. Dacey of Goulston & Storrs will argue the Committee's position on Rule 1.10, and attorney Henry C. Dinger of Goodwin Procter LLP will argue in opposition.

Professor Andrew M. Perlman of Suffolk University Law School will argue the Committee's position on Rule 3.5. When the attorney arguing in opposition is identified, that attorney's name will be posted on the Court's website.

Committee Chair John L. Whitlock of Edwards Wildman Palmer LLP will argue the Committee's position on Rules 5.1(d) and 5.3(d). The Massachusetts Bar Association has announced that attorney Paul P. O'Connor of Milton, Laurence & Dixon LLP will argue in opposition.

4) The Justices have deferred action on Rule 3.8.

5) The Justices will issue an order adopting the Rules and announce an effective date when they announce a decision on the Rules scheduled for argument.

The Justices of the Supreme Judicial Court appoint the members of the Standing Advisory Committee on the Rules of Professional Conduct. The Committee is chaired by John L. Whitlock, Edwards Wildman Palmer LLP. The other members are Carol Beck, Committee for Public Counsel Services; Professor R. Michael Cassidy, Boston College Law School; Timothy J. Dacey, Goulston & Storrs, P.C.; Henry C. Dinger, Goodwin Procter LLP; Erin K. Higgins, Conn Kavanaugh Rosenthal Peisch & Ford, LLP; Professor Andrew L. Kaufman, Harvard Law School; Elizabeth Mulvey, Crowe & Mulvey LLP; Professor Andrew M. Perlman, Suffolk University Law School; James B. Re, Sally & Fitch LLP; Regina E. Roman, Sugarman, Rogers, Barshak & Cohen, PC; Professor Constance Rudnick, Massachusetts School of Law; and Massachusetts Bar Counsel Constance V. Vecchione, Office of Bar Counsel.