

**MSBA Rules of Professional Conduct (RPC) Committee
Meeting Summary**

September 22, 2015

8:00 a.m.

MSBA Honors Room

Members Present: Michael McCarthy—Chair, Tim Baland, Pat Burns, Nancy Mischel-MSBA staff. **By telephone:** Eric Cooperstein, Tom Haluska, Cassie Hanson, James Keuning, Karen Marty, David Sasseville, David Schultz, Michael Vadnie.

Report from Practice Leave Subcommittee: Fred Finch is chairing this subcommittee, but Ms. Mischel reported in his absence. The Practice Leave subcommittee consists of members of the RPC Committee, the OLPR Board and the LCL Board. LCL raised a concern that its ability to find attorneys willing to step in and assist when another attorney enters treatment may be impeded due to a concern about potential liability. The subcommittee explored the possibility of including an exemption for attorneys assisting in these types of cases in our Good Samaritan statute, but agreed it would be very difficult to pass this through the legislature. More promising is the willingness of Minnesota Lawyers Mutual to write a liability policy for LCL volunteers. MLM is currently working on this. While LCL Board members expressed concern over the additional cost to LCL of such a policy, it may be the best option. The subcommittee will meet again when MLM has provided details and cost of such a policy. At this point, the subcommittee has not made any recommendations for consideration by the committee.

Discussion of [In re Albrecht](#) and possible rule amendment to Rule 3.3: Bill Wernz suggested the MRPC 3.3 should be amended to override the court's ruling, which relies on the comment rather than the language of the rule. Mr. Burns indicated the OLPR does not agree with the court's analysis regarding Rule 3.3. There is no reason lawyers representing themselves should be exempt from 3.3. Members debated whether there is sufficient interest/reason to form a subcommittee to explore this further. There was little interest in pursuing this issue standing alone, but Mr. Burns indicated that if the scope of the subcommittee's exploration is expanded beyond Rule 3.3 to include all rules that relate to an attorneys representation of him or herself that it would be worthwhile. Mr. Burns offered to chair this subcommittee. Mr. McCarthy, Mr. Keuning and Mr. Baland volunteered to serve with Mr. Burns.

Upcoming Items: Mr. McCarthy reported that the MSBA is forming a Task Force that will explore whether Minnesota should approve limited license legal technicians, which has been done in Washington state. He noted that should such a recommendation be forthcoming, the Rules of Professional Conduct would likely be implicated and the Committee may have a role to play.

The RPC Committee will be asked to assist in requesting an opinion from the OLPR regarding cloud computing. Obtaining such an opinion was a recommendation from the Challenges to the Legal Profession Task Force that was adopted by the Assembly.

Next meeting: Tuesday, October 27, at 4:00 p.m. at the MSBA office.