

**California  
Practice  
Guide**

**PROFESSIONAL  
RESPONSIBILITY  
AND LIABILITY**

CHAPTERS 1-4

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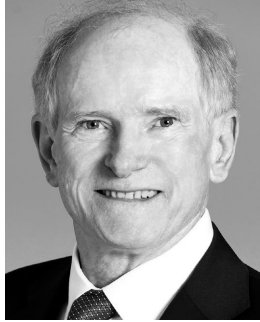


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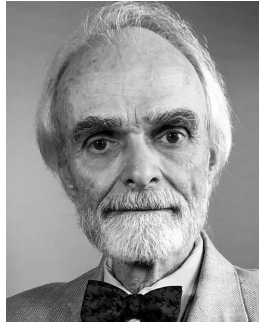


**Mark L. Tuft** is a Certified Legal Malpractice Specialist (California State Bar Board of Legal Specialization) and a litigation partner with Womble Bond & Dickinson (US) LLP. He serves as outside counsel to lawyers, law firms, and public and private organizations on professional responsibility and professional liability matters, including law firm mergers and dissolutions, conflicts of interest, attorney sanctions and State Bar admission and disciplinary matters. He also acts as an expert witness and consultant in these matters. His trial practice includes legal malpractice defense, media law and related first amend-

ment litigation. He also serves as an arbitrator and mediator in lawyer-client and law firm disputes.

Mr. Tuft has served on several California State Bar Commissions on revisions to the Rules of Professional Conduct and the State Bar's Task Force on Access Through Innovation of Legal Services. He is a former Chair and special advisor to the California State Bar Committee on Professional Responsibility and Conduct and served on State Bar Task Forces on Multi-Disciplinary Practice and amendments to the Rules of Professional Conduct. Mr. Tuft has taught professional responsibility as an adjunct professor at the University of San Francisco School of Law and has lectured on legal ethics at U.C. Berkeley School of Law and the U.C. San Francisco School of Law. He has served on the Board of Directors of the Bar Association of San Francisco and formerly chaired its ethics committee.

Mr. Tuft is a member of the ABA Center on Professional Responsibility and a former chair of its editorial board. He is a past president of the Association of Professional Responsibility Lawyers and a member of the American Law Institute. He is a frequent lecturer and writer on professional responsibility issues and has received several teaching awards. Mr. Tuft received the 2022 Harry B. Sondheim Professional Responsibility Award which recognizes a lawyer's outstanding long-term contribution to the advancement of attorney professional standards in California.



**Kevin E. Mohr** is Professor of Law Emeritus at Western State College of Law where, for several decades he taught many courses, including Contracts, Law Practice Management & Technology, Professional Responsibility and Remedies. Professor Mohr is a former Chair of and Special Advisor to the State Bar's Committee on Professional Responsibility and Conduct, and served as the Reporter/Consultant to, and as a member of, the State Bar of California's Special Commission for the Revision of the California Rules of Professional

Conduct. Most recently, he was a member of the State Bar of California's Task Force on Access Through Innovation of Legal Services and the State Bar's Working Group on Closing the Justice Gap. In 2004, he chaired the Supreme Court AB 1101 Task Force that drafted former CRPC 3-100 (currently CRPC 1.6). He is a Past President of the Peter M. Elliott Inn of Court, and a member and past Chair of the Los Angeles County Bar Association Professional Responsibility and Ethics Committee. Professor Mohr has also served as Chair of the Website and Technology Committee of the Association of Professional Responsibility Lawyers. He was a founding member of the Ethics Committee of the California Lawyers Association.

Professor Mohr frequently lectures and writes about ethical and conflict of interest issues in the practice of law and is a standing contributor to the State Bar of California and various local bar associations. He received his B.A. from Harpur College (Binghamton University), his M.S. from the University of Wisconsin, and his J.D. from Yale Law School.

Professor Mohr's private practice focuses on risk management and professional responsibility issues, including conflicts of interest and fee matters.

## PREFACE

Our principal objective in writing this Practice Guide is to make the field of Professional Responsibility and Liability accessible to California lawyers. Over the past two decades, there has been a veritable explosion of cases in nearly every aspect of the field; new Rules of Professional Conduct have been adopted; a professional disciplinary court system has been installed (and overhauled); and the subject has achieved mandatory status in many of the state's law schools.

Despite these developments, no single, reliable book has emerged to assist California lawyers with issues regarding their ethical obligations to clients, the public and the judicial system. This Practice Guide does not purport to answer every ethical question that may arise in a lawyer's practice, but we have attempted to make the relevant statutes, rules, standards and case law accessible and understandable.

Resolving ethical problems requires identification of the issues and the applicable rules and regulations, and then applying those rules and regulations to the facts. Using this Practice Guide, you may find that more than one rule or statute will apply to a given issue. References made to ethics opinions, State Bar publications and other resource materials are therefore important. Cross-references are provided throughout to assist in your analysis. Examples and illustrations are included to help you understand application of the rules and principles to particular factual situations. However, we may not have covered every possible ramification of a particular issue, nor every conceivable cross-reference. Thus, you must also rely on your own thorough analysis of the issues.

We have endeavored to cite the most recent cases applicable to the issues discussed. Prior case law is analyzed in context, since current cases are often difficult to understand without reference to historical developments in certain areas of legal ethics. Ethics opinions issued by state and local bar associations are also discussed; these often fill in gaps in the case law.

We have added our own comments and caveats on various unresolved issues. These are our informed opinions; but we cannot assure you that judges will always agree with us.

Finally, this book reflects the collective work of the authors; no particular statement or opinion is necessarily the work of any single author.

This Practice Guide will be updated regularly. We invite your comments and suggestions so that we can improve and expand on this work.

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