

2024 Annual Report of the Montana State Bar Ethics Committee

On April 24, 2024, the committee convened an in-person meeting in Helena at the State Bar offices. The committee was joined by Disciplinary Counsel Pam Bucy who informed the committee, in generalities and preserving the confidentiality of non-public, of recurring ethical issues raised in complaints received in her office regarding lawyer practices.

The committee then turned to various matters coming before it. First, ABA guidance and black letter rule appear at odds with certain statements included in an informal ethics opinion issued by the committee, Opinion 080711. Tim Strauch authored that opinion and spoke to his intent in drafting. The committee concluded that it should issue a revised opinion with the goal of clarifying its original opinion and harmonizing that opinion with ABA guidance. Since Tim authored the original opinion, he volunteered to draft a revision and circulate it to the committee for discussion.

The committee next considered ABA amendments to Rule 1.16, discussing the issues addressed in those amendments, whether those issues arose in Montana practice, and the process for adoption of those amendments.

Finally, the committee discussed the current, charged political climate, including what some have characterized as attacks on the independence and authority of the Judicial Branch of government, and the intersection of that discourse with Rules of Professional Conduct addressing lawyer obligations to protect and promote the integrity of the administration of justice. The committee concluded that lawyers in Montana would welcome and benefit from an opinion from the committee focused on Rule 8.2, regarding lawyer interaction with judicial officers and Rule 8.4, defining misconduct. An ad hoc subcommittee formed to develop a draft of such an opinion.

Work continues on the matters addressed by the committee in its meeting with the goal of circulating initial drafts on the pending matters before the end of the year.

Respectfully submitted,

Peter F. Habein

Committee Chair