



THE BAR ASSOCIATION OF
SAN FRANCISCO

**2025 OFFICERS &
BOARD OF DIRECTORS**

Charles H. Jung
President

Peggy Otum
President-Elect

Colin T. Kemp
Treasurer

Erica Villanueva
Secretary

Simona Agnolucci
Jeffrey Browning
Lin Chan
Mark Conrad
Neslihan Doran-Civan
Jennifer Grace
Rob Harrington
Adam Kaplan
Deanna Kwong
Caroline Lee
Lindsay Llewellyn
David Miller
Constance Norton
Mari Overbeck
Timothy Reed
Jessica Ryland
Rani Singh
Steven Taylor
Allison Wang
Colin West
Joseph Blake Winston IV

BARRISTERS CLUB

OFFICERS

Joseph Blake Winston IV
President

Jacqueline Simonovich
President-Elect

Evan Ettinghoff
Treasurer

Kevin Benedicto
Secretary

**EXECUTIVE DIRECTOR
& GENERAL COUNSEL**

Yolanda M. Jackson

June 20, 2025

Cassidy Chivers, Chair
Committee on Professional Responsibility and Conduct
The State Bar of California
180 Howard St.
San Francisco, CA 94105

Re: Proposed Formal Opinion Interim No. 20-0001 (Lawyer as Expert Witness)

Dear Ms. Chivers:

On behalf of the Ethics Committee of the Bar Association of San Francisco (“BASF”) and the BASF Board of Directors, we thank the State Bar Standing Committee on Professional Responsibility and Conduct for extending the deadline to submit a public comment on Proposed Formal Opinion Interim No. 20-0001 (Lawyer as Expert Witness).

While our Ethics Committee has discussed the proposed opinion in three separate monthly meetings, we have been unable to reach consensus on comments to offer about specific statements made in the proposed opinion. We feel that the proposed opinion is confusing as written and the conclusion is inconsistent with the guidelines offered in the proposed opinion itself.

Our Ethics Committee members who engaged in the discussion unanimously agree that the issue of whether a lawyer may ethically testify as an expert witness in matters involving current or former clients of the lawyer or lawyer’s law firm is incredibly fact-specific, such that a blanket rule specifying what a lawyer may or may not do in such situations seems unworkable. We feel that one who reads the proposed opinion may be left with more questions than answers.

Should COPRAC elect to proceed with issuing an opinion on this subject, we encourage you to reshape the opinion to offer more concise guidance in the form of issue spotting, without stating a conclusion on whether the lawyer may ethically testify as an expert in the scenarios presented.

We thank you for your consideration of the above.

Sincerely,

Joanna Storey Mishler
Chair, BASF Legal Ethics Committee
jmishler@rosinglaw.com
619.413.0651