

## **RULE 1.1 COMPETENCE**

A lawyer shall provide competent representation to a client. Competent representation as used in this rule means that a lawyer shall not handle a matter which the lawyer knows or should know to be beyond the lawyer's level of competence without associating another lawyer who the original lawyer reasonably believes to be competent to handle the matter in question. Competence requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

## **RULE 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER**

- a. Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the scope and objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.
- b. A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.
- c. A lawyer may limit the scope and objectives of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.
- d. A lawyer shall not counsel a client to engage in conduct that the lawyer knows is criminal or fraudulent, nor knowingly assist a client in such conduct, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

## **RULE 1.6 CONFIDENTIALITY OF INFORMATION**

- a. A lawyer shall maintain in confidence all information gained in the professional relationship with a client, including information which the client has requested to be held inviolate or the disclosure of which would be embarrassing or would likely be detrimental to the client, unless the client gives informed consent, except for disclosures that are impliedly authorized in order to carry out the representation, or are required by these rules or other law, or by order of the court.
- b.
  1. A lawyer may reveal information covered by paragraph (a) which the lawyer reasonably believes necessary:
    - i. to avoid or prevent harm or substantial financial loss to another as a result of client criminal conduct or third party criminal conduct clearly in violation of the law;
    - ii. to prevent serious injury or death not otherwise covered by subparagraph (i) above;
    - iii. to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
    - iv. to secure legal advice about the lawyer's compliance with these rules.
  2. In a situation described in paragraph (b) (1), if the client has acted at the time the lawyer learns of the threat of harm or loss to a victim, use or disclosure is permissible only if the harm or loss has not yet occurred.
  3. Before using or disclosing information pursuant to paragraph (b) (1) (i) or (ii), if feasible, the lawyer must make a good faith effort to persuade the client either not to act or, if the client has already acted, to warn the victim.
- c. The lawyer may, where the law does not otherwise require, reveal information to which the duty of confidentiality does not apply under paragraph (b) without being subjected to disciplinary proceedings.
- d. The lawyer shall reveal information under paragraph (b) as the applicable law requires.
- e. The duty of confidentiality shall continue after the client-lawyer relationship has terminated.

## **RULE 1.7 CONFLICT OF INTEREST: GENERAL RULE**

- a. A lawyer shall not represent or continue to represent a client if there is a significant risk that the lawyer's own interests or the lawyer's duties to another client, a former client, or a third person will materially and adversely affect the representation of the client, except as permitted in (b).
- b. If client informed consent is permissible a lawyer may represent a client notwithstanding a significant risk of material and adverse effect if each affected client or former client gives informed consent, confirmed in writing, to the representation after:
  1. consultation with the lawyer, pursuant to Rule 1.0 (c);
  2. having received in writing reasonable and adequate information about the material risks of and reasonable available alternatives to the representation, and
  3. having been given the opportunity to consult with independent counsel.
- c. Client informed consent is not permissible if the representation:

1. is prohibited by law or these rules;
  2. includes the assertion of a claim by one client against another client represented by the lawyer in the same or substantially related proceeding; or
  3. involves circumstances rendering it reasonably unlikely that the lawyer will be able to provide adequate representation to one or more of the affected clients.
- d. Though otherwise subject to the provisions of this rule, a part-time prosecutor who engages in the private practice of law may represent a private client adverse to the state or other political subdivision that the lawyer represents as a part-time prosecutor, except with regard to matters for which the part-time prosecutor had or has prosecutorial authority or responsibility.

## **RULE 1.8(e) CONFLICT OF INTEREST: PROHIBITED TRANSACTIONS**

- e. A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:
1. a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; or
  2. a lawyer representing a client unable to pay court costs and expenses of litigation may pay those costs and expenses on behalf of the client.

## **RULE 2.1 ADVISOR**

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. A lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.

## **RULE 3.3 CANDOR TOWARD THE TRIBUNAL**

- a. A lawyer shall not knowingly:
  1. make a false statement of material fact or law to a tribunal;
  2. fail to disclose a material fact to a tribunal when disclosure is necessary to avoid assisting a criminal or fraudulent act by the client;
  3. fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel; or
  4. offer evidence that the lawyer knows to be false. If a lawyer has offered material evidence and comes to know of its falsity, the lawyer shall take reasonable remedial measures.
- b. The duties stated in paragraph (a) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.
- c. A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.
- d. In an ex parte proceeding, other than grand jury proceedings, a lawyer shall inform the tribunal of all material facts known to the lawyer that the lawyer reasonably believes are necessary to enable the tribunal to make an informed decision, whether or not the facts are adverse.

## **RULE 3.1 MERITORIOUS CLAIMS AND CONTENTIONS**

In the representation of a client, a lawyer shall not:

- a. file a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of the client when the lawyer knows or when it is obvious that such action would serve merely to harass or maliciously injure another;
- b. knowingly advance a claim or defense that is unwarranted under existing law, except that the lawyer may advance such claim or defense if it can be supported by good faith argument for an extension, modification or reversal of existing law.

## **RULE 3.4 FAIRNESS TO OPPOSING PARTY AND COUNSEL**

A lawyer shall not:

- a. unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;
- b.
  1. falsify evidence;
  2. counsel or assist a witness to testify falsely; or
  3. pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of the testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:
    - i. expenses reasonably incurred by a witness in preparation, attending or testifying; or
    - ii. reasonable compensation to a witness for the loss of time in preparing, attending or testifying; or

- iii. a reasonable fee for the professional services of an expert witness;
- c. Reserved.;
- d. Reserved.;
- e. Reserved.;
- f. request a person other than a client to refrain from voluntarily giving relevant information to another party unless:
  - 1. the person is a relative or an employee or other agent of a client; or the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information; and
  - 2. the information is not otherwise subject to the assertion of a privilege by the client; and
- g. use methods of obtaining evidence that violate the legal rights of the opposing party or counsel; or
- h. present, participate in presenting or threaten to present criminal charges solely to obtain an advantage in a civil matter.

#### **RULE 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS**

In the course of representing a client a lawyer shall not knowingly:

- a. make a false statement of material fact or law to a third person; or
- b. fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by Rule 1.6.