

PREAMBLE, SCOPE AND TERMINOLOGY

PREAMBLE: A LAWYER'S RESPONSIBILITIES

[1] A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

[2] As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

[3] In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

[4] In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

[5] A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

[6] As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular

participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

[7] Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

[8] A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

[9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

[10] The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

[11] To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more

readily challenged by a profession whose members are not dependent on government for the right to practice.

[12] The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

[13] Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

SCOPE

[14] The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

[15] The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

[16] Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

[17] Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has

requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

[18] Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

[19] Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

[20] Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

[21] The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.1 Bar Admission and Disciplinary Matters

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

- (a) knowingly make a false statement of material fact; or
- (b) fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this rule does not require disclosure of information otherwise protected by Rule 1.6.

[Comment][Pre-2002 version][State Narratives]

Rule 8.2 Judicial and Legal Officials

- (a) A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, adjudicatory officer or public legal officer, or of a candidate for election or appointment to judicial or legal office.
- (b) A lawyer who is a candidate for judicial office shall comply with the applicable provisions of the Code of Judicial Conduct.

[Comment][Pre-2002 version][State Narratives]

Rule 8.3 Reporting Professional Misconduct

- (a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority.
- (b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.
- (c) This Rule does not require disclosure of information otherwise protected by Rule 1.6 or information gained by a lawyer or judge while participating in an approved lawyers assistance program.

[Comment][Pre-2002 version][State Narratives]

Rule 8.4 Misconduct

It is professional misconduct for a lawyer to:

- (a) violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;
- (b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;
- (c) engage in conduct involving dishonesty, fraud, deceit or misrepresentation;
- (d) engage in conduct that is prejudicial to the administration of justice;
- (e) state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or
- (f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

[Comment][Pre-2002 version][State Narratives]

Rule 8.5 Disciplinary Authority; Choice of Law

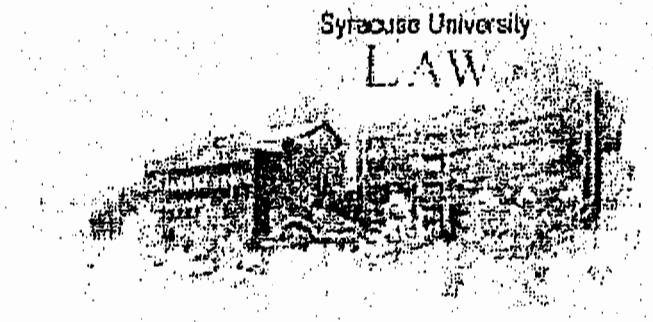
(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

(f) "**Knowingly**," "**known**," or "**knows**" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.



PROFESSIONAL RESPONSIBILITY RESEARCH GUIDE

H. DOUGLAS BARCLAY LAW LIBRARY

Check the library's "Location Guide" and Summit/Voyager, the online catalog for the current location of sources mentioned in this pathfinder.

Outline

INTERNET RESEARCH SITES

- National Sources for researching Professional Responsibility Issues
- New York Sources for Ethics Opinions

SUMMIT RESEARCH FOR LOCATING ITEMS IN THE LAW LIBRARY

PRIMARY SOURCES

- ABA Materials
 - Model Code of Professional Responsibility
 - Model Rules of Professional Conduct
 - Ethics Opinions (Formal and Informal)
- State materials on Professional Responsibility
 - Code/Rules/Statutes
 - Ethics Opinions
 - Court Rules

SECONDARY SOURCES

- Encyclopedias
- ALR
- Restatement
- Legal Periodicals
- Treatises

INTERNET RESEARCH SITES

NATIONAL SOURCES:

- ABA/BNA Lawyers Manual on Professional Conduct: Useful summary of current cases, search engine for caselaw, commentary on recent developments in the field. *Web access restricted to College of Law computers.*
<http://www.law.syr.edu/lawlibrary/bna/>
- American Legal Ethics Library (Legal Information Institute): This site includes narratives about particular states contributed on a pro bono basis as well as links to official sites. <http://www.law.cornell.edu/ethics/>
- Association of Professional Responsibility Lawyers: Includes links to state sites as well as information about the Association. <http://www.aprl.net> (Click on "Research" for links to all 50 states)
- Findlaw: Ethics and Professional Responsibility Law: Links to official and unofficial resources. <http://www.findlaw.com/01topics/14ethics/index.html>
- ABA Center for Professional Responsibility: Source for information about recent proceedings of ABA committees, including the Commission on Multidisciplinary Practice. <http://www.abanet.org/cpr/home.html>
- Crossing the Bar: State-by-State Guide to reciprocity rules by a commercial web site. www.crossingthebar.com

NEW YORK ETHICS OPINIONS VIA THE INTERNET:

- New York State Bar Association: Full text and digest of opinions available since 1991 (click on Attorney Resources, Ethics Opinions). www.nysba.org
- Nassau County Bar Association: Click on "Ethics Opinions". www.nassaubar.org
- New York County Lawyers Association: Contains summaries of opinions from 1970-present. Full text from 1996. Index from Canon numbers to opinions. Click on Publications to find ethics opinions. www.nycla.org
- Monroe County Bar Association: General information about the ethics committee. <http://www.mcba.org/commsec/eth/eth.htm>
- New York State Commission on Judicial Conduct: Opinions since 1997, press releases, committee information. www.scjc.state.ny.us
- New York Law Journal: Web version of daily legal newspaper. Current articles about the legal community in New York. www.nylj.com
- New York Court Unified Court System: Court rules for different levels within the state court system. Press releases regarding changes to Court procedures. www.courts.state.ny.us

SUMMIT SEARCHES

Use Library of Congress Subject Headings:

Summit search under "subject": "Legal Ethics" or "Legal Ethics-United States"

PRIMARY SOURCES

Primary legal sources are those materials which contain the actual text of the law. The major primary sources of legal ethics law are codes & rules, ethical opinions and cases.

ABA MODEL CODE OF PROFESSIONAL RESPONSIBILITY AND ABA MODEL RULES OF PROF. CONDUCT

- 1.) ABA "Model Code of Professional Responsibility" (adopted August 12, 1969) KF305 .A2 1986
 - Sets forth the ethical standards of the legal profession.
 - Some states retain a version of the Model Code.
 - The Model Code includes:
 - "Canons" - axiomatic norms expressing standards of conduct
 - "Ethical Considerations" - objectives/body of principle for guidance
 - "Disciplinary Rules" - mandatory in character & state minimum level of conduct

- 2.) Annotated revised ABA "*Model Rules of Professional Conduct*" (adopted August 2, 1983) KF305 .A2 1983 Shelved in stacks 1999 Shelved in Reserves and Reference

In 1983, the ABA adopted the *Model Rules of Professional Conduct* to replace the *Model Code of Professional Responsibility*. Significant substantive differences exist between the *Model Rules* and the *Model Code*.

- Many states have adopted some version of the *Model Rules*.
- Serves as another source of ethical standards
- Intended to replace, update & clarify the *Model Code*.
- Adopted in whole or in part by 20 or more jurisdictions.

For text of the Model Code and Model Rules, see ABA/BNA *Lawyers' Manual on Professional Conduct*. American Bar Association; Bureau of National Affairs, 1984
 - KF305.A8 A32

Online Sources: ABA Code/Rules

Lexis - Ethics Library and "Professional and Judicial Conduct Codes and Rules" files
 Westlaw - ABA-AMRPC ABA Annotated Model Rules of Professional Conduct
 ABA-RLDE ABA Model Rules for Lawyer Disciplinary Enforcement
 ABA-BNA ABA/BNA Lawyers' Manual on Professional Conduct

ABA ETHICS OPINIONS (Formal & Informal)

The ABA's Formal (matters of general interest to the Bar) and Informal (response to a specific inquiry) Ethics Opinions may be found in different publications and in Lexis and Westlaw.

- 1.) Opinions Of The Committee On Professional Ethics: Nos. 1-315, dating from 1924-1965. (1967). KF305 .A2 1967
(containing Formal Opinions 1-315, and all Informal Opinions predating 1961)
- 2.) Informal Ethics Opinions: C-230(A)-1284, dating from 1961-1973. (1975)
2 Vols. KF 305.A2 1975
- 3.) Formal Opinions 316-348, 1967-1982: Informal Opinions 1285-1495, dating from 1974-1982 (1985) KF305 .A2 1985
- 4.) Recent Ethics Opinions, 1983 to date KF 306.A45.A4
(regularly updated looseleaf service containing Formal Opinion 349 and Informal Opinion 1496 and those issued subsequently)

Earlier (pre-1985) state and local ethics opinions are digested in a four-volume set published at five-year intervals by the American Bar Foundation, an adjunct of the ABA. Edited by Olavi Maru, the original volume of the *Digest of Bar Association Ethics Opinions* was published in 1970 and supplemental volumes have been published updating the digest through 1975, 1980, and 1985. KF 305 .A2 1975
Post 1980 state and local ethics opinions digested in ABA/BNA Lawyers' Manual On Professional Conduct. (See "Looseleaf Services" below, for full description)

Online sources for ABA Ethics Opinions:

LEXIS – Ethics Library (or ABA Library)

WESTLAW – ABA-ETHOP database (contains both Formal and Informal Opinions)

STATE MATERIALS

Most of the state ethics codes and rules are available in the state Codes collection on Stack 2 of the library. Use the index and look under Attorneys, Professional Responsibility, Ethics etc. to locate the appropriate sections.

State Ethics Opinions

Lawyers faced with an ethical dilemma may submit their question to a state or local ethics committee and request an opinion as to whether or not their suggested action may be a breach of the state code of professional responsibility. The published opinions may or may not be determinative in any particular case. However, courts often look to the published opinions for persuasive authority.

Westlaw

The databases for ethics opinions use the following format: {2 letter postal abbreviation for the State}ETH-EO . e.g.: NY Ethics opinions are available in the NYETH-EO file. Check the scope note for the database in Westlaw for the dates and extent of coverage for each state.

There are also specialized caselaw databases containing court opinions re: Ethics on Westlaw: NYETH-CS.

Lexis

The ETHICS library, or NYBAR. or NYCBAR. files

General

- 1.) *ABA/BNA Lawyers' Manual on Professional Conduct*. (abstracts of ethics opinions) KF305.A8A32
- 2.) *The National Reporter on Legal Ethics and Professional Responsibility*, (University Publications of America, 1983). KF 308.A6N38 (ABA and state ethics opinions.)

New York

- *Opinions of the Committees on Professional Ethics of the Association of the Bar of the City of New York and the New York County's Lawyers' Association / The Association (1956-)*
 - KFN 5984.5 .D57 A492 5 Vol.
 - Opinions from the Association of the Bar of the City of New York, the New York County Lawyers' Association, the New York State Bar Association and the Bar Association of Nassau County.
- *ABA/BNA Lawyer's Manual on Professional Conduct* KF305.A8A32
 - Annotations of state and local bar association opinions. Ethics opinions volume also contains opinions from the Monroe County Bar Association, the Suffolk County Bar Association, the Queens County Bar Association, and the New York Women's Bar Association.
- *National Reporter on Legal Ethics and Professional Conduct* KF308.A6N38
 - Contains New York State Bar Association opinions from 1982 to the present.
- *New York Law Journal* Current in news rack & Floor 3; microfiche Floor 2
 - Opinions from down state local bar associations and the New York State Bar Association. Opinions indexed under "ethics and ethical questions" in the New York Law Journal Digest Annotator.
- *New York State Bar Journal* Floor 2
 - Opinions of the New York State Bar Association
- *Formal opinions: New York State Bar Association / Committee on Professional Ethics* KFN 5076.5 .A2 N45
- *Opinions of the Committees on Professional Ethics*
 - Opinions of the Association of the Bar of the City of New York and the New York County Lawyer's Association through 1956.
- *Selected Opinions of the Advisory Committee on Judicial Ethics / New York State. Advisory Committee on Judicial Ethics, (1988-)* KFN 5984.5 .D57 A492
- *Digest of Bar Association Ethics Opinions*
 - Three volume set contains summaries of opinions from the New York State Bar Association, the New York County Lawyers' Association, and the Association of the Bar of the City of New York. Coverage ends at 1980.
- *Bar Association of Nassau County Opinions*
 - Notebooks contain slip opinions from the Nassau County Bar Association starting in 1991.

New York State Materials

- McKinney's Judiciary Law, volume 29, "Appendix" p.350 -. (Stack 1) (code and annotations to ethics opinions and court cases)
- NY Consolidated Laws (CLS) volume 19A, "Appendix" p. 389 - (Stack 1) (code and annotations to State bar ethics opinions and court cases)
- Title 22 of the New York Code Rules and Regulations (NYCRR) Part 1200 (Stack 1)
- Rules of each of the Appellate Divisions
- Legislative history of the adoption and revision of the code or rule
- The New York State Bar Association has published a number of Reports, Summary Reports and Drafts leading to the revision adopted in 1990 by the House of Delegates which was adopted by the Appellate Divisions in 1990.
- Simon, Roy D. Simon's New York Code of Professional Responsibility Annotated 2002 Edition. Reference: KFN5076.5 .S46

Agencies

NYSBA Committee on Professional Ethics and
New York State Ethics Commission decisions from 1988

NYBAR

Bar of the City of New York Committee on Professional
and Judicial Ethics

NYCBAR

COURT RULES

Court rules also determine a lawyer's professional obligations. Court rules, generated by Federal & State trial and appellate courts, often set forth the details of a lawyer's responsibilities in such matters as duration of representation, the scheduling of litigation, and procedures for withdrawal.

[Internet listing for Court Rules](http://www.llrx.com) compiled by www.llrx.com.

Print Sources:

- USCS Federal Rules Annotated Floor 4 (with United States Code Service)
- USCA Federal Rules Annotated Floor 4 (with United States Code Annotated)
- Federal Rules Service. Callaghan, 1939- KF8830 .F44
- Federal Local Court Rules 2nd ed. KF8816 .A2 F4 1995
- Moores Federal practice, M. Bender KF8816 .A2

Online Resources:

Lexis - Genfed Library and Rules database

Westlaw - "Federal Materials" database "Court Rules & Orders" files

Looseleaf Services:

Looseleaf services consolidate statutes, rules, court decisions, and commentary on a particular legal topic into one source. This allows the researcher to find all relevant primary and secondary materials concerning that topic in one place. Looseleaf services are continually up-dated and/or replaced to reflect recent legal developments.

1.) *ABA/BNA Lawyers' Manual on Professional Conduct*. American Bar Association; Bureau of National Affairs, 1984 - KF305.A8 A32

Text of the *ABA Model Code of Professional Responsibility & the ABA Model Rules of Professional Conduct*

- References to state lawyer ethics codes by jurisdiction.
- Detailed references to state variations on the *Model Code* and the *Model Rules*.
- Full text of recent ABA ethics opinions (manual - tab 1001).
- Narrative treatment of ethical issues organized topically and annotated with references to case law, ethics opinions, and secondary sources.
- Each chapter includes a bibliography of law review articles.
- Other features include
 - Citations to key cases
 - Reprints of selected current ethics opinions.
 - Biweekly "Current Reports" and monthly updates.
 - **Summaries of state and local ethics opinions from 1980 to 1985 (tab 801) and 1986 to 1990 (tab 901).**
 - Digest of opinions from 1991 to present

Online sources:

Westlaw

- ABA/BNA Manual on Professional Conduct ABA-BNA

2.) *National Reporter On Legal Ethics And Professional Responsibility* (University Publications of America, 1983). KF308.A6 N38

- Four volume annual set of state lawyer ethics codes arranged by jurisdiction.
- Updated frequently
- Collects state bar formal & informal ethics opinions (not all states)

Access Points

- State Ethics Codes arranged by jurisdiction (Without annotations)
- Alphabetical Index

SECONDARY MATERIALS

Secondary legal materials are very useful in understanding the nuances of professional responsibility and the nature of legal ethics. These materials also serve as finding tools to aid researchers in locating primary sources and authorities. The best sources for beginning research in secondary materials are in specialized looseleaf services:

1.) Legal Encyclopedias

Legal encyclopedias provide a quick overview of an area of law and help the researcher locate case law and statutes relevant to the problem under study. Detailed analytic indexes provide access to the text of the encyclopedia.

- *American Jurisprudence 2d*, (Am Jur) Lawyers Cooperative, 1980) Floor 3
 - Volume 7 "Attorneys at Law"
- *Corpus Juris Secundum (CJS)*, West Publishing, 1980 Floor 3
 - Volumes 7 and 7A "Attorney and Client"

2.) American Law Reports (See pathfinder entitled "ALR")

American Law Reports (ALR) Lawyers Cooperative. Floor 4

- Consult index under: "Discipline and Disciplinary Matters" and "Ethics and Ethical Matters"

3.) Restatement

Restatement Of The Law, The Law Governing Lawyers (American Law Institute).

c1988- KF311.Z95 R4 2000 ("Attorney and Client")

- Broader in coverage than just the ethics codes
- Not Persuasive authority, but a "new" and useful source for research in this topic.
- Reporter's Notes to each of the sections provide a vast amount of case law and secondary material.

Online Resources:

Lexis - Secondary Sources Library

- AM JUR 2 American Jurisprudence 2d
- ALR 1 ALR & L.Ed. Annotations
- RESTAT 1 ALI Restatements of Law

4.) Legal Periodicals

Legal periodicals include law school reviews; specialized journals and legal newspapers.

Periodicals are useful in keeping current with developments in legal ethics. The ABA publishes various journals, as do various state bar associations.

- *Professional Lawyer*, (spring 1989) - KF305.A15 P76
- *American Bar Association Journal*.
 - Microfiche: vol. 1 (1915)-- Floor 2 Fiche
Cabinets
 - Paper: vol. 67 (1981)-- Floor 2 Unclassified
- *ABA Section on Professional Responsibility Newsletter* Floor 2
- *Georgetown Journal of Legal Ethics* Floor 2 Unclassified
- *Criminal Justice Ethics* Floor 2 Unclassified
- *The Journal of the Legal Profession* 1976- Floor 2 Unclassified
- *Lawyers' Professional Liability Update / ABA Standing Committee on Lawyers' Professional Liability.* KF313 .L38 1983

Online sources:

Westlaw - Legal Ethics & Professional Responsibility database and "Law Reviews, Legal Texts & Periodicals" files

Lexis - Lawrev Library and Allrev database

FINDING AIDS

1.) Digests

Case digests arrange cases alphabetically by subject and serve as indexes to court decisions and opinions. (See also pathfinder "West Case Reporters & Digests")

Digest Of Bar Association Ethics Opinions (ABA). KF 305 .A2 1975

- Digests of all ABA and state ethics opinions from 1910 to 1980
- Basic volume with, 1970 supplement, 1975 supplement and 1980 supplement.
- Ceased publication after 1980 supplement.

West's Federal Practice Digests. Floor 4

- Subject access to Federal case law. (Attorney & Client Key Numbers 105 through 129.)

2.) Periodical Indexes (Paper, CD-ROM, Online)

Periodical indexes provide subject and author access to journal articles and allow researchers to locate articles of interest and citations to their sources.

Use Summit to access the online "Index to Legal Periodicals" database.

- Index to Legal Periodicals, H.W. Wilson Company Floor 3 (1886 - 1995)
- Current Law Index, Information Access Corporation Floor 3(1980 - 1995)

Online Indexes:

- Lexis LAWREV library ILP file
- Lexis LAWREV library LGLIND file
- Westlaw LRI database for 'legal ethics.'
- Westlaw ILP database for 'legal ethics.'

LEGALTRAC - Available on Summit, Syracuse University's Online Library Catalog (go to "Other Databases", look for title alphabetically)

- Covers over 800 law and law related publications
- Coverage begins around 1980 –

Miscellaneous Useful Sources

- 1.) ABA Compendium of Professional Responsibility Rules and Standards KF 305.A2 1997
- 2.) *Annotated Model Rules of Professional Conduct*. 3rd ed. c1996. Temporary Control #: AFS2602
- 3.) *Annotated Model Rules of Professional Conduct*. 2nd ed. c1992. KF305 .A26 1992
- 4.) *Model Code of Professional Responsibility and Code of Judicial Conduct*. c1986. KF305 .A2 1986
- 5.) *Model Rules for Client Protection*. 1995. Temporary Control #: AFR8143
- 6.) *Statistical Report : Sanctions Imposed in Public Discipline of Lawyers* . ABA, 1986-Annual. KF308.A152 S73

Online Resources

- Lexis - ABA Library
- Internet -- <http://abanet.org/cpr/home.html> (ABA Center for Professional Responsibility)
 - National Lawyer Regulatory Data Bank
 - Programs & Services
 - Publications ordering information

Treatises

The Law of Lawyering: A Handbook on the Model Rules of Professional Conduct,
 (1990) 2 Vols. KF 306 .H33 1990

- Treatise on the Model Rules of Professional Conduct
- Contains the text of both the Model Rules and the Model Code as well as state variations on the rules.
- No significant coverage of issues not directly addressed by the Model Rules
- Updated annually.

Charles W. Wolfram, *Modern Legal Ethics*, West Pub. Co., 1986. KF306 .W59
 1986

- Commentary organized topically rather than by disciplinary rule
- Broad coverage of all ethical issues
- Includes treatment of other related issues, including, for example, bar admission, disciplinary procedure, malpractice, and judicial conduct
- Not supplemented since its 1986 publication.

Charleston Daily Mail

When lawyers run amok

The profession suffers when it fails to police abuses of the legal system

Monday May 07, 2007

ROY Pearson Jr. is to respect for the legal profession what the surgeon who amputates the wrong limb is to respect for the medical profession -- a significant liability.

Just as the medical profession needs to secure its loose cannons, the legal profession does, too. Pearson would be a good place to start.

Columnist Marc Fisher of the Washington Post reported the facts of the case recently.

In 2005, Pearson became an administrative law judge for the District of Columbia and needed to wear suits every day. He hauled out his old Hickey Freeman suits and found he needed two or three more inches in the waist. He took them in for alterations.

The dry cleaner had on its walls two large signs: "Same day service" and "Satisfaction guaranteed."

But the service didn't turn out that way, and Pearson wasn't satisfied. A pair of pants was missing.

At first Pearson asked for \$1,150 to get a new suit. Business owners Ki, Jin and Soo Chung have since offered Pearson \$3,000, then \$4,600, and finally, \$12,000 to settle the case.

But citing provisions of the District's consumer protection law -- \$1,500 per violation per day times 12 violations times 1,200 days times three Chungs-- Pearson wants \$65 million for "mental suffering, inconvenience and discomfort," for the value of the time he has spent on his lawsuit, and for the expense of leasing a car every weekend for 10 years to get to another cleaner.

The Chung's current lawyer said his clients are demoralized, out "a lot of money," "incredibly disenchanted," and are considering moving back to Seoul.

One lawyer was so outraged that he wrote the Post that he would have thrown out Pearson's suit and ordered him to pay the Chungs for their legal expenses and mental suffering. He also said he thought Pearson should be ousted and disbarred.

That sounds like justice. But such abuses of the legal system also make a strong case for the legal reform called "loser pays."

That's the only thing that will stop such nonsense.

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