

ETHICS STATEMENT

1. Our Confidential Relationship. Everything a lawyer (or any member of the law firm) learns about a client during the representation of a client is confidential. Our lawyers are not allowed to discuss your case or legal matters with anyone outside the firm. Our lawyers and non-lawyers are strictly prohibited from breaking the sanctity of the attorney-client relationship.

What you tell your lawyer is similar to what you tell your priest or doctor. We can't be effective in helping you unless we know all of the facts, including all of the unpleasant and embarrassing facts. To encourage full disclosure, we are prohibited by ethics and by law from discussing anything about your case with anyone. The mere fact that you need a lawyer can sometimes be something you don't wish to disclose. For this reason we do not allow our people even to disclose the names of our clients unless we have their permission.

Our lawyers and non-lawyers are forbidden even to discuss these confidences with their spouses, or other family members, or in a public place where they might be overheard.

If a lawyer brags to you about the name and legal matters of a client, you should be concerned about the ethics of this lawyer and whether you can expect your name and the facts of your case to be broadcast to people who could use the information against you.

In truth and in fact, lawyers do sometimes discuss their cases, particularly the unusual and bizarre case, with other lawyers or with their spouses. Normally, the discussion would be in such a way that the identity of the client could not be identified. Any lawyer who discusses a client or client's case out of the office runs the risk of being unethical.

2. Contact with a person represented by an attorney. A lawyer cannot ethically contact anyone on the other side of the case if that person is represented by an attorney. Therefore, if you have a dispute with Mr. A, Mr. A's lawyer cannot communicate with you either verbally, in writing or through a third party. I cannot communicate with Mr. A. Mr. A's lawyer can communicate with me or I can communicate with him. You should not talk to Mr. A unless I have told you to do so. You could inadvertently say or do something prejudicial to your case. There is no ethical restriction on the adverse parties talking to each other, but you shouldn't talk to your adversary unless your lawyer approves first.

The most common violation of this rule by unethical or ignorant lawyers is for a lawyer to send a letter to his client, with a copy to the adverse party, or for the lawyer to send a letter to the other lawyer with a copy to the other lawyer's client. If this happens to you, report it to us immediately for possible discipline.

3. Trust Accounts. Lawyers are required to have trust accounts for client funds and may not mix client funds with personal funds and may not borrow funds from the client. All deposits and withdrawals for your funds in the trust account must be reported to you as rapidly as is reasonable.

4. Fee problems. Fee problems can become ethics problems in certain cases, such as when a fee charged might be very large in view of the facts involved. Most local Bar Associations have a procedure for arbitrating or deciding fee problems between lawyers and clients. Our firm is always willing to discuss fee problems recognizing that there can be honest differences of opinion over fees. Normally, fee problems are not ethics problems but, on rare occasions, they can be if failure to refund unearned fees is an issue.

5. Conflicts of interest. A lawyer cannot ethically represent both sides in a dispute. A lawyer

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must ethically do the best possible for his or her client. A lawyer is not a judge deciding what is “fair and reasonable.” A lawyer normally is an advocate, out to protect his client at the expense of the other party, if necessary. For this reason, a lawyer cannot represent both a husband and wife in a divorce, or represent each shareholder and also the corporation, or each partner and also the partnership, or even conflicts of interest such as two people in a criminal case in which one may have to testify against the other at a later time. Representing multiple people against the same defendant in an accident case or collection case may be unethical where the defendant won’t have the ability to pay everybody. A lawyer may not represent a client if representation of that client and total loyalty to that client could be impaired by the lawyers relationship with another person or client.

On the other hand, the world must be practical. The American public can’t afford to go out and hire a lawyer for every person on every small transaction or deal. Therefore, it is normal and customary in some situations for a lawyer to, in effect, represent multiple people with actual or potential conflicts of interest in order to save legal fees and expedite the delivery of the work. For example, we might prepare all of the corporate documents affecting the rights of the 10 shareholders instead of having 11 lawyers involved in the start-up of a small business. In this situation each person should be advised as follows:

- A. That each person has a right to select his or her lawyer and, indeed, do so if he or she wishes.
- B. To whom the firm is looking for payment of legal fees.
- C. That the firm will raise questions and suggest commonly used solutions which the client may wish to accept, reject, modify or regulate.
- D. Who, if anybody, the firm would represent if there were a dispute at a later date.
- E. That each person understands there could be a conflict of interest between that person and the other parties and that he or she is waiving the conflict.
- F. That the person may, at any point, consult an independent lawyer to be sure his or her legal position is understood before signing the final agreement or document.
- G. Access to, and control of, the case files in the event of dispute.

All of the above should be explained to all of the parties involved, preferably in writing. Failure to recognize and explain properly conflicts of interest is a serious ethical violation.

A lawyer should not buy something from a client or sell something to a client without advising that client of the client’s right to get independent legal advice from another lawyer. Failure to do this is a serious ethical violation.

6. Self-dealing with clients. The relationship between a client and a lawyer is a fiduciary one.

7. Failure to communicate with a client. Generally speaking, it is not unethical for a lawyer not to keep a client informed of what’s happening on the case or not to return telephone calls promptly. These practices may be bad client relations, bad business or just plain stupid, but they’re not unethical in most cases. There are a few situations where not communicating with a client as the status of a matter could be unethical, but these situations usually involve the attorney’s hiding something from the client. A lawyer must act as a fiduciary toward a client

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and cannot lie to, or hide things from, the client. In these rare situations, failure to communicate could be unethical.

8. Extortion. Occasionally, the other party in a dispute has committed a criminal act either before, during or after the act in dispute between the parties. (Employee embezzlement is common, but other examples are income tax evasion or violation of some licensing law.) The client wants to use the lawyer to threaten to expose the person to authorities or police unless the person does what the client wants (typically, to make restitution or sign documents.)

If the lawyer did what the client wanted done, it might be unethical in some states, but it would be a crime in most states. The crime would be the crime of extortion. (Generally, extortion is the threat of criminal prosecution, unless the other side pays the consideration of doing what the client wants done.) Usually, a good lawyer will skillfully handle the situation by saying something like, "My client will pursue all legal remedies," or "My client will take all steps available under the law," but the lawyer will not, or a least should not, write a letter in such a way as to commit extortion.

9. Pretending to have "special influence" over a judge or government official. It is usually unethical for a lawyer to state expressly or to hint that he or she has special influence over a judge or other official (for example, a member of the District Attorney General's office). The lawyer is implying that the results will be determined by who the lawyer is rather than the merits of the case.

Be careful of a lawyer who expresses the ability to "fix" a case or cites has some form of special influence. This lawyer is giving you open notice of being unethical. This lawyer might not be able to help you if legal skills are required to win your case.

It would be questionably ethical for a lawyer to tell you expressly how he or she and the judge play tennis or golf together or are socially close or go to the same church. (Remember also that if the judge could be influenced by these factors, the other lawyer representing the other side may play more golf or tennis with the judge or be closer socially or be more important in the church.)

It would be proper for the lawyer to state that he or she has appeared before the judge and is familiar with the kind of evidence that the judge looks for, or that he or she is familiar with some of the judge's idiosyncrasies or prejudices in the courtroom.

10. Referral from Bail Bondsmen or Jail Staff

It is unethical for a bail bondsman or jail staff member to refer a defendant or a family member of a defendant to a particular attorney for representation in a criminal matter. In many situations this act is also considered a violation of the law as well as a violation of ethics rules. If you have been referred to a particular attorney by a bail bondsman or jail staff member you should report this action to your local law enforcement immediately.

You should be very leery of retaining an attorney who you were referred to by a bail bondsman. Some unethical attorneys pay handsome "finders fees" to these bail bondsmen in exchange for their referral. The bail bondsman does not have your best interest in mind when

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referring you to the unethical attorney who pays for referrals. Bail bondsmen are interested in having your case closed as soon as possible as to avoid any risk of having to pay the entire bond should the defendant miss a court date. It is in the best interest of the bail bondsman for your case to be “plead out” as soon as possible despite your innocence or desire to reach a better plea agreement. You must also ask yourself if the attorney has to pay finder’s fees to obtain clients, how competent is the attorney?

The above are obviously not all of the possible ethical situations that could arise during a legal matter, but are some of the more common ones.

We, as lawyers, will never practice law unethically. We believe that, in the long run, you, the client, will best be served by ethical lawyers. We will be aggressive when it advances your case. We will give common courtesies to opposing counsel if that will not harm your case. We will never knowingly be unethical and trust that you understand that this is in your best interest.