

# Table of Contents

<b>INTRODUCTION</b> .....	1
§ 1-1 An Historical Perspective of the Ethical Rules Governing Lawyers .....	1
§ 1-2 A Brief Note on the Terminology of Legal Ethics .....	17
§ 1-3 The Restatement of the Law Governing Lawyers .....	23
§ 1-4 Gauging the Influence of the Restatement of the Law Governing Lawyers .....	25
§ 1-5 The Relationship of Legal Ethics with Other Law ....	32
§ 1-6 What Is a “Profession”? .....	33
§ 1-7 The Public Image of Lawyers .....	43
§ 1-8 The Preamble to the Model Rules of Professional Conduct .....	52
§ 1-9 The Scope of the Model Rules of Professional Conduct .....	55
§ 1-10 Model Rule 1.0: Terminology .....	80
<b>I CLIENT-LAWYER RELATIONSHIPS</b> .....	87
<b>CHAPTER 1.1 COMPETENCE</b> .....	87
Rule 1.1 Competence .....	87
§ 1.1-1 Competence: the First Rule of Ethics .....	89
§ 1.1-2 Malpractice and Competence.....	97
<b>CHAPTER 1.2 SCOPE OF REPRESENTATION AND ALLOCATION OF AUTHORITY BETWEEN CLIENT AND LAWYER</b> .....	98
Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer .....	98
§ 1.2-1 The Creation of the Attorney-Client Relationship ....	102
§ 1.2-2 Allocation of Authority Between Client and Lawyer .	109
§ 1.2-3 The Scope of Representation .....	117
§ 1.2-4 Counseling or Assisting the Client in Criminal or Tortious Conduct .....	123
§ 1.2-5 Lawyer Advice and the First Amendment .....	135
<b>CHAPTER 1.3 DILIGENCE</b> .....	138
Rule 1.3 Diligence .....	138
§ 1.3-1 The Obligation of Reasonable Diligence .....	140
§ 1.3-2 The Obligation of Reasonable Promptness.....	141
§ 1.3-3 Waiver .....	143
§ 1.3-4 Special Circumstances for Sole Practitioners.....	144

<b>CHAPTER 1.4 COMMUNICATION .....</b>	<b>146</b>
Rule 1.4 Communication.....	146
§ 1.4-1 The Obligation to Keep the Client Informed .....	149
§ 1.4-2 The Limited Right to Withhold Information from Clients.....	159
<b>CHAPTER 1.5 FEES.....</b>	<b>161</b>
Rule 1.5 Fees .....	161
§ 1.5-1 Factors That Determine Whether a Fee Is Reasonable.....	166
§ 1.5-2 Fee Disputes .....	189
§ 1.5-3 Contingent Fees .....	196
§ 1.5-4 Referral Fees and Sharing Fees .....	212
§ 1.5-5 Hourly Fees .....	221
§ 1.5-6 Task-Based Billing, or Fixed Fees .....	224
<b>CHAPTER 1.6 CONFIDENTIALITY OF INFORMATION .....</b>	<b>245</b>
Rule 1.6 Confidentiality of Information .....	245
§ 1.6-1 Introduction.....	254
§ 1.6-2 Inadvertent Disclosure .....	260
§ 1.6-3 Lawyers Consulting with Other Lawyers in Different Law Firms, When They Are Not Associated in a Matter.....	278
§ 1.6-4 The Prospective Client .....	280
§ 1.6-5 The Former Client .....	283
§ 1.6-6 Co-Plaintiffs or Co-Defendants of a Client: Confidential Duties Owed to Persons Other Than Clients or Former Clients.....	287
§ 1.6-7 The Law Firm's Supervisory Responsibilities Over Its Agents Regarding Client Confidences .....	292
§ 1.6-8 Entity Clients and The Attorney-Client Privilege ...	293
§ 1.6-9 The Obligation of Confidentiality to Multiple Clients in the Same Matter .....	305
§ 1.6-10 Specific Prohibitions on Revealing or Using Client Secrets .....	310
§ 1.6-11 Client Waiver .....	313
§ 1.6-12 Revealing Client Information .....	313
<b>CHAPTER 1.7 CONFLICTS OF INTEREST—CURRENT CLIENTS .....</b>	<b>347</b>
Rule 1.7 Conflict of Interest: Current Clients .....	347
§ 1.7-1 Introduction .....	359
§ 1.7-2 Simultaneous Representation of Adverse Multiple Clients in Related Matters.....	373
§ 1.7-3 Simultaneously Representing Adverse Clients in	

## TABLE OF CONTENTS

Unrelated Matters .....	378
§ 1.7-4 Securing Informed Consent.....	403
§ 1.7-5 The Hot Potato Doctrine .....	408
§ 1.7-6 Special Problem Areas .....	413
<b>CHAPTER 1.8 CONFLICT OF INTEREST—SPECIFIC RULES .....</b>	<b>484</b>
Rule 1.8 Conflict of Interest: Current Clients: Specific Rules..	484
§ 1.8-1 Introduction.....	495
§ 1.8-2 Rule 1.8(a)—Business Transactions with a Current Client .....	495
§ 1.8-3 Rule 1.8(b)—Using Client Information .....	502
§ 1.8-4 Rule 1.8(c)—Accepting Gifts from Clients.....	505
§ 1.8-5 Rule 1.8(d)—Publication Rights .....	508
§ 1.8-6 Rule 1.8(e)—Financial Advances to the Client.....	510
§ 1.8-7 Rule 1.8(f)—Accepting Compensation from Non-Clients.....	513
§ 1.8-8 Rule 1.8(g)—Aggregate Settlements .....	514
§ 1.8-9 Rule 1.8(h)—Limiting the Lawyer’s Liability for Malpractice .....	518
§ 1.8-10 Rule 1.8(i)—Acquiring Propriety Interest in Client’s Cause of Action.....	525
§ 1.8-11 Rule 1.8(j)—Sexual Relations with Clients.....	529
§ 1.8-12 Rule 1.8(k)—Imputation of Rule 1.8 Conflicts to Other Firm Lawyers .....	534
<b>CHAPTER 1.9 DUTIES TO FORMER CLIENTS.....</b>	<b>536</b>
Rule 1.9 Duties to Former Clients .....	536
§ 1.9-1 When a Lawyer Joins a Firm .....	541
§ 1.9-2 Lawyer Hired As Expert Witness .....	556
§ 1.9-3 Information Generally Known .....	557
§ 1.9-4 Imputing Knowledge That Is Only Imputed and Not Actual .....	561
§ 1.9-5 Burden of Proof.....	561
§ 1.9-6 Waiver .....	562
<b>CHAPTER 1.10 CONFLICTS OF INTEREST—IMPUTED DISQUALIFICATION .....</b>	<b>570</b>
Rule 1.10 Imputation of Conflicts of Interest: General Rule...	570
§ 1.10-1 Vicarious Disqualification and an Introduction to Rule 1.10: Imputing One’s Lawyer Conflicts of Interest to Other Lawyers.....	575
§ 1.10-2 Waiver and Screening Under the 2002 Version of the Model Rules.....	578
§ 1.10-3 The Restatement Proposal Regarding Screening of Lawyers Moving from One Private Law Firm to Another Private Law Firm .....	580

§ 1.10-4	2009 Screening Amendments to Rule 1.10(a) .....	583
§ 1.10-5	Screening Non-Lawyers Who Move from One Law Firm to Another.....	587
§ 1.10-6	Defining the “Firm” .....	588
§ 1.10-7	Vicarious or Imputed Disqualification .....	593
§ 1.10-8	Sanctions.....	596
<b>CHAPTER 1.11 SPECIAL CONFLICTS OF INTEREST FOR FORMER AND CURRENT GOVERNMENT OFFICERS AND EMPLOYEES .....</b>		<b>603</b>
Rule 1.11	Special Conflicts of Interest for Former and Current Government Officers and Employees .....	603
§ 1.11-1	The Revolving Door .....	607
§ 1.11-2	The Historical Development of the Ethics Rules Governing the Revolving Door .....	609
§ 1.11-3	The Government Lawyer Moving into Private Practice .....	610
§ 1.11-4	The Private Lawyer Moving into Government Practice .....	620
<b>CHAPTER 1.12 FORMER JUDGE, ARBITRATOR, MEDIATOR, OR OTHER THIRD-PARTY NEUTRAL.....</b>		<b>624</b>
Rule 1.12	Former Judge, Arbitrator, Mediator or Other Third-Party Neutral .....	624
§ 1.12-1	Disqualification of Former Judges—The General Rule .....	626
§ 1.12-2	Imputation and Screening .....	630
<b>CHAPTER 1.13 THE ORGANIZATION AS CLIENT .</b>		<b>631</b>
Rule 1.13	Organization As Client .....	631
§ 1.13-1	Representing Corporations and Other Entities.....	638
§ 1.13-2	Protecting the Interests of the Entity Client.....	645
§ 1.13-3	Actual or Apparent Representation of the Organization and One or More of Its Constituents.....	668
§ 1.13-4	Representing Partnerships.....	674
§ 1.13-5	Representing Trade Associations .....	676
§ 1.13-6	Derivative Actions.....	679
§ 1.13-7	Corporate Family Issues .....	680
<b>CHAPTER 1.14 CLIENT WITH DIMINISHED CAPACITY .....</b>		<b>697</b>
Rule 1.14	Client with Diminished Capacity .....	697
§ 1.14-1	Dealing with a Client with Diminished Capacity ...	701
§ 1.14-2	Taking Action Necessary to Protect the Client with	

## TABLE OF CONTENTS

Diminished Capacity .....	703
§ 1.14-3 Emergency Legal Services for Persons with Diminished Capacity .....	706
<b>CHAPTER 1.15 SAFEKEEPING PROPERTY.....</b>	<b>708</b>
Rule 1.15 Safekeeping Property .....	708
§ 1.15-1 Establishing Trust Fund Accounts .....	711
§ 1.15-2 Model Rule for Payee Notification.....	718
§ 1.15-3 Audits of Trust Fund Accounts .....	719
§ 1.15-4 Trust Account Overdraft Notification .....	720
§ 1.15-5 Client Protection Funds .....	720
§ 1.15-6 Interest Earned on Client Trust Funds.....	721
§ 1.15-7 Disaster Preparedness.....	723
<b>CHAPTER 1.16 DECLINING OR TERMINATING REPRESENTATIONS .....</b>	<b>725</b>
Rule 1.16 Declining or Terminating Representation.....	725
§ 1.16-1 Accepting a Case .....	730
§ 1.16-2 Terminating Representation .....	731
§ 1.16-3 Wrongful Discharge .....	741
<b>CHAPTER 1.17 SALE OF A LAW PRACTICE.....</b>	<b>744</b>
Rule 1.17 Sale of Law Practice .....	744
§ 1.17-1 Selling a Law Practice.....	749
§ 1.17-2 The Disposition of Client Files and Property When a Sole Practitioner Dies.....	753
<b>CHAPTER 1.18 DUTIES TO PROSPECTIVE CLIENTS .....</b>	<b>755</b>
Rule 1.18 Duties to Prospective Client .....	755
§ 1.18-1 Duties Owed to Prospective Clients.....	758
§ 1.18-2 Imputed Disqualification Resulting from Prospective Client Conflicts .....	768
<b>II THE LAWYER AS COUNSELOR .....</b>	<b>771</b>
<b>CHAPTER 2.1 THE LAWYER AS ADVISOR.....</b>	<b>771</b>
Rule 2.1 Advisor .....	771
§ 2.1-1 Advisor Versus Advocate.....	772
§ 2.1-2 Distinction Between Rule 2.1 Advisor and Rule 2.3 Evaluator .....	774
§ 2.1-3 When Giving Legal Advice the Lawyer Cannot Ignore the Nonlegal Background.....	776
<b>CHAPTER 2.2 THE LAWYER AS INTERMEDIARY .</b>	<b>779</b>

Deleted Rule 2.2 Intermediary .....	779
§ 2.2-1 Intermediation Among Multiple Clients: Background .....	782
§ 2.2-2 Reasons Underlying the Deletion of Rule 2.2 .....	784
<b>CHAPTER 2.3 THE LAWYER AS EVALUATOR.....</b>	<b>786</b>
Rule 2.3 Evaluation for Use by Third Persons .....	786
§ 2.3-1 The Lawyer As Evaluator .....	788
§ 2.3-2 Client Consent to the Lawyer Acting As Evaluator...	793
§ 2.3-3 Client-Imposed Limitations on the Scope of an Evaluation .....	795
<b>CHAPTER 2.4 THE LAWYER AS A THIRD-PARTY NEUTRAL.....</b>	<b>797</b>
Rule 2.4 Lawyer Serving As Third-Party Neutral.....	797
§ 2.4-1 Lawyers Serving As Third-Party Neutrals .....	798
§ 2.4-2 Responsibilities of a Lawyer Serving As a Third- Party Neutral.....	800
§ 2.4-3 Responsibilities of Lawyers Representing Clients in an ADR Proceeding .....	801
<b>III THE LAWYER AS AN ADVOCATE .....</b>	<b>803</b>
<b>CHAPTER 3.1 MERITORIOUS CLAIMS AND CONTENTIONS .....</b>	<b>803</b>
Rule 3.1 Meritorious Claims and Contentions.....	803
§ 3.1-1 Meritorious Claims and Frivolous Positions.....	804
§ 3.1-2 Related Judicial Management Tools Including Rule 11 of the Federal Rules of Civil Procedure .....	811
§ 3.1-3 Common Law Torts.....	814
§ 3.1-4 Defenses Created by Anti-SLAPP Statutes.....	819
<b>CHAPTER 3.2 EXPEDITING LITIGATION.....</b>	<b>821</b>
Rule 3.2 Expediting Litigation .....	821
§ 3.2-1 Making “Reasonable” Efforts to Expedite Litigation .	822
§ 3.2-2 Delay for the Convenience of the Lawyer.....	826
<b>CHAPTER 3.3 CANDOR TOWARD THE TRIBUNAL .....</b>	<b>827</b>
Rule 3.3 Candor Toward the Tribunal.....	827
§ 3.3-1 Introduction: The Duty of Candor .....	833
§ 3.3-2 Candor in Statements About the Law and Disclosure of Adverse Legal Authority.....	836
§ 3.3-3 Candor in Statements About the Facts .....	839
§ 3.3-4 The Lawyer’s Duties in Offering Evidence to a	

## TABLE OF CONTENTS

Tribunal .....	842
§ 3.3-5 The Problem of Perjured Testimony—The Road Leading to Disclosure.....	846
§ 3.3-6 The Lawyer’s Obligation of Candor in Pretrial Discovery.....	854
§ 3.3-7 The Lawyer’s Duty to Prevent Criminal and Fraudulent Conduct Related to the Proceeding ....	855
§ 3.3-8 The Lawyer’s Withdrawal from the Case and the Protection of a Client’s Secrets .....	859
§ 3.3-9 Candor in <i>Ex Parte</i> Proceedings .....	860
<b>CHAPTER 3.4 FAIRNESS TO OPPOSING PARTY AND OPPOSING COUNSEL.....</b>	<b>862</b>
Rule 3.4 Fairness to Opposing Party and Counsel.....	862
§ 3.4-1 The Distinction Between the Lawyer’s Duty of Candor to the Court and the Lawyer’s Duty of Fairness to Opposing Counsel .....	864
§ 3.4-2 Obstructing Access to Evidence .....	868
§ 3.4-3 Money Payments to Witnesses .....	879
§ 3.4-4 Discovery Requests .....	890
§ 3.4-5 Disobeying a Tribunal Except for Open Refusals ....	890
§ 3.4-6 Trial Tactics, Inadmissible Evidence, and Closing Arguments .....	893
§ 3.4-7 Asking Potential Witnesses Not to Volunteer Information .....	894
§ 3.4-8 Mary Carter Agreements .....	895
<b>CHAPTER 3.5 IMPARTIALITY AND DECORUM OF THE TRIBUNAL .....</b>	<b>900</b>
Rule 3.5 Impartiality and Decorum of the Tribunal .....	900
§ 3.5-1 Seeking to Influence Corruptly .....	902
§ 3.5-2 Ex Parte Communications During the Proceeding....	903
§ 3.5-3 Communicating with Jurors After Discharge of the Jury.....	906
§ 3.5-4 Disrupting the Tribunal .....	907
<b>CHAPTER 3.6 TRIAL PUBLICITY .....</b>	<b>910</b>
Rule 3.6 Trial Publicity .....	910
§ 3.6-1 Trial Publicity, Pretrial Publicity, and the Lawyer’s Right to Comment .....	913
§ 3.6-2 The <i>Gentile</i> Decision .....	914
§ 3.6-3 The Post- <i>Gentile</i> Rule 3.6.....	916
<b>CHAPTER 3.7 LAWYER AS WITNESS .....</b>	<b>920</b>
Rule 3.7 Lawyer As Witness.....	920
§ 3.7-1 The Advocate As Witness .....	922

§ 3.7-2 Imputation to Other Lawyers in the Firm.....	927
§ 3.7-3 Scope of the Disqualification of the Advocate Witness .....	928
§ 3.7-4 Judicial Enforcement of the Advocate Witness Rule..	928
<b>CHAPTER 3.8 SPECIAL RESPONSIBILITIES OF A PROSECUTOR .....</b>	<b>930</b>
Rule 3.8 Special Responsibilities of a Prosecutor .....	930
§ 3.8-1 Introduction .....	934
§ 3.8-2 Special Responsibilities of Prosecutors in Criminal Cases .....	936
§ 3.8-3 Duties of a Prosecutor in Post-Conviction Proceedings .....	947
§ 3.8-4 Special Responsibilities of Government Lawyers in Civil Cases .....	950
<b>CHAPTER 3.9 ADVOCATE IN NONADJUDICATIVE PROCEEDINGS .....</b>	<b>953</b>
Rule 3.9 Advocate in Nonadjudicative Proceedings .....	953
§ 3.9-1 Disclosure of Representative Authority .....	954
§ 3.9-2 The Distinction Between Adjudicative Proceedings and Other Proceedings .....	955
§ 3.9-3 Duties Applicable to Lawyers Representing Clients in Nonadjudicative Proceedings .....	956
<b>IV TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS ..</b>	<b>959</b>
<b>CHAPTER 4.1 TRUTHFULNESS IN STATEMENTS TO OTHERS .....</b>	<b>959</b>
Rule 4.1 Truthfulness in Statements to Others .....	959
§ 4.1-1 Introduction .....	961
§ 4.1-2 Prohibitions Against False Statements of Material Facts or Law to Third Persons .....	961
§ 4.1-3 Disclosures Necessary to Avoid Assisting Client Crimes and Frauds Against Third Persons .....	968
<b>CHAPTER 4.2 COMMUNICATIONS WITH A PERSON REPRESENTED BY COUNSEL.....</b>	<b>974</b>
Rule 4.2 Communication with Person Represented by Counsel .....	974
§ 4.2-1 The General Principle.....	976
§ 4.2-2 Securing Consent from the Person's Lawyer .....	987
§ 4.2-3 Criminal Prosecutions .....	995
§ 4.2-4 Communications with Represented Persons About Matters Outside of the Representation .....	999
§ 4.2-5 Clients Speaking to Each Other Directly Without	



## TABLE OF CONTENTS

Their Lawyers Being Present.....	1000
§ 4.2-6 Employees and Agents of Organizations and Other Parties.....	1004
<b>CHAPTER 4.3 DEALING WITH UNREPRESENTED PERSONS .....</b>	<b>1012</b>
Rule 4.3 Dealing with Unrepresented Persons .....	1012
§ 4.3-1 Dealing with Individuals Who Are Not Represented by Counsel .....	1013
§ 4.3-2 Providing Legal Advice to Unrepresented Persons ...	1017
<b>CHAPTER 4.4 RESPECT FOR THE RIGHTS OF THIRD PERSONS .....</b>	<b>1021</b>
Rule 4.4 Respect for Rights of Third Persons.....	1021
§ 4.4-1 Using Means That Embarrass, Delay, or Burden a Third Person.....	1023
§ 4.4-2 Using Methods to Obtain Evidence That Violate the Legal Rights of a Third Person.....	1026
§ 4.4-3 Receipt of Privileged Documents Through Inadvertent Disclosure .....	1030
<b>V LAW FIRMS AND ASSOCIATIONS.....</b>	<b>1043</b>
<b>CHAPTER 5.1 RESPONSIBILITIES OF A PARTNER OR SUPERVISORY LAWYER.....</b>	<b>1043</b>
Rule 5.1 Responsibilities of Partners, Managers, and Supervisory Lawyers.....	1043
§ 5.1-1 Introduction: the Lawyer's Obligations As a Member of a Firm .....	1046
§ 5.1-2 Lawyers' Duty to Supervise Other Lawyers.....	1061
§ 5.1-3 Law Firm Discipline .....	1066
§ 5.1-4 Comparing Tort and Ethics Liability.....	1068
<b>CHAPTER 5.2 RESPONSIBILITIES OF A SUBORDINATE LAWYER.....</b>	<b>1070</b>
Rule 5.2 Responsibilities of a Subordinate Lawyer .....	1070
§ 5.2-1 The Responsibility of a Lawyer Who Is Subject to Supervision by Another Lawyer .....	1071
§ 5.2-2 Wrongful Discharge .....	1075
§ 5.2-3 Lawyer Suing Present Client for Employment Discrimination.....	1078
<b>CHAPTER 5.3 THE LAWYER'S RESPONSIBILITIES REGARDING NONLAWYER ASSISTANCE.....</b>	<b>1082</b>
Rule 5.3 Responsibilities Regarding Nonlawyer Assistance....	1083
§ 5.3-1 Supervising Nonlawyer Employees.....	1085

§ 5.3-2 Sharing Client Information with Outside Contractors .....	1087
<b>CHAPTER 5.4 PROFESSIONAL INDEPENDENCE OF A LAWYER</b> .....	1092
Rule 5.4 Professional Independence of a Lawyer .....	1092
§ 5.4-1 Sharing Fees with Lay Persons .....	1094
§ 5.4-2 The Prohibition on Sharing Managerial Responsibility with Nonlawyers .....	1104
§ 5.4-3 The Prohibition on Sharing Ownership of a Law Firm with Nonlawyers .....	1105
<b>CHAPTER 5.5 UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW</b> .....	1110
Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law .....	1110
§ 5.5-1 Introduction .....	1117
§ 5.5-2 Multijurisdictional Practice of Law .....	1117
§ 5.5-3 Unauthorized Practice of Law: Defining the “Practice of Law”? .....	1134
§ 5.5-4 Rationale for Rules Against Unauthorized Practice ..	1147
§ 5.5-5 Remedies for Unauthorized Practice .....	1150
§ 5.5-6 Aiding in the Unauthorized Practice of Law .....	1154
§ 5.5-7 Practice of Law by Corporations, Associations, and Partnerships .....	1157
§ 5.5-8 Working Virtually .....	1163
<b>CHAPTER 5.6 RESTRICTIONS ON THE RIGHT TO PRACTICE LAW</b> .....	1167
Rule 5.6 Restrictions on Right to Practice .....	1167
§ 5.6-1 Employment Contracts That Restrict the Right of a Lawyer to Practice Law .....	1168
§ 5.6-2 Restrictive Covenants and Settlement of a Lawsuit ..	1177
<b>CHAPTER 5.7 RESPONSIBILITIES REGARDING LAW-RELATED SERVICES</b> .....	1182
Rule 5.7 Responsibilities Regarding Law-Related Services ....	1182
§ 5.7-1 Defining Law-Related Services .....	1185
§ 5.7-2 Special Ethics Issues Related to Law-Related Services .....	1187
<b>VI PUBLIC SERVICE</b> .....	1191
<b>CHAPTER 6.1 VOLUNTARY PRO BONO PUBLICO SERVICE</b> .....	1191
Rule 6.1 Voluntary Pro Bono Publico Service .....	1191

## TABLE OF CONTENTS

§ 6.1-1 Representing Clients and Causes in Pro Bono Representation .....	1194
§ 6.1-2 Mandatory Pro Bono Service .....	1195
§ 6.1-3 Financial Support for Pro Bono and IOLTA Programs.....	1202
§ 6.1-4 Fees, Reduced Fees, and Pro Bono Representation...	1209
<b>CHAPTER 6.2 ACCEPTING APPOINTMENTS .....</b>	<b>1213</b>
Rule 6.2 Accepting Appointments.....	1213
§ 6.2-1 Accepting Pro Bono Cases .....	1214
§ 6.2-2 Rejecting Appointed Cases.....	1215
<b>CHAPTER 6.3 MEMBERSHIP IN LEGAL SERVICES ORGANIZATIONS .....</b>	<b>1218</b>
Rule 6.3 Membership in Legal Services Organization.....	1218
§ 6.3-1 Lawyers As Officers or Directors of a Legal Services Organization.....	1219
§ 6.3-2 Constitutional Limitations on the Power of the Federal Government to Use Its Spending Power to Regulate Legal Services .....	1221
<b>CHAPTER 6.4 LAW REFORM ACTIVITIES AFFECTING CLIENT INTERESTS.....</b>	<b>1226</b>
Rule 6.4 Law Reform Activities Affecting Client Interests ....	1226
§ 6.4-1 Law Reform Activities Adverse to a Private Client's Interest.....	1226
§ 6.4-2 Law Reform Activities That Coincide with a Private Client's Interests .....	1229
§ 6.4-3 When the Client's Identity Is Secret .....	1231
<b>CHAPTER 6.5 NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES PROGRAMS.....</b>	<b>1232</b>
Rule 6.5 Nonprofit and Court-Annexed Limited Legal Services Programs.....	1232
§ 6.5-1 Lawyer Participation in Nonprofit and Court-Annexed Limited Legal Service Programs .....	1233
§ 6.5-2 Limiting the Application of the Conflicts of Interest Rules .....	1234
§ 6.5-3 Limiting the Scope of the Attorney-Client Relationship .....	1236
§ 6.5-4 Unbundled Legal Services Directed at Pro Se Clients and Persons of Limited Means .....	1237
<b>VII INFORMATION ABOUT LEGAL SERVICES .....</b>	<b>1241</b>

<b>CHAPTER 7.0 HISTORICAL AND CONSTITUTIONAL BACKGROUND .....</b>	<b>1241</b>
§ 7.0-1 The Origins of the Restrictions on Legal Advertising .....	1241
§ 7.0-2 The <i>Bates</i> Case and The Permissibility of Lawyer Advertising .....	1241
§ 7.0-3 Solicitation of Legal Business .....	1243
§ 7.0-4 Allegedly Misleading Advertising .....	1248
§ 7.0-5 The Bar's Response to <i>Bates</i> and Its Progeny .....	1254
<b>CHAPTER 7.1 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES .....</b>	<b>1257</b>
Rule 7.1 Communications Concerning a Lawyer's Services ....	1257
§ 7.1-1 The Prohibition Against False or Misleading Advertising .....	1258
§ 7.1-2 Material Misstatements or Omissions .....	1261
§ 7.1-3 Potentially Misleading Statements .....	1263
<b>CHAPTER 7.2 COMMUNICATIONS CONCERNING A LAWYER'S SERVICES: SPECIFIC RULES .....</b>	<b>1276</b>
Rule 7.2 Communications Concerning A Lawyer's Services: Specific Rules .....	1276
§ 7.2-1 The General Scope of Rule 7.2 .....	1280
§ 7.2-2 Rule 7.2—Advertising in General .....	1280
§ 7.2-3 Rule 7.2—Referrals and Payments to Third Parties .	1281
§ 7.2-4 Rule 7.2—Enforcement Concerns .....	1292
<b>CHAPTER 7.3 SOLICITATION OF CLIENTS.....</b>	<b>1294</b>
Rule 7.3 Solicitation of Clients .....	1294
§ 7.3-1 Solicitation: Background and the Historical Perspective.....	1297
§ 7.3-2 Regulation of Direct Contact with Prospective Clients.....	1300
§ 7.3-3 Solicitation and Legal Service Plans .....	1304
§ 7.3-4 Departing Lawyers Soliciting Clients of the Former Law Firm .....	1305
<b>CHAPTER 7.4 COMMUNICATION OF FIELDS OF PRACTICE AND SPECIALIZATION .....</b>	<b>1311</b>
Rule 7.4 Communication of Fields of Practice and Specialization .....	1311
§ 7.4-1 Background and History.....	1313
<b>CHAPTER 7.5 FIRM NAMES AND LETTERHEADS.....</b>	<b>1315</b>

## TABLE OF CONTENTS

Former Rule 7.5 Firm Names and Letterheads .....	1315
<b>CHAPTER 7.6 POLITICAL CONTRIBUTIONS TO OBTAIN GOVERNMENT LEGAL ENGAGEMENTS OR APPOINTMENTS BY JUDGES .....</b>	<b>1317</b>
Rule 7.6 Political Contributions to Obtain Government Legal Engagements or Appointments by Judges.....	1317
§ 7.6-1 Introduction to Rule 7.6 .....	1319
§ 7.6-2 Enforcement of the Prohibition of Pay-to-Play Contributions .....	1322
<b>VIII MAINTAINING THE INTEGRITY OF THE PROFESSION ...</b>	<b>1325</b>
<b>CHAPTER 8.1 BAR ADMISSION AND DISCIPLINARY MATTERS .....</b>	<b>1325</b>
Rule 8.1 Bar Admission and Disciplinary Matters .....	1325
§ 8.1-1 In What Circumstances Does Rule 8.1 Apply? .....	1327
§ 8.1-2 To Whom Does Rule 8.1 Apply? .....	1328
§ 8.1-3 What Conduct is Prohibited by Rule 8.1? .....	1329
§ 8.1-4 Exceptions to the Rule .....	1331
<b>CHAPTER 8.2 CHARGES AGAINST JUDICIAL AND LEGAL OFFICIALS.....</b>	<b>1334</b>
Rule 8.2 Judicial and Legal Officials .....	1334
§ 8.2-1 Prohibition Against False Accusations .....	1335
§ 8.2-2 Attacking Judge in Briefs or Other Papers Filed in Court .....	1336
§ 8.2-3 First Amendment Implications of Rule 8.2 .....	1338
§ 8.2-4 Defending Judges from Criticism .....	1342
§ 8.2-5 Lawyers As Candidates For Judicial Office.....	1343
<b>CHAPTER 8.3 REPORTING PROFESSIONAL MISCONDUCT.....</b>	<b>1345</b>
Rule 8.3 Reporting Professional Misconduct.....	1345
§ 8.3-1 The Duty to Report—In General.....	1347
§ 8.3-2 Duty to Report Lawyer Suffering from Alcoholism, Drug Addiction, or Other Impairment.....	1351
§ 8.3-3 Exceptions to Reporting Duty.....	1354
§ 8.3-4 Interference with the Reporting Requirement .....	1357
§ 8.3-5 Protecting Reporting Lawyers .....	1357
§ 8.3-6 Reporting Judicial Misconduct and Reporting by Judges .....	1358
<b>CHAPTER 8.4 MISCONDUCT .....</b>	<b>1359</b>
Rule 8.4 Misconduct .....	1359

§ 8.4-1 Defining Disciplinable Conduct .....	1362
§ 8.4-2 Categories of Disciplinable Conduct .....	1363
§ 8.4-3 Lawyer-Legislators .....	1377
<b>CHAPTER 8.5 DISCIPLINARY AUTHORITY AND CHOICE OF LAW</b> .....	1379
Rule 8.5 Disciplinary Authority; Choice of Law .....	1379
§ 8.5-1 Acts Outside the Jurisdiction .....	1382
§ 8.5-2 Statute of Limitations.....	1390
<b>IX RESERVED</b> .....	1393
<b>CHAPTER 9</b> .....	1393
<b>X THE ETHICAL OBLIGATIONS OF A JUDGE</b> .....	1395
<b>CHAPTER 10.0 AN INTRODUCTION TO JUDICIAL ETHICS</b> .....	1395
§ 10.0-1 Introduction.....	1395
§ 10.0-2 The Predecessor Codes and the Present Code .....	1396
§ 10.0-3 General Comparisons between the 2007 Judicial Code, the 1990 Judicial Code, and the 1972 Judicial Code.....	1399
§ 10.0-4 Application of the Code of Judicial Conduct .....	1411
<b>CHAPTER 10.1 CANON 1 INTEGRITY AND INDEPENDENCE</b> .....	1419
§ 10.1-1.0 Canon 1 .....	1419
§ 10.1-1.1 Rule 1.1 .....	1422
§ 10.1-1.2 Rule 1.2 .....	1424
§ 10.1-1.3 Rule 1.3 .....	1432
<b>CHAPTER 10.2 CANON 2 THE APPEARANCE OF IMPROPRIETY</b> .....	1439
§ 10.2-2.0 Canon 2.....	1439
§ 10.2-2.1 Rule 2.1.....	1440
§ 10.2-2.2 Rule 2.2.....	1441
§ 10.2-2.3 Rule 2.3.....	1446
§ 10.2-2.4 Rule 2.4.....	1452
§ 10.2-2.5 Rule 2.5.....	1455
§ 10.2-2.6 Rule 2.6.....	1460
§ 10.2-2.7 Rule 2.7.....	1463
§ 10.2-2.8 Rule 2.8.....	1464
§ 10.2-2.9 Rule 2.9.....	1470
§ 10.2-2.10 Rule 2.10 .....	1488
§ 10.2-2.11 Rule 2.11.....	1511

## TABLE OF CONTENTS

§ 10.2-2.12 Rule 2.12 .....	1629
§ 10.2-2.13 Rule 2.13 .....	1630
§ 10.2-2.14 Rule 2.14 .....	1633
§ 10.2-2.15 Rule 2.15 .....	1634
§ 10.2-2.16 Rule 2.16 .....	1638
<b>CHAPTER 10.3 CANON 3 CONDUCT IN THE COURTROOM .....</b>	<b>1640</b>
§ 10.3-3.0 Canon 3 .....	1640
§ 10.3-3.1 Rule 3.1 .....	1641
§ 10.3-3.2 Rule 3.2 .....	1648
§ 10.3-3.3 Rule 3.3 .....	1651
§ 10.3-3.4 Rule 3.4 .....	1656
§ 10.3-3.5 Rule 3.5 .....	1660
§ 10.3-3.6 Rule 3.6 .....	1661
§ 10.3-3.7 Rule 3.7 .....	1668
§ 10.3-3.8 Rule 3.8 .....	1681
§ 10.3-3.9 Rule 3.9 .....	1683
§ 10.3-3.10 Rule 3.10 .....	1684
§ 10.3-3.11 Rule 3.11 .....	1687
§ 10.3-3.12 Rule 3.12 .....	1690
§ 10.3-3.13 Rule 3.13 .....	1692
§ 10.3-3.14 Rule 3.14 .....	1700
§ 10.3-3.15 Rule 3.15 .....	1706
<b>CHAPTER 10.4 CANON 4 EXTRA-JUDICIAL ACTIVITIES .....</b>	<b>1710</b>
§ 10.4-4.0 Canon 4 .....	1710
§ 10.4-4.1 Rule 4.1: Political and Campaign Activities.....	1711
§ 10.4-4.2 Rule 4.2 .....	1751
§ 10.4-4.3 Rule 4.3 .....	1758
§ 10.4-4.4 Rule 4.4 .....	1763
§ 10.4-4.5 Rule 4.5 .....	1773
<b>APPENDIX A MODEL RULES FOR TRUST ACCOUNT OVERDRAFT NOTIFICATION.....</b>	<b>1777</b>
<b>APPENDIX B MODEL RULES FOR CLIENT TRUST ACCOUNT RECORDS .....</b>	<b>1783</b>
<b>APPENDIX C MODEL RULE FOR RANDOM AUDIT OF LAWYER TRUST ACCOUNTS.....</b>	<b>1789</b>
<b>APPENDIX D MODEL RULE FOR PAYEE NOTIFICATION.....</b>	<b>1793</b>



<b>APPENDIX E MODEL RULES FOR LAWYERS' FUNDS FOR CLIENT PROTECTION .....</b>	<b>1795</b>
<b>APPENDIX F MODEL RULES FOR FEE ARBITRATION .....</b>	<b>1819</b>
<b>APPENDIX G MODEL RULES FOR MEDIATION OF CLIENT-LAWYER DISPUTES .....</b>	<b>1835</b>
<b>APPENDIX H STANDARDS FOR IMPOSING LAWYER SANCTIONS .....</b>	<b>1845</b>
<b>APPENDIX I MODEL RULES FOR LAWYER DISCIPLINARY ENFORCEMENT .....</b>	<b>1873</b>
<b>APPENDIX A TO APPENDIX I .....</b>	<b>1959</b>
<b>SUBJECT GUIDE TO THE ABA MODEL RULES FOR LAWYER DISCIPLINARY ENFORCEMENT .....</b>	<b>1960</b>
<b>APPENDIX J ABA MODEL COURT RULE ON PROVISION OF LEGAL SERVICES FOLLOWING DETERMINATION OF MAJOR DISASTER .....</b>	<b>1975</b>
<b>APPENDIX K ABA MODEL RULE FOR REGISTRATION OF IN-HOUSE COUNSEL .....</b>	<b>1981</b>
<b>APPENDIX L MODEL RULES GOVERNING LAWYER REFERRAL AND INFORMATION SERVICES .....</b>	<b>1985</b>
<b>Table of Laws and Rules</b>	
<b>Index</b>	