

Professional Ethics

By
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Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Competence/Diligence (Judges)

- ▶ Competence and diligence are prerequisites to the due performance of judicial office.

A judge shall take reasonable steps to maintain and enhance the judge's knowledge, skills and personal qualities necessary for the proper performance of judicial duties. (Bangalore Principles of Judicial Conduct 2002)

Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

Client Lawyer Relationship

Communication

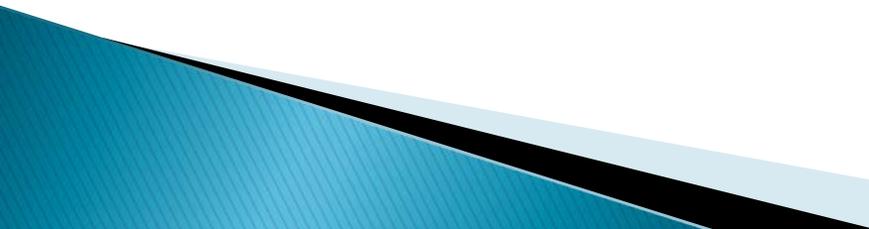
A lawyer shall:

- ▶ Reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - ▶ Keep the client reasonably informed about the status of the matter;
 - ▶ Promptly comply with reasonable requests for information; and
 - ▶ Consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.
 - ▶ A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.
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Fees

In fixing fees, advocates should avoid charges, which over-estimate their advice and services as well as those, which undervalue them. A client's ability to pay cannot justify charge in excess of the value of the service, though his property may justify a lesser charge, or even none at all. The reasonable requests of a brother advocate, should also receive special and kind consideration. In respect of widows and orphans of an advocate, all advocates shall assist them free of charge. (Section 154 Bar Council Act)

A lawyer shall not collect an unreasonable fee. The factors to be considered in determining the reasonableness of a fee include the following:

- ▶ The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
 - ▶ The fee customarily charged in the locality for similar legal services;
 - ▶ The amount involved and the results obtained;
 - ▶ The time limitations imposed by the client or by the circumstances;
 - ▶ The nature and length of the professional relationship with the client;
 - ▶ The experience, reputation, and ability of the lawyer performing the services; and
 - ▶ Whether the fee is fixed or contingent.
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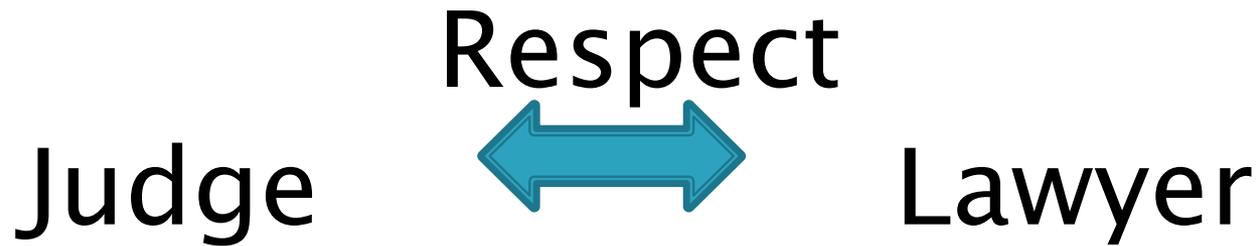
Conflict Of Interest

*(An advocate shall not represent conflicting interests.
Section 148 Bar Council Act)*

A lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

- ▶ The representation of one client will be directly adverse to another client; or
- ▶ There is a significant risk that the representation of one client will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.
- ▶ However, a lawyer may represent a client if:
- ▶ The lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
- ▶ Each affected client gives informed consent, confirmed in writing.

Attitude in Court



Duties Toward Courts

Expediting Litigation

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

Candor (truthfulness) Toward The Court

A lawyer shall not knowingly:

- ▶ Make a false statement of fact or law to a court or fail to correct a false statement of material fact or law previously made to the court by the lawyer;
 - ▶ A lawyer who represents a client in proceedings knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the court.
 - ▶ In an ex parte proceeding, a lawyer shall inform the court of all material facts known to the lawyer that will enable the court to make an informed decision, whether or not the facts are adverse.
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Impartiality And Decorum Of The Tribunal

It is the duty of an advocate to maintain towards the Court a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance, judges, not being wholly free to defend themselves, are peculiarly entitled to receive the support of the Bar against unjust criticism. (Section 159 Bar council Act)

A lawyer shall not:

- ▶ Seek to influence a judge or other official by means prohibited by law
- ▶ Communicate ex parte with a judge during the proceeding unless authorized to do so by law or court order;
- ▶ Engage in conduct intended to disrupt a court.

Trial Publicity

An advocate shall not communicate about a subject of controversy with a party represented by an advocate in the absence and without the consent of such advocate (Section 137 Bar Council Act).

A lawyer who is participating or has participated in the litigation of a matter shall not make an extrajudicial statement that the lawyer knows or reasonably should know will have a likelihood of materially prejudicing proceedings in the matter.

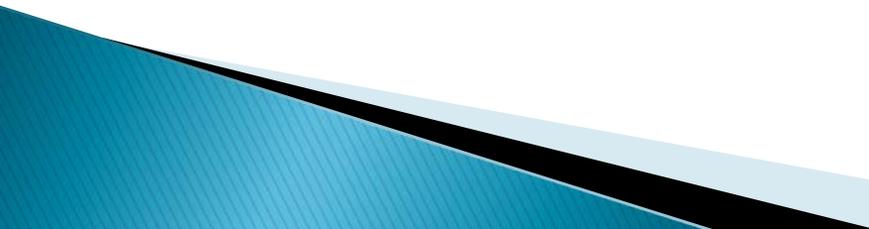
However, a lawyer may state:

- ▶ Information contained in a public record;
- ▶ That an investigation of a matter is in progress;
- ▶ A warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest
- ▶ In a criminal case, if the accused has not been arrested, information necessary to aid in arrest of that person

Transactions With Persons Other Than Clients

Truthfulness In Statements To Others

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

- ▶ Make a false statement of material fact or law to a third person; or
 - ▶ 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
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Dealing With Unrepresented Person

In dealing on behalf of a client with a person who is not represented by counsel, when the lawyer knows that the unrepresented person misunderstands the lawyer's role in the matter, the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person, other than the advice to secure counsel, if the lawyer knows or reasonably should know that the interests of such a person are or have a reasonable possibility of being in conflict with the interests of the client.

Respect For Rights Of Third Persons

In representing a client, a lawyer shall not use means that aim at embarrassing, delaying, or burdening a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

