DON'T TRY THIS AT HOME:
Why You Should Never Emulate TV Lawyers

A One-Hour Webinar Covering:

Legal Ethics

Presented by:

Sean Carter
CA Bar# 200356

OVERVIEW

Lawyers on our favorite legal dramas - Boston Legal, The Practice, L.A. Law, Ally McBeal, Suits – often act in ways that would cause significant trouble for actual lawyers. In this multimedia webinar, legal humorist Sean Carter will demonstrate some of the worst of TV lawyer behavior through short (30-60 second) video clips from these shows. After each video snippet, he will discuss the precise rule violated and what the lawyer should have done to avoid the ethical violation.

While these examples will provide for a more engaging experience for the lawyer attendee, they will also serve as a reminder that our clients are watching these same programs. As a result, they are very often developing an unrealistic view of the role of an attorney and the tactics available to that attorney in the furtherance of the client's cause.

As a result, this webinar will serve as a useful reminder for each attorney to manage the client's expectations by having candid conversations detailing just what the lawyer can (and more importantly, can NOT) do in the course of the representation.

TIMED AGENDA
DON'T TRY THIS AT HOME
(LEGAL ETHICS)

0:00-0:05 Introduction

A. The power and influence of television
    1. Legal dramas affect client perceptions
    2. Legal dramas affect our perception of our role
B. Concerns about the commercialization of law practice

0:05-0:10 Suits

A. The hiring of an unlicensed lawyer (Rule 5.5 -- Unauthorized practice of law)
    1. Practicing without a license
        a. Penalties (civil and even criminal)
        b. Lack of competence
        c. Requirements for out-of-state in-house lawyers
    2. Aiding and abetting
        a. Knowledge of unlicensed status
        b. Hiring suspended/unlicensed persons in other capacities

0:10-0:20 LA Law

A. Demanding subordinates to engage in criminal conduct
    1. Rule 8.4(a) -- Aiding and abetting in ethical violations
        a. Possible criminal sanctions
        b. Interplay with Rule 8.4(c)
    2. Rules 5.1 and 5.3
        a. Supervising staff (5.1)
        b. Supervising associates (5.3)
    3. Rule 5.2 – Duties of subordinate lawyer
        a. When to defer to supervising attorney
        b. When must the lawyer object
        c. How to take remedial actions
    4. Rule 8.3 – Reporting Misconduct
        a. Obligation to report
        b. Weighing best interests of client

B. Misstating legal precedent to gain negotiating advantage
    1. Rule 4.1 – Truthfulness in statements to others
        a. General obligation
        b. Exception for "puffing"

2. Rule 3.3 – Candor towards the tribunal
    a. Good faith differences in interpretation
    b. Necessity to correct prior misstatements
    c. Duty to correct client misstatements
    d. Duty to correct supervising attorney's mistatements

0:20-0:25 Ally McBeal

A. Belligerent behavior
1. Rule 8.4(b) – Criminal misconduct
2. Rule 3.5(b) – Improper ex parte communications
3. Rule 3.5(d) – Disrupting the tribunal
    a. No reciprocal hostility
    b. Proper language
    c. Proper dress

0:25-0:35 The Practice

A. Raising spurious legal defenses
1. Rule 3.1 – Meritorious claims
    a. Permissible attempts to "expand" the bounds of the law
2. Rule 3.3 – Candor Towards the Tribunal
3. Rule 8.4(e) – Conduct prejudicial to the administration of justice

B. Inappropriate contact with jurors – Rule 3.4(b)
1. Remedial actions in the event of violation

C. Resorting to physical intimidation
1. Possible criminal prosecution
    a. Rule 8.4(b)
2. Rule 4.4 – improper means of representation
3. Rule 1.7 – avoiding personal involvement

D. Helping client to conceal evidence – Rule 3.4

0:35-0:55 Boston Legal

A. Blackmailing opposing party to gain concessions
1. Rule 8.4(b) – criminal conduct
2. Rule 4.4(a) – inappropriate means of representation
3. Rule 8.4(e) – conduct prejudicial to the administration of justice

B. Making bribes
1. Bribing witnesses
    a. Rule 8.4(b) – criminal conduct
    b. Rule 8.4(e) – conduct prejudicial to the administration of justice
    c. Rule 3.4(f) – suppressing witness testimony

2. Bribing opposing counsel
    a. Rule 8.4(a) – inducing violations
    b. Rule 8.4(e) – conduct prejudicial to the administration of justice
    c. Duty of opposing counsel to report misconduct – Rule 8.3
        1. Limitations depending upon the effect reporting will have on clients interests

C. Inappropriate courtroom behavior – Rule 3.5(d)
1. Mocking judge
2. Baiting judge into declaring mistrial
    a. Contempt citations
    b. Disciplinary complaint by judge
    c. Delaying litigation – Rule 3.2 (duty to expedite)

D. Conflicting loyalties
1. Romantic relationship with client
    a. Rule 1.8(j) – prohibition (in most states)
    b. Rule 1.7(a)(2) – duty for objective representation
    c. Romantic relationship with client's significant other
2. Romantic relationship with judge
    a. Rule 3.5(a) – undue influence
    b. Rule 3.5(b) – ex parte communications
    c. Rule 8.4(e) – conduct prejudicial to the administration of justice
3. Romantic relationship with opposing counsel
    a. Rule 1.7(a)(2) – duty to avoid personal conflicts
        1. Unreciprocated affection can still lead to violation
4. Romantic relationship with staff member
    a. Possibility of sexual harassment
        1. Rule 8.4(e) – discrimination that is prejudicial to the administration of justice
        2. Burden of proof
    b. Discriminatory hiring practices

0:55-0:60 Q&A and Conclusion

ABOUT THE SPEAKER

Sean A. Carter graduated from Harvard Law School in 1992. He was a corporate securities lawyer in private practice in large law firms in Boston and Los Angeles serving clients such as GNC, the Boston Beer Company, Experian, Safelite Auto Glass, J. Crew and many others. In 2000, he accepted a position as in-house counsel for a publicly-traded financial institution, at which he remained until October 2002.

Since that time, Mr. Carter has been a full-time lecturer, columnist, and legal commentator. His written have appeared in the Los Angeles Times, the Los Angeles Daily Journal, the ABA e-Report and on numerous blogs and websites, including Findlaw.com. He has been a guest on numerous radio programs across the country as well as online legal media outlets, such as The Legal Broadcast Network.

In addition, Mr. Carter delivers more than 100 MCLE presentations each year on topics such as legal ethics, professionalism, the elimination of bias, substance abuse prevention, constitutional law, etc. He has spoken for state and local bar associations, law firms, law schools and corporate in-house legal departments in more than 30 states. Here is a partial list of organizations that have engaged him to give MCLE presentations.

Bar Associations

11th Circuit Judicial Conference
Advocates' Society (Canada)
Akron Bar Association
Alabama State Bar
Alabama Courts
Alameda County Bar
Alaska Bar Association
American Bar Association
American Bankruptcy Institute
American Board of Trial Advocates
American College of Trial Lawyers
ACTL New Jersey
State Bar of Arizona
Arkansas Bar Association
Association of Corporate Counsel
Association of So Cal Defense Counsel
Atlanta Bar Association
Bar Association of Southern Illinois
Bar Association of St. Louis
Bleckley Inn of Court
California Bankruptcy Forum
CA Society for Healthcare Attorneys
State Bar of California
Center for American and Internatl. Law
Charlotte Estate Planning Council
Chattanooga Bar
Cincinnati Bar Association
Collier County Bar
Colorado Bar Association
Connecticut Defense Lawyers Assoc
Continuing Education of the Bar
Dade County Bar
Dallas Bar
Dayton Bar Association
Dekalb County Bar
Defense Research Institute
Erie County Bar Association
Federal Bar Association
Florida Bar
Foothills Bar Association
Georgia Assoc of Crim. Def. Lawyers
State Bar of Georgia
Hillsborough County Bar Association
Hispanic Bar Assoc of Orange County
Houston Bar Association
Idaho State Bar Association
Illinois State Bar Association
Illinois ICLE

Indiana State Bar Association
Inn of Court - Shreveport
International Assoc of Gaming Advisors
International Assoc of Holistic Lawyers
International Society of Barristers
J. Franklyn Bourne Bar Association
Kansas Association of Defense Counsel
Kentucky Bar Association
Larimer County Bar (CO)
Lex Romano
Los Angeles County Bar Association
Louisiana Assoc of Defense Counsel
Maine Bar Association
Memphis Bar Association
State Bar of Michigan
Minnesota CLE
Missouri Association of Trial Attorneys
Missouri State Bar
Montana Assoc of Crim. Def. Lawyers
Montgomery County Bar Association
Nashville Bar Association
National Association of Bar Executives
Natl Network of Estate Planning Attys
Nebraska Assoc of Defense Counsel
State Bar of Nevada
New Hampshire Bar Association
New Hampshire Trial Lawyers Assoc
New Jersey ICLE
State Bar of New Mexico
New York State Bar Association
Ohio State Bar Association
Oklahoma Bar Association
Orange County Bar Association
Orange County Trial Lawyers Assoc
Oregon State Bar
Ottawa County Bar Association
Pennsylvania Bar Association
Pennsylvania Bar Association
Pennsylvania Bar Institute
Philadelphia Bar Association
Riverside County Bar
Salmon P Chase Inn of Court
Shreveport Bar Association
South Carolina Bar
Southeast Bar Association
Southern Law Network
State Bar of Texas
TX Assoc of Civ Trial and App
Utah State Bar
Virginia CLE
Virginia State Bar
Washington State Bar
Washoe County Bar
WealthCounsel
W San Bernardino County Bar Assoc
Wichita Bar Association
State Bar of Wisconsin

Law Firms

Akin Gump
Alston & Bird
Armstrong Teasdale
Arnstein & Lehr
Atkinson, Andelson, Loya, Ruud et al
Balch & Bingham LLP
Baker & Hostetler LLP
Baker, Manock & Jensen
Benesch, Friedlander, Coplan & Aronoff
Best, Best & Krieger
Brown & McCarroll
Cummins & White
Dickstein Shapiro
Drew Eckl & Farnham, LLP
Farella Braun + Marella
Finnegan
Fredrikson & Byron
Friedemann & Goldberg
Fisher & Phillips
Gibson Dunn & Crutcher
Hall Estill
Heller Ehrman
Henderson Franklin
Jones Day
King & Spalding
Kring & Chung
Larkin Hoffman Daly & Lindgren
Lewis Brisbois
Lionel Sawyer & Collins
Littler Mendelson
Looper Reed & McGraw
McDermott Will & Emery

McDonald Hopkins
McDonnell Boehnen et al
McGlinchey Stafford
Morgan Lewis & Bockius
Motley & Rice
Moore & VanAllen
Manatt Phelps
Perkins Coie
Quarles & Brady
Randick O'Dea & Tooliatos
Resources Law Group
Robins Kaplan Miller & Ciresi
Sheppard Mullin
Smith Gambrell & Russell
Sterne Kessler
Sutherland Asbill & Brennan
Troutman Sanders

Corporations

American Online
ARAG Insurance Group
Arizona Counties Insurance Pool
Boeing
Clorox
CVS Caremark Corporation
First Data
Health Management Association
Johnson Bank
Marathon Oil
New Century Mortgage
Sun Healthcare
Taco Bell
Xerox Corporation

Law Schools

Arkansas Little Rock
Brigham Young University
Thomas M. Cooley
Cumberland
Drake University
Florida State University
Georgia State University
Howard University
Loyola Marymount (LA)
North Carolina Central University
University of Houston
Washburn University
Widener University

Government Agencies

TN Administrative Office of the Courts
AL Administrative Office of the Courts
County Counselors of Kansas
Georgia State Board of Worker's Comp
Missouri Public Defender System
Riverside City Attorneys Office
San Bernadino District Attorneys Office

Professional Associations

Assoc of Continuing Legal Education
Assoc of Legal Administrators
Legal Marketing Association
Natl Org of Home & Life Guar Assocs
Los Angeles Paralegals Association
Orange County Paralegals Association



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Sean Carter
Humorist at Law

Mr. Carter graduated from Harvard Law School in 1992. His ten years of legal practice focused on corporate securities and mergers and acquisitions. During this time, he represented such clients as GNC, Experian, The Boston Beer Company, Homeside Lending, Safelite Auto Glass, J. Crew and many others, before eventually serving as in-house counsel to a publicly-traded finance company.

In 2002, Mr. Carter left the practice of law to pursue a career as the country's foremost Humorist at Law. Since then, Mr. Carter has crisscrossed the country delivering his Lawpsided Seminars for state and local bar associations, law firms, in-house corporate legal departments and law schools. Each year, he presents more than 100 humorous programs on such topics as legal ethics, stress management, constitutional law, legal marketing and much more.

Mr. Carter is the author of the first-ever comedic legal treatise -- *If It Does Not Fit, Must You Acquit?: Your Humorous Guide to the Law*. His syndicated legal humor column has appeared in general circulation newspapers in more than 30 states and his weekly humor column for lawyers appeared in the *ABA e-Report* from 2003 to 2006.

Finally, Sean lives in Mesa, Arizona with his wife and four sons.

INTRODUCTION

Television is a powerful force in American society. It shapes public perceptions on every subject, including the practice of law. As a result, clients often expect their real life lawyers to adopt the often unethical (and even illegal) tactics of the lawyers on television shows like *L.A. Law, Ally McBeal, The Practice, Boston Legal* and *Suits.*

As lawyers, it's important for us to be aware of these lawyer portrayals so that we can help our clients form more realistic expectations of our representation. Furthermore, these fictional characters can help to remind us of our ethical and professional obligations to our clients, members of the judiciary, opposing parties and society as a whole.

CAST OF CHARACTERS



Harvey Specter
Suits

Aiding and Abetting the Unauthorized Practice of Law

Harvey Specter is promoted to senior partner of his firm and, as a condition to his promotion, must hire an associate from his alma mater, Harvard Law School, to assist him. Harvey is reluctant to do so because he feels that Harvard produces clones who don't think on their feet. During the interview rounds, Mike Ross rushes into his offices fleeing from the police. Harvey interviews Mike and discovers that he is a genius college dropout who makes his living taking the LSAT for others. In the process, he has gained a great deal of legal knowledge. Despite the fact that Mike doesn't have a law degree or law license, Harvey hires him as his new associate. Later, Harvey assigns a patent filing to Mike, who is unable to perform the task and as a result, a third-party is able to first file a competing patent application.

RULE 5.5: UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL PRACTICE OF LAW

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

RULE 5.1: RESPONSIBILITIES OF PARTNERS, MANAGERS AND SUPERVISORY LAWYERS

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer's conduct conforms to the Rules of Professional Conduct.



Louis Litt
Suits

Inducing Illegality

Louis is trying to land a wealthy prospective client who happens to enjoy smoking marijuana. Louis does not smoke pot but wants someone at the firm to get close to his prospect. He enlists Mike for this purpose. When Mike indicates his reluctance, Louis falsely tells him that he has failed a random drug test and that Louis will have him fired if he does not acquiesce to his demands.

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;



Michael Kuzak
LA Law

Failure to Report Professional Misconduct

Kuzak learns that opposing counsel is not licensed to practice law and threatens to expose the fraud unless the other "lawyer" convinces his client to settle the case.

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.



Arnie Becker
LA Law

Self-Dealing

Arnie pushes a divorcing couple to reconcile so that they can lease their luxury home to him.

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

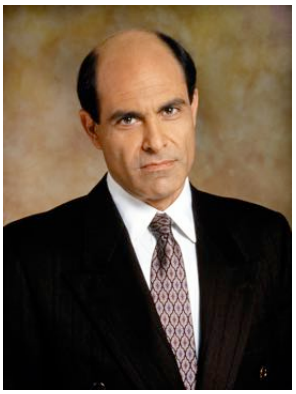
(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security, or other pecuniary interest adverse to a client unless:

(1) the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing in a manner that can be reasonably understood by the client;

(2) the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel on the transaction; and

(3) the client gives informed consent, in a document signed by the client separate from the transaction documents, to the essential terms of the transaction and the lawyer’s role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client gives informed consent, except as permitted or required by these rules.



Douglas Brackman, Jr.
LA Law

Inducing Illegality

Fearing that his undocumented housekeeper may be discovered by the immigration authorities, Brackman asks one of the firm's associates to enter into a sham marriage with the housekeeper in exchange for career advancement with the firm.

RULE 8.4: MISCONDUCT

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(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;



Stuart Markowitz
LA Law

Dishonesty

Markowitz fabricates precedent in a desperate attempt to convince an IRS agent to mitigate his client's tax bill.

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.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(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;



Abby Perkins
LA Law

Conflict of Interest

Abby attempts to get her client to accept an inadequate settlement amount in order to obtain some much needed cash for a struggling solo practice.

RULE 3.2: EXPEDITING LITIGATION

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



Frank Kittredge
LA Law

Breach of Confidentiality

Kittredge carelessly leaks confidential information to his lover, who is currently adversely engaged in litigation involving his law firm.

RULE 1.6: CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).



Ally McBeal
Ally McBeal

Criminal Activity

Ally is arrested for fighting with a woman on the street.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

Inappropriate Ex Parte Communications and Disrespecting a Judge

Ally rebuffs the advances of a man in a coffee shop who turns out to be the judge in her case. When the judge rules against her client, Ally storms into his chambers hurling insults, such as "Your Anus" and "you pig." The judge has her arrested for contempt.

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;

(d) engage in conduct intended to disrupt a tribunal.



Richard Fish
Ally McBeal

Extortion

While representing the wife in a divorce dispute, Fish has the husband followed by a private investigator. The P.I. obtains pictures of the husband kissing another woman. In order to gain concessions in the divorce settlement, Fish threatens to show the photos to the husband's new girlfriend (who is not the woman in the pictures).

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.



Nelle Porter
Ally McBeal

Vexatious Litigation

Porter sues a shock jock for inciting a hostile work environment through his vulgar discourse over the radio. Realizing that her case will not be ultimately successful, she instructs her client to hold a press conference announcing that she has decided to drop the case after supposedly learning about the defendant's "sexual inadequacies." No such inadequacies were uncovered but the insinuation is enough to deeply damage the standing of the shock jock with his listeners.

RULE 3.1: MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for a defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

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.



Liza Bump
Ally McBeal

Unprofessional Behavior

Liza "Lolita" Bump attempts to improve her negotiating position by constantly and openly flirting with opposing counsel.



Bobby Donnell
The Practice

Undue Influence

Fearing that the presiding judge is biased against him, Donnell threatens to reveal the judge's illicit relationship with another lawyer unless he agrees to recuse himself from the case.

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

Unmerited Claims.

As a last resort in a criminal trial, Donnell uses his "Plan B" strategy, which consists of accusing an innocent third party of the crime in an effort to create reasonable doubt for his client.

RULE 3.1: MERITORIOUS CLAIMS AND CONTENTIONS

A lawyer shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law

and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A lawyer for a defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

RULE 3.3: CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal, or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

(2) 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

(3) offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

Conflict of Interest

Offered a large retainer, Donnell agrees to represent a criminal defendant who is being prosecuted by his girlfriend.

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients 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.

Undue Familiarity With a Member of the Bench

The presiding judge confesses to Bobby that she had an erotic dream about him and inquires about a possible romantic interlude. Bobby declines the judge's advance and worries that it is affecting her objectivity as ruling after ruling goes against his client.

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 the applicable Code of Judicial Conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority.

Inappropriate Relationship With a Client

Donnell becomes romantically involved with a woman he is defending in the murder of her husband.

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them when the client-lawyer relationship commenced.



Lindsay Dole
The Practice

Ex Parte Communication With a Juror

During a criminal trial, a juror approaches Dole and communicates that the jury is likely to acquit her client. Dole doesn't report the contact and is shocked when the jury returns a guilty verdict.

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;



Eugene Young
The Practice

Wagering on the Outcome of a Case.

Young defends his client on armed robbery charges and makes a bet with the D.A. that he will win the case.

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer's fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.

Threat of Violence

Eugene's client is a woman who fears for her safety and her son's safety at the hands of an abusive ex-husband. In an effort to protect his client, Eugene makes direct threats against the ex-husband.

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

Breach of Confidentiality

In order to help one client get a favorable deal with the DA, Eugene shares information damaging to another client.

RULE 1.6: CONFIDENTIALITY OF INFORMATION

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).



Ellenor Frutt
The Practice

Lack of Decorum

Ellenor Frutt is jailed several times for contemptuous behavior towards an obviously biased judge.

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(d) engage in conduct intended to disrupt a tribunal.

Advising the Destruction of Evidence

Ellenor advises her client to hide evidence of his drinking after being involved in a car accident.

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;



Jimmy Berluti
The Practice

Trust Account Violation

Berluti owes money to his bookie, who is becoming increasingly impatient for repayment. After being seriously threatened, Bertuli "borrows" money from the client trust account and uses it to bet on horses in an effort to win enough money to repay his bookie. Bertuli is successful in this effort and returns the money, but not before Donnell and Young discover the embezzlement.

RULE 1.15: SAFEKEEPING PROPERTY

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from the lawyer's own property….

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

RULE 8.3: REPORTING PROFESSIONAL MISCONDUCT

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Alan Shore
The Practice & Boston Legal

Divided Loyalties

Alan is trying a case against an ex-girlfriend, who he still finds attractive. They resume their romantic relationship right in the middle of the trial (in fact, in the middle of the courthouse elevator).

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients 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.

Extortion

Alan Shore hires an escort to seduce an opposing party. Shore also arranges for this encounter to be photographed so that Shore can use the photos to blackmail the opposing party into accepting his client's demands.

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

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;

Extortion

Shore hires thugs to break into an opposing party's apartment and leave him bound and gagged so that Shore could "coincidentally" appear at the apartment later and extort a settlement the bound party.

Inducing Illegality; Breach of the Peace

Shore gets into an argument with a man in a bar who then punches Shore in the face. In retaliation, Shore gives another bar patron $300 to punch the man back on his behalf.

Bribery

Shore represents the plaintiff in a case that he will likely lose at trial. In a last ditch effort to recover something on behalf of your plaintiff client, he suggests that opposing counsel convince his client to settle the case for an inflated value in return for a "kickback" of some of the money to opposing counsel.

Lack of Decorum

The judge has just ruled against Shore's motion for a change of venue. Fearing that his client will not receive a fair trial in the current jurisdiction, he asks the judge to recuse himself on the grounds that he must be the real killer.

RULE 3.3: CANDOR TOWARD THE TRIBUNAL

(a) A lawyer shall not knowingly:

(1) make a false statement of fact or law to a tribunal, or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(d) engage in conduct intended to disrupt a tribunal.

Undue Influence of the Tribunal

Denny has been arrested for solicitation of a prostitute (again). His case has been assigned to the judge that Shore is currently dating. Shore walks into the judge's chambers and threatens to withhold affection from her until she dismisses the charges against Denny.

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(a) seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) communicate ex parte with such a person during the proceeding unless authorized to do so by law or court order;

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(f) knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law;

Bribery

Shore's secretary has been apprehended during the commission of an armed robbery of a convenience store. When Shore arrives on the scene, he bribes the store clerk to refuse to testify in exchange for a new BMW.

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;

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

Sexual Harassment

Shore foregoes reviewing resumes and interviewing candidates for a job as his new legal secretary. Instead, he simply chooses the most attractive candidate.



Shirley Schmidt
Boston Legal

Improper Threats

Schmidt suspects that the opposing party is concealing evidence in a trial and warns her about the possible consequences of such actions, including imprisonment.

RULE 4.2: COMMUNICATION WITH PERSON REPRESENTED BY COUNSEL

In representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order.

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.



Brad Chase
Boston Legal

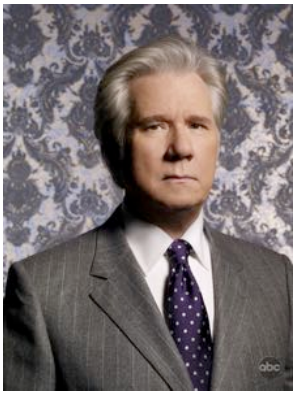
Burying Evidence

In preparing a response to a discovery request, Chase discovers an incriminating memo that could be extremely damaging to his client's case. He decides to include this incriminating document with thousands of other documents (many of which has little relevance to the initial discovery request).

RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not:

(d) in pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;



Carl Sack
Boston Legal

Inappropriate Wagering

Carl and Denny wager on the outcome of a criminal case in which the firm represents the defendant.

RULE 1.8: CONFLICT OF INTEREST: CURRENT CLIENTS: SPECIFIC RULES.

(i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) acquire a lien authorized by law to secure the lawyer’s fee or expenses; and

(2) contract with a client for a reasonable contingent fee in a civil case.



Sara Holt
Boston Legal

Extortion

Sara suggests a romantic encounter with opposing counsel (who is also a pastor). The lawyer/pastor is eager to accept this proposal but instead, he is blackmailed into accepting a small settlement offer for his client in exchange for not revealing the pastor’s attempted adultery.

RULE 4.4: RESPECT FOR RIGHTS OF THIRD PERSONS

(a) In representing a client, a lawyer shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.



Denny Crane
Boston Legal

Lack of Decorum

The presiding judge will not grant Denny's request for a continuance in a case for which he is not adequately prepared. To buy himself some time, he delivers opening statements that are so inflammatory that they leave the judge with no choice but to declare a mistrial and recuse himself.

RULE 3.2: EXPEDITING LITIGATION

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

RULE 3.5: IMPARTIALITY AND DECORUM OF THE TRIBUNAL

A lawyer shall not:

(d) engage in conduct intended to disrupt a tribunal.

Divided Loyalties; Failure to Communicate

Denny's client has initiated divorce proceedings against his wife and asks Denny to hire a private investigator to uncover suspected infidelity. However, Denny and his partners refuse for fear that the investigator will uncover that Denny is the one having an affair with the client's wife. Instead, they enlist an attractive woman associate to flirt with the client in an effort to redirect his focus.

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients 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.

RULE 1.4: COMMUNICATION

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(f), is required by these rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) 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.

Unwillingness to Accept Court Appointments

The court has appointed Denny to represent an indigent criminal defendant who privately admits to committing the heinous murder of a child. To avoid representing such a reprehensible person, Denny shoots him during a private conference and claims self-defense when the bailiffs rush into the room.

RULE 6.2: ACCEPTING APPOINTMENTS

A lawyer shall not seek to avoid appointment by a tribunal to represent a person except for good cause …

RULE 8.4: MISCONDUCT

It is professional misconduct for a lawyer to:

(b) commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects;

Employment Discrimination

Denny fires an associate for being overweight, explaining "No tubsters allowed at CP&S!"