



Professionalism for Ohio
New Lawyer Training, April
22, 2019

Phil Eckenrode

Governance of Attorney Professionalism



Governance of Attorney Professionalism

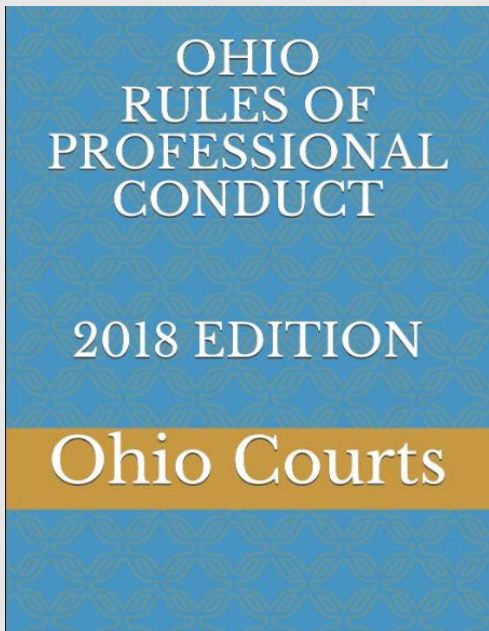
Ohio Supreme Court website:

INTRODUCTION

The following pages contain *A Lawyer's Creed*, *A Lawyer's Aspirational Ideals* and *A Judicial Creed*, which were adopted by the Supreme Court of Ohio upon recommendation by the Supreme Court Commission on Professionalism. These statements encapsulate the ideals of professionalism for lawyers and judges.

Included in the professionalism ideals for lawyers and judges are integrity, the achievement and maintenance of competence, a commitment to a life of service and the quest for justice for all. Professionalism requires lawyers and judges to remain mindful that their primary obligations are to the institutions of law and the betterment of society, rather than to the interests of their clients or themselves.

Lawyer's Creed and Aspirational Ideals v. Rules of Professional Conduct



- Serve as basis for disciplinary actions
- Described by Ohio Supreme Court as “rules of reason.”
- Some of the rules are imperatives, and use the terms “shall” or “shall not.”
- Other rules are framed in terms of “may,” and give lawyers areas of discretion.
- Provisions of Lawyer’s Creed track with certain Prof. Conduct Rules, and serve to add context to a potential violation of the rule.

Governance of Attorney Professionalism

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As professionals, we need to strive to meet lofty goals and ideals in order to achieve the highest standards of a learned profession. To this end, the Court issues *A Lawyer's Creed* and *A Lawyer's Aspirational Ideals* which have been adopted and recommended for the Court's issuance by the Supreme Court Commission on Professionalism. In so doing, it is not the Court's intention to regulate or to provide additional bases for discipline, but rather to facilitate the promotion of professionalism among Ohio's lawyers, judges and legal educators. It is the Court's hope that these individuals, their professional associations, law firms, and educational institutions will utilize the Creed and the Aspirational Ideals as guidelines for this purpose. – Ohio Supreme Court

A Lawyer's Creed of Professionalism

Preamble As a lawyer I will endeavor to make our legal system work fairly and efficiently. To that end, I pledge to act professionally, with civility and integrity; to abide by the letter and spirit of the Ohio Rules of Professional Conduct; to adhere to this Creed of Professionalism when dealing with my clients, courts, attorneys and other participants in the legal system; and to serve the general public and our system of justice.

A Lawyer's Creed of Professionalism

Creed covers a lawyer's duty:

- *To my clients*
- *To the opposing parties and their counsel*
- *To the courts and other tribunals, and to those who assist them*
- *To my colleagues*
- *To the profession*
- *To the public and our system of justice*

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Not just aspirational!

See e.g., Lorain Cty. Bar Assn. v. Noll, 105 Ohio St.3d 6 (2004); Disciplinary Counsel v. Sarver, 2018-Ohio-4717 (2018); In re Disqualification of Squire, 2005-Ohio-7157 (2005).

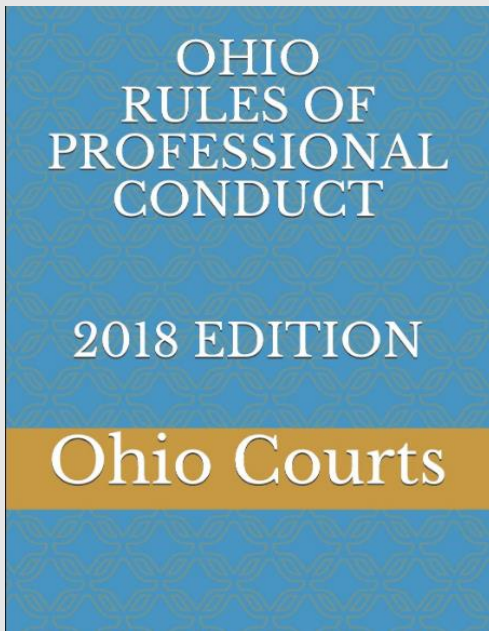
Duty to my clients

I offer loyalty, confidentiality, competence, diligence and my best judgment. I shall represent you as I should want to be represented and be worthy of your trust. I shall counsel you with respect to alternative methods to resolve disputes. I shall endeavor to achieve your lawful objectives as expeditiously and economically as possible.

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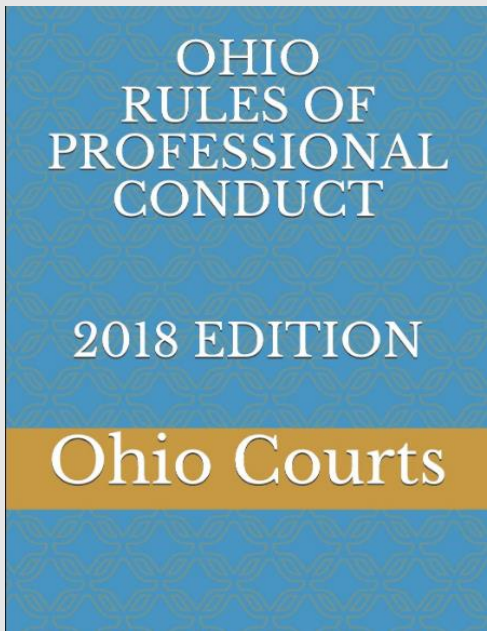
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Duty to my clients



- Rule 1.1: 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.”
- Rule 1.5: Fees and Expenses
- Rule 1.6: Confidentiality of Information

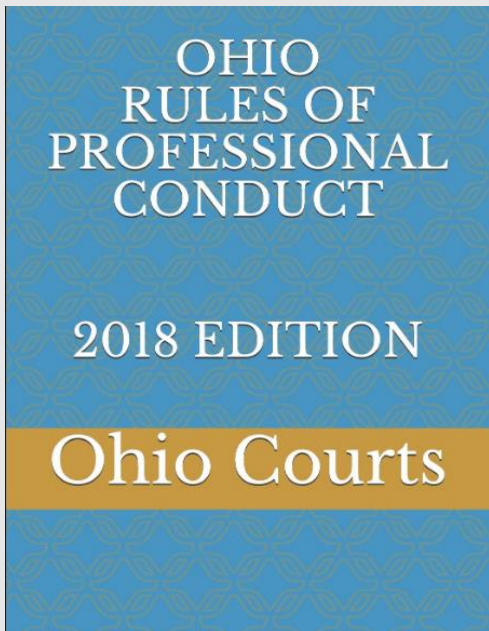
Duty to opposing parties and their counsel

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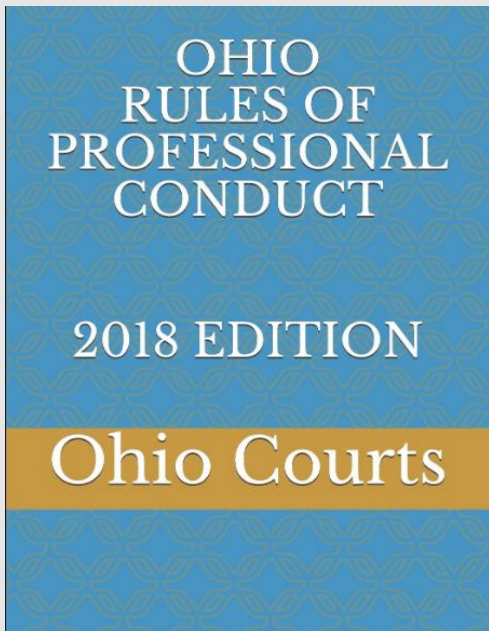
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Duty to opposing parties and their counsel



- Rule 3.4: Fairness to Opposing Party and Counsel

Duty to opposing parties and their counsel



RULE 3.4: FAIRNESS TO OPPOSING PARTY AND COUNSEL

A lawyer shall not do any of the following:

- (a) unlawfully obstruct another party's access to evidence; unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value; or counsel or assist another person to do any such act;
- (b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;
- (c) *knowingly* disobey an obligation under the rules of a *tribunal*, except for an open refusal based on a good faith assertion that no valid obligation exists;
- (d) in pretrial procedure, intentionally or habitually make a frivolous motion or discovery request or fail to make *reasonably* diligent effort to comply with a legally proper discovery request by an opposing party;
- (e) in trial, allude to any matter that the lawyer does not *reasonably believe* is relevant or that will not be supported by admissible evidence or by a good-faith belief that such evidence may exist, assert personal *knowledge* of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused;
- (f) [RESERVED]
- (g) advise or cause a person to hide or to leave the jurisdiction of a *tribunal* for the purpose of becoming unavailable as a witness.

Duty to courts and other tribunals, and to those who assist them

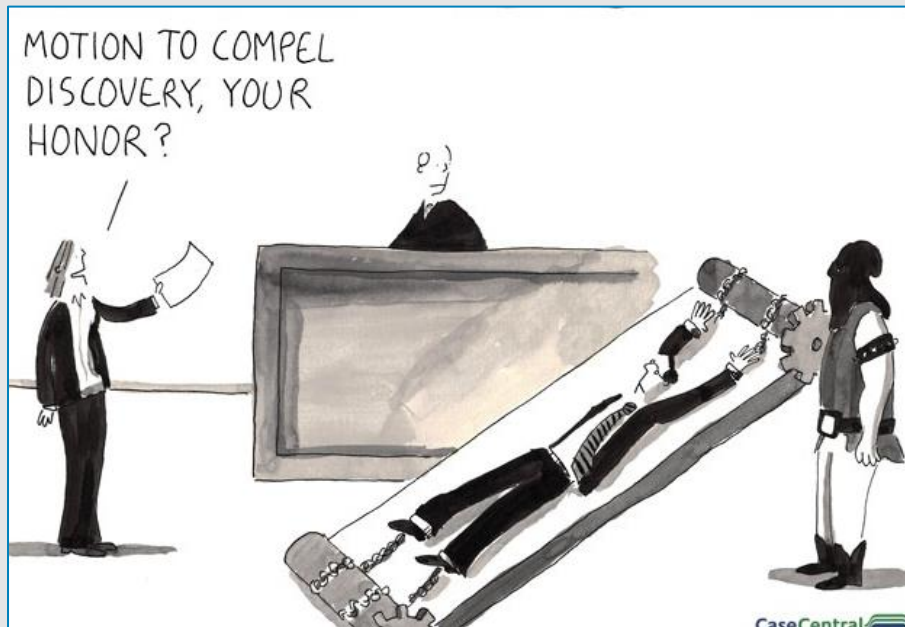
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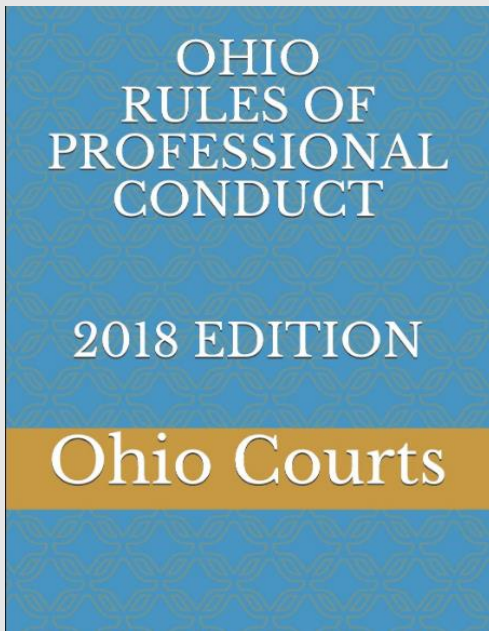
Duty to my colleagues in the practice of law

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Duty to my colleagues in the practice of law



RULE 8.3: REPORTING PROFESSIONAL MISCONDUCT

(c) Any information obtained by a member of a committee or subcommittee of a bar association, or by a member, employee, or agent of a nonprofit corporation established by a bar association, designed to assist lawyers with substance abuse or mental health problems, provided the information was obtained while the member, employee, or agent was performing duties as a member, employee, or agent of the committee, subcommittee, or nonprofit corporation, shall be privileged for all purposes under this rule.

Duty to the profession

I offer assistance in keeping [our profession] a calling in the spirit of public service, and in promoting its understanding and an appreciation for it by the public. I recognize that my actions and demeanor reflect upon our system of justice and our profession, and I shall conduct myself accordingly.

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Duty to the profession

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.

- Preamble to Ohio Rules of Professional Conduct

Duty to the public and our system of justice

I offer service. I shall devote some of my time and skills to community, governmental and other activities that promote the common good. I shall strive to improve the law and our legal system and to make the law and our legal system available to all.

Hypotheticals/Workshop

