

Professionalism for Ohio New Lawyer Training



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Governance of Attorney Professionalism

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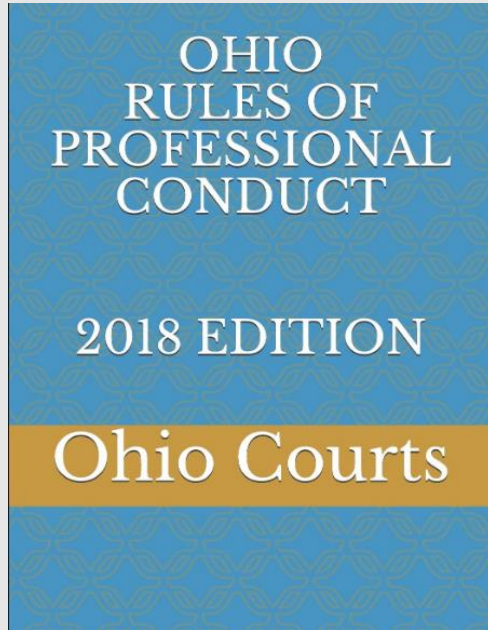
Ohio Supreme Court website:

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.

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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); In re: CMBA v. Morton, 2021-Ohio-4095.

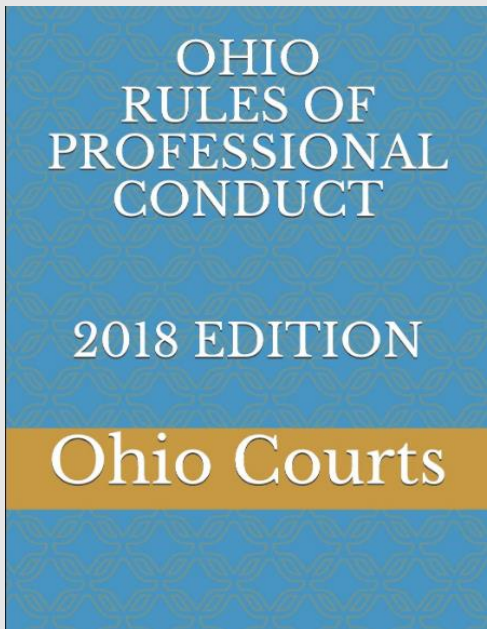
Duty to my clients

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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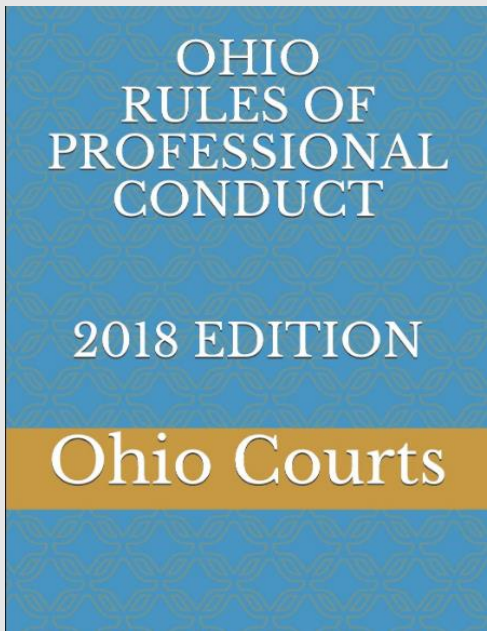
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Duty to my clients



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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

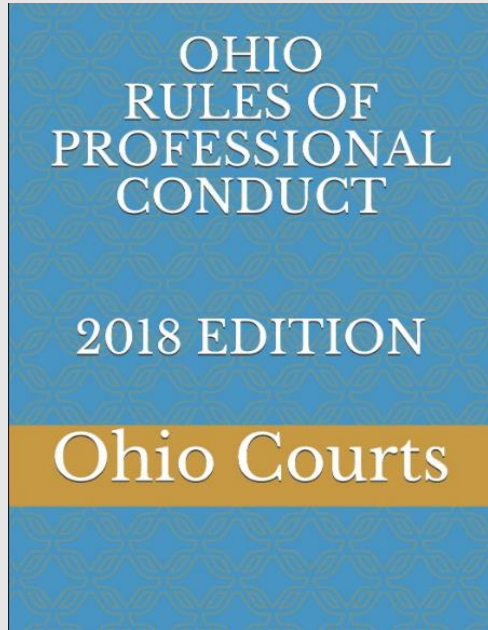
Duty to opposing parties and their counsel

I offer fairness, integrity and civility. I shall not knowingly make misleading or untrue statements of fact or law. I shall endeavor to consult with and cooperate with you in scheduling meetings, depositions and hearings. I shall avoid excessive and abusive discovery. I shall attempt to resolve differences and, if we fail, I shall strive to make our dispute a dignified one.

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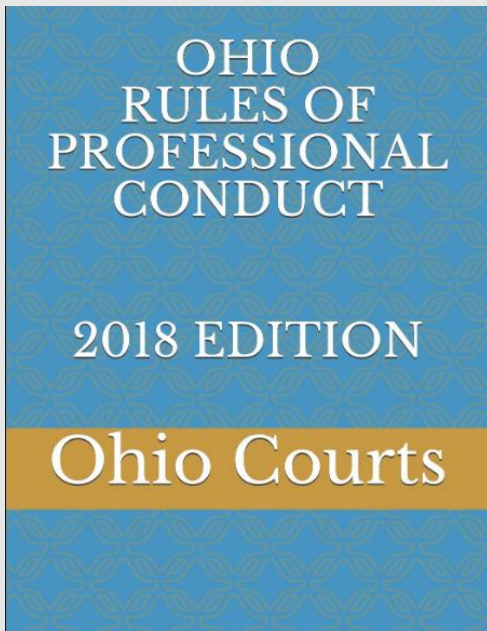
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Duty to opposing parties and their counsel



- 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

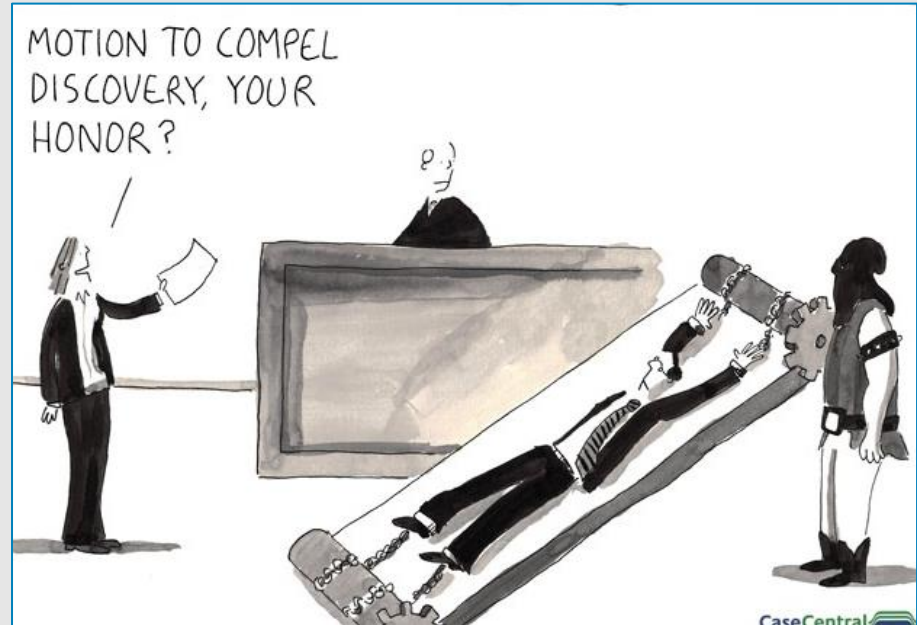
I offer respect, candor and courtesy. Where consistent with my client's interests, I shall communicate with opposing counsel in an effort to avoid or resolve litigation. I shall attempt to agree with other counsel on a voluntary exchange of information and on a plan for discovery. I shall do honor to the search for justice.

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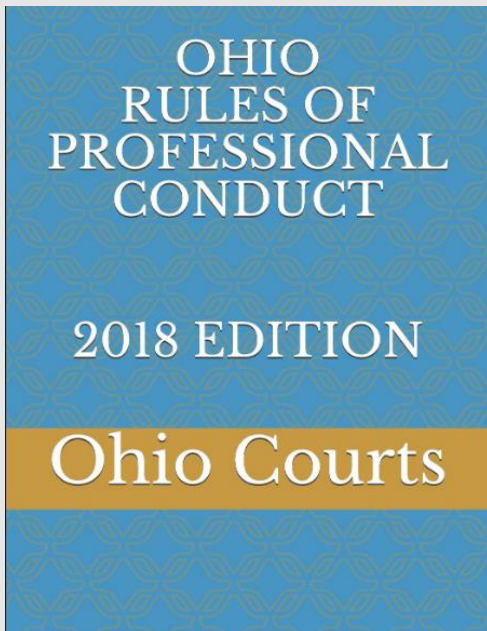
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Ohio Rule of Civil
Procedure 26 v. Federal
Rule of Civil Procedure 26

I offer concern for your reputation and well-being. I shall extend to you the same courtesy, respect, candor and dignity that I expect to be extended to me.

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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

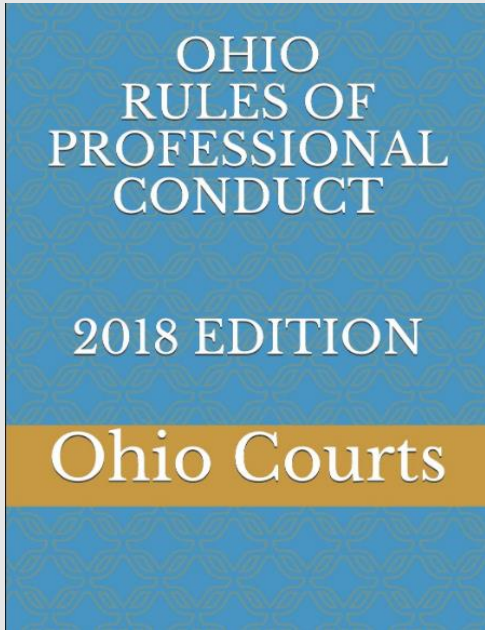
Hypothetical #1

- Minority shareholder dispute, highly contentious
- Your client claims that the majority shareholder of his family business, who happens to be his older brother, has used the corporate bank account as his personal piggy bank in violation of your client's rights as minority shareholder. *See Crosby v. Beam*, 47 Ohio St. 3d 105 (1989).
- File suit, and the partner on the file assigns you to draft the discovery requests. Meet with client, and he wants you to “f***ing bury this a**hole with requests, I don't care if they are relevant or not.”
- What do you do?

Hypothetical #1

I offer fairness, integrity and civility. I shall not knowingly make misleading or untrue statements of fact or law. I shall endeavor to consult with and cooperate with you in scheduling meetings, depositions and hearings. I shall avoid excessive and abusive discovery. I shall attempt to resolve differences and, if we fail, I shall strive to make our dispute a dignified one.

Hypothetical #1



- Rule 3.4: Fairness to Opposing Party and Counsel

Hypothetical #2

- Same case. You are able to scale back the discovery requests and talk your client off the ledge, but a dispute later arises over the scope of requests into the defendant's wife's bank account.
- The last communication with opposing counsel was a letter in which he sets forth his objections and concludes the letter with "Please call me when you are able in the hopes that we can work through these issues."
- Partner on the file drops by your office on his way to play golf and tells you "Get a motion to compel on file by the end of the day!"
- What do you do?

Hypothetical #2

I offer respect, candor and courtesy. Where consistent with my client's interests, I shall communicate with opposing counsel in an effort to avoid or resolve litigation. I shall attempt to agree with other counsel on a voluntary exchange of information and on a plan for discovery. I shall do honor to the search for justice.

Hypothetical #3

- Case has been dragging on for 18 months now, and each side has spent a significant amount on attorneys' fees.
- Trial is 3 months away, and the judge has been pretty “hands-off” in terms of pushing for resolution.
- Local Rules have a provision whereby any party can request the Presiding Judge to order the sides to mediation prior to trial.
- Your client seems fatigued with the process, they are not pushing hard for trial.
- What do you do?

Hypothetical #3

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.